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**Session I: Competition and Poverty – Background Note by the Secretariat**

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# Session I: Competition and Poverty: the role of Competition Authorities\*

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Fighting poverty remains a top priority and a key challenge to many countries including in Latin America and the Caribbean (LAC). Although LAC countries have strengthened their competition policy in the past decade, poverty has increased in the region, mostly as effect of the recession which followed the Covid-19 pandemic. Given these factual circumstances, it seems relevant to address the role of competition policy in poverty reduction, including the question on how competition authorities can contribute to fighting poverty. This background note highlights the main issues regarding the role competition authorities can play in fighting poverty. For this purpose, it presents the interplay between competition policy and poverty reduction, then focuses on the role of competition authorities from both the enforcement and the advocacy perspectives. The final remarks point that competition authorities may help a broader policy to reduce poverty, particularly by prioritising its work to markets that have a greater impact on the poorest (e.g. markets of essential goods and services).

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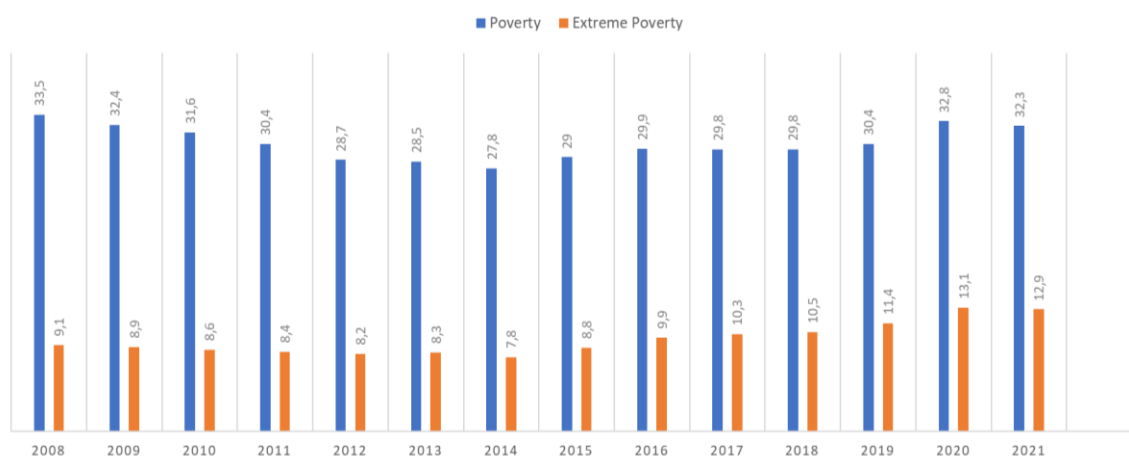
# 1 Introduction

1. The OECD last explored the topic of “Competition and Poverty Reduction” at the Global Forum on Competition in 2013 (OECD, 2013<sup>[1]</sup>). Since then, competition policy has evolved around the world (OECD, 2023<sup>[2]</sup>) and the fight against poverty has remained a top priority and a key challenge to many countries including in Latin America and the Caribbean (LAC). Indeed, poverty eradication appears as the first of the seventeen objectives of sustainable development established by the United Nations (UN, 2022<sup>[3]</sup>).

2. In the past years, the region was also particularly affected by the COVID-19 pandemic, which gave rise to the worst recession in the region in the last 100 years (UN, 2022<sup>[3]</sup>). In fact, the Latin American economies were already experiencing, before the sanitarian crisis, their worst growth since 1951, which is partly the reason why the crisis was harder in the region. Latin America accounted for nearly 30% of the world’s pandemic death toll, despite having only 8% of the world’s population, and had an average economic contraction of around 6.6% - more than double of the global average of 3.1% (World Bank, 2022<sup>[4]</sup>).

3. These factors directly affected poverty: Latin America had 32,8% of its population living in poverty or extreme poverty in 2020, which is the highest percentage since 2008 as indicated in the table below:

Figure 1.1. Population living in poverty in Latin America (2008-2021)



Source: Adapted from CEPAL – ECLAC – UNITED NATIONS  
(available at: <https://statistics.cepal.org/portal/databank>)

4. The estimations remain negative in terms of poverty indicators for the near future in the region: the World Bank estimates a trend of increasing extreme poverty due to the pandemic, instead of the decreasing trend expected for the same period before pandemic (World Bank, 2022<sup>[4]</sup>).

5. At the same time, competition policy has increased in Latin America and the Caribbean during the past decades. New competition laws were enacted, existing competition frameworks were improved, and competition enforcement was overall boosted with currently more than 20 active competition authorities in the region (OECD, 2022<sup>[5]</sup>).

6. Against this background, it seems indeed relevant to re-address the role of competition policy in poverty reduction, particularly the question on how competition authorities can contribute to fighting poverty.

7. This background note intends to provide a framework for the discussions that will take place in the next LACCF. For this purpose, it will first present the interplay between competition policy and poverty reduction, then analyse the role of competition authorities from both the enforcement and advocacy perspectives, as well as the importance of supporting the shift from informal to more formal economies, before reaching brief final remarks.

# 2 Interplay between competition policy and poverty reduction

8. The interplay between competition policy and poverty reduction has at least two important dimensions: one dimension relates to the goals of competition policy and the place that poverty plays (or should play); the other dimension concerns the economic effects of competition in poverty reduction, whether directly or indirectly.

## 2.1 Should poverty reduction play a role in the goals of competition policy?

9. Over the last years, competition experts and policy makers have discussed the goals of competition policy, including in recent OECD Roundtables at the Global Forum on Competition dedicated to the topic of “Competition under Fire” in 2019 and the “Goals of Competition Policy” in 2022.

10. The main discussion refers to the scope of competition policy objectives, namely if the traditional standard of consumer welfare should be maintained, or rather a broader scope should be justified to capture other policy goals, such as poverty reduction, sustainability and gender equality. Moreover, the institutional setups, levels of economic development and political contexts in different countries may also influence the extension of the goals of competition policy, which adds another layer to the complexity of the discussion.

11. In this context and given the importance that poverty policies play in certain countries: should poverty reduction play a role in the goals of competition policy? In Latin America and the Caribbean, are there any particularities that may influence the answer to this question?

