



INTERVIEW WITH ESTEBAN GRECO: HEAD OF THE ARGENTINIAN COMPETITION AUTHORITY



1. Mr. Greco, you took office in February 2016, after a long period of inactivity in the agency. What was the first thing you had to do?

When I took office in February, I realized that the National Commission for Competition Defense (“CNDC”) had all sort of problems, from infrastructure to human resources, and a large back-log of files, some of them very old, that had to be dealt with. In particular, M&A cases had an average delay of 2.6 years. So my first task was to put some order within the Commission’s staff and organize a system to deal with the old files. In this respect, we are implementing a simplified procedure to fast-track simple M&A cases, so that we can allocate more resources to antitrust and complex M&A cases. Simultaneously, we had to constitute the Commission selecting the rest of the members. Our approach was to bring lawyers and economists with recognized experience in the area of competition policy, law and economics and industrial organization. I am happy that highly qualified professionals have joined me in this mission.

2. What other challenges are you facing in the first months in the office?

We are facing many challenges at the CNDC. It is worth saying that in Argentina we have an advantage in that we do not have to build from the ground up. The CNDC was one of the first agencies with action in competition enforcement in Latin America, and there are valuable professionals working in the agency. But in recent years, competition law enforcement in Argentina has been very erratic and subject to political considerations.



We face at least three main challenges: (i) achieve best practices in competition matters; (ii) promote competition culture; and (iii) propose changes in the legal framework to improve institutional design and develop modern tools for competition enforcement.

About the first challenge, we are reorganizing the internal structure of the Commission. We aim at developing a staff of qualified professionals who would apply technical criteria independently to changes in the government. Our final goal is to create a long term view for competition policy in Argentina. As part of this idea, we are currently hiring lawyers and economists, both at junior and senior levels, and organizing training programs to give our staff all the necessary tools to analyze competition cases. For example, we already received a group of specialists from the FTC and the World Bank who lectured about cartels and cartel prosecution. We are also in conversations with the FTC to organize other sessions later in the year. We would like to extend this training program to other competition agencies, universities and other competition organizations, such as the OECD and the UNCTAD. Simultaneously, we are preparing an internal initial training program, led by one of our most recent hires, addressed to our new staff of young professionals, who are starting their career in the area. The idea is that they would soon be ready to start working on specific cases within the Commission. We need to improve our capabilities and this is certainly a way to do it.

A second challenge is the development of a culture of competition in Argentina and the return of Argentina as a relevant player at the international level. To address these issues we are creating an area of competition advocacy within the CNDC. One of the main goals of this area is the promotion of competition among the general public and the local business community. There is a big misunderstanding about the role of competition policy in the economy and the mission of the competition agency. Many people view us as a price control agency. I want to make clear that we know our role and we want the general public to understand and endorse our actions. The second main goal is the return of Argentina and the CNDC to the international discussion on competition. We want to reactivate and increase our links with other agencies, as well as international competition forums, as a way to improve our practice and learn from the international experience. It is our view that we can only benefit from sharing methodologies and information with our colleagues around the world, especially as competition cases become increasingly international.

Finally, but not less important, we would like to build a new institutional arrangement, with an independent competition agency, so that competition law enforcement is driven by competition considerations and not by other issues. This is something that has been on the agenda for a very long time. In fact, our 1999 Competition Act provided for the creation of an independent competition tribunal that would be in charge of competition law enforcement. By 2014, the tribunal had not been constituted and it was ultimately eliminated. This experience shows that the implementation of the independency issue is not trivial and, therefore, we have to think creatively and learn from international experience so as to come up with a solution that is politically implementable. Whatever the institutional design we come up with, the important issue is that the renewed agency has to have independence to issue sanctions and be clear that there will be no political influence in imposing fines.



3. Can we expect other changes in the existing legislation to include or improve investigative tools like leniency programs?

Yes, this is something that we would like to introduce in a reform of our competition law. In fact, anti-cartel activity is one area that needs special enhancement and we believe that a leniency program would facilitate cartel detection and, therefore, help our cartel prosecution actions. On the other hand, and related to this, the fines we are allowed to impose according to our current legislation are outdated and very low. We need to update critical figures, such as the amounts of possible fines and the thresholds for merger review. The current figures have not been updated since 2001, when the exchange rate between the Argentine peso and the U.S. dollar was 15 times lower than today. This has created a situation in which many small operations must be notified to the Commission, and the fines that can be imposed for anticompetitive behavior are very low. We are proposing that these figures be excluded from the law, so that they can be more easily updated, as the macro and business environments change.

4. We have seen in the news that the competition authority is seeking to introduce more competition in large industries such as the air travel sector and mobile communications. What are the agency's priorities for the next year? Are these priorities aligned to the sector inquiries launched one month ago?

Yes. The agency is committed to competition law enforcement at all levels. We have a series of market studies ongoing right now, covering 12 different sectors in Argentina. You mentioned air travel and mobile communications. We also have studies on other sectors such as aluminum, credit cards, pharmaceuticals, dairy products, soap, vegetable oil, steel, petrochemicals and beef. We will use these studies to make a diagnosis of the competition conditions in Argentina, as a first step to understand where we are. Some of these studies may derive in a market investigation and may trigger the production of pro-competitive recommendations from the CNDC. The outcome of these studies will help define the priorities for next year, in the sense that we will be able to identify those markets in which competition is weakest and needs adjustments.

5. Finally, any other message you would like to share with the antitrust community?

Yes. I would like to say that I am confident that we are starting a new chapter in the history of competition policy enforcement in Argentina. The new government that took office in December 2015 truly believes that competitive markets are a valid institution to efficiently allocate resources in the economy. In this context, therefore, competition law enforcement is a top priority to the government. This new approach to competition law enforcement includes the adoption of technical and professional foundations for decisions, so as to orient the Commission towards best practices in competition matters. The main goal implies prioritizing defense of competition as public policy, as an instrument to promote consumer welfare and,



at the same time, improve productivity and opportunities to enhance economic development.

Argentina has a long history of competition policy and action. It was one of the first countries in Latin America with a competition law and it has a very important competition community. In the private sector, there are lawyers and economists with expertise. Hence, we have the capabilities to do our job. Now, we also have the political support.

We have a lot of work to do and a large and challenging agenda ahead of us. We are committed to this task and we are happy to contribute to making Argentina a more competition-friendly environment for doing business.