**Title of the study: IPN/CNMC/010/15 INFORME SOBRE EL ANTEPROYECTO DE LEY DE CONTRATOS DEL SECTOR PÚBLICO**

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**NACE CODE of the relevant sector: 8411.- Actividades generales de la Administración Pública**

# Impact Assessment of CNMC

# Reports on regulatory projects (IPN)

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# 1 Intro

## 1.1 Key features of the assessment

### 1.1.1 Short description of the type of report to be assessed

*El Informe sobre Proyectos Normativos (IPN) evaluado se realizó a solicitud del Ministerio de Hacienda y Administraciones Públicas en ejercicio de las competencias consultivas de la CNMC en el proceso de elaboración de normas que afectan a su ámbito de competencia en los sectores sometidos a su supervisión, en aplicación del artículo 5.2 a) de la Ley 3/2013, de 4 de junio, de creación de la Comisión Nacional de los Mercados y la Competencia.*

### 1.1.2 Short description of the market

*El mercado analizado en el IPN es el del aprovisionamiento público en España[1]. Éste comprende la preparación, adjudicación, efecto, cumplimiento y extinción de aquellos contratos onerosos en los que al menos una de las partes sea una entidad del sector público.*

*Si bien la CNMC estimó en 2015 el peso de la contratación pública en el 18,5% del PIB, según otros organismos como la OCDE[2] éste representaba en torno al 10,5%. Según ésta última fuente, dicha cifra ha ido reduciéndose en años posteriores, manteniéndose por debajo del 10% hasta el 2020, cuyo valor se situó en el 11,4% debido al importante retroceso sufrido en el PIB como consecuencia de la Covid-19.[3]*

*Atendiendo a la distribución de las licitaciones en 2019[4], el 43,7% del importe de las mismas correspondieron al Sector Público Estatal, el 31,7% al Sector Público autonómico y el 24,6% al Sector Público local. En relación con el tipo de procedimiento destacan, por relevancia económica, las licitaciones de carácter abierto, negociado sin publicidad, negociado con publicidad, abierto simplificado y las basadas en acuerdo marco. Por último, en cuanto al tipo de contrato, destacan los de Servicios, de Suministros y de Obras, que abarcan en torno al 90% tanto por volumen de licitaciones como por su importe económico.*

### 1.1.3 Short description of the regulatory framework

*De manera similar a otros ámbitos del Derecho administrativo, la regulación de la contratación pública se ha visto influida por el marco normativo internacional, en especial por el marco de la Unión Europea. El requerimiento de adaptación de nuestra normativa nacional a la europea ha dado lugar a la mayor parte de las reformas que se han ido realizando en los textos legales españoles en el ámbito del aprovisionamiento público. En concreto, la Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público (LCSP), en vigor desde marzo de 2018, transpone al derecho nacional las Directivas del Parlamento Europeo y del Consejo 2014/23/UE y 2014/24/UE.*

*La nueva Directiva 2014/24/UE sobre contratación pública viene a sustituir a la Directiva 2004/18/CE sobre coordinación de los procedimientos de adjudicación de los contratos públicos de*

[1] In addition to public tenders, the affected market indudes other contractual arrangements as, for instance, own means orders (« encargos a medios propios »).

[2] *Government at a Glance 2017* (OECD, 2017)

[3] These figures correspond to public procurement in a narrow sense, excluding, for instance, own means orders. Therefore, they should be considered as a minimum reference for the sectorial relevance over GDP.

[4] *Informe Anual de Supervisión de la Contratación Pública* (OIReScon, 2020)

*obras, de suministros y de servicios, que había sido transpuesta al ordenamiento jurídico español a través de la Ley 30/2007, de 30 de octubre, de Contratos del Sector Público, posteriormente derogada y sustituida por el texto refundido de la Ley de Contratos del Sector Público (TRLCSP), aprobado por el Real Decreto Ley 3/2011, de 14 de noviembre.*

*La regulación de este ámbito se completa con la normativa específica que afecta a determinados sectores especiales, excluidos del marco general y a los que se les dota de un régimen propio, por ejemplo, con la Ley 31/2007, de 30 de octubre, sobre procedimientos de contratación en los sectores del agua, la energía, los transportes y los servicios postales o la Ley 24/2011, de 1 de agosto, de contratos del sector público en los ámbitos de la defensa y de la seguridad.*

