

Title of the act: UM/037/19 REGLAMENTO TRANSPORTES TERRESTRES

Article invoked by the CNMC: Art. 27 of LGUM

Year of publication: 2019 (Appeal) / 2020 (Supreme Court judgement)

NACE code of the relevant sector: H.4939.- Otros tipos de transporte terrestre de pasajeros n.c.o.p.

Impact Assessment of CNMC

Legal Appeal

under art. 27 of LGUM



1 Intro

1.1 Key features of the assessment

1.1.1 Short description of the market to be assessed

Los vehículos autorizados en el sector del transporte de mercancías por carretera se pueden clasificar según su peso (en vehículos ligeros o pesados) y su naturaleza (según sea transporte público o privado). Según datos del Observatorio del Transporte por Mercancías por Carretera del Ministerio de Fomento, a julio de 2019 había 480.072 vehículos autorizados de transporte de mercancías con tracción propia, de los cuales la mayor parte (74%) corresponde a la categoría de transporte público. Por tanto, se podría afirmar que el requisito de antigüedad objeto del recurso, por el cual se exigía una antigüedad máxima de cinco meses del vehículo o vehículos para poder obtener una autorización nueva de transporte público de mercancías por carretera, afecta a una parte considerable del mercado.

Asimismo, destaca la fuerte presencia de empresas con un único vehículo autorizado, mostrando que el sector está fuertemente atomizado y, por tanto, con alta presencia de pequeñas y medianas empresas y empresarios autónomos. Utilizando datos del Ministerio de Fomento, a julio de 2019, entre los vehículos ligeros, el 70% de las empresas tenía un solo vehículo autorizado, frente al 5% de estas que disponía de más de 5 vehículos. En el caso de los vehículos pesados, el 50% de las empresas poseía un único vehículo autorizado, mientras que el 17% de estas tenía más de 5 vehículos.

Siguiendo con la descripción del sector de transporte público de mercancías por carretera y tomando como referencia los datos ya citados del Observatorio del Transporte por Mercancías por Carretera del Ministerio de Fomento, el 70% de los vehículos autorizados en la categoría de transporte público eran vehículos pesados, con una antigüedad media de la flota de 9,4 años y el 30% restante eran vehículos ligeros, con una antigüedad media de 8,7 años. Por último, se observa que más del 40% de los vehículos pesados y del 38% de los vehículos ligeros tienen una antigüedad superior a los 10 años, por lo que puede concluirse que el parque de vehículos de transporte público de mercancías por carretera en España muestra un nivel alto de envejecimiento.

1.1.2 Short description of the competition issue and rationale for the act

El recurso interpuesto tiene por objeto la anulación del artículo 2, apartado veintidós, del Real Decreto 70/2019, de 15 de febrero, por el que se modifican el Reglamento de la Ley de Ordenación de los Transportes Terrestres y otras normas reglamentarias en materia de formación de los conductores de los vehículos de transporte por carretera, de documentos de control en relación con los transportes por carretera, de transporte sanitario por carretera, de transporte de mercancías peligrosas y del Comité Nacional del Transporte por Carretera, al considerar que vulnera los principios de necesidad y proporcionalidad del artículo 5 de la Ley 20/2013 de Garantía de Unidad de Mercado; y la prohibición de requisitos de naturaleza económica del artículo 18.2.g) de dicha Ley.

En concreto, el artículo controvertido señala que: "2. Quien pretenda obtener una autorización de transporte público de mercancías nueva deberá acreditar que dispone, en los términos previstos en el artículo 38, al menos de un vehículo que, en el momento de solicitar la autorización, no podrá superar la antigüedad de cinco meses, contados desde su primera matriculación".

Tal y como señalan el propio recurso y el informe económico que lo acompaña, según la CNMC, el requisito de antigüedad de cinco meses aplicado a las nuevas autorizaciones generaría una barrera de entrada a la competencia que desincentivaría que los operadores actuales inviertan recursos en modernizar su flota y aportar un servicio de mayor calidad con menor impacto medioambiental.

1.1.3 Specific objectives and main conclusions of the act

El objeto del recurso es la nulidad del requisito de una antigüedad máxima de cinco meses del vehículo o vehículos exigida para la obtención de una autorización nueva de transporte público de mercancías por carretera.

