

# Role of the State and Local Municipalities in Ensuring a Level Playing Field for Businesses

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# Toward a Broader Notion of Competition Policy

- Traditional Focus: Private Restraints
- Modern Adjustment: Public Policy Distortions
  - Older literature: Capture and rent-seeking
    - Kolko, Stigler
  - Newer scholarship: Case studies and surveys
    - De Soto, Fox/Healey
  - Emerging international norm: OECD Toolkit

# This Afternoon's Agenda

- Common Interests
- Partnership
- Caveat: Personal Views Only
- Contact: [wkovacic@law.gwu.edu](mailto:wkovacic@law.gwu.edu)
- Cooper & Kovacic, *US Convergence with International Competition Norms: Antitrust and Public Restraints on Competition*, 90 Boston University Law Review 1555 (2010)

# States, Municipalities, Competition Agencies: Common Interests

- Market Access and New Business Entry
  - Stimulus for growth and economic dynamism
  - Antidote for economic disadvantage
- Social Welfare
  - Citizens as consumers of goods and services

# Relevant Public Policies

- Controls on Business Entry and Expansion
- Government as Market Participant
- Public Procurement
- Subsidies

# Partnership

- Analytical Framework
- Competition audits
- Evaluation

# Analytical Framework to Assess Policies that Suppress Competition

- What Are the Policy's Rationales?
- How Closely Do the Means Fit the Ends?
- What Are the Likely Competitive Costs?
- How Is the Policy Working Out?

# Competition Audits

- Impediments to Entry and Expansion
- Express Limits on Competition
- Customs and Habits
- Regulatory Complexity



# Evaluation

- Fulfillment of Intended Policy Goals
- Competitive Side Effects
- Unintended Consequences

# Persuasion: Economic Precedents

- Economic Precedents
  - Own Experience
  - Other Jurisdictions
- Research Agenda
  - Competition agency
  - Other public bodies
  - Universities and think tanks
  - Regional and multinational institutions