



CNMOC

COMISIÓN NACIONAL DE LOS
MERCADOS Y LA COMPETENCIA

Market study methodology

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Why a methodology?

- ✓ Market studies are a key advocacy tool
- ✓ Non-binding opinion, cannot be challenged before courts.
- ✓ Transparency, credibility, collaboration

Examples

- ✓ CNMC's methodology for market studies (2015):

<https://www.cnmc.es/expedientes/metdp00116>

- ✓ ICN's Market Studies Good Practice Handbook (2016):

<https://www.internationalcompetitionnetwork.org/portfolio/market-studies-good-practice-handbook/>

- ✓ OECD's Market Studies Guide for Competition Authorities (2018):

<https://www.oecd.org/daf/competition/market-studies-guide-for-competition-authorities.htm>

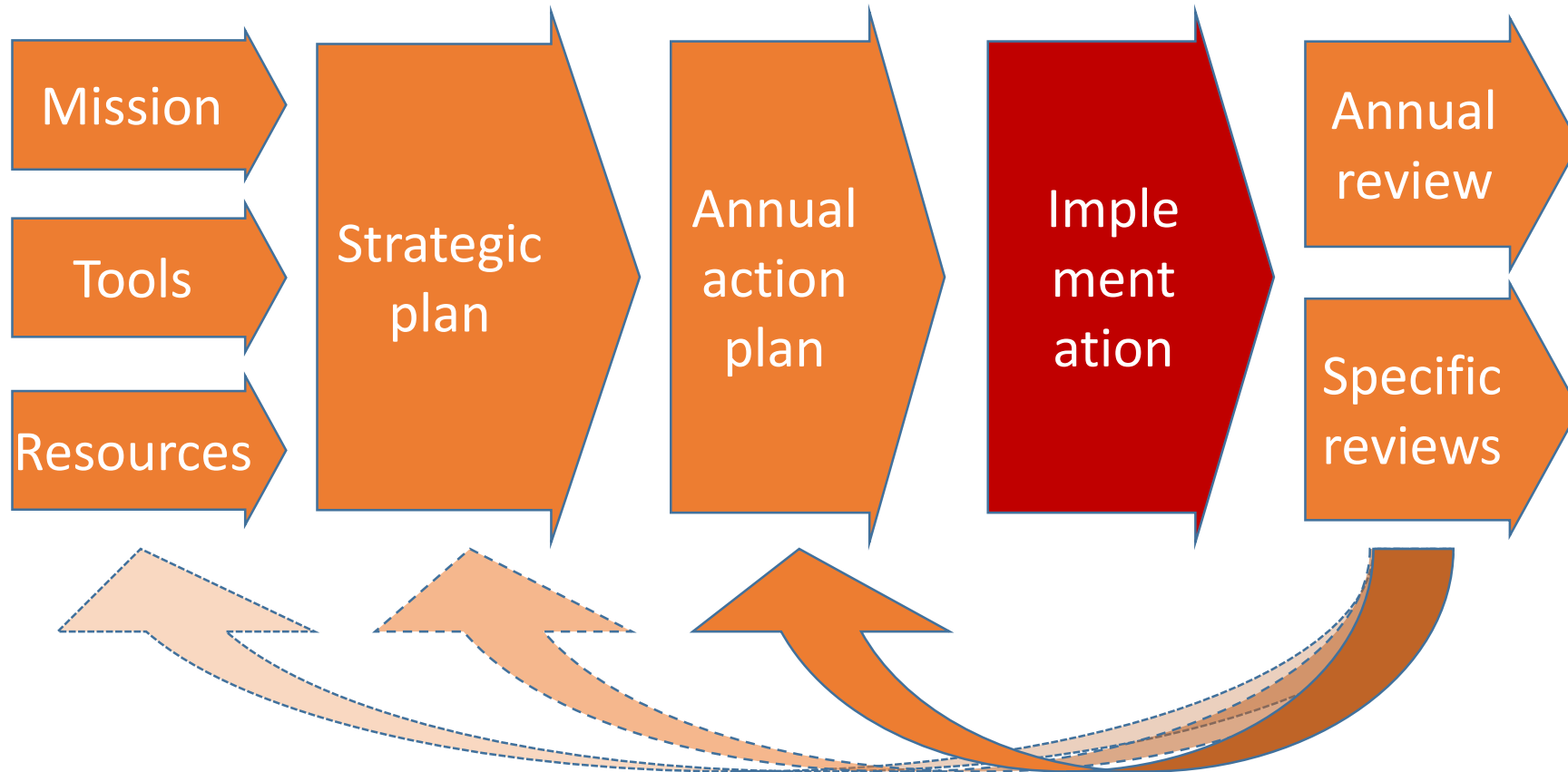
What is a market study?