12. In LAC region, both competition policy and poverty related policies are often placed at the constitutional level.<sup>2</sup> While this constitutional setup proposes an integrated approach of public policies, with close coordination of important policy goals such as promoting economic growth, poverty reduction and protecting consumers (Bonilla, 2013<sup>[6]</sup>), it has also led to certain criticisms specially from those who argue that a “de-constitutionalism” of competition policy would favour a greater legal certainty on the application of competition law including a clear use of the consumer welfare standard for this purpose (Schuartz, 2008<sup>[7]</sup>).

13. Recent discussions indicate that poverty issues could indeed play a greater role in the competition policy agenda, including in the broader debate related to the goals of competition policy (OECD, 2022<sup>[8]</sup>). This may include a focus on products and services that affect mostly the poorest part of the population,

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<sup>2</sup> The Constitution of Mexico (1907) has a provision that combines both competition and fairness considerations (Article 26). The Constitution of Brazil (1988) establishes poverty eradication as one of the fundamental objectives of the Republic (Article 3) and a section with a set of economic principles including the protection of competition (Article 170). The Constitution of Colombia (1991) has several guiding principles related to social justice and fairness, which guides application of the entire legal framework. The Constitution of Paraguay (1992) has specific provisions on competition freedom (Article 107), minimum standards for the poorest (Article 6) and environmental protection (Article 7).

but also a more holistic view in which competition policy integrates a set of public policies that aim key objectives such as poverty reduction.

14. The expression “pro-poor competition policy” has been used to advocate for competition laws that consider poverty reduction at the heart of its enforcement actions, which should not be seen as a silver bullet to alleviate poverty, but rather an approach that could open more channels, facilitate the work of competition authorities, and gradually deliver better outcomes (Fox, 2013<sup>[9]</sup>).

15. In this sense, competition authorities seeking to reduce inequality may adjust their priorities and target markets that are disproportionately important to low-income people – for instance agriculture and health care since food and medicine compose a large share of their budget. Certain authors even suggest that it would be appropriate to introduce distributional weights into antitrust analysis by sacrificing economic efficiency for key distributional goals such as inequality issues (Posner and Sunstein, 2022<sup>[10]</sup>).

16. In practice, however, competition officials argue that competition policy has not been able to contribute actively to poverty reduction and may, in some cases, increase economic inequality. This understanding may result from a perceived lack of relevance of societal goals to competition law enforcement, and whether public interest considerations should play a role in the work of competition authorities (Jenny, 2019<sup>[11]</sup>).

17. Considering this context and although countries may have certain degree of flexibility on the precise scope of competition policy objectives (and how to implement them), it seems relevant to examine the overall effects of competition on poverty, which may help competition authorities to better understand how they can contribute to a larger public policy of poverty reduction – so common and important in Latin America and the Caribbean.

## 2.2 Effects of competition on poverty

18. The impact of competition on consumer welfare has been well documented including its main benefits to consumers (e.g. lower prices, higher outputs, better quality of products and services). However, the effects of competition on poverty are less clear since it may sometimes increase inequality gaps and lead to job losses in the short run, while producing the well-known benefits for consumers.

19. Overall, competition is generally understood as having an indirect positive effect on poverty, mostly resulting from a country’s general economic growth (World Bank; OECD, 2017<sup>[12]</sup>). Yet indirect, economic growth plays indeed a significant part in poverty reduction as suggested by the economic literature (Inchauste et al., 2014<sup>[13]</sup>). In Latin America and the Caribbean, for instance, economic growth accounted for nearly 9 percentage points out of 14 percentage points of reduction in poverty rate between 2003 and 2013, confirming a positive correlation between economic growth and poverty reduction (World Bank; OECD, 2017<sup>[12]</sup>).

20. Competition also benefits the poorest at the micro-economic level by promoting efficiency and innovation, particularly in sectors that concern basic products and services. When firms compete, they are forced to find ways to offer goods and services at lower prices and/or better quality, which can lead to increased productivity and output.

21. More competition can also increase the access to goods and services for low-income consumers, helping to drive economic growth and job creation, thus providing more opportunities for people to earn a living and lift themselves out of poverty.

22. In the telecom sector, competition has contributed to lower prices and quality improvements in access to telecommunications services, particularly for low-income populations in Latin America. For instance, the Herfindahl-Hirschman Index (HHI) in the Mexican telecom markets has constantly decreased in the past 10 years, which points to less concentration and more competition. In this period, the number

of mobile phone lines in operation has increased by more than 50% (from 85 million to over 125 million mobile), while the cost for mobile services has decreased by around 60%, benefiting particularly the low-income population (IFT, 2022<sup>[76]</sup>).

#### Box 2.1. Increased access to telecom services in Latin America

The increase of telecom services has brought several benefits to the poorest in Latin America. Here are some of the ways in which telecom services have helped to improve the lives of the poor in the region:

- **Access to Information:** telecom services have provided access to information that was previously unavailable to many people in the region. The poor can now access news, educational content, and other resources that can help them improve their lives.
- **Mobile Banking:** the growth of mobile banking services has made it easier for the poor to access financial services, such as savings accounts, loans, and remittances. This has helped to reduce poverty by providing access to capital for small businesses and allowing families to receive money from relatives living in other parts of the world.
- **Healthcare:** telecom services have also improved access to healthcare in Latin America. Mobile health services, for example, provide information about health issues and connect people with healthcare professionals. This is especially important for people living in remote areas who may not have easy access to healthcare facilities.
- **Job Opportunities:** the growth of the telecom industry has created many job opportunities in Latin America, particularly in the area of call centres. This has provided employment for many people, including the poor.
- **Social Networks:** telecom services have also made it easier for people to connect with each other, which can help to build social networks and support systems. This is especially important for the poor, who may not have access to traditional support networks.

Sources: (OECD, 2020<sup>[15]</sup>); (Fernández-Ardèvol, 2011<sup>[16]</sup>)

23. In addition to reaching consumers who are not part of a given market, competition can also alleviate poverty by introducing new products and services that can be designed for a tailored profile of consumers, sometimes marginalised from society. This phenomenon has been seen in the banking sector in Peru, where competition has increased micro-financing to lower income groups that had difficulties in getting loans from traditional commercial banks, particularly poor women (Rebolledo Dellepiane and Paniagua, 2018<sup>[18]</sup>).



### Box 2.2. Gender lens in pro-poor competition actions

The interplay between competition policy and poverty reduction may have different effects under gender lens, with greater benefits to women in certain markets.