Dicho requisito es contrario a la Ley 20/2013, de 9 de diciembre, de garantía de la unidad de mercado, por varios motivos: i) no se ha motivado su necesidad por razón imperiosa de interés general, ni se ha justificado su proporcionalidad ni adecuación para los objetivos pretendidos, ii) es una medida incoherente en relación al resto de requisitos de antigüedad establecidos en el Reglamento de la Ley de Ordenación del Transporte Terrestre (ROTT)¹, iii) la medida introduce una distorsión en el mercado al generar un sobrecoste injustificado a los nuevos operadores.

2 Evaluation of the act

2.1 Relevance

2.1.1 Relevance of the sector

Following the methodology proposed in this Deliverable to evaluate the relevance of the sector, the turnover, number of operators and employment figures registered in the available financial databases under the NACE code indicated by the CNMC¹ (NACE H.4939.- *Otros tipos de transporte terrestre de pasajeros n.c.o.p.*) have been considered².

However, the Evaluator shall be aware that these figures only consider the Spanish companies in said transport subsector that present financial accounts. That is, they do not consider self-employed carriers.

The table below presents two alternatives, both based on the turnover figures reported by SABI database. The first considers the number of operators registered in SABI (only companies) and the second the number of operators (companies and self-employed carriers) reported by the Ministry of Transport.

In addition, the Evaluator shall be aware that the figures presented below might be derived from a broad range of activities and are not exclusively limited to the public road freight transport. Therefore, to run an accurate case-specific assessment **the CNMC should request the necessary information from the individual economic agents under analysis.**

Table 1: Relevance of the sector

Theme	Indicators	Possible sources	Shortcuts / comments
Economic weight and structure of the market	Sector turnover	SABI database	Total turnover in the passenger transport sector in Spain in 2019 is estimated at 3,222 million euros (0.26% of National GDP) .
	Number of firms	SABI database Ministerio de Transportes, Movilidad y Agenda Urbana: https://www.mitma.gob.es/transporte-terrestre#Profesionales-del-transporte	The number of operators in the passenger transport sector in Spain in 2019, based on SABI database information, is estimated at 1,497 companies . The number of operators in the public road freight transport sector in Spain is estimated at 101,499 by the Ministry of Transport. This number includes not only companies but also self-employed carriers.
	Number of vehicles	Ministerio de Transportes, Movilidad y Agenda Urbana: https://www.mitma.gob.es/transporte-terrestre#Profesionales-del-transporte	The number of vehicles used for the public road freight transport sector in Spain is estimated at 353,765 vehicles (247,491 heavy vehicles) by the Ministry of Transport.
	Average turnover per company	Estimated by KPMG based on SABI data on turnover and the number	Based on the data obtained from SABI database exclusively, the average turnover <u>per company</u> in

¹ See CNMC website: <https://www.cnmc.es/expedientes/um03719>.

² Alternatively, the Evaluator could also analyse the figures reported by companies registered under NACE 4941 – *Transporte de mercancías por carretera* if it considers that this activity would better suit the activity subject of the Legal Appeal.

		of companies from the Ministry of Transport.	<i>the Spanish market in 2019 is estimated at 2.2 million euros.</i> <i>Considering the number of operators reported by the Ministry of Transport, the average turnover <u>per operator</u> (including self-employed carriers) is estimated at 31,744 euros.</i>
Labour market and employment	Total number of employees	SABI database	<i>The number of employees in the passenger transport sector in Spain in 2019, based on SABI database information, is estimated at 30,444 employees.</i>
Perception of consumers and policymakers	Is there the perception that the sector needs reform?	Surveys/Interviews	<i>See Annex 1</i>

2.1.2 Relevance of the act

Table 2: Relevance of the act

OECD Competition Issues	Specific question	Comments from the act / Deliverable 3
A. Limits the ability of suppliers to compete.	B4. Incremento significativo de los costes de producción para algunos oferentes en relación con otros (especialmente por dar a los incumbentes un trato diferente de los nuevos entrantes).	El requisito de antigüedad objeto de este recurso, además de ser desproporcionado e inadecuado, supone una barrera de entrada a los nuevos operadores en forma de sobrecostes por tener que adquirir un vehículo seminuevo en lugar de vehículos con más antigüedad que cumplan los requisitos necesarios para un transporte seguro y bajo en emisiones.