- ✓ Deep legal/economic analysis of competitive dynamics of a market/sector
 - Goal: To identify restrictions to competition and find a way to alleviate them
 - Time- and resource-consuming exercise => planning and evaluation

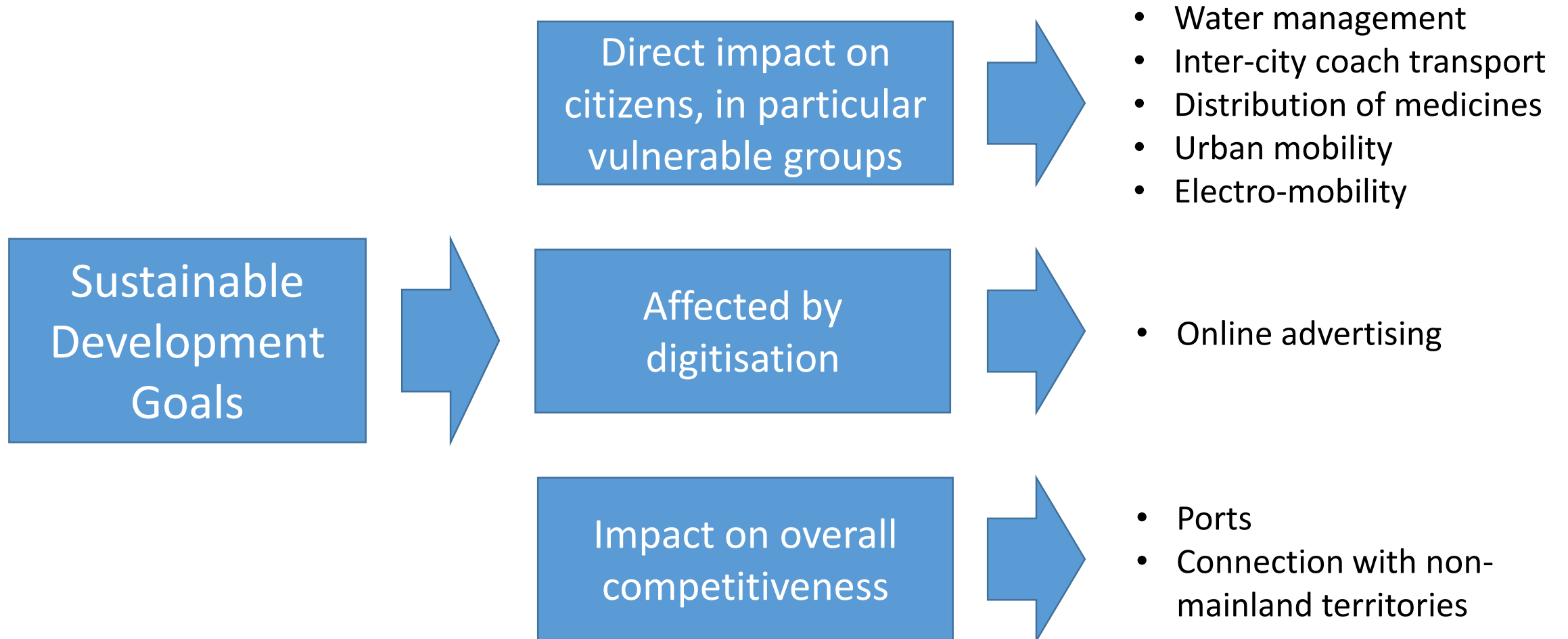
- ✓ Exercise of discretionary powers: credibility

- ✓ Difference with:
 - Antitrust cases
 - Opinions on draft regulation
 - Guidelines
 - Academic studies