In **Peru**, increasing competition in the banking sector is linked to an expansion of microfinancing services to lower-income groups (particularly poor women), leading to a gender sensitive outcome since women are typically the head of household in Latin America and tend to receive smaller but more frequently loans (Rebolledo Dellepiane and Paniagua, 2018<sup>[18]</sup>).

This finding is somehow linked to the development of microfinance industry, in the late 1970s, targeting women as the most part of the unbanked poor population who are often working in the most vulnerable segments of the informal economy, e.g. outside the scope of state regulations and off-limits to labour inspectors as the case of domestic work (Pike and Santacreu-Vasut, 2018<sup>[19]</sup>).

24. The economic literature indicates that anti-competitive practices have a worse impact to the low income population, particularly in certain sectors of the economy: as consumers, this group spends a greater share of their incomes in basic goods and services, thus consuming proportionally more of these items than higher income groups (Begazo and Nyman, 2016<sup>[20]</sup>) (World Bank; OECD, 2017<sup>[12]</sup>). More specifically, empirical research concerning basic products (e.g. corn tortilla, processed meats, cow milk, chicken and eggs) in Mexico estimates that poor households have a relative welfare loss about 20% higher than rich households (Urzúa, 2013<sup>[21]</sup>).

25. The evidence presented so far highlights the benefits that competition can have on poverty. However, competition may also have adverse effects on poverty since it helps to increase the size of the pie without having a particular role on the distributive aspects of economic growth, which can potentially increase economic gaps and unemployment in the short run (Dauda, 2020<sup>[22]</sup>).

26. Indeed, the labour market is an example of how increasing competition may have a negative effect on workers. As a merger-specific efficiency, the consolidation of two firms may reduce the demand for labour force to certain activities, which means that workers may be dismissed in the post-merger scenario (Hovenkamp, 2019<sup>[23]</sup>). The same may apply in case of pro-competitive reforms: in Mexico, for instance, a pro-competitive reform in the cargo-transportation sector led to particular adverse effects to poor workers in the short term, mostly unskilled workers including truckers employed by firms and self-employed truckers (*hombre-camión*) (World Bank, 2018<sup>[24]</sup>).

27. Still related to labour markets, the issue of market power among employers may have ambiguous effects on poor people in certain markets: as consumers, this group may benefit from lower prices due to the power of a monopsony to pay lower wages to workers; but as workers this group may be harmed by the lack of bargaining power to fight against lower wages. Given that the savings from lower wages may not necessarily be passed-on to consumers, workers can face a double negative effect: by suffering from both lower wages and higher prices (or lower quality) – for instance when a hospital hires workers from a local market and provides health care for in the same local market (Posner and Sunstein, 2022<sup>[10]</sup>).

28. In sum, competition policy can have more than one outcome when it comes to fighting poverty (e.g. lower prices but also unemployment in the short term). Thus, a competition policy which is also aimed at reducing poverty should be mindful of these possible different outcomes and be guided by the type of enforcement that effectively contributes to reduce poverty – which may involve the prioritisation of actions led by competition authorities.

# 3 Competition enforcement prioritisation

29. Competition authorities may support the fight against poverty by prioritising their enforcement actions in markets that have a proportionally greater impact in the poorest part of the population, which can be labelled as pro-poor competition law enforcement (Fox, 2013<sup>[9]</sup>).

30. Poor consumers emerge as the main beneficiaries of a pro-poor competition law enforcement since they will benefit from lower prices and/or better products and services, particularly when they concern basic needs, as well as small entrepreneurs when they act as “consumers” (users) of inputs that are key for the performance of their business activities and/or help to build competitive conditions that allow for a better business environment (e.g. job creation and access to micro-financing).

31. In addition, public procurement also appears as an area in which competition authorities may focus enforcement actions given the savings in public resources (i.e. fighting bid-riggings) that could then favour poverty reduction policies led by governments. The nature of services/products often purchased via public procurements may also benefit proportionally more the poorest part of the population (e.g. basic education and health services).

32. Before addressing these key aspects related to a pro-poor competition law enforcement, this section will briefly comment on the issue of discretionary powers, which certain competition authorities enjoy (in different levels) and would be useful to engage in an effective exercise of competition enforcement prioritisation.

## 3.1 Discretionary powers

33. Prosecutorial discretion (sometimes referred to as principle of opportunity) is when public prosecutors have a degree of latitude to decide whether to charge a person for a crime (and which charges to file). In the field of competition law, the idea of prosecutorial discretion can be understood as the degree of liberty that a competition authority may have to decide which complaints to open an investigation and how to filter/close ongoing investigations based on the probability of conviction.

34. Some level of discretion would be necessary for competition authorities to prioritise cases, which may raise concerns about the existence of legal authorisation to exercise a discretionary power (e.g. accepting or dismissing complaints) and, more importantly, their legitimacy to choose one area or goal to be prioritised in detriment of others.

35. On the first aspect, even when a competition authority lacks formal discretionary powers (e.g. having to investigate every complaint), a managerial decision may have a pro-poor impact: for instance by allocating more civil servants in cases involving markets of basic goods. Therefore, while some competition authorities may lack or have limited discretionary powers for prosecution purposes, it is possible to identify different levels of discretion: from a greater power to freely select which cases to open to a more limited power on how to allocate limited resources for a given ongoing investigation.

36. Competition authorities should also be mindful on the criteria they apply to prioritise enforcement actions since this may raise questions related to legitimacy and undue political influences.

#### Box 3.1. Prioritisation criteria for competition enforcement in Mexico

COFECE's Strategic Plan for 2022-2025 establishes transparent criteria for prioritisation of competition work, which includes the "impact of a sector on lower-income population" applicable to both enforcement and advocacy prioritisation purposes. Other criteria include the contribution to economic growth, generalised consumption, transversality, regulated sectors, prevalence of anti-competitive conducts, and international trends in competition matters (COFECE, 2022<sup>[25]</sup>).

In 2022, COFECE opened several investigations that may benefit the lower-income population, for instance in the markets of industrial gases, household insecticides, corn, corn flour, passenger transportation, e-commerce, mobile payments, in addition to public procurements (COFECE, 2023<sup>[26]</sup>).

37. As seen from the Mexican example, competition authorities may also promote accountability of their priority setting agenda, for instance by being transparent on the criteria used for this purpose and inviting relevant stakeholders to participate in the priority setting process.