2.2 Effectiveness

2.2.1 Outreach: qualitative assessment

The judgment of the Supreme Court of Justice, from September 28, 2020, states the following:

"Estimar el recurso contencioso-administrativo n.º 317/2019 interpuesto por la Comisión Nacional de los Mercados y la Competencia, contra el artículo 2, apartado veintidós, del Real Decreto 70/2019, de 15 de febrero, por el que se modifican el Reglamento de la Ley de Ordenación de los Transportes Terrestres y otras normas complementarias en materia de formación de los vehículos de transporte por carretera, de documentos de control en relación con los transportes por carretera, de transporte sanitario por carretera, de transporte de mercancías peligrosas y del Comité Nacional del Transporte por Carretera."

"Anular el artículo 2, apartado veintidós, del Real Decreto 70/2019, de 15 de febrero, en el inciso impugnado, referido en el fundamento de Derecho Sexto, por no ser ajustado a Derecho."

Supreme Court of Justice	Yes	Partially	No
Did the ruling by the Supreme Court of Justice endorse the identification of competition issues raised by the CNMC in the Legal Appeal?	X		
Did the Supreme Court of Justice ruling adopt the measures sought by the Legal Appeal by the CNMC?	X		
Where 'individual opinions' (votos particulares) issued against the ruling?			X
Did these individual opinions endorse the identification of competition issues raised by the CNMC in the Legal Appeal?			N.A.

2.2.2 Outreach: quantitative assessment

It might be considered that the CNMC's Legal Appeal and the Supreme Court judgement had a significant outreach in terms of press publications, but not so significant in terms of downloads of the document related to the Legal Appeal from the CNMC website.

Theme	Indicators	Source
Outreach to the general public	367 downloads from the CNMC website.	CNMC internal database
Outreach to the academia	Specialized websites published the news of the elimination of the barrier to entry after the Supreme Court judgement: https://elderecho.com/anulado-requisito-antiguedad-maxima-del-vehiculo-obtener-la-licencia-transporte-publico-mercancias	El Derecho
Outreach to the general press	Sectoral websites also published the news of the elimination of the barrier to entry after the Supreme Court judgement: https://www.fenadismerencarretera.com/ya-no-hay-requisito-antiguedad-vehiculo-acceso-transporte/	Federación Nacional de Asociaciones de Transporte de España (FENADISMER). Transporte Profesional El Mercantil

	https://www.transporteprofesional.es/legislacion-normativa-transporte-logistica/publicada-la-orden-que-elimina-la-antiguedad-de-los-requisitos-de-acceso-al-transporte https://elmercantil.com/2020/10/01/el-supremo-anula-el-requisito-de-antiguedad-para-acceder-al-transporte-por-carretera/	
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2.3 Efficiency

2.3.1 Efficiency for the CNMC

This section will be completed by the CNMC depending on the availability of data on the production costs of the act.

2.4 Coherence

Coherence checklist	Yes	No
Are there inconsistencies between the Legal Appeal and reports of other types issued by the CNMC, including Market Studies, Market Unity Reports and other Legal Appeals?		X
Are there clear inconsistencies between the Legal Appeal and other Legal Appeals issued invoking the same principles?		X
Is the Legal Appeal contradictory with other Legal Appeals issued on cases affecting the same economic sector?		X
Is this Legal Appeal in line with the overall goals of the CNMC?	X	

3 Impact Assessment

3.1 Direct impact

Action sought by the CNMC	Actions	Outputs	Status of implementation
<i>Eliminar las medidas restrictivas de la competencia contenidas en artículo 2, apartado veintidós, del Real Decreto 70/2019, de 15 de febrero, por el que se modifican el Reglamento de la Ley de Ordenación de los Transportes Terrestres.</i>	<u>Implemented</u> <i>Recurso contencioso-administrativo promovido al amparo del artículo 27 de la LGUM contra el artículo 2, apartado veintidós, del Real Decreto 70/2019, de 15 de febrero, por el que se modifica el Reglamento de la Ley de Ordenación de los Transportes Terrestres y otras normas complementarias en materia de formación de los conductores de los vehículos de transporte por carretera, de documentos de control en relación con los transportes por carretera, de transporte sanitario por carretera, de transporte de mercancías peligrosas y del Comité Nacional del Transporte por Carretera.</i>	<u>Implemented</u> <i>Sentencia 1218/2020, de 28 de septiembre, del Tribunal Supremo. Recurso: 317/2019.</i>	<u>Implemented</u> <i>La Sentencia favorable del Tribunal Supremo anuló el artículo 2, apartado veintidós, del Real Decreto 70/2019, de 15 de febrero, en el inciso impugnado, referido en el fundamento de Derecho Sexto, por no ser ajustado a Derecho.</i>

