

Handbook
***Methodology for evaluation
of CNMC advocacy acts***

February 2022

(English text is the official version)



Acronyms

Administration	Means any Spanish public Administration at national, regional or local level, as well as any public body dependent on them
CMA	Competition and Markets Authority
CNMC	National Commission of Markets and Competition
DG REFORM	Directorate-General for Structural Reform Support
EC	European Commission
EU	European Union
Law 15/2007	Law 15/2007, of July 3, on the Defence of Competition
Law 3/2013	Law 3/2013, of June 4, on National Commission of Markets and Competition creation
LGUM	Law 20/2013, of December 9, on market unit guarantee
MINECO	Ministry of Economic Affairs and Digital Transformation
OECD	Organisation for Economic Co-operation and Development
OFT	Office of Fair Trading
SECUM	Secretary of the Council for Market Unity (MINECO)
UK	United Kingdom
US	United States

1 Introduction

The objective of this handbook is to present and explain a methodology that allows for a qualitative and quantitative impact assessment of the CNMC's advocacy acts. The Contractors have developed a flexible methodology, that can be applied to different evaluation requirements and provides reliable and consistent results to help the CNMC improve its advocacy policy.

The proposed methodology follows the Request for Service and it is based on literature and desk research, including existing ex-post evaluation methodologies applied by other similar agencies internationally, academic literature and studies that evaluate and assess the impact of competition policy.

The methodology has been designed with the sufficient degree of flexibility so as to respond to the heterogeneity of the acts to be assessed, and it is versatile enough to be applied on an ex-ante or ex-post basis. For the proposed methodologies to fulfil its purpose, it needs to be applied consistently over time by those who assume the role of evaluators, and results need to be factored into the design of advocacy policy. Therefore, a proper implementation of the methodology requires adequate resources, clear tasks allocation and support at all levels of the CNMC.

The handbook is based on a set of templates for each type of act, which are structured around similar building blocks but which – at the same time – take into account the specificities of each type of act, including market unity activities. The proposed methodology offers a set of flexible quantitative indicators to estimate the potential (or actual) welfare impact of the measures recommended in each act, thus allowing for cross comparison and informed prioritization, and helping ultimately to reinforce the legitimacy of the CNMC's advocacy policy before its stakeholders.

To help understand the functioning of the proposed methodology, the Contractors will apply it to 12 selected cases and participate with CNMC staff in a set of training sessions to discuss and solve any questions that may arise.

2 Methodological approach

The proposed methodology for the Impact Assessment of the CNMC's competition advocacy acts is based on literature review and desk research (**Subsection 2.1**). The methodology has been designed taking into consideration the unique specificities of the CNMC's advocacy policy, which relies on a wide range of intervention instruments. Therefore, the methodology ultimately provides, under a common rationale, a set of different templates that the evaluator shall fill in order to assess the different types of advocacy acts (**Subsection 2.2**).

Like any other methodology, its implementation needs to follow a set of principles that the CNMC can further tailor to its needs and re-calibrate according to the experience (**Subsection 2.3**).

2.1 Key findings of desk research

The review of the existing ex-post evaluation methodologies and guidelines provided by international organisations shows that ex-post evaluation and impact assessment focus predominately on the economic effects of competition enforcement activities and of the underlying regulatory framework. The main challenges identified concerning the evaluation of competition advocacy policy are related to difficulties in the attribution of impact.

The academic literature suggests that the preferred method to estimate the effects of competition advocacy actions is to conduct surveys with stakeholders to assess the degree to which advocacy acts are able to influence and alter regulatory outcomes, on the one hand, and the value to consumers of those outcomes, on the other.

A good starting reference is provided by the *OECD Competition Assessment Toolkit*. This toolkit provides a general framework to evaluate draft laws and regulations. The *OECD Competition Assessment Toolkit* also provides guidance on the assessment of competition policy related to regulations that turns out to be helpful in analysing the impacts of advocacy acts on market competition.