## 3.2 Poor consumers

38. The consequences of anti-competitive practices are often more severe for the poorest consumers. One explanation for this is that most of their income is spent on essential products, which often have low elasticity, meaning that the demand is less sensitive to price rises (e.g. food and beverage). As a result, the distribution of welfare loss caused by anti-competitive practices is often worse when the consumer is poor (World Bank; OECD, 2017<sup>[12]</sup>).

39. Previous research on Latin American countries indicated that food and beverage represent almost 50% of low-income groups' consumption basket, which is three times more than that of higher-income groups (World Bank; OECD, 2017<sup>[12]</sup>). Local data shows that this percentage is even higher in certain countries, such as Mexico where it is estimated that 79% of the income of the poor is spent on purchasing essential goods (COFECE, 2015<sup>[27]</sup>).

40. In addition, the literature suggests that certain markets of essential goods have specific characteristics that facilitate collusion and/or abuse of dominance (e.g. low price elasticity, lack of buyer power, product homogeneity, high barriers to entry, barriers to imports, high concentration and few firms, specific industry associations, and regular and frequent transactions), which are conditions associated to a higher occurrence of cartels (World Bank; OECD, 2017<sup>[12]</sup>).

41. The OECD's international cartels database lists cartels against which competition authorities have issued decisions since 2012. According to these data, 42% of cartels that were detected in Latin American countries (i.e. Brazil, Chile, Colombia, Mexico and Peru) occurred in sector of manufacturing, which include many essential products such as clothing and furniture. A data collection from World Bank, between 1980 and 2020, is consistent with the OECD findings, showing that at least 21% of the detected cartels in Latin America involved essential products, such as sugar, toilet paper, wheat, poultry, milk, and medicine (World Bank, 2021<sup>[28]</sup>).

42. Cartels can also lead to significant overcharges with the economic literature suggesting that an overall presumption of 20% of price increase would be appropriate as conservative estimation (Connor and Lande, 2008<sup>[29]</sup>). This shows how much poor consumers can benefit from anti-cartel enforcement work,

particularly by avoiding paying significant overcharges for essential products. In Latin America, cartel cases in markets for essential goods have increased prices by 50% (World Bank, 2021<sup>[28]</sup>).

### Box 3.2. Pro-poor competition enforcement in Latin America

#### Brazil

In **2018**, CADE sanctioned a cartel in the **market of salt extraction** among companies holding over 70% of the national production, which artificially increased prices of salt used for various purposes including food. The fine imposed reached nearly BRL 300 million (around EUR 60 million) and damages were estimated in around BRL 250 million (around EUR 50 million) (CADE, 2018<sup>[30]</sup>).

#### Chile

In **2015**, the Supreme Court of Chile confirmed a decision from TDLC that sanctioned a national cartel in the **market of poultry production** including total fines of around EUR 60 million imposed on the three largest poultry companies in Chile and its industry association. The decision also ordered the association to be dissolved as an additional sanction given its active role in the implementation of the cartel (FNE, 2015<sup>[31]</sup>).

#### Mexico

In **2020**, COFECE issued a warning letter to the National Tortilla Council, through their representatives in the states of Hidalgo, Tamaulipas and Puebla, on the possible consequences to companies and consumers in the case of price fixing or market sharing. This action adds to several other enforcement activities in the **markets of dough and corn tortilla**, including sanctions to producers of tortilla and its association for cartel practices in different Mexican municipalities. Some of these municipalities are located in highly marginalised and impoverished regions, such as Palenque, Angel Albino Corzo, Huixtla of the State of Chiapas (COFECE, 2022<sup>[32]</sup>).

43. Increasing enforcement actions in markets related to essential products and services will also promote deterrence, which will benefit poor people in the long run due to the reduction of other anti-competitive practices in those markets.

44. Abuse of dominance is another way to harm consumers. As in cartels, this type of infringement can also aggravate poverty particularly when it is related to essential goods and services. In Latin America, certain authors argue that the harm from abuse of dominance cases is underestimated, suggesting a need for more vigorous enforcement in the region (Souza, 2022<sup>[33]</sup>).

45. Infrastructure sector is an area in which abuse of dominance cases can harm proportionally more the poor, for instance in markets of energy, transportation and telecommunication. These markets suffer from high levels of economic concentration, which makes them more susceptible to practices of abuse of dominance, particularly in developing countries that often face market failures, higher transportation costs and both tariff and non-tariff barriers, making these markets less contestable and favouring large incumbents who can be less easily challenged (Vilakazi and Roberts, 2019<sup>[34]</sup>).

46. The same applies for merger control, which can have a particular impact on the poorest depending on the affected markets. The transaction between Bayer and Monsanto is an example as both companies were major suppliers of seeds and pesticides worldwide, including to small farmers, and had a strong presence in Latin America.

### Box 3.3. Bayer/Monsanto remedies tailored to small farmers

In **2018**, the merger of Bayer and Monsanto was concluded after being reviewed by 29 jurisdictions, including several LAC countries. Both companies were major suppliers of seeds and pesticides worldwide, including to small farmers, and had a strong presence in Latin America.

In **Brazil** and **Chile**, given the competition concerns identified by CADE and FNE, the merger was approved with restrictions which included significant divestitures, but also behavioural commitments aiming to address the increased market power that Bayer/Monsanto would gain in relation to small farmers producing soybeans. More precisely, these restrictions included transparency of their commercial policies, the prohibition to impose exclusivity on the sales channels, tie-in sales (seeds and pesticides) and bundling (packages), in addition to a wide and non-discriminatory licensing practice of its products.

The remedies provide an example of competition enforcement that addresses power asymmetry in markets where small players need to negotiate with much larger companies under unequal conditions, which may favour the occurrence of abusive practices (FNE, 2018<sup>[35]</sup>) (CADE, 2018<sup>[36]</sup>).

47. This example also shows that small entrepreneurs can suffer proportionally more from anti-competitive practices, particularly when they act as “consumers” (users) of products and/or services that are key for the performance of their business activities (e.g. loan conditions for micro-financing; fuel prices for transportation services; pesticides for agriculture needs), but also when they offer products and/or services that are consumed by poor people (e.g. hair salon in a poor neighbourhood).

### 3.3 Local markets

48. Another way that competition authorities can alleviate poverty is by keeping a close eye at local markets, particularly when affecting poor consumers, instead of focusing only at national-wide cases. This approach may enable them to consider particularities of local markets (e.g. cartels that have a greater impact in certain poor areas) or to ensure that competition laws are properly enforced (e.g. merger between two local supermarkets that create a local monopoly but is not captured by merger notification thresholds often based on annual turnovers in Latin America).