3.2 Impact on the specific market

OECD Competition issues	Relevant market unity principle	Impact	Indicator	Parameters proposed for the impact assessment		Potential economic impact under the proposed approach
				Found in the Literature	Recommended Value	
B4. Incremento significativo de los costes de producción para algunos oferentes en relación con otros (especialmente por dar a los incumbentes un trato diferente de los nuevos entrantes).	Necesidad y proporcionalidad	Price	Potential decrease in price	<p>From its literature review, the CNMC found that price increases in cases of barriers to entry ranged from 3% to 35%.</p> <p>The specific sources of these parameters are presented in Annex 2.</p>	To be conservative, we recommend applying a potential decrease in price of 5% ³ derived from the reduction of entry barriers.	<p>The impact assessment presented in this document is carried out under two different scenarios:</p> <ol style="list-style-type: none"> 1) Updating the overcharge estimates presented in the CNMC's economic study, a welfare loss of between 1,617,571 euros (1,451,750 for heavy vehicles and 165,821 for light vehicles) and 10,766,596 euros is obtained. 2) Assuming a 5% potential increase in the price of new vehicles due to the introduction of entry barriers, the welfare loss for the new entrants in the public road freight transport is estimated at between 2,147,109 euros (1,915,882 for heavy vehicles and 231,227 for light vehicles) and 11,236,017 euros. <p>Under both scenarios, the estimated welfare loss would be associated with the period during which the rule was in force, until its annulment after the Supreme Court judgement. However, from an opposite viewpoint, the quantification proposed would serve as reference for determining the welfare gains related to the success of the act, given that the Supreme Court judgement annulled</p>

³ With the aim of being conservative, the specific 5% parameter has been selected. The Evaluator might use any other parameter within the proposed range if the specific objectives of the evaluation to be performed requires a different choice. Nonetheless, the general recommendation is to maintain a consistent selection throughout all the assessments to be carried out.

						<p><i>the mentioned rule and, therefore, helped the reduction of the entry barriers.</i></p> <p><i>The methodology used to quantify the potential impact on price is shown in Annex 3.</i></p>
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3.3 Impact on the wider economy

	YES	NO
<i>Court action sought is fully/partially implemented?</i>	<i>X</i>	
<i>Recommendation had an impact on the specific market?</i>	<i>X</i>	
<i>The specific market has a relevant weight in the wider economy?</i>		<i>X</i>

In the present case, it is not possible to obtain an accurate figure of the potential consumer welfare loss related to the period during which the rule appealed by the CNMC was in force since it will depend on a series of factors (such as the second-hand vehicles market) that cannot be adequately measured with the available information.

The Legal Appeal sought by the CNMC and, consequently, the Supreme Court's judgement, only affects the potential new entrants in the public road freight transport sector. In addition, the Legal Appeal is a very recent act and the entry barriers introduced by the Royal Decree lasted barely a year. Therefore, although the CNMC's claim was fully considered and accepted by the Courts, given the weight of the potential economic impact derived from the elimination of entry barriers (0.26% of the Spanish GDP in 2019⁴), a significant spill over effect on the wider economy could not be expected in the case at hand.

⁴ Considering the turnover of the Spanish companies registered under the NACE H.4939.- Otros tipos de transporte terrestre de pasajeros n.c.o.p indicated by the CNMC.