### 1.1.4 Short description of the rationale behind the IPN report

*El Informe IPN evaluado se emitió a solicitud del Ministerio de Hacienda y Administraciones Públicas, en ejercicio de las competencias consultivas de la CNMC, en aplicación del artículo 5.2 de la Ley 3/2013, de 4 de junio, de creación de la CNMC.*

*Por su lado, la CNMC considera absolutamente esencial contar con una normativa de contratación pública que favorezca la competencia efectiva en un sector que, pese a representar un peso considerable del PIB en España, presenta claras carencias regulatorias: elevadas barreras de entrada (especialmente en el acceso a las concesiones); multiplicidad de órganos de contratación; heterogeneidad de procedimientos y complejos sistemas de aprendizaje; información asimétrica; escasez de operadores en ciertos sectores; ausencia de evaluación tras la contratación e insuficiente control; o escasez de motivación del empleado público o problemas de gobernanza y de dispersión normativa.*

*Es por ello que, si bien la CNMC valoraba positivamente ciertas novedades en materia regulatoria, encontraba necesario abordar modificaciones más ambiciosas que excedieran la mera transposición de las Directivas europeas que se venían aplicando a fecha de publicación del informe.*

# 2 Evaluation of the IPN report

## 2.1 Relevance

### 2.1.1 Relevance of the sector

**Table 1: Relevance of the sector**

| Theme | Indicators | Possible sources | Shortcuts / comments |
|---|---|---|---|
| Economic weight and structure of the market | Number of tenders and economic value | Annual Supervision Reports by Oficina Independiente de Regulación y Supervisión de la Contratación (hereafter, 'OIReScon') and Public Sector Contracting Platform | *According to **OIReScon**, during 2019, in Spain **129,594 tenders** were made, for a total amount of **72,527.72 million euros** (in Bidding Base Budget, before taxes)*[5,6].<br>*The analysed data included in the **Public Sector Contracting Platform** indicate that, in 2019, the tenders amounted to **134,603**.*[7] |
| | Economic value over GDP | OCDE and OIReScon | *According to OCDE, public procurement during 2019 represented **9.87% of GDP.***<br>Based on the tenders amount by OIReScon, it is estimated in **5.83% of GDP.**[8] |
| | Distribution by tender sectors | Annual Supervision Reports by OIReScon | *The General State Administration was the largest promoter of the tenders in economic value (**43.66% of the total**), even though in number will only made the **21.82%.***<br>*The Local Administration was the one that promoted the lowest tenders in economic value (**24.63%**) but was the one that made more tenders in numeric terms (**51.23%**)*<br>*The Regional (Autonomic) Administration carried on **26.95%** of the procedures, accounting for **31.71%** of the total economic value.* |
| | | Public Sector Contracting Platform | *The analysed data included in the Public Sector Contracting Platform indicate that, in 2019, 13.1% of the tenders belonged to the General State Administration, 39.8% to the Local Administration, 15.4% to the Regional Governments, 7.9% to public law entities, and 23.8% to other public sector entities.* |
| | Geographic dispersion | Annual Supervision Reports by OIReScon | *The Region of Cataluña is distinguished as the region that accounts the larger economic value of tenders, both in the Regional and Local Administrations (also in terms of the number of tenders, as it may be noted in the* |

[5] *Informe Anual de Supervisión de la Contratación Pública de España, Diciembre 2020*. OIReScon.

[6] This figure does not include information about minor contracts (« contratos menores »), something which needs to be taken into consideration when associating the total monetary amount and the sector weight in terms of GDP indicated above.

[7] See Annex 3 for a more detailed description of the data analysed from the Plataforma de Contratación del Sector Público.

