



COMPETITION AND CONSUMER PROTECTION: Just Friends or Something More?



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The views expressed herein are those of the speaker and do not necessarily represent the views of the Federal Trade Commission or any individual Commissioner

Two Inextricably Linked Policies

- Basic Relationship
 - Competition addresses distortions to supply
 - Consumer protection addresses distortions to demand
- Like Any Relationship, Both Need Each Other
 - Lack of competition undermines incentives of firms to:
 - Provide information
 - Respond to consumer wishes
 - Lack of information undermines incentives to innovate:
 - If you can't advertise it, why develop it?

Cautionary Examples

- Comparative Advertising
 - Once prohibited
 - Now recognized as source of valuable consumer information
- Nutritional Claims for Food
 - Potential for fraud led to pressure to regulate
 - Producers that cannot advertise healthy foods have no incentive to sell them
 - Result: fewer healthy food choices

**Now 25%
less than
Brand X!**



Operational Linkages and Differences

- While policy linkages are clear, the day-to-day work is quite different
- Analysis, techniques, and terminology differ
 - *Materiality*
 - *Copy Test*
 - *Reasonable Consumer*
 - *Implied Claim*
 - *Unfair Marketing*
 - *Puffery*
 - *Consumer Injury*
 - *Market Power*
 - *Concentration*
 - *Barriers to Entry*
 - *Notification Thresholds*
 - *Herfindahl-Hirschmann*
 - *Tying Arrangements*
 - *Indirect Purchaser*

Yet a Fundamental Similarity

Competition

Consumer Protection

“Per Se”
analysis

Cartels

Fraud

“Rule of
Reason”
analysis

Monopolization
Agreements
Mergers

Unfairness
Deception

Operational Synergies

- Linkages make it possible to address a market problem
 - Consumer protection lens shows a consumer problem (or not)
 - Competition lens shows a competition problem (or not)
 - “To a man with a hammer, everything looks like a nail”
- Key linkage: economic analysis informs both



Operational Models

Full Integration of consumer protection and competition

- Same staff handles both, chooses competition or consumer remedies as appropriate
- Different skills required
- Risk of distraction by consumer issues with little impact on markets

OFFICE OF FAIR TRADING

Single agency handles both separately

- Joint policy
- Separate enforcement staffs
- Recognizes need for policy coherence but separate skill sets
- Risk of siloing



Competition Bureau
Canada



Operational Models

Separate agencies that build linkages

- Policy linkage by shared views or memorandum of understanding
- Requires shared views by agency leadership
- Linkages can erode with changes in leadership



COMISIÓN FEDERAL DE COMPETENCIA
MÉXICO



Profeco
Procuraduría Federal del Consumidor

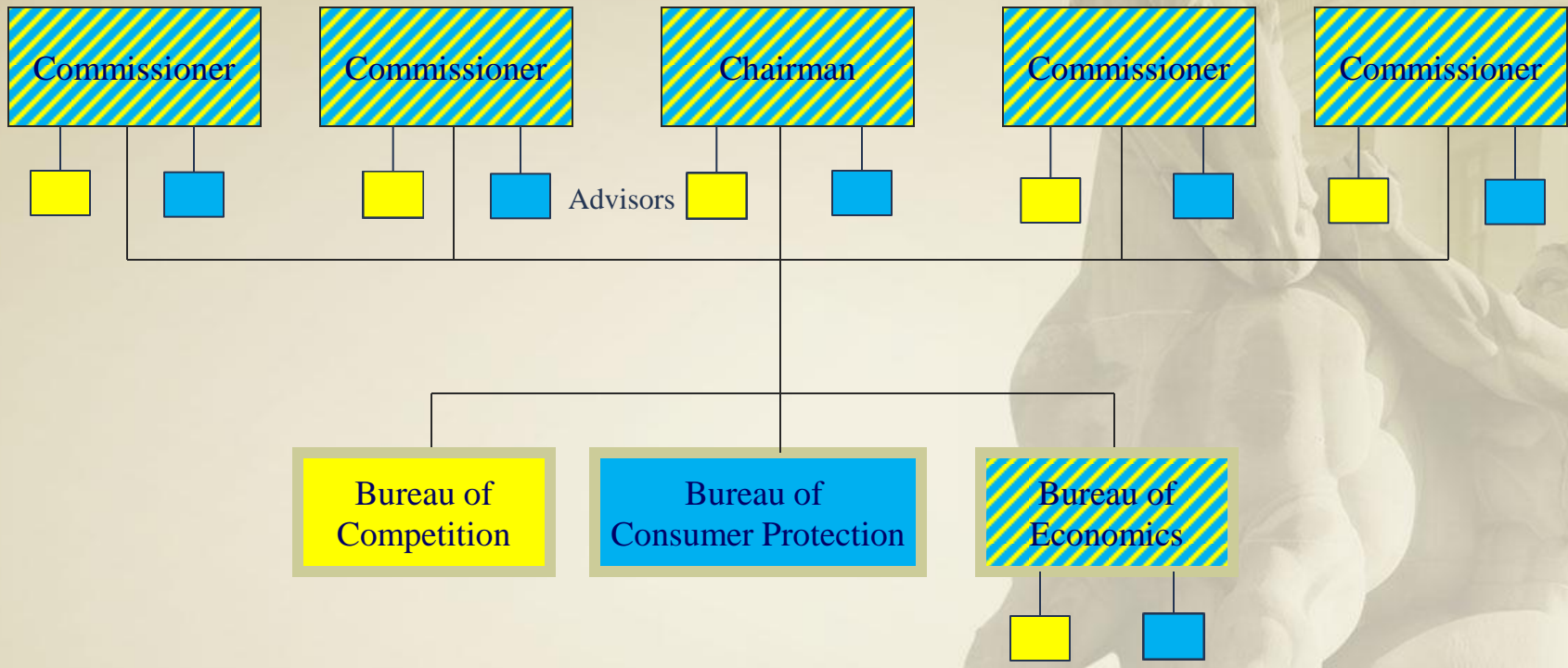
Complete separation between competition and CP

- Allows each to focus on own priorities
- Risk of policy incoherence

Operationalization at FTC

- FTC responsible for both competition and consumer protection
- Consumer protection mission at FTC focuses on information issues
- Other consumer issues handled by:
 - Health and safety regulators
 - Courts
 - State and local agencies
- Competition shared with Department of Justice, which has no consumer authority

FTC Snapshot



Competition Consumer Protection

Operationalization at FTC

- A close relationship on paper
- True points of commonality:
 - The Commissioners
 - Management of Bureau of Economics
- Shared ethic, but day-to-day professional interaction is infrequent

Possible Routes to Greater Synergy

- Staff rotations
- Seek out projects that implicate both
- Identify synergies and exploit them
 - Consumer protection can better understand effects of remedies on competition
 - Competition can better understand consumer behavior