4 Conclusions

The main conclusions extracted from the Legal Appeal are presented below:

- The CNMC filed this Legal Appeal challenging article 2 of Royal Decree 70/2019, which established that, in order to obtain new authorizations for public road freight transport, new entrants had to acquire vehicles of a maximum age of five months.
- This represented a barrier to the entry for new operators, who had to face a higher cost than those who were already operating in the market.
- Furthermore, according to the CNMC, this barrier to entry would be contrary to the LGUM, as it was neither necessary nor proportional for the general interest and would discourage investment in new vehicles.
- As a consequence of the introduction of these entry barriers, it is estimated that, from their implementation in 2019 until their cancellation in 2020, the potential consumers' welfare loss could have amounted to between **1,617,571 euros** and **11,236,017 euros**, depending on both the scenario considered for the quantification and, more importantly, the number of years that could have passed until the truck is sold in the secondary market. From an opposite viewpoint, the estimated welfare loss might serve as a reference for determining the positive impact that the CNMC act would have had since the objective sought by her would have materialised with the Supreme Court judgement and, therefore, it would have helped to reduce the entry barriers.

Annex 1. Questionnaires

Relevance assessment questionnaire

Policy makers

- *Was the market in need of reforms/updates? If yes, which were the main concern from a competition policy point of view?*
- *Were you aware by possible market operators concern over the functioning of the market addressed by the Legal Appeal?*
- *Which were the needs the Legal Appeal aimed to address?*
- *How urgent were the issues to be addressed by the Legal Appeal?*

Stakeholders

- *Have you ever raised concern to policy makers over possible competition issues in the given market?*
- *Were you consulted at any stage of the Legal Appeal? If yes, which one?*
- *Have you (or your organisation) actively stimulated the debate over the regulatory framework?*
- *Have you used the Legal Appeal to have a better understanding of the regulatory framework?*

Questionnaire on effectiveness: qualitative assessment

Policy makers

- 1) *Please, describe your overall knowledge of the Legal Appeal and your familiarity with it*
- 2) *Was the Legal Appeal and its outcome used during committees/meeting aimed at updating or changing the regulatory framework?*
- 3) *Do you think that the argument of the Legal Appeal was clear enough? Was it consistent with the needs and objectives of the competition issues?*
- 4) *Will the Legal Appeal lead to regulatory reforms in different economic sectors or jurisdictions or prevent the enactment of legislation that poses competition issues?*

Stakeholders

- 5) *Do you consider that the Legal Appeal captures the key competition issues affecting the relevant market?*
- 6) *Do you believe that the legal action sought by the CNMC in the Legal Appeal are well designed and proportionate?*

Questionnaire on efficiency

- 1) *Is it possible to define the time spent by the CNMC employees in delivering the Legal appeal? If yes, was it in line with the average effort required to elaborate this kind of act?*
- 2) *Did the Legal Appeal require the support/advise by external experts? If so, was the cost of these external experts and the time spent by them working on the Legal appeal?*
- 3) *Compared with other Legal appeals, do you think that this act had higher/lower outputs for the same costs?*

Annex 2. List of parameters applied by the CNMC in its economic studies

Indicator	Parameter			Source
	Found in the Literature	Average Value	Recommended Value	
Reduction in waiting time	2%-7%	5%	5%	OFT – Office of Fair Trading (2003): The regulation of licensed taxi and PHV services in the UK.
Reduction in prices	3%-35%	19%	5%	CNMC: UM/085/15
				Bekken, J. T. (2006): "Experiences with Regulatory Changes of the Taxi Industry", 9th Conference on Competition and Ownership in Land Transport, 2006.
				Canada Competition Bureau (2015): Modernizing Regulation in the Canadian Taxi Industry, White Paper.
				CEA – Council of Economic Advisers (2015): "Occupational Licensing: A Framework for Policymakers", Department of the Treasury Office of Economic Policy, the Council of Economic Advisers of the President of The United States and the Department of Labor of the Government of the United States.
				Kleiner, M. (2006): "Licensing Occupations: Ensuring Quality or Restriction Competition?" W.E. Upjohn Institute for Employment Research 1-15. Kalamazoo, MI: Upjohn Institute Press.
Increase in employment	1%-12%	7%	5%	Pilat, D. (1997), "Regulation and Performance in the Distribution Sector," OECD Economics Department Working Papers 180, OECD Publishing
				Burda, M. and P. Weil (2005), "Blue Laws", documento de trabajo, octubre.
				Goos, M. (2004), "Sinking the Blues: The Impact of Shop Closing Hours on Labour and Product Markets", Center for Economic Performance Discussion Paper Series.
				Skuterud, M. (2005), "The Impact of Sunday Shopping on Employment and Hours of Work in the Retail Industry: Evidence from Canada", European Economic Review, 49, 8, 1953– 1978.
				Genakos C. y S. Danchev (2015): "Evaluating the Impact of Sunday Trading Deregulation", Center for Economic Performance Discussion Paper N° 1336, marzo.
				FMI - Fondo Monetario Internacional: Spain: 2003 Article IV Consultation, Country Report.
				Bertrand M. y Kramarz F. (2001): "Does entry regulation hinder job creation? Evidence from the French retail industry". Nber working paper series.
				Viviano E. (2006): "Entry regulations and labour market outcomes: Evidence from the Italian retail trade sector". Banca d'Italia (Servizio Studi).
Increase in sales and production	4%-11%	8%	5%	Pilat, D. (1997), "Regulation and Performance in the Distribution Sector," OECD Economics Department Working Papers 180, OECD Publishing
				Goos, M. (2004), "Sinking the Blues: The Impact of Shop Closing Hours on Labour and Product Markets", Center for Economic Performance Discussion Paper Series.
Increase in the number of operators	12%	12%	12%	Kleiner, M. (2006): "Licensing Occupations: Ensuring Quality or Restriction Competition?" W.E. Upjohn Institute for Employment Research 1-15. Kalamazoo, MI: Upjohn Institute Press.