49. In terms of particularities of local markets, empirical research indicates that price elasticities of certain basic products can vary significantly between urban and rural areas, for instance corn tortilla in Mexico (elasticity of -1.380 for corn tortilla in urban households, while -0.311 for rural households), meaning that demand is much less sensitive to price increase in rural households (Urzúa, 2013<sup>[21]</sup>). In practice, this means that cartels in the market of corn tortilla will cause more harm to consumers in rural (poor) areas than in urban (less poor) areas as seen in the figure below where the northern Mexican states are richer than the southern states:

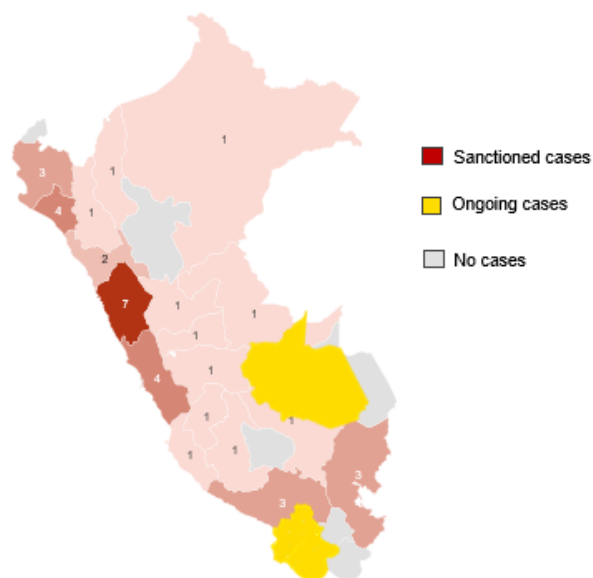
Figure 3.1. Relative welfare losses resulting from corn tortilla cartel in Mexico



Source: (Urzúa, 2013[21])

50. In Peru, INDECOPI has also included an element of geographic diversity to its enforcement actions, which aims for a wider coverage of competition laws that may potentially benefit consumers living in poorer regions of the country. Since 2010, INDECOPI has sanctioned around 30 cartel cases including one third with a national scope (higher number in dark red below refers to the metropolitan area of Lima where companies had headquarters) and the rest with a local scope (spread out in the country in lighter tones of red) as indicated in the figure below:

Figure 3.2. Competition cases distributed by regions in Peru (2010-2022)



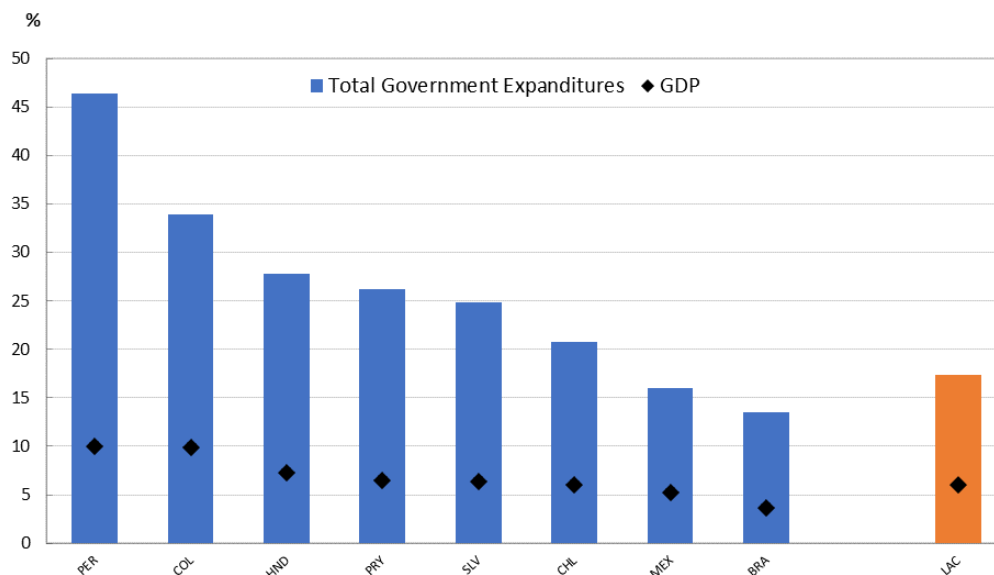
Source: Adapted from INDECOPI's materials

51. While it is relevant to note that selected enforcement actions in poor areas can lead to more tangible benefits to low-income people and for a wider policy to poverty reduction, this should be carefully balanced with the fight against national and/or international anti-competitive practices that may have greater overall economic impact for the country (and therefore also positive effects for fighting poverty more broadly given the wide benefits already discussed).

### 3.4 Public procurements

52. Public procurements are a large part of expenditures for governments. In Latin America, the spending in public procurement is in average around 6% of GDP and approximately 17% of total government expenditures. However, these percentages may vary significantly between countries and can reach up to 10% of GDP and 45% of government expenditures (OECD, 2020<sup>[37]</sup>):

Figure 3.3. Government procurement spending in LAC countries (2017)



Source: Adapted from (OECD, 2020<sup>[37]</sup>)

53. From a broader perspective, competition in public procurements promotes efficiency, increased innovation, higher productivity and benefits end consumers, users of public services and taxpayers (OECD, 2021<sup>[38]</sup>). From a more focused perspective on the poor, greater competition can potentially benefit the poor population in at least three ways (depending on a government's policy and in what extent reducing poverty is a priority): by allowing the government to have more resources available to spend in social goods and services; by lowering the costs of public products and services; and by expanding the public procurement opportunities to more firms including small entrepreneurs.

54. Enhancing competition in public tenders can also improve the quality of services provided to low-income people, and therefore alleviate poverty, for instance by having better health care services given that general causes of poverty include inadequate education, single parenting, malnutrition, sickness and disease (OECD, 2013<sup>[1]</sup>). Poor people also depend more intensely on public services since they often do not have enough resources to spend with private services, such as health and education. This explains why poor households represent a large share of the users of low-quality public services in Latin America (OECD; ILO,



2019<sup>[39]</sup>), thus improving the quality of public services provided to poor people may indeed contribute to alleviate poverty.

