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**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM**

**Session III: Addressing Competition Challenges in Financial Markets**

-- Contribution from Peru --

**4-5 April 2017, Managua, Nicaragua**

*The attached document from Peru is circulated to the Latin American and Caribbean Competition Forum FOR DISCUSSION under Session III at its forthcoming meeting to be held on 4-5 April 2017 in Nicaragua.*

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# LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM



## 15th Latin American and Caribbean Competition Forum 4-5 APRIL 2017, Managua, Nicaragua

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### Session III: Addressing Competition Challenges in Financial Markets

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#### -- CONTRIBUTION BY PERU<sup>1</sup> --

#### 1. Introduction

1. Although, the financial market comprises both the Indirect Finance Market, and the Direct Finance Market, this contribution will focus on the actions and initiatives by the relevant public agencies concerning issues of competition and consumer protection within the Indirect Finance Market which can be further divided into the Banking Market<sup>2</sup> and Non-Banking Market<sup>3</sup>. Public agencies with a supervision role in the banking sector includes the National Institute for the Defence of Competition and Protection of Intellectual Property (Indecopi, by its acronym in Spanish), the Superintendence of Banking, Insurance and Private Pension Funds (SBS, by its acronym in Spanish) and the Central Reserve Bank of Peru (BCRP, by its acronym in Spanish)

2. The experience of Indecopi analysing the banking sector and co-operating with other related agencies in the development of policies and studies on competition issues is mostly concerned with consumer protection actions and transparency, rather than wider market studies or cases. In this regard, Indecopi has found common priorities with SBS, the banking regulator, that have eased the coordination.

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<sup>1</sup> This document was prepared by the Economic Studies Management of Indecopi.

<sup>2</sup> This sub-market comprises state banks (such as, Banco de la Nación and Banco Agropecuario) and private banks, also called multipurpose banks.

<sup>3</sup> This sub-market is comprised by financial firms, municipal banks, rural savings banks, entities of development for the small and micro-business (EDPYME, by its acronym in Spanish), leasing companies, credit unions, among others.

## 2. Co-operation with regulators and central bank

3. Under the Peruvian institutional framework three public institutions have specific regulation duties regarding the financial market; the SBS is the financial regulator; the BCRP is the national monetary authority; and, Indecopi, as the national competition and consumer protection authority.

4. In this sense, the Law 26702<sup>4</sup> sets forth the prudential regulatory and supervisory framework to which firms operating in the financial and insurance systems will be subject, including those carrying out activities which are similar or complementary to the corporate purpose of such entities.<sup>5</sup> SBS has not competency to intervene over competition issues. However, all financial institutions require an authorisation from the SBS in cases of transformation, merger and corporate spin-offs. The objectives of the Peruvian financial regulator are to defend public interests and preserve the economic and financial stability of the institutions under its supervision. There is not an established hierarchy to pursue these objectives.

5. In the case of the BCRP, its purpose is to preserve monetary stability. To do so, the Central Bank has established an inflation target of 2%, plus or minus 1%. BCRP actions are oriented to maintaining this level of inflation in the Peruvian economy. The BCRP role, as defined by the Constitution, include the following: to regulate money and credit in the financial system, manage international reserves, issue notes and coins, and periodically report on the country's financial position. The provisions issued by the BCRP in the exercise of its functions shall have binding force for all financial system entities and, in what may correspond, for the rest of individuals and corporations. As well as the SBS, the Central Bank has not competency to intervene over competition and consumer protection issues.

6. Indecopi is in charge of enforcing competition law in the financial services markets<sup>6</sup> as well as consumers' rights. According to consumer protection laws, Indecopi is the only public agency with legal authority to resolve consumer conflicts by means of administrative procedures. In its role of competition law and consumer protection enforcer, Indecopi can impose fines when an infringement on competition law and consumers' rights is proven. Additionally, only in cases of infringement of consumers' right Indecopi can order corrective actions.

7. Even though certain banks have entered the market in recent years, the banking sector in Peru is highly concentrated.<sup>7</sup> The market share of the first three banking firms (IC3), in terms of credits and/or deposits, are around 70% and has not varied significantly for almost a decade (Céspedes-Reynaga & Orrego, 2014).<sup>8</sup> During the same period, the number of consumers' complaints has steadily risen.<sup>9</sup> Although the evolution of the number of consumers' complaints may be connected mainly with the growing number of individuals and small firms using financial services, Indecopi is concerned that the level in units reflects a poor quality of service correlated with the high level of concentration.

<sup>4</sup> General Law of the Financial and Insurance Systems, and Organic Law of the SBS.

<sup>5</sup> The Law does not affect the BCRP.