[8] As it was mentioned in footnote 3 above, these figures might be underestimating the actual weight of the sector in terms of GDP in Spain given that they might not be including the whole contractual arrangements under public procurement services.

| | | | |
|---|---|---|---|
| | | | *following table). At the regional level, Cataluña is followed by the Comunidad de Madrid, and Andalucía; at the local level, the second most relevant is Andalucía followed by the Basque Country.* |
| | By type of contract | Annual Supervision Reports by OIReScon | *In economic value, the services contracts (**34.96%**) and the provision contracts (**34.31%**) account a similar weight in the tenders; by number of proceedings, the services contracts (**48.42%**) have a notably larger weight tan the provision contracts (**27.23%**). Based on this it can be argued that the average medium Price by tender of the provision contracts was significantly superior to the one of services.* |
| | Number of bidders that participate in the proceedings | Annual Supervision Reports by OIReScon | *Among the 140,934 awarded lots, the average number of participant bidders was **3.81 operators.***<br><br>*In the **66%** of them it is noted that more than one bidder participates, while **34%** of tenders had only one bidder.* |

### 2.1.2 Relevance of the act

Given the characteristics and extent of the sector evaluated, and also the degree of detail of the IPN report in dealing with the identified market failures, we think it is appropiate to introduce a summary of the 145 recommendations that were issued by the CNMC. To this end, we have linked the number of recommendations according to the market failure that is intended to mitigate and its weight over the total number of recommendations made in the report. As it can be appreciated, the majority of the recommendations (almost a 70%) are focused on the lack of regulatory development that secures an efficient economic regulation.

**Table 2: Relevance of the act**

| OECD Competition Issues | Specific question | Comments from the IPN Report (Deliverable 3) |
|---|---|---|
| **A. Limits the number or diversity of operators** | A1. Concesión de derechos exclusivos para ofertar bienes o servicios | La CNMC propone 2 recomendaciones (1,4% del total de recomendaciones expuestas en el IPN) para reducir los riesgos y límites a la competencia bajo la categoría A1 de la OCDE. |
| | A3. Límite a la capacidad de ofrecer un bien o servicio. | La CNMC propone 22 recomendaciones (15,2% del total de recomendaciones expuestas en el IPN) para reducir los riesgos y límites a la competencia bajo la categoría A3 de la OCDE. |
| **C. Mitigates the operators' incentives to compete.** | C3. Exención de la actividad de una industria o grupo de operadores de la aplicación general del derecho de la competencia | La CNMC propone 6 recomendaciones (4,1% del total de recomendaciones expuestas en el IPN) para reducir los riesgos y límites a la competencia bajo la categoría C3 de la OCDE. |
| **(*) Additional Competition issues identified by the CNMC in this type of act** | E2. Desarrollo normativo insuficiente para garantizar un correcto proceso de liberalización o una regulación económica eficiente. | La CNMC propone 100 recomendaciones (69% del total de recomendaciones expuestas en el IPN) para reducir los riesgos y límites a la competencia bajo la categoría E2 de la OCDE. |
| | F2. Facilita la colusión entre operadores/obstaculiza la libre competencia. | La CNMC propone 5 recomendaciones (3,4% del total de recomendaciones expuestas en el IPN) para reducir los riesgos y límites a la competencia bajo la categoría F2 de la OCDE. |
| | F3. Puede suponer el incumplimiento del régimen de Ayudas de Estado | La CNMC propone 1 recomendación (0,7% del total de recomendaciones expuestas en el IPN) para reducir los riesgos y límites a la competencia bajo la categoría F3 de la OCDE. |

*Note: 9 recommendations made by the CNMC (a 6.2% of the total) cannot be included under any category of limits and OECD competition issues, as it can be derived from Deliverable 3*

## 2.2 Effectiveness

### 2.2.1 Outreach: qualitative assessment

In the Annex 1 we have included some suggested questions that the Evaluator could make to both the policymakers to whom this report is referred and to the academics with expertise in this practice.

### 2.2.2 Outreach: quantitative assessment

| Theme | Indicators | Source |
|---|---|---|
| Outreach to the general public | 1.114 downloads from the CNMC's website | CNMC internal database |
| Outreach to the Academia | The IPN report is quoted in at least, 27 articles and academia work. Search available in:<br>https://scholar.google.es/scholar?start=20&q=IPN/CNMC/010/15&hl=es&as_sdt=0,5 | Google Scholar |
| Outreach to the stakeholders | Some Competition Authorities and regional administrations have also quoted the publication of the IPN report. Below it might be seen some examples<br>https://www.congreso.es/docu/docum/ddocum/dosieres/sleg/legislatura_12/spl_1/pdfs/4.pdf<br>http://www.juntadeandalucia.es/defensacompetencia/sites/all/themes/competencia/files/pdfs/Informe%20Promoci%C3%B3n%20Contrataci%C3%B3n_f.pdf<br>https://www.juntadeandalucia.es/defensacompetencia/sites/all/themes/competencia/files/pdfs/C30-2017%20Licitaciones%20P%C3%BAblicas%2018-12-2017%20web.pdf<br>http://www.obcp.es/noticias/breve-resumen-de-los-informes-de-la-cnmc-sobre-los-apl-de-contratos-y-de-sectores | Desk Research |

