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**Nicholas
Franczyk,**
Federal Trade
Commission

**Timothy
Hughes,**
Federal Trade
Commission

4.3 Breakout Session 3
**Private Sector
Competition and Food
Security**

Competition and Economic Development

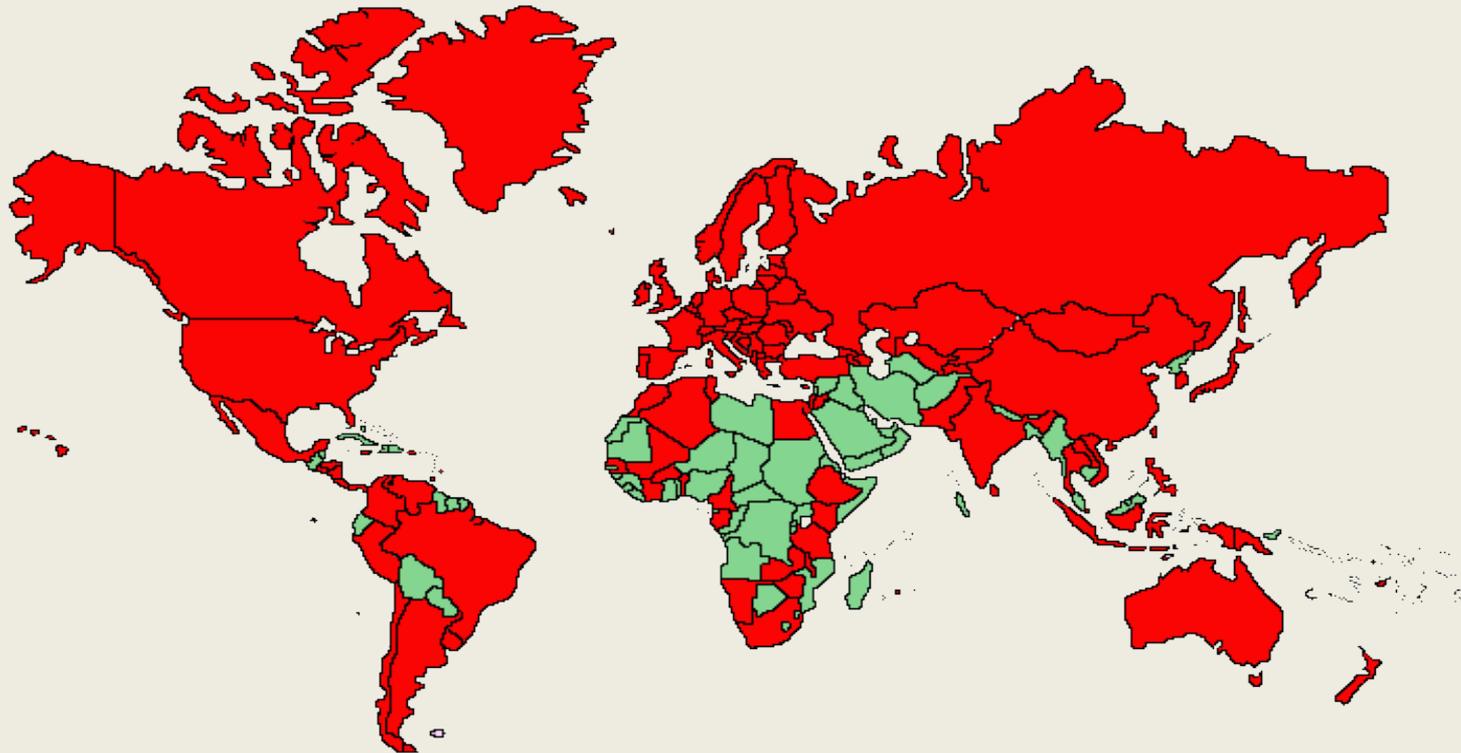
Timothy T. Hughes and Nicholas J. Franczyk
Office of International Affairs
Federal Trade Commission
Washington, D.C.

*The views expressed herein are those of the speakers and not necessarily those of the Federal Trade Commission
or any individual Commissioner*

Competition, Competition Policy, & Competitiveness

- **Competition** – “the process of rivalry between business enterprises for customers” Khemani, R.S., *Competition Policy & Promotion of Investment, Economic Growth & Poverty Alleviation in Least Developed Countries, World Bank, Occasional Paper 19*
- **Competition policy** – aggregation of laws, treaties, institutions, that are pre-conditions for effective competition (e.g., privatization laws, deregulation, low trade and investment barriers, “antitrust laws”, natural monopoly regulatory agencies, competition commission/authority). Brusick P, et al., *Competition, Competitiveness & Development: Lessons from Developing Countries, UNDP 2004*
- **Competitiveness** – relative strength vis-a-vis other competitors (e.g., GM vs. Toyota, Vietnamese shrimp vs. Texas shrimp)