<sup>6</sup> The SBS is limited by its roles of supervision and prudential regulation.

<sup>7</sup> The recent banks that have opened offices in Peru are Santander Peru from Spain, Banco GNB from Colombia that acquired HSBC Bank of Hong Kong, and ICBC Bank from China.

<sup>8</sup> CÉSPEDES-REYNAGA, N. & F. ORREGO, (2014). *Competencia de intermediarios Financieros en Perú*. DT. N° 2014-10. Working Papers Series, August 2014. Central Reserve Bank of Peru (BCRP). Available at: <<http://www.bcrp.gob.pe/docs/Publicaciones/Documentos-de-Trabajo/2014/documento-de-trabajo-10-2014.pdf>>.

<sup>9</sup> For instance, in 2006, Indecopi had received 944 consumers' complaints related to banking and financial services, this number has increased to 8 744 at 2016. See: <<https://www.indecopi.gob.pe/estadisticas>>.

8. It is therefore of paramount importance to balance and reconcile competition policy and stability objectives in this sector to avoid opportunistic behaviours and inefficiencies that go in detrimental of the financial system and social welfare. Currently, co-operation and actions among public agencies on this field requires further development as, for example, recent studies have shown that competition may be beneficial for banks' portfolio risk (OECD, 2010).<sup>10</sup> Indecopi is open to pursue further cooperation with the SBS in competition issues, for instance providing advice to the latter in those mergers that require approval from the financial regulator.

9. Co-operation on consumer protection have developed faster between the SBS and Indecopi. The financial regulator has incorporated in its organization the defence of consumer protection and the rules governing the market conduct since they form part of the overall assessment of financial institutions risks (Prialé & Dias, 2010).<sup>11</sup> For instance, the SBS has been increasingly worried about the inefficiencies that may be caused by the existence of information asymmetries in the provision of financial products and services. For instance, the SBS have introduced a series of regulations aim at controlling the behaviour of the financial providers with respect to individual consumers, setting out regulations and supervisions on transparency, access to information, and service quality.<sup>12</sup> These novel regulations have contributed effectively in facilitating activities developed by Indecopi by means of: i) education, orientation and diffusion; ii) consumer safety; iii) prevention mechanisms and resolve disputes; and, iv) strengthening of the National Integrated System of Consumer Protection.

### 3. Financial Market Studies

10. So far Indecopi, through its Economic Studies Management, has conducted two brief studies related to the financial market, with different scopes and objectives.

11. In 2007, the research group carried out a market study to provide an overall outlook of the level of competition and its determinants in the banking sector.<sup>13</sup> This study was motivated by the steadily increase in the number of consumers' complaints received by Indecopi. The study observed that the levels of financial depth in Peru were quite low even in comparison with lower income countries, the levels of concentration were very high for almost all the financial products marketed<sup>14</sup> and information

<sup>10</sup> OECD, (2010). *Roundtable on Competition, Concentration and Stability in the Banking Sector*. DAF/COMP(2010)9. Organisation for Economic Co-operation and Development (OECD). Available at: <[www.oecd.org/daf/competition/sectors/46040053.pdf](http://www.oecd.org/daf/competition/sectors/46040053.pdf)>.

<sup>11</sup> PRIALÉ R., G. & D. DIAS, (2010). *La protección al consumidor en el Perú y la banca sin sucursales*. DT/002/2010. SBS Working Papers. Available at: <[http://www.sbs.gob.pe/repositorioaps/0/0/ger/ddt\\_ano2010/SBS-DT-002\\_2010.pdf](http://www.sbs.gob.pe/repositorioaps/0/0/ger/ddt_ano2010/SBS-DT-002_2010.pdf)>.

<sup>12</sup> SBS regulation is designed to ensure that financial institutions disclose, clearly and fairly, the key features of their products and services. Nonetheless, these measures may have little impact on consumer behaviour if they do not understand why it is important to read in detail the contractual terms or are not able to understand them. Then, it is as important as disclosing information to educate and guide consumers on the main features of financial services as well as making them conscious about the potential costs of financial services. Thus, the SBS has developed two specialized websites on: i) orientation and citizen services <<http://www.sbs.gob.pe/usuarios>>; and, ii) financial education <<http://www.sbs.gob.pe/educacion-financiera>>.

<sup>13</sup> TAVERA, J., S. BOZA, M. CALDAS, & A. QUISPE, (2007). *Mercado Financiero*. Observatorio de Mercado. GEE, Indecopi.