## 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 production costs of the act.*

## 2.4 Coherence

| Checklist | Yes | No |
|---|---|---|
| *Does the IPN Report clearly define the regulatory framework?* | *X* | |
| *Do the IPN Report recommendations describe their alignment with the existing measures?* | *X* | |

| | | |
|---|---|---|
| *Is it possible to identify other CNMC acts (especially previous IPN reports) which are consistent with the key findings of the IPN?* | *X* | |

Given the complexity that lies in encompassing all the public procurement contracts regulation under only one law, the IPN reports sometimes fail to provide a complete detail of the regulatory scope to which it is referred.

Regarding the recommendations, there is agreement between the CNMC and the extinct CNC, in warning on the regulatory weaknesses of the public procurement in Spain. These weaknesses arise from the complexity of the procedures, high entry barriers, absence in the effective evaluation, low levels of motivation in the public employee, regulatory dispersion, among others. For instance, in the Guidelines for Public Procurement and Competition (2011), it is already mentioned the introduction of a couple of measures aimed to foster and promote effective competition in the public procurement proceedings to benefit the hiring administrations and the citizenship.

Moreover, together with other acts (PRO/CNMC/001/15, IPN/CNMC/011/15, E/CNMC/004/18, INF/DP/0009/14, INF/DP/0019/14), since 2014 the CNMC has been implementing different trainings in diverse public administrations. These trainings are focused on fostering an efficient design of the tenders' specifications and to detect potential cartels, with the objective of contributing to its ex officio detection.

# 3 Impact assessment

## 3.1 Direct impact

| Action sought by the CNMC | Actions | Status of implementation |
|---|---|---|
| ***General considerations:***<br>— *Given the characteristics and specificities of this act, in which the CNMC proposes almost 145 different recommendations, requires adjusting the exposure of direct impacts so that their reading and interpretation is easier. Thus, below we present the degree of compliance of the different recommendations depending on the identified market failure.* | | |
| ***2 recomendaciones bajo el fallo de mercado A1 (La concesión de derechos exclusivos para ofertar bienes o servicios)*** | ***Act by which it is implemented:***<br>*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público* | ***Non implemented***<br>*100% of the recommendations* |
| ***22 recomendaciones bajo el fallo de mercado A3 (Límite a la capacidad de ofrecer un bien o servicio)*** | ***Act by which it is implemented:***<br>*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público* | ***Implemented***<br>*14% of the recommendations*<br><br>***Partially implemented***<br>*27% of the recommendations*<br><br>***Non implemented***<br>*41% of the recommendations*<br><br>***N/A***<br>*18% of the recommendations* |

| | | |
|---|---|---|
| ***6 recomendaciones bajo el fallo de mercado C3 (Exención de la actividad de una industria o grupo de operadores de la aplicación general del derecho de la competencia)*** | ***Act by which it is implemented:***<br>*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público* | ***Partially implemented***<br>*17% of the recommendations*<br><br>***Non implemented***<br>*67% of the recommendations*<br><br>***N/A***<br>*16% of the recommendations* |
| ***100 recomendaciones bajo el fallo de mercado E2 (Desarrollo normativo insuficiente para garantizar un correcto proceso de liberalización o una regulación económica eficiente)*** | ***Act by which it is implemented:***<br>*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público* | ***Implemented***<br>*18% of the recommendations*<br><br>***Partially implemented***<br>*12% of the recommendations*<br><br>***Non implemented***<br>*64% of the recommendations*<br><br>***N/A***<br>*6% of the recommendations* |
| ***5 recomendaciones bajo el fallo de mercado F2 (Facilita la colusión entre operadores/obstaculiza la libre competencia.)*** | ***Act by which it is implemented:***<br>*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público* | ***Implemented***<br>*40% of the recommendations*<br><br>***Non implemented***<br>*60% of the recommendations* |
| ***1 recomendación bajo el fallo de mercado F3 (Puede suponer el incumplimiento del régimen de Ayudas de Estado)*** | ***Act by which it is implemented:***<br>*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público* | ***Non implemented***<br>*100% of the recommendations* |

