Competition laws need over-haul to protect producers, UN rapporteur

By Jess Halliday, 09-Dec-2010

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Competition law should be geared towards protecting suppliers up the food chain, not just end consumers, according to the UN Special Rapporteur on the Right to Food.

While most developed, and some developing countries, have competition regimes in place, the emphasis tends to be on consumer welfare. For instance, the UK’s Competition Commission’s regulation of supermarket practices is based on understanding that increased risk and uncertainty for producers may lead to consumer harm, though higher prices, reduced quality or choice, and reduced innovation.

Prof Olivier de Schutter, who was appointed UN Special Rapporteur on the Right to Food in March 2008, says this is problematic as it concentrates attention on the demand side. “The consumer welfare standard pays insufficient attention to the potential harms suffered by small farmers, even though they are the ones most obviously affected by excessive concentration in the food chains,” he wrote in the briefing note.

He points out that the least competitive groups of smallholders may be driven into the lower value parts of the market, or forced out of the market if farm gate prices are forced down too far.

De Schutter says it should be remembered that the right to adequate food is not only about poor people being able to buy food. It is also about ensuring people who make their livelihoods through farming make enough to allow them to purchase food.

“Where abuses of dominant positions lead to such consequences [where farmers buying-power is affected] competition regimes should be improved to comport with general human rights principles of equality and non-discrimination, and to facilitate the realization of human rights, including among others the right to food, the right to work, and the right to development,” he wrote.

A positive example cited is the UNCTAD Model Competition Law.

Supply chain squeeze

De Schutter links buyer concentration at the retailer end to impacts on producers by seeing the supply chain as a kind of hour glass shape.

There tend to be millions of producers and millions of consumers, but in the middle of the chain all commodities must pass through just a handful of transnational buyers or processors. For instance, there are around 25m coffee growers in the world and around 500m consumers, but just four firms handle 45 per cent of roasting, and four companies conduct 40 per cent of trading.

A similar pattern is seen for tea, cocoa, soybeans, and regional dairy processing.

As well as giving them tremendous power to set agricultural prices, this also forces less efficient producers to merge. The perception that cost savings are passed onto consumers – and are therefore beneficial – is not always the case, de Schutter says. Rather, “…large commodity buyers and processors, as well as retailers, tend to capture an increasingly large proportion of the value chain”.

Olivier de Schutter’s briefing note is available at here.