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Global Forum on Competition

DOES COMPETITION KILL OR CREATE JOBS?

Contribution from Costa Rica

-- Session I --

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-- Costa Rica --

1. Introduction

1. The recent slowdown has affected the economies of the countries in different ways, putting into the public arena issues such as production and employment. These issues have always been relevant to economic and government authorities. However they have recently come to permeate other areas of public affairs. Government institutions, whose work was not directly linked to issues related with production and employment, have seen their decisions affected by concerns of this nature.

2. It is natural the economic situation of the country together with the main concerns of the government and its citizens come to permeate the vision of the competition authorities, which are part of the public administration and part of the country as a whole.

3. However, it should be recognized that the economic slowdown has affected each country differently and the measures taken by each government to reverse the effects of the economic crisis has also been different.

4. Costa Rica has not been exempt from the negative effects of the crisis, the following table shows the evolution of the unemployment rate in the last decade.

Table 1. Costa Rica : Evolution of the Unemployment Rate

Figures in percentage

2005	2006	2007	2008	2009	2010*	2011	2012	2013	2014
6,6	6,0	4,6	4,9	7,8	9,2	10,5	9,8	8,3	9,7

* In 2010, a methodological change occurred in measuring unemployment.

Source: Central Bank of Costa Rica and the National Institute of Statistics and Censuses

2. The issue of employment and sectoral Costa Rican competition rules

5. Costa Rican sectoral competition regulation for telecommunications dates from 2008 and was inspired by previous competition legislation. This legislation provides traditional instruments, most of which are contained in legislation from other countries which applies to the analysis of mergers, cartels and abuses of dominance.

6. Therefore, such legislation does not include employment as a variable to be considered in the analysis or within the elements to be valued in the study of a particular case.

7. So far Telecommunications Superintendency (SUTEL), which is the competition authority of the telecommunications sector, has not used any instrument associated with employment in its competition analysis. It's important to point out that any party in any case has alleged to consider employment as a matter to be taken into account by Sutel in competition cases. That means Sutel has not been pressured to consider elements associated with the loss or creation of jobs in its competition analysis.

8. Although there have been no concerns expressed by the government or other economic agents associated with the use of this variable, SUTEL considers these concerns may arise at any time, which is why it is of particular importance that the institution could be ready to answer such inquiries.

9. In that sense, it would be important for SUTEL to learn about the different types of economic and quantitative techniques tools that incorporate the employment as a factor to be weighed in a particular action for the application of the competition law.

10. The incorporation of the impact of employment in the area of competition law is an issue that seems to have recently been addressed by Competition Authorities, which is why the use of the economic instruments for analysis are not yet generalized.

11. Therefore it is useful to know, in order to have elements of analysis that may be required in the near future, how other jurisdictions have managed to reflect concerns about employment in their competition analyzes.

3. The issue of employment and the experience of deregulation in the telecommunications sector.

12. A key element cited by the Secretariat in their requests for contributions on the employment issue drew our attention to the fact that competition authorities often find it difficult to convey to the general public about the importance of certain actions that are taken under when applying competition law (mergers, cartels, abuse of dominance).

13. The Secretariat particularly emphasized that deregulation tasks may be politically more difficult to be executed if job losses are expected. The Secretariat also stated in its call for papers that in the opening of economic sectors previously protected (not open to competition) the loss of jobs is perceived as a threat.

14. In this sense, Sutel functions, as regulator and competition authority, allows to have a broad view of the matter. In this regard, the institution has had to deal with pressures from various sectors at the time to carry out the actions required to open the market and to promote the level of market competition.

15. In this regard, concerns about the issue of employment have indeed played a central role in the work of Sutel. The fact that the opening of the Costa Rican telecommunications sector was a very polarized subject for the Costa Rican society made this concern very import at that time. The liberalization of the telecommunications sector was part of the negotiation of the Free Trade Agreement between the United States Central America and the Dominican Republic (CAFTA), which was approved after a referendum in 2007¹ with 51 % of the population in favor and 49% against it.

16. Equally unique to the Costa Rican telecommunications market, is the fact that it has several SOE's, which has made concerns about possible job losses in the case of implementing various policies

¹ Source: http://www.tse.go.cr/pdf/varios/consultas_populares.pdf

aimed at promoting greater competition in the market, in those cases many of the actions taken by SUTEL has been perceived negatively by the public.

17. Because of this, SUTEL has been required to explain to the public that the pro-competitive actions taken are not aimed at ending public employment, but this task has not been an easy one.

18. However, experience has shown that both the liberalization and the promotion of competition, rather than lead to a loss of jobs it has led to a growth in employment in the sector, as detailed in the following table.

Table 2. Costa Rica : Number of jobs associated telecommunications sector
 Figures in number of employees

	2010	2011	2012	2013	2014
Total Employment	7.835	9.618	9.900	10.442	11.002

Source: SUTEL

19. In the past five years the number of jobs associated with the telecommunications sector has grown by 40% in a period in which economic conditions, as previously highlighted, were generalized slowdown.

20. The data above along with many other data reflect the sustained growth of the sector and consumer benefits that allow the SUTEL to state that the promotion of competition does not necessarily lead to job losses.

21. It is relevant to indicate that it was not until the SUTEL began to gather statistical information on the liberalization of the sector that it was possible to refute many of the arguments expressed by various pressure groups regarding the possible loss of jobs that could result in the opening of market.

22. This allows SUTEL to conclude that the best way to refute erroneous arguments on the subject of competition is through the use of statistics and historical data to show that the impact of a particular action of the competition authority on the level of employment does not have to be negative.

23. Particularly useful is the follow-up given to the most publicized actions or cases that the SUTEL as a competition authority had to face, because it allows to address future concerns express by a specific sector or sectors in a relation to a case in which an action was materialized or not.

24. For the SUTEL measuring the impact of competition constitute an essential work that contributes to the future performance and aids to dispel fears of the public, either in employment or other relevant factors not necessarily subject to the traditional analysis of competition law.

4. Conclusions

- i) Undeniably, competition authorities have historically been under pressure to make their decisions reflect certain concerns of public opinion.
- ii) It is natural that the economic situation permeates the vision of the competition authorities, which are part of the public administration.

- iii) It is also natural that in the current economic situation employment issues have become relevant in the work of the competition authorities. It is important not to lose sight of the reason why the NCA were established and its main objectives.
- iv) Measuring the impact of competition law on employment has been addressed recently by competition authorities that is why the use economic instruments for this analysis are not widespread.
- v) It is important to know about the different types of financial instruments and quantitative techniques to incorporate the issue of employment as a variable to be weighed in cases associated with the application of Competition Law.
- vi) The SUTEL so far it has not used of any instrument that includes elements associated with employment in its competition analysis, and Sutel has not been asked by any party in a particular case neither to take into consideration employment concerns.
- vii) The experience of SUTEL on the consideration of employment as a factor to be weighed in its decision is largely confined to its role as a regulator. As a regulator, it has had to deal with pressures from various sectors at the time to carry out the initial steps to open the market to competition or when it has executed actions to promote market competition.
- viii) A very appropriate way to refute erroneous arguments on the subject of the application competition law is by using historical statistics and data to show that the impact of a particular action as a competition authority on the level of job does not have to be negative
- ix) Costa Rica's experience has shown that both the opening of the telecommunications sector and the work of promoting competition, rather than lead to job losses it has led to a growth in employment in the past five years over 40%.