## 3.2 Impact on the specific market

| OECD Competition issues | Relevant recommendation | Impact | Indicator | Parameters proposed for the impact assessment | | Potential economic impact under the proposed approach |
|---|---|---|---|---|---|---|
| | | | | Found in the Literature | Recommended Value | |
| *Considering the large number of recommendations, we refer the Evaluator to both sections 2.1.2 and 3.1, and to Deliverable 3, in order to check the attribution of the different recommendations to each identified market failure.*<br><br>*As can be seen in the aforementioned sections, the vast majority of the recommendations included in the IPN Report were not implemented by their recipients.* | | **Market structure** | Number of bidders | *From its literature review, the CNMC found that the number of operators could be increased at **12%** if entry barriers are reduced.*<br><br>*The specific sources of these parameters are presented in Annex 2.* | *We recommend applying a potential increase in the number of bidders of **12%** derived from the reduction of entry barriers* | *Considerando un incremento potencial del 12% en el número de empresas licitadoras, el beneficio para la Administración que hubiera derivado de la implementación de las recomendaciones de la CNMC se estima, tomando como referencia el año 2019, en **69,408 ofertas adicionales**.*<br><br>*Considering a 12% potential increase in the number of bidders, the welfare gain to the Administration derived from the implementation of the CNMC's recommendations is estimated at **69,408 additional bids.***<br><br>*The methodology used to quantify the potential impact is shown in Annex 3.* |
| | | **Prices** | Awarded amounts and supported by the public administrations. | *From its literature review, the CNMC found that the prices could be reduced **between 3% and 35%** if entry barriers are reduced.* | *To be conservative, we recommend applying a potential decrease in prices (in this case, the value of the awarded tender) of **5%** derived* | *Considering a 5% potential decrease in the awarded prices, the welfare gain to the Administration caused by the implementation of the CNMC's recommendations is estimated at **1,033 million euros** if we take as a reference the year 2019[9].* |

[9] It should be borne in mind, however, that this estimation might be conservative given that the Public Sector Contracting Platform, the source of the quantified impact, might not include all the tenders in Spain. In this sense, according to the *Informe sobre cumplimiento por las instituciones públicas de la normativa legal sobre contratos*, only 51% of the Councils and 59% of the Autonomous Regions complied

| | | | | | |
|---|---|---|---|---|---|
| | | | *The specific sources of these parameters are presented in Annex 2.* | *from the reduction of entry barriers.* | *The methodology used to quantify the potential impact is shown in Annex 3.* |

with the law and published their tenders announcements and results in the said platform https://transparencia.org.es/informe-sobre-cumplimiento-por-las-instituciones-publicas-de-la-normativa-legal-sobre-contratos/.

## 3.3 Impact on the wider economy

| | ***Yes*** | ***No*** |
|---|---|---|
| ***The recommendations were fully or partially implemented?*** | ***X*** | |
| ***Recommendations had an impact on the specific market?*** | | ***X*** |
| ***The specific market has a relevant weight in the wider economy?*** | ***X*** | |

Even though there has been a partial degree of implementation, the bulk of the recommendations included in the IPN Report were not implemented by their recipients, as noted in previous sections. Therefore, despite the considerable weight of public procurement on GDP, a significant effect on the economy in general could not be expected.

The loss of well-being derived from the non-implementation the mentioned recommendations would have been reflected in a reduction in the number of bidding companies that could potentially have submitted to the tenders announced by the Administration and the subsequent increase in the award price, by reducing the degree of competition in the bidding process and offer lower bids over the bidding base budget. As a consequence, the Administration would have seen an increase in contracting costs, which could have been passed on to all citizens.

