



Competition policy and SMEs: Three issues for discussion

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1- 3 August 2007, Singapore

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Background

1. The Chilean Competition System

- **The Chilean Competition Law**
 - **Legal Body:** Decree Law N° 211/1973, as amended by Law N° 19.911/2004
 - **Goal:** To promote and defend free competition
 - Defines the scope of the anti-competitive illicit:
“...*any deed, act or contract that prevents, restricts or obstruct free competition, or that tends to produce these effects*”
 - Persons targeted by law: any private or public,
without exemptions

1. The Chilean Competition System

- **The Competition Institutions**
 - **The Competition Agency:** National Economic Prosecutor's Office (FNE), that has investigative powers but no remedial ones
 - **The Competition Court:** Court of Defense of Free Competition (TDLC), that assesses the claims and the non-contentious presentations and consultations from the competition agency or any private or public entity. Has remedial powers in case of findings, being able to impose fines or sanctions, and to order to stop the conduct, among others
 - **The Supreme Court:** In some cases, reviews not just the due process but also the merits of the decisions of the competition court

2. The SMEs in Chile

- **What is meant in referring to SMEs:**
SMEs are defined:

- **By Economic criteria or Company sales**

Class	Yearly Sales (Thousand US\$)
Micro enterprises	Up to 84
Small enterprises	Between 84 and 880
Medium-sized enterprises	Between 881 and 3.500
Large enterprises	More than 3.500

- **According to the number of employees**

Class	Number of Employees
Micro enterprise	1 to 4 [or 1 to 9]
Small enterprise	5 to 49 [or 10 to 49]
Medium-sized enterprises	50 to 199
Large enterprises	More than 199

2. The SMEs in Chile

- **The importance of SMEs**

Can be illustrated by their incidence (about 17% of all firms of the economy and increases to 99% when you add the micro-sized enterprises) and by the share of jobs they provide (80% of the employment)

Year	Enterprises by size (%)			
	Micro	Small	Medium	Large
1999	80,9	15,9	2,2	1,0
2000	84,0	13,1	2,0	0,9
2001	84,2	12,9	2,0	0,9
2002	83,8	13,2	2,0	1,0
2003	82,6	14,4	2,0	1,0
2004	81,4	15,4	2,1	1,1

SMEs generates around the 25% of GDP and the 49% of exporter enterprises are SMEs.



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Chilean Competition Policy and SMEs

1. The relationship between them

- **Competition System and SMEs**

The Competition System is not in itself a framework for the protection or promotion of SMEs.

It nevertheless should make sure that there are:

1. No artificial distortions affecting the competitiveness and efficiency of the SMEs as agents in the markets in which they participate (i.e., providers, distributors, other)
2. No entry barriers or regulations that turn out to be arbitrarily discriminatory so as to complicate, retard or block the entrance of SMEs

Economies of scale and SMEs

(1) SMEs can be characterized by a wide variety of products and low volumes of production

- “Supply-side” strategies rarely result in effective economies of scale or scope; on the contrary, they end up causing diseconomies for firms
- On grounds of economic efficiency, and under these setting, should SMEs survive? How can they survive? → **trade off between cost efficiency and product variety**

Economies of scale and SMEs

How this trade off can be solved?

- **Associative actions:** Partnerships among firms can produce competitive advantages of a collective nature (and allow them to reap said economies of scale)

Is there any risk for competition?

- **FNE's role:** To preclude that SMEs' incentives for association might become coordinated operations or collusive agreements

Economies of scale and SMEs

(2) Asymmetric size of retail firms at the supply side

National retail chains entering to compete with companies that operate at regional or local levels

Case 1: Hyper markets versus SME and regional supermarket

Is this fair competition or predatory pricing?

Case 2: Corner stores (SME) versus mini supermarket (between 3 and 6 check boxes and under 500 mt² of surface)

Can corner stores really compete?

