

COMPETITION COMMITTEE

DISCUSSION ON THE ROLE OF COMPETITION IN FINANCIAL CONSUMER PROTECTION

Contribution from Peru¹

Regimes and Institutional Architecture

- *In your jurisdiction, does the responsibility for promoting competition across financial services markets rest with a separate competition authority or the financial regulator/supervisor, or is the responsibility shared?*

In Peru, the National Authority for promoting competition and protection of consumers' rights is the National Institute for the Defence of Competition and Protection of Intellectual Property (hereinafter, INDECOPI). In its turn the Superintendence of Banking, Insurance and Private Pension Funds (hereinafter, SBS) is responsible for the enforcement of the rules of prudential regulation and supervision in those three economic sectors.

- *Does promotion of competition constitute a specific objective for financial regulators/supervisors? What is its relationship with other objectives, e.g. financial stability, consumer protection - is there a hierarchy of objectives?*

The promotion of competition is not a mandate of the Peruvian financial regulator. The SBS objectives 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.

INDECOPI is the public body responsible for the protection of consumers' rights in financial services markets. According to consumer regulations, INDECOPI is the only public body with legal authority to resolve conflicts by means of administrative procedures. In its role of enforcement of consumer protection regulations INDECOPI can order corrective actions and/or impose fines when an infringement on consumers' rights is proven.

- *Can financial regulators/supervisors enforce general competition law on the financial services markets?*

INDECOPI is the only authority that can enforce competition law in the financial services markets. The SBS is limited by its roles of supervision and prudential regulation.

- *Do financial regulators/supervisors have powers to intervene to address structural features of markets that inhibit competition, e.g. high concentration, vertical integration?*

¹ This questionnaire was elaborated by Rodolfo Tupayachi, Deputy Manager of the Economic Research Department at INDECOPI, in collaboration with SBS officials, under the supervision of Javier Coronado, Manager of the Economic Research Department.

The financial regulator has not competency to intervene over competition issues. However, all financial institutions require an authorization from the SBS in cases of transformation, merger and corporate spin-offs.

- *Do financial regulators/supervisors have powers to regulate price levels or structures within financial services markets?*

According to the Peruvian Banking Law, financial institutions are free to determine their interest rates and fees for all the financial products and services offered in the market.

Competition and Consumer Protection

- *How do regulators/supervisors ensure that their interventions to promote competition have a beneficial impact on consumers of financial services?*

The SBS requires financial institutions to use the regulatory definition of annual effective cost and return rate in all their contracts and marketing materials, and to clearly disclose such information to their clients. Also, the SBS has been publishing detailed price comparison tools with information on interest rates, annual effective costs and return rates, costs associated with savings products, prices of motor third party liability (MTPL) insurance policies, and coverage of schoolchildren personal accident insurance policies. This information is expected to have had a positive impact on competition benefiting consumers through price reductions.

- *There are examples of competition in financial services markets driving poor outcomes for consumers (e.g. financial services markets in which fierce competition on the headline price leads to increases in hidden or contingent charges). Please indicate whether these are relevant in your jurisdiction and if so how have these been addressed?*

According to press reports, the recent work done by the SBS on the reduction (elimination) of commissions that financial institutions apply with any additional or complementary services,² in the end creates more commissions or an increase in the interest rate to customers.³ However, there is no systematic evidence that has been processed to evaluate the alleged causality of commission reductions over interest rates and other costs.

Barriers to Entry

- *What initiatives exist to minimize or eliminate regulatory/supervisory barriers to entry in financial services markets? How is this balanced/prioritized against other duties?*

The actual framework that regulates entry in the Peruvian financial market seems to work effectively. That said, there are no specific proposals at the moment aim at reducing entry requirements in this market.

² The apparently insufficient justification for the application of these commissions has had an impact on the increase of the effective cost of credits to final customers.

³ See for example: <<http://elcomercio.pe/politica/opinion/editorial-falsas-promesas-noticia-1632377>>; <<http://gestion.pe/tu-dinero/aspec-clientes-bancos-reclaman-alza-comisiones-2073141>>.

- *Are there examples of financial regulators/supervisors changing their approach (e.g. to authorizations or prudential requirements) in order to facilitate new entry in the financial services markets?*

There is no information in this respect.

Intervention

- *What have been the major competition interventions in financial services markets in recent years:*

a) *On dominance?*

No specific actions have been taken in recent years.

b) *On market-wide issue, including price, interest rates or commissions?*

According to the Peruvian Banking Law, financial institutions are free to determine the interest rates and fees for all the financial products and services offered. However, through a number of specific regulations the SBS has established some parameters that financial institutions should follow when setting charges related to the provision of services. For instance, financial institutions cannot impose fees and charges if the related services are not additional or complementary to the main product or service demanded by customers.

Also fees and charges applicable to credit cards, loans, saving accounts, current accounts and short term deposits must be disclosed using unique names established by the SBS.

Interest rates must be defined in an annual effective form, using also an annual effective cost rate and return rate, when applicable. Those definitions have to be clearly stated in financial contracts.

- *Are cartels, collusive activities, mergers and firm concentrations monitored differently in the financial services market to other markets?*

There is not a different approach in the surveillance of the financial services markets with respect to other markets so far.

Comparability and Access

- *What mechanisms are in place to help consumers compare, choose or switch between financial products? For example:*

a) *Disclosure of comparable information on price and product features*

Since 2002, the SBS has been periodically publishing comparative information of costs (fees, insurance, account maintenance, etc.) associated to specific loan products, such as mortgage, consumer and small businesses loans for specific loan

amounts and periods of time (e.g.: Consumer Loans for US\$ 4 000 in 12-monthly payments).

This information is continuously updated through a software application called "Registry of Interest Rates, Fees and Other Costs" (RETASAS, by its Spanish name) which is published online in real time at the SBS website. This application also contains information for saving accounts.

- b) *Tools for comparing price and/or product features across some or all of the market and to what extent are such tools regulated to protect consumers from misleading or inaccurate comparisons*

Financial institutions are required to publish on their websites a list of interest rates, fees and charges. This price list must be published in an easily accessible place to all customers in every branch. There are also information requirements, besides the price list, that should be found in financial institutions websites such as contract clauses, financial formulas, loan simulation programs and frequently asked questions. Finally, there are brochures made by financial institutions with general information as well as common procedures and frequently asked questions.

- c) *Measures to assist with switching, e.g. through reducing the administrative burden*

There is no information in this respect.

- d) *Other*

There is no information in this respect.

- *Have you used behavioural economics to inform interventions to increase consumer ability to search, compare and switch? How have you used this and has it been effective?*

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. The SBS is currently working on this issue as part of its institutional mandate.

The SBS created a webpage to disseminate financial educational concepts and a customer webpage, to provide consumer-oriented information on financial sector issues. Also the SBS developed a Financial Educational Program for School Teachers (PAD) and other training modules, educational materials and radio spots.

Likewise, INDECOPI has implemented a web based application called "*Mira a quien le compras*" (Check who you are buying from). This application allows consumers to obtain information about the performance of providers in the financial services market. The information of this application contains the number of sanctions, products and

type of infringement committed by financial services providers regarding consumer protection issues. In this way, INDECOPI expect to promote a more proactive and mature behaviour of consumers in the protection of their rights.