# 4 Conclusions

The main conclusions extracted from the IPN are presented below:

- The IPN Report was issued, at the request of the Ministry of Finance and Public Administrations, in exercise of the consultative powers of the CNMC, in application of article 5.2 of Law 3/2013, of June 4, creating the CNMC.
- The IPN Report consists of 145 recommendations of a very different and heterogeneous nature. For the most part -100 of them- they intend to respond to the lack of sufficient regulatory development to guarantee efficient economic regulation of the public sector and of contracting through public tenders.
- From the analysis of the degree of compliance with the measures proposed by the CNMC, it can be concluded that the majority of these were not implemented by the recipients. Therefore, it is considered that both the Administration and the final consumer would have been harmed, in the form of a loss of well-being, due to the non-implementation of said recommendations. Nevertheless, it could not be ruled out that the public procurement bodies might be implementing some of these recommendations even if it did not imply an explicit regulatory modification.
- To estimate the loss of well-being, two variables are relevant that would have been affected by the non-implementation of the recommendations contained in the IPN: (i) the number of bidding companies; and (ii) the amount awarded. For this, an analysis has been presented in terms of mean values for the period immediately after the publication of the IPN (2016 to 2019) and the potential impact has been estimated for the year 2019.
- To begin with, it has been considered, based on the review of the available literature on this type of case and the proposed methodology, that if the entry barriers in the sector had been reduced or eliminated because of the implementation of the measures proposed by the CNMC, the number of bidding companies could have increased by 12%. The average increase per tender in the number of bidding companies would have amounted to 0.55 (from 4.57 up to 5.12 bidders) for the period between 2016 and 2019.
- The mentioned increase in the number of bidding companies could have had an impact on an increase in the casualties offered, with the consequent discount on the bidding base budget. That is, the award amount of the tenders could have been reduced. According to the available literature in this type of case, this reduction could be 5%. Applying this parameter to the average amount awarded during the period between 2016 and 2019, we obtained an average reduction per tender of 10,022 euros.
- Considering the year 2019 as the reference year, and in view of the considerable increase in the number of tenders registered in the Public Sector Contracting Platform of the Ministry of Finance[10], the benefit for the Administration -and, consequently, for consumers- had the recommendations of the CNMC been applied, is estimated to have amounted to **1,033 million euros** in terms of the award amount and **69,408 additional offers[11].**

[10] Available website at: https://www.hacienda.gob.es/es-ES/GobiernoAbierto/Datos Abiertos/Paginas/licitaciones_plataforma_contratacion.aspx

[11] As it has already been noted, given that the data source used for the impact quantification might not include all the tenders that have taken place in Spain, the effect provided might be underestimated.

- As we have been pointing out, most of the recommendations included in the IPN Report were not implemented by their addressees. Therefore, despite the considerable weight of public procurement on GDP, an identifiable and relevant impact on the Spanish economy would be difficult to determine.

# Annex 1. Questionnaires

**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 IPN?*
- *Which were the needs the IPN aimed to address?*
- *How urgent were the issues to be addressed by the IPN?*

***Qualitative assessment: effectiveness***

**Policy makers**

- *Please describe your overall knowledge of the IPN report and your familiarity with it.*
- *What was the primary use of the IPN Report during the policy-making process?*
- *Were the results of the IPN report a clear factor in your final decision making?*
- *Would have you carried out the same reforms/changes even without the IPN report?*

**Experts**

- *¿ Do you consider that IPN report is consistent with overall competition law framework and principle?*
- *Do you think that the recommendations were sufficiently clear to be effectively implemented by relevant policy makers?*
- *Overall, how would you consider the potential utility of the IPN report?*

# 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 Nº 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

To estimate the Administration's loss of well-being due to the non-implementation of the recommendations contained in the IPN Report, we rely on the data available in the Public Sector Contracting Platform of the Ministry of Finance. This database contains information on public tenders since 2012 and disaggregates the information based on the type of contracting Administration and the type of contract[12]. Although the analysis presented below is carried out by type of contracting Administration, the Evaluator may complete his evaluation with an analysis by type of contract if it is of interest to him.

For each type of Administration, the average number of companies bidding for their tenders between 2016 and 2019 has been calculated, taking as a reference the data relating to offers submitted by lot or award. The same analysis has been carried out for the awarded amount. The raw data extracted from the Recruitment Platform has been treated to eliminate possible registration errors or extreme values. Specifically: (i) those entries with a number of offers not available or null have been eliminated; (ii) those entries with a number of bids per lot/award below the 1st percentile of the distribution or above the 99th percentile of the distribution have been eliminated; (iii) those entries with an amount awarded below the 1st percentile of the distribution or above the 99th percentile of the distribution have been eliminated. All this with the aim of eliminating possible outliers.