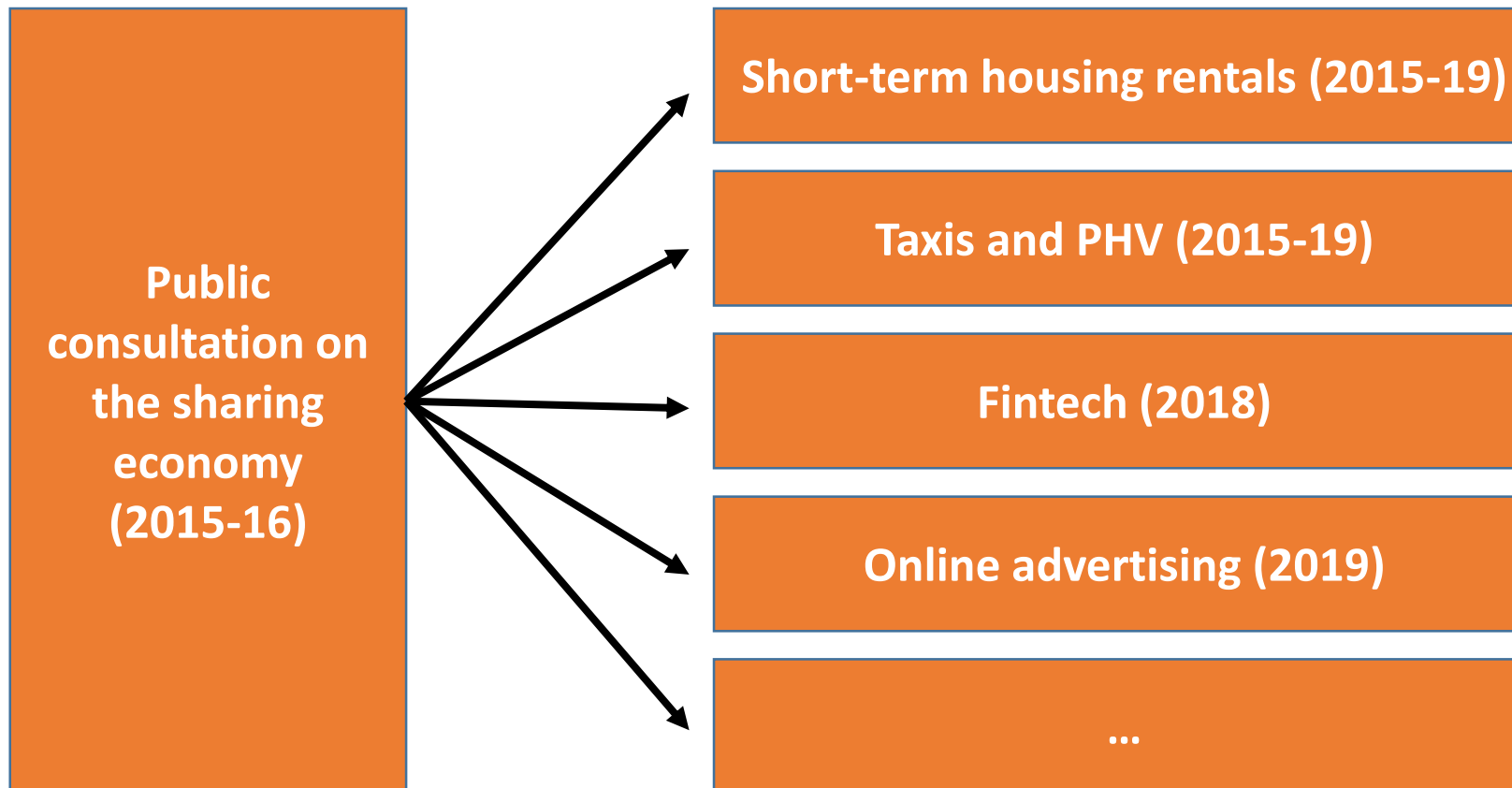
Planning and evaluation



CNMC's 2020 Annual Plan



From a global theme to sectoral approaches to advocacy in the digital world



Phases

1. Selection
2. Implementation
3. Communication of the results
4. Follow-up
5. Evaluation

Selection

- ✓ Preliminary screening
 - Research based on public data / CNMC's enforcement experience
 - Stakeholders
- ✓ Assessment of potential candidates:
 - Markets with potential competition distortions / regulatory barriers
 - Relevant sectors for the national Economy (e.g. strategic sectors) / for consumers
 - Potential utility of intervention
 - Resources (time, staff, budget) needed vs. available
- ✓ Complementarity with enforcement
- ✓ Time to act
- ✓ Scope

Implementation (I): engaging stakeholders

- ✓ Any individual or organization that has information about, or an interest in the market, or could be affected by the issues or any outcomes of the market study, that may come out of the study.
 - Policymakers, Government departments, incumbent operators, potential entrants, consumers, employees, trade unions, academics...
- ✓ Why engaging stakeholders:
 - Understanding market dynamics
 - Gathering information
 - Credibility of the results
 - Communication of the results
- ✓ Engagement tools:
 - ✓ Announcing the start of the study
 - ✓ Public consultation
 - ✓ Information requirements, meetings
 - ✓ Publicity of the results

Implementation (II): engagement strategy

1. Identify all the key stakeholders:

- Who are they?
- What are their interests and perspectives?
- What is their level of engagement?



