

Competition

MODERNISING COSTA RICA'S COMPETITION LAW

- ▶ Improving competition law and policy in Costa Rica should be a primary objective of the government. Such reforms could yield substantial economic and social benefits, through higher productivity, lower prices to consumers and better quality products and services.
- ▶ Implementing recommendations from the peer review of Costa Rica's competition regime that the OECD carried out in 2014 should be a priority.
- ▶ In particular, Costa Rica needs to ensure autonomous decision-making in addition to administrative and budgetary independence of the competition commission and increase its resources to ensure such autonomy is effectively maintained.

What's the issue?

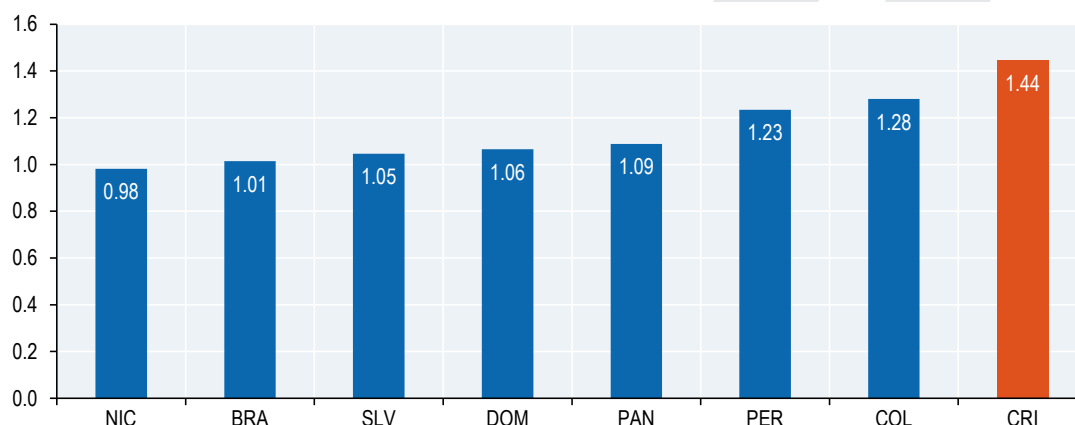
A strong competition policy framework is key for improving economic and social outcomes in Costa Rica and the government has embarked on a major reform agenda to bring its competition law in line with international best practice. Costa Rica's competition law, as it currently stands, has a number of weaknesses that were pointed out by an OECD peer review conducted in 2014 and reiterated by the 2016 OECD Economic Assessment of Costa Rica. It is pertinent that these weaknesses are addressed in the current reform process.

COPROCOM, Costa Rica's competition agency, currently does not have sufficient autonomy in its decision making

process, which considerably weakens its power. COPROCOM is part of the Ministry of Economy and Commerce, which implies a degree of budgetary and administrative dependency that may restrict the independency of the agency. The commissioners of COPROCOM are appointed on the proposal of the Minister of Economy, who also plays a key role in the appointment and removal of the executive director of the Technical Support Unit (TSU) of COPROCOM; TSU officials are formally employees of the ministry. The fact that COPROCOM is placed within the structure of the ministry that is also responsible for industrial policy relating to state-owned enterprises may result in conflicting policies and regulation.

Low competition drives up prices in some sectors, to the detriment of consumers

Retail price of rice in USD/kilo



Source: FAQ, Food Price Monitoring and Analysis Tool.

Granting COPROCOM administrative independence and a budget separate from the Ministry of Economy and Commerce as is the case for other agencies such as the superintendence for telecommunications (*Superintendencia de Telecomunicaciones*, SUTEL) and the regulator for public services (*Autoridad Reguladora de los Servicios Públicos*, ARESEP) would contribute to raise the agency's power of enforcing the competition law. In addition, COPROCOM's investigative powers need to be enhanced by establishing a leniency programme for whistle-blowers and increasing penalties on those involved in illegal practices and those who do not provide requested information.

While Costa Rica's competition authorities have been very active, they are strained for resources. This applies in particular to COPROCOM, whose resources (both human and financial) are insufficient given the tasks at hand. Moreover, the fact that commissioners work part-time has occasionally led to inconsistent decisions, unjustified delays in decision-making and tensions in the relationships between commissioners and TSU's officers. The recent decision on appointing full-time instead of part-time commissioners is a welcome development. COPROCOM's budget is almost entirely dedicated to wages and salaries, leaving little resources for performing market studies and antitrust investigations.

Costa Rica's competition policy framework is weakened by the existence of exemptions. The exemptions currently in place are not only too numerous, but they also involve markets where the introduction of competition could result in significant improvements in the functioning of the economy, with ensuing gains for consumers. Examples include maritime and rail transport as well as agricultural products such as rice where prices are notably above those in neighbouring countries (see Figure).

Why is this important for Costa Rica?

Competition is an excellent tool for achieving higher productivity and reducing inequality, as it helps deliver benefits to the population by reducing the prices of goods consumed. Poorer consumers are harmed more by the high prices that the lack of competition engenders. Competition creates incentives for firms to increase the efficiency of their production, enhancing economic growth. Work by the OECD has shown that barriers to competition hamper the international diffusion of productivity improvements. The effect can be large even among OECD countries. For example, the OECD countries with regulations that restricted competition the most (measured using the OECD's Product Market Regulation) were 25% less effective in taking advantage of global productivity improvements than those with more competitive markets.

What should policy makers do?

- ▶ Eliminate state concessions in sectors such as ground and maritime transport, electricity generation, transport and distribution, the supply of hydrocarbon derivatives, rail cargo transport and water utilities.
- ▶ Eliminate exemptions from the competition law for sectors such as imports, refinery and distribution of wholesale petroleum and its derivatives, including fuels, asphalt and gasoline.
- ▶ Grant COPROCOM more decisional and administrative independence, for example by creating more autonomy in operation and staffing from the existing structure that is highly dependent on the parent ministry.
- ▶ Increase COPROCOM's human and financial resources.



Further reading

OECD (2014), *Competition Law and Policy in Costa Rica: A Peer Review*, OECD Publishing. <http://www.oecd.org/daf/competition/CostaRica-PeerReview2014en.pdf>

OECD (2015), *Competition and Market Studies in Latin America*, OECD Publishing. <http://www.oecd.org/daf/competition/competition-and-market-studies-in-latin-america2015.pdf>

OECD (2015), *OECD Competition Assessment Toolkit Vol. 1, 2, and 3*, OECD Publishing. <http://www.oecd.org/daf/competition/assessment-toolkit.htm>