Table 3, on the following page, shows the average annual values, by tender, obtained for the different tenders according to the contracting Administration. Table 4 below presents the estimate of the scenario that would potentially have occurred if the CNMC recommendations had been implemented. In the first place, it is considered that the number of offers could have increased by 12%, according to the references found in the literature. Regarding the amount awarded, it could have been reduced by 5% according to these sources. The difference between the previous figures, presented in Table 5, reflects the potential benefit that the Administration and, consequently, the consumers could have obtained.

Taking the entire analysed period as a reference, it is estimated that the average increase in the number of bids submitted per lot/tender would amount to 0.55, with an increase of between 0.46 bids being observed in the case of the General State Administration and 0.65 bids in the case of tenders called by the Autonomous Communities. As for the amount awarded, the average reduction for the period as a whole would be 10,022 euros per lot/tender.

Considering the number of tenders registered in the Procurement Platform, it should be noted that a considerable growth has been observed in recent years, going from 25,219 tenders in 2016 to 134,604 tenders in 2019. Given the possibility that the mentioned difference may be due to the improvement in the registration of the tool itself, we consider it appropriate to limit the estimate of the annual impact to 2019.

Thus, multiplying the average value of the number of additional offers and the amount awarded by the number of tenders called in 2019, we obtain that the number of offers in the mentioned year would have increased by 69,408, while the amount awarded supported by the Administration would have reduced by just over 1,000 million euros.

[12] It should be taken into consideration, however, that this source might not be completely exhaustive given that it might not include the whole set of tenders occurred in Spain.

**Table 3: Annual average, per tender, of the number of bids and amount awarded by type of Administration**

| | Average value 2016 | | Average value 2017 | | Average value 2018 | | Average value 2019 | | Average (2016-2019) | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Type of Administration** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** |
| General State Administration | 3.73 | 226,223.43 | 3.94 | 242,499.89 | 3.98 | 383,230.47 | 3.70 | 270,359.77 | 3.84 | 280,578.39 |
| Local Administration | 5.00 | 117,116.66 | 5.27 | 123,827.11 | 4.74 | 140,177.61 | 4.36 | 110,268.96 | 4.84 | 122,847.58 |
| Regional Administration | 9.05 | 164,141.03 | 4.06 | 263.387.30 | 4.43 | 242,669.32 | 4.18 | 175,334.29 | 5.43 | 211,382.99 |
| Public Law Entity | 4.58 | 261,627.18 | 4.18 | 272,065.81 | 5.14 | 323,579.82 | 4.49 | 246,155.73 | 4.60 | 275,857.14 |
| Other Public Sector Entities | 3.49 | 177,334.99 | 4.03 | 144,544.78 | 4.49 | 175,802.22 | 4.53 | 149,204.60 | 4.13 | 161,721,65 |
| **Annual average** | **5.17** | **189,288.66** | **4.30** | **209,264.98** | **4.56** | **253,091.89** | **4.25** | **190,264.67** | **4.57** | **210,477.55** |

*Source: Prepared by the authors based on Public Sector Contracting Platform.*

**Table 4: Annual average, per tender, of the number of bids and amount awarded by type of Administration if the recommendations had been applied**