Classification

2. Input expected from stakeholders

3. Timing and methods of engagement



It is good practice to review and update the strategy as necessary throughout the process!

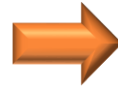
Implementation (III): engagement tools

| Level of engagement | Type of stakeholders | Method of engagement |
|--|--|---|
| L O W | <p>To inform about the market study:</p> <p>Stakeholders distant from the market, with no crucial information and/or moderate to low interest in the market study</p> | <p>Publications: press releases, brochures, reports, etc</p> <p>Marketing and social campaigns: mailing lists, blog posts, speeches...</p> |
| M E D I U M | <p>To seek information:</p> <p>Stakeholders closer to the market, with relevant information and interest, but that are not crucial, significant enough or their number is too high to deal with them directly through one-to-one communication</p> | <p>Online surveys or questionnaires</p> <p>Requests for information: via email and/or formal letter</p> <p>Advisory panels and focus groups</p> |
| H I G H | <p>To involve and cooperate:</p> <p>Stakeholders whose input, importance or interest has been identified as essential</p> | <p>Conference calls</p> <p>Stakeholder interviews</p> <p>Multi-stakeholder forums and roundtables</p> <p>Workshops</p> <p>Partnerships</p> |

Implementation (IV): engagement rules

Risks

- **Biased/ incorrect/
incomplete information**
- **Regulatory capture**
- **Credibility loss
(reputational cost)**



Principles

Impartiality
Objectivity
Independence
Transparency

Implementation (V): engagement rules

- **Transparency:**

- ✓ Strengthen Authority's legitimacy and credibility
- ✓ Extent: compliance with transparency regulations (if any)

- **Confidentiality:**

- ✓ Derived from any information exchange channel (formal/informal)
- ✓ General concept: business secrets, information that can affect competition (justified)
- ✓ Anonymous and aggregate information can be used
- ✓ Extent: Compliance with confidentiality regulations (if any)

Implementation (VI): public consultations

- **Setting the scene**: why, what preliminary concerns, legal powers, process

- ✓ Engagement
- ✓ Public discussion

<https://www.cnmc.es/en/ambitos-de-actuacion/promocion-de-la-competencia/consultas-publicas/intercity-coach>

<https://blog.cnmc.es/2020/01/22/cnmc-consulta-publica-concesiones-autobuses-interurbanos/>

- **Results**:

- ✓ Transparency
- ✓ Public discussion

<https://www.cnmc.es/en/ambitos-de-actuacion/promocion-de-la-competencia/consultas-publicas/online-advertising>

<https://blog.cnmc.es/2019/06/20/la-consulta-sobre-publicidad-online-ya-tiene-resultados-consulta/>

Communication of the results

1. Drafting the results of the study:

- Reasoning of the conclusions
- Clarity & concretion of recommendations
- Identification of the addressees of the recommendations

2. Communicating the results:

- Submission to policymakers and government departments
- Publicity of the final report: planning your communication strategy!
 - ✓ Allies/enemies
 - ✓ Opposing messages
 - ✓ Public communication: press release, social media, blog entry, audio-visual materials...
 - ✓ Public presentation, workshops

Follow-up

- The publication of the study is not the end of the journey, just a stepping stone
 - Sharing the expertise acquired with policymakers, public officials, private stakeholders
 - Adapting to reality (what can be achieved)

- Follow-up actions:
 - Further communication actions (be insistent)
 - Assessing draft regulation
 - Further research (e.g. related markets)

Evaluation

➤ What to evaluate

- Implementation vs planning: initial vs final objectives and resources
- Reach out
- Implementation of the recommendations
- Contribution to socio-economic welfare

➤ Measurement

- ✓ *Qualitative indicators:*
 - Impact on media, social networks, academia
 - Enhanced understanding of competition issues
 - Recommendations and/or proposed outputs taken into consideration, i.e. modified regulations
- ✓ *Quantitative indicators:*
 - Focus on competition outcomes (price, quality)
 - Time- and resource-consuming



Case study: road fuel saga

- ✓ *Road fuels – a sector of special interest: high concentration, high barriers to entry (long-term contracts, land planning restrictions)*
- ✓ *7 market studies between 2008 and 2020*
- ✓ *Regulatory achievements:*
 - 2009: reduction of planning restrictions in commercial land*
 - 2012: amendment of the hydrocarbons law to introduce stricter rules on the monopolist of oil pipelines and storage facilities (CLH) and limit duration of exclusive supply contracts*
 - 2015: main operators sell stakes at CLH*
 - 2016: central government and 4 regions amend regulation to ease installation of unmanned petrol stations*



Thank you