Worldwide Spread of Competition Law



Effective Competition Law Enforcement

- Prevents:
 - Anticompetitive agreements
 - Monopolization (often referred to as abuse of dominance)
 - Anticompetitive mergers and acquisitions
- Benefits:
 - Reduces ability of incumbent cartels and monopolies to exclude new entrepreneurs, innovative technologies, imports, and FDI
 - Increases ability to export by removing obstacles to increased domestic productivity
 - Provides assurance that commercial transactions in one country will be subject to the same standards as in other countries, thereby reducing transaction costs and encouraging FDI

Key Word: Effective

- Application of the law based on sound economic principles
- Competent, well-trained staff
- Independent from political interference

Some Benefits of Competition

1. Increases consumer income
2. Improves competitiveness of import and export markets
3. Improves efficiency
4. Spurs innovation
5. Lowers consumer prices
6. Increases consumer choice and convenience

Competition Increases Consumer Income

- People in countries with high levels of economic freedom:
 - \$23,450 annual income
 - 2.6% income GROWTH
- People in countries with low levels of economic freedom:
 - \$2,560 annual income
 - (0.9%) income LOSS

Domestic Competition Improves Competitiveness of Import and Export Markets

“Few roles of government are more important to the upgrading of an economy than ensuring vigorous domestic rivalry. Rivalry at home is not only uniquely important to fostering innovation, but benefits the national industry. ... Firms that do not have to compete at home rarely succeed abroad.”

Michael Porter, *The Competitive Advantage of Nations* (1990)

Productivity & Prosperity

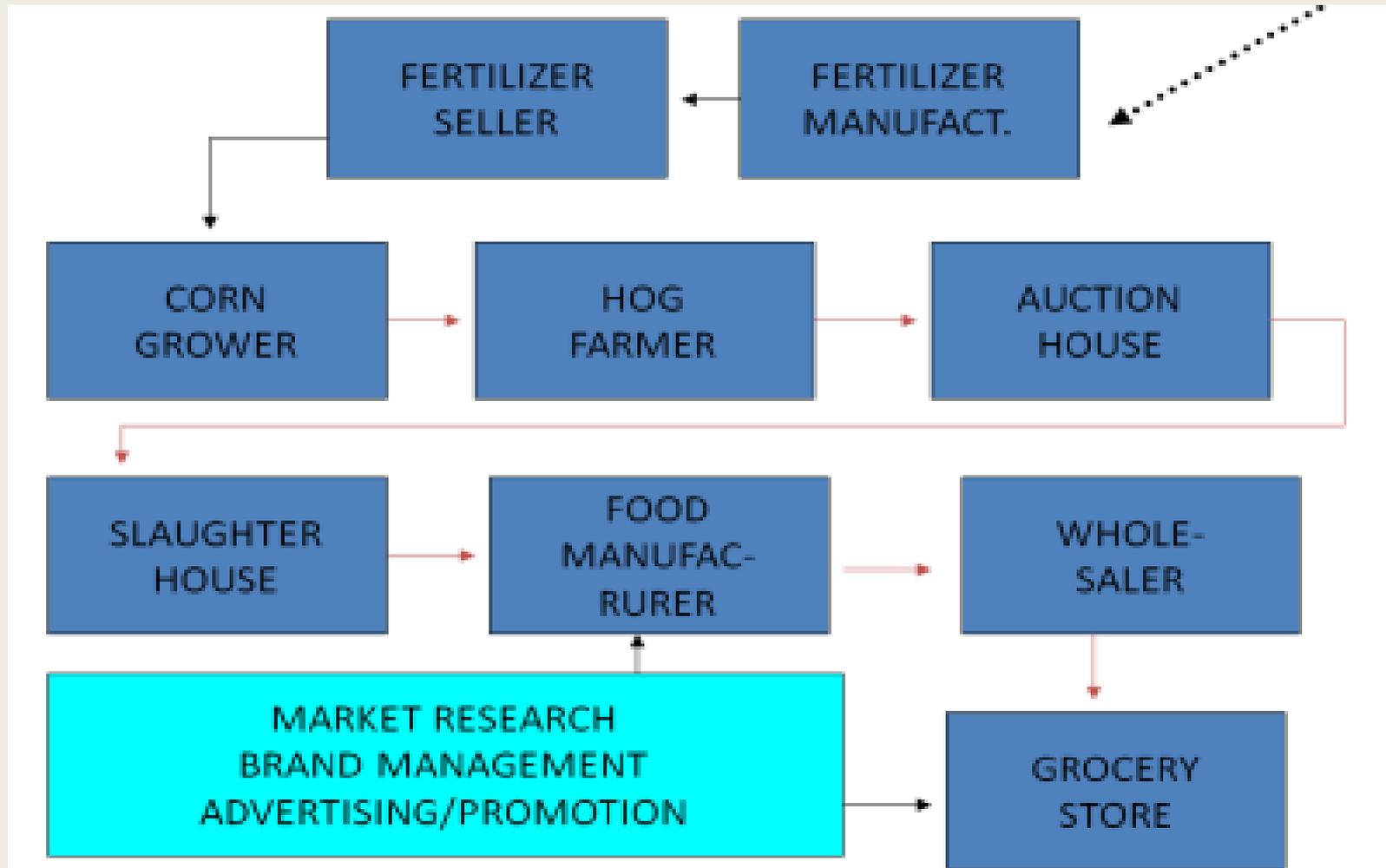
“Barriers to competition benefit some firms but deny opportunities and increase costs to other firms and to consumers. They also weaken incentives for protected firms to innovate and improve their productivity. Increasing competitive pressure can increase the probability of firm innovation by more than 50%”

