Antitrust Perspectives on Brazil's Carbon Market

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As the climate crisis intensifies, governments and international organizations are looking to find effective ways to curb greenhouse gas emissions. The Paris Agreement, signed in 2015, set ambitious voluntary targets for countries around the world. In 2024, Brazil took a decisive step forward with Law 15.042/2024, launching the Brazilian Greenhouse Gas Emissions Trading System (SBCE – *Sistema Brasileira de Comércio de Emissões de Gases de Efeito Estufa*), regulating the carbon credit market, and introducing new mechanisms to reduce emissions nationwide.

One important feature of Law 15.042/2025 is the exclusive authority it grants to the federal government over the SBCE. This centralized approach ensures consistent regulation throughout Brazil and prevents regional disparities that could undermine the effectiveness of climate policy.

Creation of the Regulated Market in Brazil

Brazil's SBCE introduces a structured system for allocating emission rights, known as Brazilian Emissions Quotas (CBEs), and establishes mechanisms for converting voluntary emission reductions into tradable financial assets, called Verified Emission Reduction or Removal Certificates (CRVEs).

The SBCE is built on a cap-and-trade model. The government sets an overall limit on greenhouse gas emissions and allocates emission permits to companies through the National Allocation Plan, either free of charge or for payment. Companies that emit less than their allotted quota can sell their surplus CBEs, while those needing additional rights can purchase them. Alongside this public allocation, private projects that achieve emission reductions or removals can generate carbon credits—CRVEs—which can supplement the original emissions allocations. Businesses can generate CRVEs to offset their own emissions, or purchase them from other market participants. The goal is to make all these rights—both initially allocated emissions permits (CBEs) and newly generated carbon credits (CRVEs)—available to the market as tradable instruments.

Competition Considerations

The first question for businesses is whether they fall within the scope of Law 15.042/2024. Under current rules, facilities emitting more than 10,000 or 25,000 tons of CO_2 per year are covered, though with different obligations depending on the level of their emissions. These thresholds will need regular review to ensure they remain appropriate, striking a balance between effective regulation and the need to avoid unnecessary barriers to market entry. Notably, Law 15.042/2024 allows for future adjustments, giving policymakers flexibility to calibrate the system as the market evolves.

How emission rights are allocated is equally important. Whether permits are granted free of charge or sold, the method chosen can have significant competitive impacts. The criteria for distributing these rights among sectors and companies must be fair and transparent. One significant challenge is the composition of the bodies responsible for preparing, approving, and implementing the National Allocation Plan, to ensure they are protected from undue influence. Safeguards against regulatory capture by interest groups and measures to promote competitive neutrality are essential, since the allocation of CBEs directly affects the competitive capacity of both established firms and new entrants.

Finally, the use of funds generated by the SBCE deserves close attention. Current rules direct a portion of these resources to the National Climate Change Fund. Effective governance is crucial—not only to prevent regulatory capture, but also to ensure fairness and competitive neutrality in decisions about how these resources are allocated.

Conclusion

Market-based instruments are an important part of climate policy, but their success depends on robust competition safeguards. As Brazil’s regulatory framework evolves, it will be critical to ensure that mechanisms for protecting market competition remain front and center. Institutional safeguards against regulatory capture and measures to promote competitive neutrality must be prioritized. Regular competition impact assessments will help build a regulatory regime for climate protection that is both effective and fair, minimizing artificial barriers and ensuring a level playing field for all market participants.

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