Annex 3. Impact assessment methodology

The economic study that accompanies the Legal Appeal analysed in this impact evaluation included a quantification of the potential cost overrun derived from the introduction of entry barriers. The methodology used in said study is considered adequate and is replicated in this document under two alternative scenarios:

- 1) The price of trucks is estimated as the average of the prices published by the Ministry of Transport in July 2019 (used in the economic study elaborated by the CNMC) and the updated prices published in July 2020. Under this approach, it is considered that the introduction of entry barriers would not have led to an increase in the price of new trucks.
- 2) Alternatively, it is considered that the prices of new trucks published by the Ministry of Transport in July 2019 would have increased by 5%.

In both cases, the useful life of the different vehicles used for the public road freight transport (heavy and light vehicles) is taken as a reference to calculate the unitary overcharge (per vehicle) that could have faced a new operator.

To quantify the number of vehicles that would have been affected by the entry barriers, the following approximation is carried out. First, the number of new authorized vehicles is calculated as the difference between the number of authorized vehicles in July 2019 and said number in July 2020. However, only a part of the vehicles would correspond to those acquired by new operators. To estimate this number, the increase in the number of (new) operators in July 2020 -compared to July 2019- is applied to the number of new authorized vehicles. These represent, on average (for heavy and light vehicles) a 1.57%. Therefore, the potential overcharge would have affected only 1.57% of the new vehicles during the year analysed (93 heavy vehicles and 55 light vehicles).

The detail of the calculations is presented below, following the format used in the economic study elaborated by the CNMC.

Table 3: Increase in the number of authorised trucks, units

		Total	Heavy	Light
(A)	July 2019	353,765	247,491	106,274
(B)	July 2020	363,265	253,545	109,720
(C)=(B)-(A)	Difference (new vehicles authorised)	9,500	6,054	3,446

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, Supply and Demand - July 2021. Ministry of Transport⁵.

Table 4: Increase in the number of operators, units

		Total	Heavy	Light
(D)	July 2019	110,806	58,604	52,202
(E)	July 2020	112,541	59,505	53,036
(F)=(E)-(D)	Difference (new operators)	1,735	901	834

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, Supply and Demand - July 2021. Ministry of Transport.

⁵ Available at: https://www.mitma.gob.es/recursos_mfom/comodin/recursos/observatorio_mercancias_julio_2021.pdf

Table 5: Estimated number of affected vehicles

		Total	Heavy	Light
(G)=(F)/(D)	Increase (%) in the number of operators	1.57%	1.54%	1.60%
(H)=(G)*(C)	Estimated number of vehicles bought by new operators⁽¹⁾	149	93	55

Note: (1) Estimation based on the assumption that a new entrant in the market will only obtain one vehicle.

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, Supply and Demand - July 2021. Ministry of Transport.

Regarding the calculation of the potential overcharge, we present below the estimates of the price used as a reference.

1) AVERAGE OF THE PRICES REPORTED IN JULY 2019 AND JULY 2020 BY THE MINISTRY OF TRANSPORT FOR EACH TYPE OF VEHICLE

For the sake of simplicity, since the figures for 2019 are presented in the CNMC's economic study, we only present in this section the price figures for 2020.