The *OECD Guide for helping competition authorities assess the expected impact of their activities* provides a simple and easily applicable methodology for competition enforcement activities which should be relatively undemanding in terms of cost and time. This guide proposes an estimate of the consumer benefits which derives from the product of the size of the affected turnover, the price increase removed or avoided, and the expected duration of the price effect. If specific information is not available, then the evaluator can use a defined set of default assumptions for the size of the affected turnover; for the expected price effect and for the likely duration of the price increase in the absence of the competition authority's intervention. This approach has been used by different competition authorities, including the CNMC, to quantify the impact of their enforcement activities.

Despite an increase in advocacy activities by competition authorities in recent years and greater focus on the impact of their interventions, ex-post assessments are still quite rare or, at least, they are not made public. In fact, only few competition authorities worldwide regularly assess the benefits of their advocacy activities. The UK CMA (former OFT) is one of the most active authorities in these regards: every year, the CMA commissions at least one in-depth evaluation of a market study. Most ex-post assessments and evaluations of advocacy acts are qualitative in nature.

2.2 Rationale of the templates

The proposed templates are designed to provide a common structure to accommodate the diverse nature, objectives, and scope of each type of CNMC advocacy acts. Every template includes tailored sections with the aim of addressing the specific issues for each category, while preserving consistency among them. Therefore, these templates provide, for each category, a specific structure and a set of particular rules.

The templates have a similar general structure, and they share a number of features. This common structure divides the evaluation into two well-differentiated parts:

- The first part, that could be considered inward oriented, focusses on the act itself. It provides an evaluation of the act's creation process and of its ability to reach the targeted stakeholders. This part of the evaluation offers valuable information to the CNMC management for a better allocation and prioritization of its advocacy resources. **(Evaluation of the act)**.
- The second part, that could be considered outward oriented, deals with the impact of the act and provides information on whether the act has been successful in influencing policy and on the actual or foregone benefits associated with the proposed policy changes. Therefore, this part of the evaluation generates information to support and legitimate the CNMC's advocacy interventions. **(Impact assessment)**.

The common structure of each template is completed with an **Introduction** section and a final part with the concluding remarks (**Conclusions**). The following lines describe each of the four sections that comprise the proposed templates.

2.2.1 Introduction

As stated in each of the templates, the main goal of the introductory section is to present the overall context in which the act is adopted, by providing a clear overview of the key features of the market concerned, its regulatory framework (which the act intends to influence), and the motivation behind the CNMC's choice to carry out the act.

This section should be kept brief, clear, and understandable for a non-specialised reader. For the sake of simplicity and efficacy of the evaluation process itself, the introduction should not become an extended summary of the act.

2.2.2 Evaluation of the act

The first phase of the assessment consists, basically, of evaluating the act itself. It analyses the potential of the advocacy act to influence relevant policy and decision making and compares this potential with the internal efforts and costs associated with producing the act.

An important remark to be kept in mind when defining the scope of this phase is that it is very much dependent upon data on the CNMC's own activities. Therefore, a pre-requisite to carry out an effective evaluation is to set up the corresponding data collecting mechanisms.

The depth and detail of the data collection mechanisms to be implemented should be set looking for a balance between the objectives of the evaluator and the costs and effort needed to gather the information. For example, if the evaluator wants to rank different acts according to their efficiency, a simple and consistent data gathering with respect to the internal cost of producing the act (number of weeks/worker employed) and with respect to its primary outreach (numbers of downloads or numbers of policy discussions with stakeholders), could be enough.

This first phase comprises 4 different steps, each focusing on different but complementary aspects, as explained below.

2.2.2.1 Relevance

This first step provides an overview of the importance of the problems addressed in the act. Having this information right at the beginning of the evaluation process is logical since it is a direct evaluation of the relevance of the questions dealt with by the act, which can be later compared with different aspects, like the cost of producing the act, or the success in reaching the concerned stakeholders.

