Competitive Neutrality and State-Owned Enterprises: The Case of the Philippines

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Outline of Presentation

- Competitive Neutrality Basics
- Some Comments on Competitive Neutrality and SOEs
- The Case of the Philippines
- Concluding Remarks

Competitive Neutrality

- Requires that government business activities should not enjoy net competitive advantages over their private sector competitors simply by virtue of their public sector ownership *(Australian definition).*

- A situation where no commercial entity has a competitive advantage in a mixed market purely as a result of its ownership or control *(OECD Working Party definition).*

Potential Sources of Competitive Non-Neutrality

- Differing taxation treatment
- Bankruptcy protection
- Procurement rules
- Cost recovery pricing
- Concessional financing/Guarantees
- Disclosure requirements

Potential Sources of Competitive Non-Neutrality

- Rate of return requirements
- Regulatory treatment
- Monopoly rights
- Direct subsidies/Cross subsidies
- Other preferential treatment from government

Comments on Competitive Neutrality and SOEs

- Agree that Government needs to ensure a level playing field in markets where SOEs and private sector companies compete.
- Agree that non-profit activities of SOEs are outside the scope of a competitive neutrality framework.
- SOEs need to be subjected to competitive market pressures.
- One must be mindful of political economy realities on the ground.

Comments on Competitive Neutrality and SOEs

- Context is important. Need to look closely into the economic ownership structure of a country, e.g., broad-based ownership or controlled by few families?
- There is also need to ensure that public monopolies are not replaced by private ones. Strong consumer protection is of equal importance.

The Case of the Philippines

- SOEs in the Philippines are known as government-owned or controlled corporations (GOCCs) – at least 51% government ownership.
- No formal competitive neutrality framework policy document but key elements of such a framework are in place.

The Case of the Philippines

- Policy bias is that the private sector is the primary driving force of the Philippine economy and Government should not compete with them.
- Government may participate in areas reserved for the private sector when they are unwilling or unable to provide needed goods/services or when intervention in free market operations

  is justified by the need to create a bias for the disadvantaged sectors of society.

The Case of the Philippines

- **GOCCs generally have the same tax and regulatory treatment as their private sector counterparts.**
- **GOCCs enjoy competitive advantages such as:**
  - ✓ **access to concessional financing/ sovereign guarantees;**
  - ✓ **not required to achieve full cost recovery;**
  - ✓ **not required to earn commercial rates of return.**

The Case of the Philippines

- GOCCs face competitive disadvantages such as:
  - ✓ government procurement laws
  - ✓ multiple and conflicting mandates
  - ✓ political interference in tariff setting
  - ✓ lack of flexibility in capital structuring
- Passage into law of the GOCC Governance Act of 2011 will further strengthen competitive neutrality.

The Case of the Philippines

- The GOCC Governance Act of 2011 will subject GOCCs to:
  - Clear ownership policies of the State;
  - Fit and proper rules for GOCC directors;
  - Hard budget constraints and performance commitments/evaluation system;
  - Higher transparency and disclosure standards at standards no less than what is required of the private sector;

The Case of the Philippines

- The GOCC Governance Act of 2011 will subject GOCCs to:
  - ✓ Clear separation of regulatory and proprietary functions of GOCCs in order to achieve a level playing field with corporations in the private sector performing similar commercial activities for the public.
  - ✓ Rationalization and further reduction in numbers.

IN CONCLUSION

- More analysis needs to be done on competitive neutrality issues as these affect emerging and developing economies.
- The Philippines already has some key elements to establish a competitive neutrality framework.
- The landmark "GOCC Governance Act of 2011" will further deepen competitive neutrality policies and practices in the Philippines.

THANK YOU!