As it might be observed in Tables 6 and 7 below, the average price in 2020 for heavy and light vehicles is calculated as the average of the prices of the different vehicle categories. The price of these vehicles in the secondary market is calculated based on their useful life.

In order to update the calculations made by the CNMC in its economic study, the potential overcharge is calculated based on the average price observed, both for a new vehicle and in the secondary market, in July 2019 and July 2020. These figures are presented in Tables 8 and 9 below.

The results obtained indicate that **the potential overcharge paid by new entrants** and, therefore, the welfare loss for these consumers, **could have ranged between 1,617,571 euros** (1,451,750 for heavy vehicles and 165,821 for light vehicles) **and 10,766,596 euros** (9,440,054 for heavy vehicles and 1,326,542 for light vehicles) depending on the year when the truck could have been sold in the second-hand market.

Table 6: Estimated figures for heavy vehicles

Category of heavy vehicle	New vehicle price	Useful life	Annual Depreciation	Price in the secondary market based on the year considered									
				1	2	3	4	5	6	7	8	9	10
2.1. Vehículo articulado de carga general.	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.2. Vehículo articulado de carga general en transporte internacional.	115,580	5	23,116	92,464	69,348	46,232	23,116	0	0	0	0	0	0
2.3. Tren de carretera.	108,039	8	13,505	94,534	81,029	67,524	54,020	40,515	27,010	13,505	0	0	0
2.4. Vehículo rígido de 3 ejes de carga general.	96,917	9	10,769	86,148	75,380	64,611	53,843	43,074	32,306	21,537	10,769	0	0
2.5. Vehículo rígido de 2 ejes de carga general.	71,470	10	7,147	64,323	57,176	50,029	42,882	35,735	28,588	21,441	14,294	7,147	0
2.6. Vehículo rígido de 2 ejes de distribución.	43,071	10	4,307	38,764	34,457	30,150	25,843	21,536	17,228	12,921	8,614	4,307	0
2.8. Vehículo frigorífico articulado.	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.9. Vehículo frigorífico articulado en transporte internacional.	115,580	5	23,116	92,464	69,348	46,232	23,116	0	0	0	0	0	0
2.10. Vehículo frigorífico de 2 ejes.	71,470	10	7,147	64,323	57,176	50,029	42,882	35,735	28,588	21,441	14,294	7,147	0
2.11. Vehículo cisterna articulado de mercancías peligrosas (químicos).	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.12. Vehículo cisterna articulado de mercancías peligrosas (gases GLP)	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.13. Vehículo cisterna articulado de productos de alimentación.	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.14. Vehículo cisterna articulado de productos pulverulentos	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.15. Portavehículos (tren de carretera).	99,781	6	16,630	83,151	66,521	49,891	33,260	16,630	0	0	0	0	0
2.16. Portavehículos industriales (tren de carretera).	99,781	6	16,630	83,151	66,521	49,891	33,260	16,630	0	0	0	0	0
2.17. Volquete articulado de graneles.	115,580	6	19,263	96,317	77,053	57,790	38,527	19,263	0	0	0	0	0
2.18. Volquete articulado de obra.	115,580	8	14,448	101,133	86,685	72,238	57,790	43,343	28,895	14,448	0	0	0
2.19. Vehículo rígido de 3 ejes de animales vivos.	96,917	8	12,115	84,802	72,688	60,573	48,459	36,344	24,229	12,115	0	0	0
2.20. Vehículo articulado portacontenedores.	115,580	8	14,448	101,133	86,685	72,238	57,790	43,343	28,895	14,448	0	0	0
Average figures	103,096	7	15,696	87,400	71,705	56,009	40,313	24,617	11,355	6,940	2,525	979	0

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, July 2020. Ministry of Transport⁶.

⁶ Available at: https://www.mitma.gob.es/recursos_mfom/listado/recursos/observatorio_de_costes_julio_2020.pdf

Table 7: Estimated figures for light vehicles

Category of light vehicle	New vehicle price	Useful life	Depreciation	Price in the secondary market based on the year considered									
				1	2	3	4	5	6	7	8	9	10
2.7. Furgoneta.	24,191	8	3,024	21,167	18,143	15,119	12,096	9,072	6,048	3,024	0	0	0
Average figures	24,191	8	3,024	21,167	18,143	15,119	12,096	9,072	6,048	3,024	0	0	0

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, July 2020. Ministry of Transport.