Large purchasing powers and SMEs providers

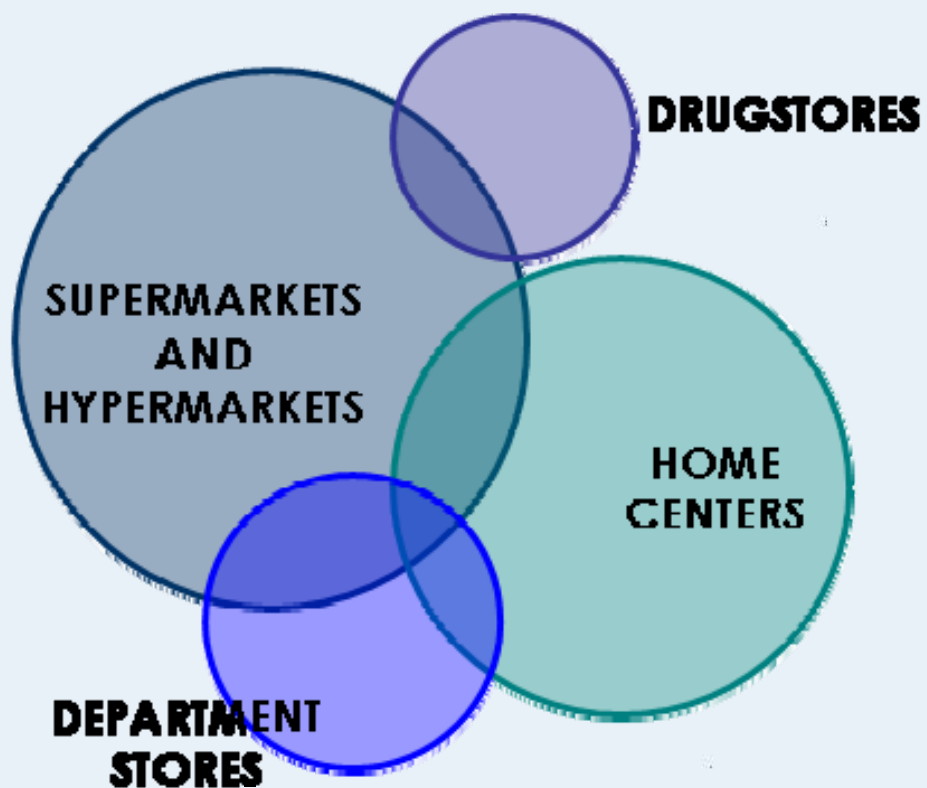
The ability of SMEs providers to successfully bargain with large purchasing powers is null

Great purchasing powers impose disadvantageous conditions in trading with SMEs, like:

- a) **Delayed payments:** Force SMEs providers to see how to finance their working capital, and at higher interest rates than those charged to large borrowers
- b) **Assorted fees:** Like rappel, thus translating uncertainty to the SME providers
- c) **Assorted requirements:** Payments for store inauguration or losses in the premises, among others

The impacts of retail concentration on SMEs

The boundaries of product market inside of the retail is less clear each time



The impacts of retail concentration on SMEs

In recent years there have been many conglomerate mergers and concentration operations that have increased buying power concentration

Large retailers justify their conduct regarding their large providers just as a countervailing power

But how this high concentration in retail affects SMEs providers? How can the FNE assess the impact of retail concentration on SMEs?

We haven't got the final answer yet



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Some final remarks

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1. The SMEs operation is socially good and necessary and not just a matter of economic efficiency
2. Yet the Competition System is not *per se* responsible for the SMEs development but has to encourage and protect competition regardless firms size
3. This involves setting rules and regulations in order to curb market diseconomies that harm SMEs

Some final remarks

- For further information:

www.fne.cl

Web Site of the National Economic Prosecutor's Office

www.tdlc.cl

Web Site of the Chilean Competition Court

THANK YOU!

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