The proposed methodology for this section looks at the relevance of the act from a qualitative and quantitative perspective. To provide a first **quantitative indication of the relevance** of the act, the evaluator should research basic indicators of the concerned sector. The list of indicators could be tailored to each type of act and even to each act itself. However, it is advised to keep it simple and consistent.

The following table includes the proposed indicators to research and to include in the analysis of the quantitative relevance of most of the acts. In this respect, some of the templates (basically Market Unity Acts) do not include a quantitative evaluation of the relevance since they are very much targeted to specific market operators, though a quantitative assessment could be added, should the evaluator consider that the act may have a spill over effect on the whole sector.

Table 1. List of proposed indicators to assess the relevance of the act

Type of variable	Indicator
Economic weight and structure of the market	Total sector turnover
	Number of undertakings
	Average turnover per company
	Geographical location/concentration of companies
Labour market and employment	Total number of employees
	Average salary
Optional dimensions	...

As for data sources, using a general data base, like *SABI* or the *Central Balance Sheet Data Office* (Bank of Spain) is easy to implement and will provide consistency across different evaluations. These general data sources can be further complemented with sectoral or specialized sources, if the evaluator considers that the figures gathered from the general sources do not represent the relevance of the sector appropriately.

Once the quantitative aspect of the relevance has been addressed, the methodology directs the evaluator to provide information on the **qualitative relevance of the act**. This is carried out by identifying the market failures or market unity issues that the act addresses. It is proposed to follow the OECD classification¹, adapted to the CNMC activities.

¹ OECD (2019), Competition Assessment Toolkit: Volume 1 (principles), Volume 2 (guidance) and Volume 3 (operational manual). Available at: <https://www.oecd.org/daf/competition/assessment-toolkit.htm>

Table 2. List of market failures or market unity issues to be assessed in the different acts

OECD Competition Issues	Specific question
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.
	A2. Establishes a license, permit or authorisation process as a requirement of operation.
	A3. Significantly raises cost of entry or exit by a supplier.
	A4. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.
B. Limits the ability of suppliers to compete.	B1. Limits sellers' ability to set prices for goods or services.
	B2. Limits freedom of suppliers to advertise or market their goods or services
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).
C. Reduces the incentive of suppliers to compete	C1. Creates a self-regulatory or co-regulatory regime
	C2. Requires or encourages information on suppliers' outputs, prices, sales or costs to be published
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.
	D3. Fundamentally changes information required by buyers to shop effectively.
(*) Additional market failures identified by CNMC in these types of acts	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.
	E3. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.
	E4. Promotes collusion between economic operators / hinders free competition.
	E5. It may lead to non-compliance with the State Aid scheme.
	E6. Insufficient specification of the non-normative act to guarantee an efficient economic regulation.

2.2.2.2 Effectiveness

The aim of the second step within the evaluation process of the act analyses how effective the act was in reaching its targeted beneficiaries, especially policymakers. This is a crucial examination since the ultimate goal of every advocacy act is precisely to influence those in charge of market regulation.

The ability to influence its targeted beneficiaries is measured from two complementary perspectives: quantitative and qualitative outreach. The assessment of both perspectives requires corresponding data gathering mechanisms by the CNMC.

From a **quantitative outreach perspective**, the evaluator should provide a group of figures related to the extent to which the act reached its target audience. It could be measured, for instance, by the impact of the publication of the act on the media or the number of downloads from CNMC’s website. In this sense, the methodology suggests using the following indicators, subject to their actual or future availability.

Table 3. Variables proposed to assess the quantitative outreach of the acts

Outreach to the general public	Number of views/downloads of press releases / document of the act
	Number of views/downloads of web announcements
Outreach to policy makers	Outreach and impact of confidential versions shared with relevant Ministries
	Number of Ministerial meetings discussing the act results
Outreach to general stakeholders	Number of stakeholders involved in the Focal Points or in the public consultation
	Number of comments to the draft versions of the act
Outreach to academia	Number of papers quoting the act
Outreach to the press	Number of articles/blogs quoting the act

Regarding **qualitative outreach**, this also requires a proactive and dedicated action of the evaluator, who should provide a qualitative assessment on the extent to which the act has reached its targeted beneficiaries. This task needs to be based on questionnaires addressed to the beneficiaries².