Table 8: Estimated overcharge on heavy vehicles

	New vehicle price (Average 19/20)	Price in the secondary market based on the year considered (Average 19/20)								
		1	2	3	4	5	6	7	8	9
	102.398									
Price in the secondary market (Average 19/20)		86,800	71,203	55,605	40,008	24,411	11,237	6,876	2,515	975
Unitary overcharge per vehicle (Average 19/20)		15,597	31,195	46,792	62,390	77,987	91,160	95,522	99,883	101,423
Estimated number of heavy vehicles bought by new operators		93	93	93	93	93	93	93	93	93
Estimated overcharge on heavy vehicles		1,451,750	2,903,500	4,355,250	5,807,001	7,258,751	8,484,871	8,890,822	9,296,727	9,440,054

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, July 2019 and July 2020. Ministry of Transport.

Table 9: Estimated overcharge on light vehicles

	New vehicle price (Average 19/20)	Price in the secondary market based on the year considered (Average 19/20)								
		1	2	3	4	5	6	7	8	9
	24,095									
Price in the secondary market (Average 19/20)		21,083	18,071	15,060	12,048	9,036	6,024	3,012	0	0
Unitary overcharge per vehicle (Average 19/20)		3,012	6,024	9,035	12,047	15,059	18,071	21,083	24,095	24,095
Estimated number of light vehicles bought by new operators		55	55	55	55	55	55	55	55	55
Estimated overcharge on light vehicles		165,821	331,642	497,436	663,257	829,079	994,900	1,160,721	1,326,542	1,326,542

Source: Own elaboration based on data from the Road Freight Transport Cost Observatory, July 2019 and July 2020. Ministry of Transport.

2) CONSIDERING AN INCREASE IN THE PRICES REPORTED IN JULY 2019 BY THE MINISTRY OF TRANSPORT OF 5%

As an alternative scenario, we have assumed that the price of the new vehicles would have increased by 5% compared to the prices in July 2019 considered by the CNMC. Assuming that prices in the secondary market had remained constant (or had not increased by the same magnitude as in the primary market), **the estimated overcharge would range between 2,147,109 euros** (1,915,882 for heavy vehicles and 231,227 for light vehicles) **and 11,236,017 euros** (9,848,697 for heavy vehicles and 1,387,320 for light vehicles) depending on the year when the truck could have been sold in the second-hand market.

Table 10: Estimated overcharge on heavy vehicles

	Increased new vehicle price (+5% vs. 2019)	Price in the secondary market based on the year considered (July 2019)								
		1	2	3	4	5	6	7	8	9
		106,784								
Price in the secondary market (July 2019)		86,200	70,701	55,202	39,703	24,204	11,120	6,812	2,505	86,200
Unitary overcharge per vehicle		20,584	36,083	51,582	67,081	82,580	95,664	99,972	104,279	20,584
Estimated number of heavy vehicles bought by new operators		93	93	93	93	93	93	93	93	93
Estimated overcharge on heavy vehicles		1,915,882	3,358,474	4,801,066	6,243,659	7,686,251	8,904,064	9,305,037	9,705,918	9,848,697

Source: Own elaboration based on the data used in the CNMC's economic study and the list of parameters used in the proposed methodology.

Table 11: Estimated overcharge on light vehicles

	Increased new vehicle price (+5% vs. 2019)	Price in the secondary market based on the year considered (July 2019)								
		1	2	3	4	5	6	7	8	9
	25,199									
Price in the secondary market (July 2019)		20,999	17,999	15,000	12,000	9,000	6,000	3,000	0	0
Unitary overcharge per vehicle		4,200	7,200	10,199	13,199	16,199	19,199	22,199	25,199	25,199
Estimated number of light vehicles bought by new operators		55	55	55	55	55	55	55	55	55
Estimated overcharge on light vehicles		231,227	396,391	561,500	726,664	891,828	1,056,992	1,222,156	1,387,320	1,387,320

Source: Own elaboration based on the data used in the CNMC's economic study and the list of parameters used in the proposed methodology.