| | Average value 2016 | | Average value 2017 | | Average value 2018 | | Average value 2019 | | Average (2016-2019) | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Type of Administration** | **Number of offers per lot/award (+12%)** | **Awarded amount o (-5%)** | **Number of offers per lot/award (+12%)** | **Awarded amount o (-5%)** | **Number of offers per lot/award (+12%)** | **Awarded amount o (-5%)** | **Number of offers per lot/award (+12%)** | **Awarded amount o (-5%)** | **Number of offers per lot/award (+12%)** | **Awarded amount o (-5%)** |
| General State Administration | 4.18 | 215.450,89 | 4.41 | 230,952.28 | 4.45 | 364,981.40 | 4.14 | 257,485.50 | 4.30 | 267,217.52 |
| Local Administration | 5.60 | 111.539,67 | 5.90 | 117,930.58 | 5.31 | 133,502.49 | 4.88 | 105,018.06 | 5.42 | 116,997.70 |
| Regional Administration | 10.13 | 156.324,79 | 4.55 | 250,845.05 | 4.97 | 231,113.64 | 4.69 | 166,985.04 | 6.08 | 201,317.13 |
| Public Law Entity | 5.13 | 249.168,74 | 4.68 | 259,110.29 | 5.75 | 308,171.26 | 5.03 | 234,434.03 | 5.15 | 262,721.08 |
| Other Public Sector Entities | 3.90 | 168.890,47 | 4.52 | 137,661.70 | 5.03 | 167,430.68 | 5.07 | 142,099.62 | 4.63 | 154,020.62 |
| **Annual average** | **5.79** | **180.274,91** | **4.81** | **199.299.98** | **5.10** | **241,039.89** | **4.76** | **181,204.45** | **5.12** | **200,454.81** |

*Source: Prepared by the authors based on Public Sector Contracting Platform.*

**Table 5: Annual average benefit, per tender, that would have been obtained in the number of bids and amount awarded if the recommendations had been applied**

| | Average value 2016 | | Average value 2017 | | Average value 2018 | | Average value 2019 | | Average (2016-2019) | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Type of Administration** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** | **Number of offers per lot/award** | **Awarded amount** |
| General State Administration | 0.45 | -10,772.54 | 0.47 | -11,547.61 | 0.48 | -18,249.07 | 0.44 | -12,874.27 | 0.46 | -13,360.88 |
| Local Administration | 0.60 | -5,576.98 | 0.63 | -5,896.53 | 0.57 | -6,675.12 | 0.52 | -5,250.90 | 0.58 | -5,849.88 |
| Regional Administration | 1.09 | -7,816.24 | 0.49 | -12,542.25 | 0.53 | -11,555.68 | 0.50 | -8,349.25 | 0.65 | -10,065.86 |
| Public Law Entity | 0.55 | -12,458.44 | 0.50 | -12,955.51 | 0.62 | -15,408.56 | 0.54 | -11,721.70 | 0.55 | -13,136.05 |
| Other Public Sector Entities | 0.42 | -8,444.52 | 0.48 | -6,883.08 | 0.54 | -8,371.53 | 0.54 | -7,104.98 | 0.50 | -7,701.03 |
| **Annual average** | **0.62** | **-9,013.75** | **0.52** | **-9,965.00** | **0.55** | **-12,051.99** | **0.51** | **-9,060.22** | **0.55** | **-10,022.74** |

*Source: Prepared by the authors based on Public Sector Contracting Platform.*

**Table 6: Number of tenders/awards per year and type of Administration**

| | Number of tenders/awards | | | |
|---|---|---|---|---|
| **Type of Administration** | **2016** | **2017** | **2018** | **2019** |
| General State Administration | 8,363 | 10,475 | 13,896 | 17,467 |
| Local Administration | 4,465 | 7,794 | 33,517 | 53,582 |
| Regional Administration | 1,197 | 3,090 | 13,441 | 20,802 |
| Public Law Entity | 4,454 | 5,390 | 8,428 | 10,664 |
| Other Public Sector Entities | 6,740 | 11,150 | 22,119 | 32,088 |
| **Annual average** | **25,219** | **37,899** | **91,401** | **134,603** |

*Source: Prepared by the authors based on Public Sector Contracting Platform.*

**Table 7: Annual benefit that will have been obtained in the number of bids and amount awarded if the recommendations had been applied**

| | 2019 | |
|---|---|---|
| **Type of Administration** | **Number of offers per lot/award** | **Awarded amount** |
| General State Administration | 7,745.16 | -224,874,958.06 |
| Local Administration | 28,038.84 | -281,353,886.31 |
| Regional Administration | 10,442.52 | -173,681,137.86 |
| Public Law Entity | 5,744.64 | -125,000,225.47 |
| Other Public Sector Entities | 17,437.56 | -227,984,634.13 |
| **Annual total** | **69,408.72** | **-1,032,894,841.84** |

*Source: Prepared by the authors based on Public Sector Contracting Platform after implementing the quantifying proposed methodology.*