The questionnaires could be addressed to different groups of stakeholders, with policy makers as the most relevant group. The aim of the questions is to know the perception of policy makers and other stakeholders on the quality and usefulness of the act.

An act can only be deemed to be effective if it has reached (quantitative perspective) its targeted beneficiaries **and** if it has positively impacted the audience (qualitative perspective). Each type of act is designed to reach different groups of stakeholders, so each template has been adapted to the specificities of each type of act. A market study, for instance, has a broader audience than a market unity report, though the wide publication and outreach of all the acts contributes to the better knowledge of the advocacy principles. Therefore, the monitoring of how much interest an act has

² Many service companies have implemented an automatized procedure whereby their customers are surveyed on a consistent basis and their results are translated into comparable indices across companies and industries, measuring different parameters of customer loyalty. One of the most known system is called NPS (Net Promoter Score).

raised among the audience is always a good practice whose outputs can be incorporated into the evaluation of the advocacy policy.

2.2.2.3 Efficiency

The methodology proposes to evaluate the efficiency of the acts through the relationship between its effectiveness and the costs and effort incurred in its delivery. The efficiency analysis is again dependent on the availability of internal data and can only be conducted for those cases when internal information on costs is available, and information on outreach is accessible. If these data are available, then the efficiency assessment takes the shape of a Cost-Benefit-Analysis (cost of carrying out the study vs. its impact).

The efficiency analysis should preferably be based on quantitative data, gathered consistently across different acts and time periods, allowing for a useful comparison across acts. Nevertheless, as explained in the templates, since it is unlikely that quantitative data on internal costs are available before a data-collecting mechanism has been set up, the methodology suggests substituting quantitative data for a qualitative indication of the time and effort required to produce the act (e.g. through internal surveys). These surveys or qualitative questionnaires should be conducted by those members of the management team who have an overall perspective of the resources and time devoted to deliver each act.

2.2.2.4 Coherence

The last step of the act's "inward looking" evaluation process entails a check of its coherence. The methodology proposes to carry out this check by looking at the compatibility of the act with: i) CNMC's previous findings and recommendations; ii) CNMC's objectives and traditional competition principles; and iii) the regulatory and institutional framework.

Coherence evaluation requires a minimum level of knowledge about the nature and history of the advocacy policy and the regulatory environment in which it takes place. This assessment could be delivered by different members of the evaluation team and the evaluator should be able to interview and discuss with CNMC staff. The methodology suggests relying, to the extent possible, on the information provided by Deliverable 3, which can serve as a basis to check coherence with past acts.

To help the evaluation of coherence, the methodology suggests answering a set of predefined questions, that could be tailored to each experience. While it is likely that the evaluator finds a positive conclusion on coherence, these questions serve as an alert mechanism when a negative answer arises. In such cases, the evaluator should not stop by clicking the "no" box. An explanation on the scope of the departure from the expected parameters should be provided.

This step provides the evaluator the opportunity to note any other special circumstances about the act itself. An example from one of the 12 cases assessed refers to the extraordinary situation where there was a dissenting opinion from some members of the CNMC board who raised the point that the findings of the act were not well supported by market evidence. Such opinion could be a sign that the act was not coherent with previous standards of proof.

2.2.3 Impact assessment

The second phase of the evaluation procedure looks at the impact that the act had (or could have had) on the regulatory framework and on the economy. Therefore, this phase can be described as an "outward-oriented" evaluation.

