



INTER-AMERICAN DEVELOPMENT BANK



**LATIN AMERICAN COMPETITION FORUM  
-- 10-11 September, Panama City--**

**Session III: The Role of Economic Analysis in Judicial Decisions**

**CALL FOR COUNTRY CONTRIBUTIONS**

1. This paper is circulated in preparation for the roundtable discussion to be held in Session III of the Latin American Forum on Competition (10-11 September 2008 in Panama). Session III will discuss the Role of Economic Analysis in Judicial Decisions. Modern antitrust economics is complex and many judges hearing competition cases do not have much training in the subject, making it difficult for them to make decisions according to sound economic principles.
2. The roundtable will discuss the role of courts in the competition field, the different judicial systems in place, the role of economic experts, and the most effective techniques to use in court. It will be an opportunity for competition authorities to share their experiences regarding the presentation of economic theories and evidence to courts. It will also allow them to identify the most fruitful avenues for obtaining sound economic reasoning in court decisions and to discuss the merits of courts specialised in antitrust matters.
3. Presenters will be selected on the basis of the written contributions submitted to the Secretariat in response to this call. All participating countries are invited to prepare such contribution. The papers should be submitted **by 14 August 2008 at the latest** in electronic versions (5 pages maximum in Spanish or English). They will be circulated to other participants through the OECD and Panama's websites (respectively: <http://www.oecd.org/competition/latinamerica> and <http://www.autoridaddelconsumidor.gob.pa/>).
4. Please see the list of questions in the Annex.

## ANNEX

### Session III: The Role of Economic Analysis in Judicial Decisions

#### Questions for written contributions

(Contributions are due by 14 August)

Countries are invited to address the general issues identified in the above description. In addition, they are invited to respond to the questions below:

1. What is the role of the courts in your country, i. e. do the courts make enforcement decisions on cases brought by the competition agency, or do they only review the legitimacy of administrative decisions taken by the competition agency?
2. Is your judicial system inquisitorial or adversarial?
3. Are your courts able to build economic arguments independently from the submissions made by the parties – e.g. by using court-appointed consultants? If so, how do the courts define the mandate of such consultants?
4. What are your actual experiences as a competition authority with presenting complex economic theories or sophisticated economic evidence to courts? Which techniques proved most effective: use of external economic consultants or internal staff? Written or oral pleadings?
5. In your country, are the issues different when a case is brought before an appellate judge (higher court) as opposed to a judge who is responsible for making factual findings (lower court)?
6. Should economic experts be sitting in higher / lower courts with the judges dealing with antitrust cases?
7. Is it practical to have specialised courts reviewing antitrust cases which can build up the necessary economic experience to deal with this area of law?