



Together Not Apart: Competition, Competitiveness and Clusters

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A New Innings:
Competitiveness through Global Value Chains,
Clustering and Innovation



Abstract

This presentation can be subtitled A Cautionary Tale. It explores the intersection between competition and competitiveness, and explains why the pursuit of the latter without regard to the disciplines of the former can be counterproductive and ultimately self-defeating. This becomes more likely as the national and regulatory frameworks of Competition Law are strengthened, and as Caricom member states enter into international treaties with obligations in the area of competition. Special attention is paid to clustering strategies which may infringe the rules of competition. For example, while information sharing is a cornerstone of clustering, information exchange can also have anti-competitive effects on product markets. Similarly, Government policies geared toward clusters may also restrict competition. In the war for markets and profits, not all is fair. The Revised Treaty of Chaguaramas identifies what is unfair business practice, and provides a template against which the search for competitiveness must be audited, and a design for balancing producer interests with consumer welfare.

What is competitiveness?

- Competitiveness can viewed as a destination!
- It is a measure of a firm's (or in some cases a country or an industry) ability to efficiently create goods and services, vis-à-vis other firms (or countries or industries).
- It can also involve the firm's ability to face competition from other firms on a sustained basis (i.e. it is not static).

How is Competitiveness Achieved?

Many countries adopt an overarching strategic framework to achieve private sector competitiveness. Some of the areas identified by the Caribbean Centre for Competitiveness (CCfC) to achieve firm competitiveness include:

- Cluster strategies
- Industrial policy
- Differentiation strategies
- Human resource strategies
- Cost and Productivity strategies

The CARICOM Competition Commission (CCC) notes that no mention is made by the Caribbean Centre for Competitiveness about competition policy, which is a key strategy that many countries have implemented to achieve the goal of private sector competitiveness!

What is Competition?

- Unlike competitiveness, competition is not an end unto itself, but a vital process in the market.
- It is the course of action by which firms attempt to win or gain customers in a product market (i.e. a market relating to goods or services).
- It implies rivalry among firms.
- Competition places pressure on firms to offer the best possible range of goods at the best possible prices. Competition therefore results in economic efficiency and greater consumer welfare.
- The lessening of competition in product markets can subsequently impact negatively on a country's competitiveness strategy. E.g. firms colluding in a domestic product market may not be able to compete in an international environment. They would not be able to replicate their anti-competitiveness conduct in foreign markets.

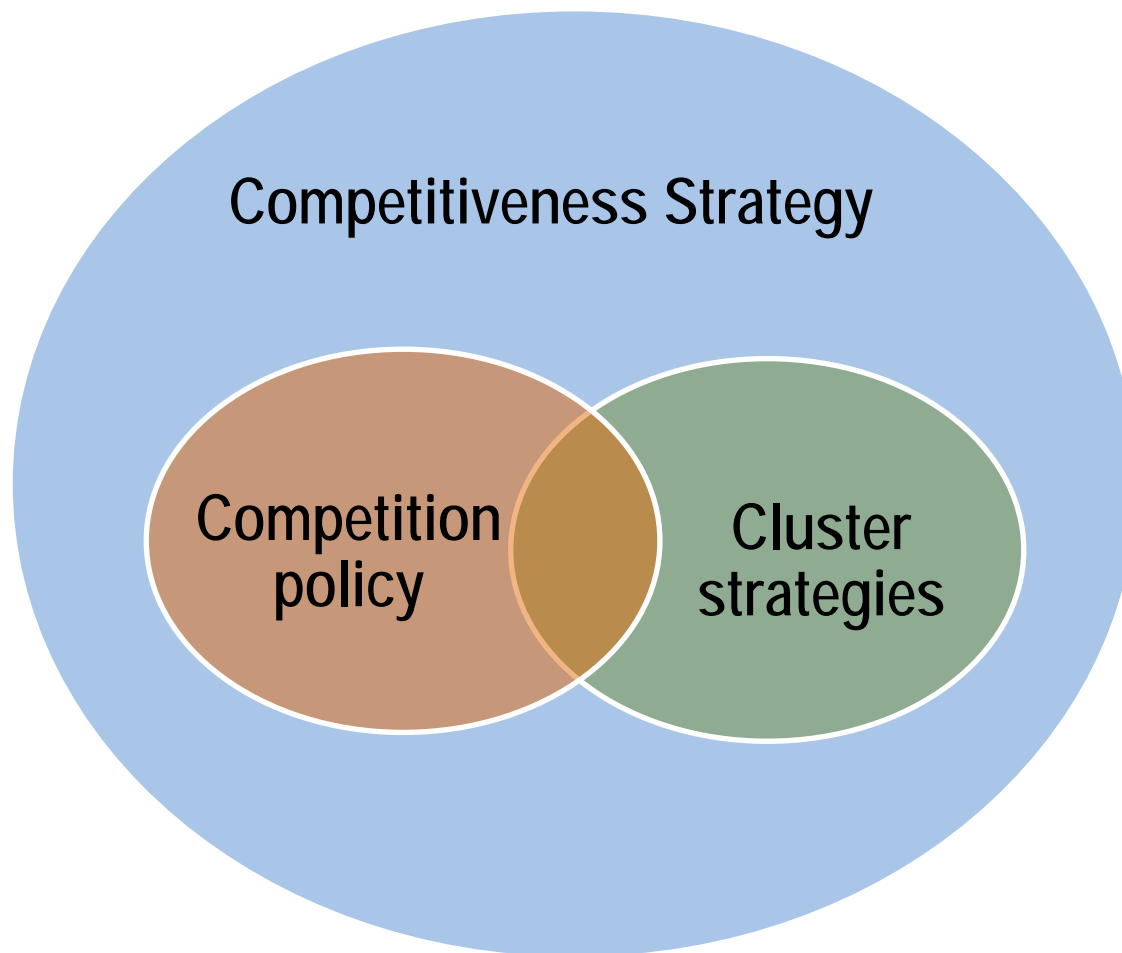
What is Competition Policy?