There are two main challenges that need to be considered and that, to a large extent, are common to any assessment of the effects of policy interventions. The first challenge is to solve the attribution or causality problem. Any effects observed in the market and/or in the regulatory framework can only be attributed to the act if a likely link to its output (typically policy recommendations) can be

made. Otherwise, any observed change in legislation could be the consequence of simultaneous events (i.e. regulatory changes not in line with the act recommendations, wider legislative reforms, regulatory changes brought by other institutions, etc.). Similarly, any observed effects in the market could be induced by third economic events and conditions.

The second challenge concerns the balance between the accuracy and reliability of the estimations and the time and resources needed to obtain them. The balance must be struck in accordance with the overall objectives of the CNMC management when implementing the methodology, which has in fact been designed to be flexible enough to accommodate different options. Nevertheless, it is recommended to rely on easily applicable estimations as a general rule and keeping the option open to carry out an in-depth analysis for selected cases.

2.2.3.1 Impact on the regulatory framework

The direct impacts of the advocacy acts are any observable change in legislation attributable to the act itself. Once the evaluator has clearly defined each of the recommendations/claims contained in the act, the methodology proposes to determine whether they have been fully implemented, partially implemented, not implemented or whether its application is non-evaluable (i.e. no data are available or changes in legislation are not linked to the act itself). The latter case corresponds, essentially, to recommendations that are of an undefined nature or that are difficult to monitor.

2.2.3.2 Actual or potential impacts on the concerned market/sector

Actual impacts on the specific market can only be identified when the recommendation is fully/partially implemented, but it is also possible to estimate potential impacts, basically benefits foregone or losses, of not complying with the recommendations.

In line with the attribution principle, the evaluator should start identifying the economic variables which are likely to be impacted by the recommendations. For instance, if the recommendation suggests opening the market, then the evaluator should assess the potential impact on market structure of its implementation or non-implementation. In this case, the variable of interest could be the number of firms in the market or any other variable capable of capturing a more vivid or contested market. If such variables are not directly observable, the evaluator could choose other variables that are expected to be affected thanks to the new market conditions, such as the volume of sales or even prices. In any case, the choice must be well grounded on microeconomic principles and sectoral knowledge.

Once the relevant variables that might be affected by the recommendations are defined, the evaluator has two options depending on the available time, data, and resources demanding and the need to provide comparable results.

2.2.3.2.1 Estimation through counterfactual analysis

An estimation based on counterfactual analysis is only viable when the required information is easily accessible, and the evaluator has enough time. In essence, it provides an estimation of the effects of the act (change in policy or regulation) on the variable of interest by comparing it with the so-called counterfactual scenario. The two most used scenarios are the same market before the intervention (the change of policy) occurred (a time comparison analysis) or a sufficiently similar market, that could be in another region, country or even sector, but that is similar enough where the intervention also occurred (a market comparison).

In either case, the evaluator needs to observe elementary statistical principles, like being sure that the sample of data measuring the variable of interest is representative. To carry out the comparison between both scenarios, the evaluator can opt for simple and direct techniques (like average comparisons) or for a more sophisticated econometric estimation, especially when there is good

reason to believe that the variable of interest can be affected by third variables, whose effects need to be controlled for.

2.2.3.2.2 Estimation inspired by the OECD’s rule of thumb approach for enforcement

The methodology proposes to use a rule of thumb estimation for all the acts, even in those cases in which a counterfactual estimation has been performed. This method was developed following the OECD proposal for the impact assessment of the enforcement activities in competition policy³. It provides an easy way to obtain consistent and comparable estimations that serve the policy objectives. The CNMC has already used such methodology to estimate the economic impact of its enforcement activities⁴.

While the method itself is straightforward, it must be kept consistent across different acts to enable comparison. The method starts by sorting and identifying the potential impacts on the market of the act, according to the economic nature of the market failures or market unity problem that it addresses. This first step allows the evaluator to identify the variable of interest where the effect is to be estimated. The choice must be kept simple, avoiding duplications and countervailing effects. For example, if the act deals with easing entrance to the market, then the obvious effects is that prices may go down and sales may increase. The evaluator should choose just one these two variables to arrive at a “rule of thumb” estimation on consumer welfare. If the impact is calculated on both variables, then they might countervail each other.