55. Furthermore, the more governments spend on public purchases, the larger will be the damages caused by possible cartel overcharges. The average overprices due to bid-rigging is often estimated at 20%, but they can be much higher in certain situations as highlighted by recent studies showing that more than half of bid-rigging cases have overprices higher than 25% (World Bank, 2021<sup>[28]</sup>). Recent estimations of cartel damages in LAC countries are consistent with these findings: a cartel in the pharmaceutical sector resulted in an overcharge of 57.6% to public purchases in Mexico (OECD, 2018<sup>[40]</sup>) and a bid-rigging scheme in the market of revolving security doors increased prices by 25% in Brazil (OECD, 2021<sup>[38]</sup>).

56. These numbers are particularly relevant when considering that bid-rigging accounts for about one third of the total number of cartels detected in Latin America and nearly half in certain countries such as Peru (OECD, 2020<sup>[37]</sup>). The region seems to concentrate some factors that make cartels more likely to happen in public procurements, such as small number of companies, low entry, and homogeneity of products and/or services (OECD; CAF, 2019<sup>[41]</sup>).

57. Considering the importance of competition to promote efficiency, quality, innovation and productivity in public procurements, several Latin American countries have partnered with the OECD to improve their policy of fighting bid-rigging. This partnership often includes the assessment of rules and practices related to the design and enforcement of their national procurement framework with the objective of fostering competition.

#### Box 3.4. OECD work in fighting bid-rigging in Latin America in the last 10 years

##### Argentina

- Fighting bid rigging in the procurement of public works in Argentina (2019)

##### Brazil

- Fighting bid rigging in Brazil: a review of federal public procurement (2021)

##### Colombia

- Fighting bid rigging in public procurement in Colombia (2014)

##### Mexico

- Fighting bid rigging in public procurement in Mexico: CFE Report (2018)
- Fighting bid rigging in IMSS procurement (2018)

##### Peru

- Fighting bid rigging in the health sector in Peru: EsSalud (2021)

Source: [www.oecd.org/competition/cartels/fightingbidrigginginpublicprocurement.htm](http://www.oecd.org/competition/cartels/fightingbidrigginginpublicprocurement.htm)



58. The actions taken by Latin American governments to fight bid-rigging and increase competition in public procurements have already shown effects. One example is the implementation of the OECD recommendations for IMSS's procurements in Mexico, which resulted in savings estimated between 7.4% and 8.8% in public spending (between 2009-2016), corresponding to approximately MXN 13-15 billion (OECD, 2018<sup>[40]</sup>).

59. In addition to fighting cartels, competition policy can increase participation of small businesses in public procurements. One of the OECD's recommendations for enhancing competitiveness in bids is allowing smaller firms to participate, even if they cannot bid for the entire contract (OECD, 2009<sup>[42]</sup>). Support participation of SMEs is a widely complementary policy objective in LAC public procurement: 12 out of 20 countries declared in 2018 to have a specific policy or strategy to support SMEs (OECD; CAF, 2019<sup>[41]</sup>).

# 4 Competition advocacy prioritisation

60. Competition advocacy usually refers to the remaining competition activities performed by competition authorities (excluding those related to enforcement), particularly when aiming to disseminate a competition culture in the country (e.g. market studies, opinions on draft laws and regulations, as well as capacity building activities to students) which may target a diverse audience of stakeholders (e.g. congressmen, regulators, judges, as well consumers and general public). These advocacy activities can also be subject to prioritisation – often with a greater level of discretion to competition authorities when compared to enforcement actions.

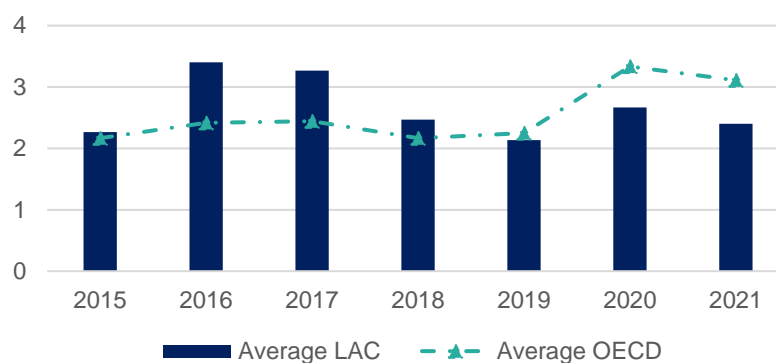
61. This section will cover key activities of competition advocacy, which may have a special impact on those who need the most, namely market studies, pro-competitive reforms, quantification of benefits, and opinions on price control.

## 4.1 Pro-poor market studies

62. Market studies are a crucial tool used by competition authorities to analyse and understand market dynamics and identify potential competition issues. They also help competition authorities to gather relevant information about a particular market, assess its competitiveness, and monitor the likelihood of any anti-competitive practices that may be harming consumers. As a result, they may serve to justify (or not) a competition law enforcement action or to present an opinion to Congress related to a draft legislation under discussion (OECD, 2016<sup>[43]</sup>).

63. In Latin America and the Caribbean, competition authorities have dedicated significant efforts to develop market studies. As seen below, LAC countries meet the OECD average on this matter, with around two market studies per competition authority per year in average:

Figure 4.1. Average number of market studies in LAC (2015-2021)



Source: OECD Competition Trends (OECD, 2023<sup>[2]</sup>)

64. As for the economic sectors, many studies concern markets related to infrastructure as well as essential goods and services. In Ecuador, SCPM published seven market studies since 2019, all of them in markets related to essential foods (i.e. sugar and milk), health, telecommunications, transportation and public procurement.<sup>3</sup> In Mexico, the market studies released by COFECE in the same period cover markets in relation to the sectors of health, transportation, energy, food and beverages.<sup>4</sup>

65. These markets have a significant impact on poor population since anti-competitive practices in these markets can result in higher prices and/or lower quality of essential products and services – with proportionally worst effects on the poor.

#### Box 4.1. Pro-poor competition advocacy actions

##### Ecuador

In 2023, SCPM plans to publish a market study in the agriculture sector including cereals (wheat and rice), meat (chicken, beef and fish) and vegetables (potato, tomato, vegetables and onion). The selected products represent their relevance in national production, nutritional contribution, and weight in the basic basket of essential foods. It will gather data from several sources including loans granted by public banks, detail of imports and exports, detail of employment and remuneration (by gender), and details of seed production and commercialisation.