- All principles or courses of action taken by government to encourage competition in product markets.
- Competition law provides a set of rules that prohibit conduct by firms that give them an unfair advantage in a product market. It is designed to protect businesses and consumers from anti-competitive business conduct.
- Chapter VIII of the Revised Treaty of Chaguaramas contains the Community Competition Policy. It mandates Member States to enact competition laws and establish national competition authorities to guard against anti-competitive business conduct.
- The Community Competition Policy also established the CCC in order to promote and protect competition in the region. The CCC is mandated by the Treaty to monitor, detect, investigate, and take actions to inhibit any anti-competitive business conduct that has cross-border effects and frustrate the establishment of the CSME.

What are Business Clusters?

- Business clusters are geographically concentrated firms connected to each other in some particular specialisation or across specialisations, vertically or horizontally, sharing information, costs of development, marketing, etc.
- The CCC notes that the CCfC has placed a lot of emphasis on promoting business cluster strategies across the region as a tool for innovation and entrepreneurial competitiveness. However, there has been no discussion about the relationship between business clusters and competition policy or potential conflicts between the two strategies.
- Although cluster development should be a part of the regional competitiveness strategy, it cannot substitute for missing economic reforms in areas such as competition law. The development of clusters should therefore not be at the expense of the relaxation of competition policies in the region (e.g. through government policies) – which often happens in developing countries with less experience with competition in domestic markets.

Relationship between competitiveness, competition and clusters



Possible conflicts between competition law and business clusters

Information Sharing

- Information sharing and knowledge transfer is at the cornerstone of business clusters. However, information sharing between competitors (rivals in horizontal relationships and suppliers in vertical relationships) can sometimes breach competition law.
- Information sharing among competing firms can sometimes lead to collusive behaviour such as: bid-rigging and dividing up markets to name a few. Such practices lessen competition and reduce consumer welfare.

Government policies that could distort competition in product markets .

- Government regulations can sometimes restrict competition in product markets (e.g. subsidies, regulations on entry into a market, regulations that influences prices, regulations that exempt industries from competition law).

What do competition agencies look for when competing firms share information?

- Competition agencies assess the types of information shared among firms to ensure that collusive behaviour is not taking place. Specifically, most competition agencies examine two aspects of the information exchanged:
 - Period of time that the information exchanged refers to. E.g. sharing information on future prices is generally prohibited.
 - Confidentiality of the information. The exchange of detailed information on customers are often scrutinised.

How information should be shared in business clusters?

There must be rules for gathering and sharing information in business clusters so that competition law is not breached. A few rules that are often used in many jurisdictions and that should be considered are:

- Only historical data should be shared (especially as it relates to prices).
- The exchange of information is managed by a third party (i.e. a party outside of the business cluster).
- Information is sufficiently aggregated such that members of the business cluster are unable to identify the data of other members.

What do competition agencies look for in government policies?

- Evaluate existing laws and regulation (in specific sectors or in this case regulations targeted towards business clusters).
- Evaluate draft laws and regulations for business clusters (for example, through regulatory impact assessment programs).
- Depending on the powers bestowed on the competition agency, engage government bodies and highlight the results of the evaluation of competitive impacts of regulations.

Work of the CCC on Information Sharing

- a) Meeting held in 2012 with business associations in Suriname to explain the anti-competitive effects of information sharing among rival firms. Examples of case law in the US and UK were used to provide practical examples.
- b) In 2013, at a Competition Policy Seminar in St. Lucia, the CCC discussed with trade associations the types of information that can and cannot be shared among rival firms. The representatives believed that price fixing was not wrong and attempted to link the behaviour to standard-setting.
- c) In February, 2014 an article on the anti-competitive aspects of information sharing was written by the CCC. The article will be published on the CCC's website and in newspapers across the region.
- d) This session in Jamaica with the CCfC to ensure that its work on clusters does not contravene the Community Competition Policy.

Work of the CCC regarding Government Regulations

- a) The CCC has in the past reviewed the Regional Airline Agreement with the aim of identifying any provisions that may be anti-competitive and frustrate the progression of the CSME. Staff have highlighted areas of concern in the previous draft of the Agreement to the Secretariat and will now seek to be part of the review process going forward.
- b) In 2014, the CCC plans to pursue the competition assessment of government policies in Member States that can have cross-border effects. This would include any policies that are targeted towards business clusters.

Summary

- It is noted that both competition policy and cluster strategies have a role to play in competitiveness strategies.
- Competition policy and cluster strategies can however sometimes run counter to each other. While information sharing is a cornerstone of clustering, information exchange can also have anti-competitive effects on product markets. Government policies geared toward clusters may also restrict competition.
- It is therefore key that the types of information that competing firms can share be known to avoid collusive behaviour in product markets, which can ultimately derail competitiveness strategies.
- Government policies geared towards business clusters should also be assessed to ensure that they do not infringe upon the Community Competition Policy and do not have anti-competitive cross-border effects.