World Bank, World Development Report 2005

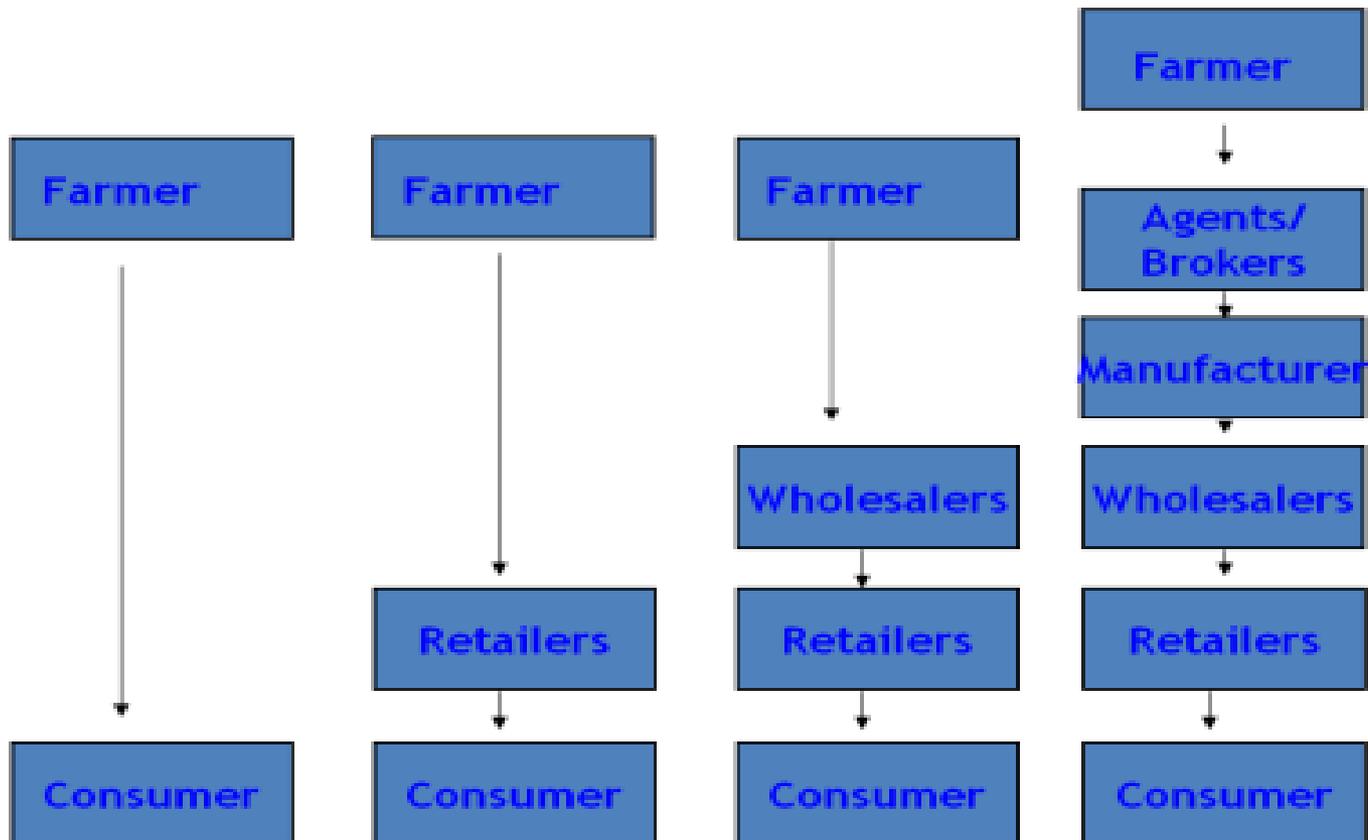
Productivity & Prosperity (cont'd)