##### Mexico

In 2019, COFECE published a market study in the federal passenger transportation sector, which identified a lack of competition on most of the bus routes in the country. According to the study, the regulation inhibited the participation of additional firms on different routes, which hindered the availability of a greater range of options, including at better quality and prices, to the detriment of users' well-being. Indeed, a sole operator was present on nearly 77% of the bus routes in Mexico. The study estimated that the entrance of a competitor on routes covered by a sole operator would result in a 40% price decrease in bus fares and concluded with several recommendations (COFECE, 2019[44]).

## 4.2 Pro-competitive reforms in key sectors

66. Supporting pro-competitive reforms is another way through which competition authorities can contribute to a better environment for business and, as a result, to economic growth which is key to support policies related to poverty reduction.

67. In this context, the OECD Competition Assessment Toolkit is a valuable resource for countries seeking to undertake pro-competitive reforms. It provides a general methodology for identifying unnecessary regulatory restraints and developing alternative, less restrictive policies that still achieve government objectives. These restrictions can include regulatory barriers, market structure issues, and

<sup>3</sup> List of market studies published by SCPM in Ecuador: [www.scpm.gob.ec/sitio/versiones-publicas-de-estudios-de-mercado](http://www.scpm.gob.ec/sitio/versiones-publicas-de-estudios-de-mercado).

<sup>4</sup> List of market studies published by COFECE in Mexico: [www.cofece.mx/publicaciones/estudios-en-materia-de-competencia](http://www.cofece.mx/publicaciones/estudios-en-materia-de-competencia).

other factors that limit competition. Once these barriers have been identified, the toolkit provides guidance on how to design and implement pro-competitive reforms to address them (OECD, 2019<sup>[45]</sup>).

68. In Latin America, the OECD Competition Assessment Toolkit has been used to identify and address competition issues in a range of sectors, including transports, beverages, manufacturing, wholesale as well as retail of medicines and food supplements (e.g. beef, pork, chicken), particularly in Brazil, Colombia and Mexico.

#### Box 4.2. OECD Competition Assessment Toolkit in Latin America

##### Brazil

In **2022**, the OECD published a competition assessment report covering the ports and civil aviation sectors in Brazil. The assessment was conducted in co-operation with CADE and involved the screening of 230 pieces of legislation in both sectors using the OECD Competition Assessment Toolkit, revealing 550 potential barriers to competition. The report presented 368 recommendations that can mitigate harm to competition and benefit poor people directly (e.g. cheaper flights) and indirectly (e.g. cheaper goods via lower transportation costs).

##### Mexico

In **2018**, the OECD published a report that analysed Mexico's legislation in the medicine and meat sectors (e.g. animal feed, growing of animals, slaughterhouses, wholesale and retail) along the vertical supply chain. Using the OECD Competition Assessment Toolkit to structure the analysis, the report reviewed 228 pieces of legislation and identified 107 legal provisions which could be removed or amended to lift regulatory barriers to competition.

Source: [www.oecd.org/daf/competition/assessment-toolkit.htm](http://www.oecd.org/daf/competition/assessment-toolkit.htm)

69. Regulation consists in the diverse set of instruments by which governments establish requirements on enterprises and citizens. In the economic context, the rules imposed by the government on firms – for example, operating licenses, permits, sector-specific technical standards, regulatory fees, etc. – can be pro-competitive, fostering productivity and efficiency and, as a consequence, growth; or, on the contrary, lessen competition by increasing barriers to entry, reducing business investment or discouraging companies to be more innovative and efficient (OECD, 2020<sup>[37]</sup>).

70. In Latin America, the regulatory framework requires further development and, in what concerns competition, the institutional policy in the region tends to be more restrictive than among OECD countries (OECD, 2020<sup>[37]</sup>). This conclusion is supported by the OECD's Product Market Regulation (PMR) indicators which provide a score of the country's regulatory barriers to competition.

71. In Peru, for example, 70% of the cases of undue secondary norms, temporary dispositions, or general administrative acts affected key sectors for the development of local markets such as transport, telecommunications, retail, construction/real estate, or tourism (World Bank, 2015<sup>[46]</sup>). These sectors are relevant either because they have a large participation of poor suppliers (including SMEs) and/or represent a significant share in consumption basket of the poorest (e.g. transportation and construction).

72. In sum, regulatory issues may affect key sectors of the economy and often with greater proportional impact on the poorest.

### 4.3 Quantification of benefits tailored to poverty issues

73. Quantification exercises are an important tool for assessing the potential impact of competition enforcement and pro-competitive reforms. These exercises help policymakers to understand the economic effects of specific reforms, and to prioritise reforms that are likely to have the greatest positive impact on consumers and the broader economy.

74. In Latin America, at least a couple of countries develop quantification exercises on a regular basis to assess the benefits of competition enforcement, namely Brazil (CADE, 2023<sup>[47]</sup>) and Mexico (COFECE, 2020<sup>[48]</sup>). These quantification exercises benefit from the “OECD Guide for Assessing the Impact of Competition Authorities’ Activities”, which focuses on benefits expected for the future, i.e. after the competition authority’s intervention such as a cartel sanction or a merger prohibition (OECD, 2016<sup>[49]</sup>). A tailored effort to quantify the benefits of competition that have a greater impact on the poor could also add to the list of initiatives that competition authorities can take to contribute to alleviate poverty. For instance, competition authorities could play a special role in the estimation of damages of cartel cases in markets of essential products and/or bid-rigging, including as “friend of the court” (*amicus curiae*), thus helping the recovery of civil damages in those markets affecting proportionally more the poor people.

#### Box 4.3. Quantification of benefits tailored to poverty issues

##### **Brazil**

In **2015**, CADE sanctioned an international cartel in the cement industry which artificially increased construction costs for decades in Brazil. CADE’s decision indicated that a federal governmental program for housing to low-income families (“*Programa Minha Casa Minha Vida*”) spent more than EUR 1 billion (approximately BRL 6 billion) of public budget to buy cement bags from members of the cartel, which gives an idea of how much the infringement harmed a relevant public policy dedicated to alleviating poverty (CADE, 2015<sup>[50]</sup>).

##### **Mexico**

In **2019**, COFECE sanctioned two cartels in the market of corn tortillas. The case was then subject to a specific quantification exercise aiming the estimation of the economic benefits of this decision. For this purpose, COFECE’s applied its evaluation methodology guideline using the following key variables: the duration of the infringement based on the available evidence (i.e. around 3 years and 1 year, respectively), the estimated the size of the market based on public information; an overcharge price estimation (i.e. 6.93% and 7.69%, respectively), and the demand elasticity in order to apply a consumer surplus formula. The exercise led to a total benefit estimation of around EUR 1 million (approximately MXN 20 million) (COFECE, 2020<sup>[48]</sup>).