<sup>14</sup> High concentration levels were identified in the three types of deposits analysed (current account, savings account, and instalment accounts). This situation can be explained not only by the fact that multipurpose banks have a greater number of agencies in the country, and make an intense use of advertising, but could also be due to the fact that they enjoy a better reputation among the clients. In the credit market, it was identified higher levels of concentration in the commercial and mortgage loans, and lower levels of concentration in the case of loans to microenterprises and consumer loans. However, few banks explain almost all types of credit.

asymmetries<sup>15</sup> were especially critical. Altogether, these factors correlated with the observed high interest rates and margins in this industry.

12. The findings of the study and a series of recommendations were delivered to the Consumer Protection Commission with the aim to develop actions and strategies that can contribute to improve the performance of Indecopi in this area. For instance, actions to make information of financial services more accessible to individual consumers were among the most relevant recommendations as well coordinating with the SBS a stronger financial culture in the population.<sup>16</sup>

13. After that, in 2013 the research team carried out a study to discuss the possibility to promote the standardization of the methodologies for interest settlements and payments in credit cards, to enable consumers to have a better understanding of this financial product.<sup>17</sup> This study was mainly motivated by the concerns associated with the significant increase in the issue and paylines of credit cards for individual consumers.<sup>18</sup> It was observed that both the technical complexities in the application of payment conditions as well as the significant heterogeneity of methods applied by banks created confusion among final consumers, putting at risk the credibility of the credit card system.

14. The conclusions of the study were shared with the Peruvian Banking Association (Asbanc, by its acronym in Spanish) and with the SBS. The results were effectively discussed in a series of conferences in which all the stakeholders recognized the importance of standardizing the methods to calculate payments in credit card balances, however no further steps were taken because banks considered the issue too costly to be feasible.

15. Finally, it is important to note that the BCRP has developed studies on competition aspects in the financial sector, including at the level of sub-sectors or products, but its studies always focus on the impact of concentration on the efficiency of the transmission channel of monetary policy.<sup>19</sup>

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<sup>15</sup> The information asymmetries are reflected in: (i) the low level of knowledge from most consumers in regard to the conditions of credit and deposit contracts, deriving in inefficient decisions; and (ii) the lack of recognition by financial institutions of clients' ability to pay, especially in the microcredit sector.

<sup>16</sup> This implies enabling consumers to understand the different interest methodologies applied and credit conditions, and to be able to compare the different alternatives present in the market.

<sup>17</sup> DE LA CRUZ, J., R. TUPAYACHI, F. TAQUIRI, J. SANCHEZ & Y. ZARATE, (2013). *Metodologías de liquidación de intereses y pagos para tarjetas de crédito*. Documento de Trabajo N° 02-2013/GEE. GEE, Indecopi.

<sup>18</sup> The credit card is the product with more complaints received by banks and Indecopi, the main reasons for the complaints are the existence of unrecognized transactions, and the charge of interest or commissions not specified in the contracts.

<sup>19</sup> In 2013 and as initiative of Indecopi, BCRP analysts presented its main findings to foster a technical debate of its document: *Competencia de intermediarios financieros en Perú* by Fabrizio Orrego & Nikita Céspedes-Reynaga. Available at: <<http://www.bcrp.gob.pe/docs/Publicaciones/Documentos-de-Trabajo/2013/documento-de-trabajo-05-2013.pdf>>. Previously, in 2010, economists from the Universidad del Pacífico presented the document: *Competencia y Concentración en el Sistema Financiero en el Perú* by Eduardo Morón, Johanna Tejada & Alonso Villacorta. Available at: <[http://repositorio.up.edu.pe/bitstream/handle/11354/356/DD1003%20-%20Moron\\_Tejada\\_Villacorta.pdf?sequence=1&isAllowed=y](http://repositorio.up.edu.pe/bitstream/handle/11354/356/DD1003%20-%20Moron_Tejada_Villacorta.pdf?sequence=1&isAllowed=y)>.

#### **4. Conclusion**

16. Overall, the main institutions associated in Peru with the monitoring and supervision of the functioning of the financial market have not set as objective the promotion of competition in this market, prevailing the objective to defend public interests and preserve economic and financial stability of the institutions under its supervision, i.e. the strength and credibility necessary to maintain the soundness and trustworthiness of the system in the long term.

17. In this regard, despite the fact that between Indecopi and SBS has a co-operation agreement to carry out joint efforts in their areas of competence, however the main actions jointly developed by both institutions have focused mainly on the defence of Consumer protection.

18. Regarding the development of market studies on the financial market, only two studies have been developed by Indecopi, one in which a competition approach and the other with a consumer protection approach. In the first case, the recommendations were focused on the development of financial education and transparency actions to be developed by Indecopi, and in the second case, the recommendations that were extended to the financial regulator could not be adopted because they were too costly to be feasible.