- In 1991, McKinsey Global Institute studied 13 countries for 12 years.
 - Question: What makes some countries rich and others poor?
 - Answer: Productivity
- The study examined labor, capital formation, corporate governance, education, competition, etc.
 - Question: What drives productivity?
 - Answer: Competition

E.G. Food: Competition Needed At Every Level



Competition Provides Greater Choice



Addressing Vested Interests

Advice From Eduardo Motta, President of the
Mexican Federal Competition Commission

1

Build Public Awareness Of The Need For Reform

- Collective action challenge: gains from reform are scattered, but losses are concentrated (in players with political influence)
- Legislators/policymakers are human: they will weigh political costs/benefits of reform *for them*. Public (voter) awareness is the only tool to counteract lobbying by vested interests
- Building awareness takes time and effort

Get allies before embarking on reform

2

Make Sure Discussion Is Public

- The public is your main constituency (see above)
- It's harder for legislators/policymakers to argue that consumer welfare needs to take a back seat to producer interests when consumers are actually listening
- Public discussion makes it more difficult for legislators/policymakers to sit on their hands (your first challenge: overcoming inactivity)

**The most persuasive arguments against reform
can't be made in public**

3

Keep The Language As Plain As Possible

- Hone your argument to a simple, straightforward story (Grandma has to understand it)
 - Quantifications of benefits from reform can play a crucial role in driving the point home
- It's about consumers – nobody understands (or cares about) overall efficiency
- Don't be afraid of polemicizing; every unanswered argument is a point for vested interests
- Don't be afraid of oversimplifying; it's better to “keep it plain and simple”

**It has to be black vs white.
Grey means no reform**

4 Understand How Media Work

5 Quantify Benefits /Costs
Of Recommendations

Six Challenges to Capacity Building in Most Developing Countries

- **Public and business community have little faith that law will be applied free of corruption, in accord with rule of law.**
 - Hearings need to be more open; decisions more factually detailed and easily available; press releases more common.
- **Competition authority staff and the judiciary have very little, if any, cross-training in economics and law.**
 - Few staff lawyers have any university training to speak of in economics, and even fewer judges. Problem must be addressed both at university level and with on-the-job seminars.
- **Competition staff and the judiciary have rigid, literal approach to interpreting and applying law, divorced from law's goals.**
 - Investigators, managers, commissioners with no legal training or inexperienced lawyers lack a sense of the dynamic nature of the law. Judges default to procedural issues. Problem must be addressed by paying salaries that retain experienced staff; by statutes that require that at least some commissioners be experienced lawyers; by exposure to experience in civil law jurisdictions that have surmounted the problem.

Six Challenges (cont'd)

- **In smaller economies, scarce skilled human resources are spread thin.**
 - Competition authorities should reach out to university professors and think tanks in a systematic way, more extensively than I have seen them do.
- **Serious flaws exist in laws.**
 - E.g., Thailand's criminalizing all violations; Indonesia's inability to require pre-merger notification; Vietnam's exemption for cartels with aggregate market shares of 30% or less
 - Most countries find that substantial amendments needed 5 to 7 years after passing original law.
- **State's heavy involvement in some economies presents potential conflict of interest or appearance of bias for competition authority and worsens the public's lack of confidence in rule of law.**
 - Need for due process and transparency more acute in countries with heavy state involvement; a high wall between competition authority and state-owned enterprises and ministries is needed.

Six Challenges to Doing Business from a Multi-National's Perspective

- More difficult to predict agency's position because (1) more goals than consumer welfare, and (2) little enforcement track record
- Harder to satisfy aggressive client because law is interpreted more restrictively
- Risk assessment must balance more restrictive interpretations vs. less harsh remedies
- Understanding of consumer welfare economics cannot be presumed
- Development, poverty reduction, investment incentive/disincentives and general public and social policy considerations are unavoidable
- U.S. and EU agency guidelines and court jurisprudence helpful, if presented humbly and with respect for local law

FTC/DOJ Program Menu

- Long-term advisors
 - Teach investigation and analysis of **real local cases**
 - Builds **trust and rapport** – openness more likely
 - The “**teachable moment**”
 - Ability to call on **other FTC/DOJ resources**
 - Insights on case selection, internal processes, and priorities and counsel accordingly
 - Reaches entire agency staff
- Interactive investigative skills seminars
 - **simulated investigations** of hypothetical cases
- Assistance with drafting laws, rules and regulations

FTC Contacts

- Russ Damtoft, coordinator for Latin America & Caribbean, Eurasia(former USSR) and China: rdamtoft@ftc.gov
- Nick Franczyk, coordinator for India, Sub-Saharan Africa: nfranczyk@ftc.gov
- Tim Hughes, coordinator for Southeast Europe, Southeast Asia, Middle East & North Africa: thughes@ftc.gov