75. Quantification exercises can also be applied to pro-competitive reforms, which is another field where competition authorities can contribute to better advocate the advantages of competition and its positive impact including on the poorest. Indeed, regulatory reforms have a significant impact on a country’s economy and empirical evidence shows that pro-competition reforms to eliminate subnational regulatory barriers can be linked to increase in firm’s productivity growth, with relevant impact on the poorest depending on the affected markets.

76. These examples indicate how a targeted exercise of quantification may help to shed light on the poverty reduction agenda, highlighting the benefits of competition and the role that competition authorities can play in support of wider public policies aiming to alleviate poverty.

#### 4.4 Opinions on price controls in markets related to basic needs

77. Price controls refers to government's regulation of prices to ensure they remain at a certain level. This can be done through a variety of ways, including setting price ceilings for specific goods or services, with or without co-related subsidisation policies. In Latin America, price controls have been widely used, usually with the objective that essential goods and services remain affordable to poor people (e.g. medicines and basic food items) or as an attempt to control price escalation in inflationary periods (Cariola et al., 2020<sup>[51]</sup>).

78. The negative side-effects of price controls have been widely explored by the economic literature (Rockoff, 2015<sup>[52]</sup>). They include the risk of (i) shortages since producers may not be willing or able to supply them at the artificially low prices; (ii) black markets may emerge where goods are sold at prices higher than the controlled price; (iii) quality decline because producers may cut corners to keep costs low; and (iv) discouraging investments since firms may have less incentives and profit expectations, leading to a reduction in innovation and competitiveness.

79. The negative effects of price controls can have a greater impact on poor consumers particularly when related to markets of basic needs, and competition authorities can help by informing governments about the negative side-effects of such policies. Competition authorities can also suggest governments to consider replacing price control policies by better-targeted policies that guarantee social safety nets while favouring competition and a sound regulatory environment. When kept by governments, price control policies should be transparent and indicate which public goals are being targeted in detriment of competition.

##### Box 4.4. Opinions highlighting the side-effects of price regulation

###### Costa Rica

In 2020, COPROCOM issued an opinion to advocate against price regulation of rice in the country. The opinion argued that competition is the best driver for better prices and highlighted the risks of higher prices to consumers in case regulated prices were set above competitive levels, as well as the risks of shortage in case the prices were set below competitive levels. The opinion concluded with a list of recommendations including a request to the Ministry of Economy, Industry and Trade to abolish price regulation or to justify the alleged benefits of the given price regulation policy (COPROCOM, 2020<sup>[53]</sup>).

80. In sum, price control policies can distort markets with negative consequences for economic growth and poverty reduction, with the economic literature suggesting that comprehensive price control reforms can be both pro-poor and pro-growth (Guénette, 2020<sup>[54]</sup>). Thus, competition authorities can also play a relevant role in this area, particularly by highlighting the side-effects of price regulation to governments.

# 5 Shifting from informal to formal economies

81. In LAC countries, the informal economy represents a large part of the economy and it is usually associated with lower productivity, lower wages, and poorer working conditions (WB, 2020<sup>[55]</sup>). Although there is no standard definition to informal economy, it often involves undeclared labour, tax evasion and unlicensed enterprises, including both workers and economic activities that are not covered (or insufficiently covered) by formal arrangements (OECD; ILO, 2019<sup>[39]</sup>).

82. Indeed, informality is often a survival option to low-skilled workers excluded from the formal sector and considered in a condition of economic vulnerability (OECD; ILO, 2019<sup>[39]</sup>), with poor people representing between 60% and 90% of total workers in labour informality (OECD, European Commission, CAF, 2022<sup>[56]</sup>).

83. In this context, competition policy may contribute to reduce the size of informal sector, and in the transition from informality to formal economies. In formal markets, workers have better work conditions, including social protection coverage, access to essential health care and basic income security. In this sense, reducing informality rescues poor workers from vulnerable situations and contributes to overall economic stability of the country (OECD; ILO, 2019<sup>[39]</sup>).

84. Competition authorities can help to reduce the size of informal economy by enforcing competition laws in this sector (in despite of specific challenges, e.g. calculating market-shares and imposing fines without reliable data on annual turnovers) particularly in markets where formal and informal firms compete. In these markets, informal firms gain an undue competitive advantage over formal firms by reducing supply costs in ways that have nothing to do with market efficiencies (e.g. evading taxes and labour costs) and which would be desirable from a competitive market. As a result, formal firms may be unable to enter or expand into a market if they cannot offer attractive prices to consumers (OECD, 2018<sup>[57]</sup>).

85. Competition advocacy is also an instrument for competition authorities in the fight against informality. When dealing with industries most affected by informality, advocacy actions should pay special attention to address the causes of informality including burdensome tax systems, labour and product regulations, barriers to access credit, as well as long and costly administrative processes for setting up and operating businesses. The main idea is to reduce the costs of entering the formal sector and to increase the incentives of operating formally, leading greater productivity and competition (OECD, 2018<sup>[57]</sup>).

# 6 Conclusion

86. Competition law and policy may help the poor in many ways. Overcharges of cartels, the most harmful infringement in competition law, can have a worst effect for poor people particularly when related to essential items since they spend proportionally more of their incomes. In addition, more competition in public procurements allows governments to use their resources more efficiently and expand the offer of public services for those who need the most. This is particularly important in Latin American and the Caribbean where public procurement spendings represent around 6% of GDP and 17% of total government expenditures (OECD, 2020<sup>[37]</sup>).

87. More concretely, competition authorities in the region may contribute to the fight against poverty by prioritising their activities to markets in which the poor is proportionally more affected by the lack of competition. This prioritisation efforts may cover both enforcement and advocacy actions, and will benefit from institutional setups that offer discretionary powers to competition authorities in this regard. The prioritisation processes should have transparent criteria and take advantage of previous open debate with relevant stakeholders, helping to build legitimacy.

88. Competition policy is not a silver bullet to address poverty issues, but it is an important instrument which should integrate a broader public policy aiming to reduce poverty. As a consequence, a sound co-ordination between competition policy and other public policies is also valuable, helping competition authorities to assess the needs and to support broader governmental priorities. Indeed, a healthy economic environment will enable companies to be more efficient, producing more value, offering better prices, and improving their products and services.



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