However, in some other cases, it may be possible to estimate more than one effect. For example, an increase in the number of operators and in employment, since both effects are complementary.

The evaluator then just needs to apply a parameter (rule of thumb) to the value of the variable of interest in the concerned market. Finally, the evaluator may find that adjustments need to be made to tailor the estimation to the available data and the nature of the market⁵.

The below list of parameters is proposed following the CNMC’s economic reports accompanying its advocacy acts, as shown in Annex 1. They could be further expanded or calibrated if deemed necessary, based on future research.

Table 4. List of indicators proposed for the direct impact assessment

Indicator	Parameter		
	Found in the Literature	Average Value	Recommended Value
Reduction in waiting time	2%-7%	5%	5%
Reduction in prices	3%-35%	19%	5%
Increase in employment	1%-12%	7%	5%
Increase in sales and production	4%-11%	8%	5%
Increase in the number of operators	12%	12%	12%

Source: See Annex 1.

³ OECD (2014), Guide for assessing the impact of competition authorities' activities. Available at: <https://www.oecd.org/daf/competition/Guide-competition-impact-assessmentEN.pdf>

⁴ García-Verdugo, J., Gómez Cruz, L. (2016) : Impacto de las intervenciones de la CNMC en defensa de la competencia (2011-2015). Available at: [https://www.cnmc.es/sites/default/files/editor_contenidos/CNMC/DocumentosReferencia/Documento%20AE-04_16\(1215\)_2_%20Impacto%20de%20intervenciones%20CNMC.pdf](https://www.cnmc.es/sites/default/files/editor_contenidos/CNMC/DocumentosReferencia/Documento%20AE-04_16(1215)_2_%20Impacto%20de%20intervenciones%20CNMC.pdf)

⁵ For instance, as described in one of the 12 cases studied, the evaluator applied an adjustment to consider the fact that the act refers to the wholesale market, when only data on retail sales were available.

2.2.3.3 Indirect impacts on the wider economy

The last step of the impact assessment deals with the measurement of the indirect impact of the act on the wider economy. In this case, the two challenges previously mentioned emerge with high intensity since it is very difficult to isolate and quantify an attributable impact from an act on the whole economy.

Therefore, this step can only be performed when the recommendation is fully or, at least, partially implemented, the recommendation had a clear and significant impact on the specific market, and such market has a significant weight in the wider economy. If the recommendation has not been implemented, a quantitative assessment is not possible, but it may be possible to carry out a qualitative assessment of the cost of non-implementation.

The evaluator could provide several figures on the relevance of the affected sector within the economy and a qualitative explanation why it is expected to yield an indirect effect. For example, if an act that has been found to produce a positive effect in the whole tourism sector, it is also reasonable to expect a spill over effect into other sectors. The evaluator could identify the weight of the tourism sector in the economy, using different variables (Added Value, Employment, Investment, Taxes, Dissemination along the country...) and then explain the relevance of the industry for the national economy.

A more resource intensive avenue to estimate the impact is to use a standard input-output framework⁶ to assess how sectoral changes may impact the wider economy. This methodology assumes that the productive relations between the different industries stay constant and uses the so-called Leontieff coefficients to estimate the indirect effects on different industries of a specific increase in the production of one industry. The required coefficients can be found on the web page of the Spanish National Statistics Institute⁷. For instance, if an act has generated an attributable increase in production in the automotive sector. The Leontieff coefficients allow to estimate the increase in production in all industries that produce inputs for the automotive industry. It is also common, within input-output analysis, to estimate so-called *induced effects*, attributable to the expected changes in expenditure by employees of an affected industry. In the previous example, because of the increase in production in the automotive industry, its employees will spend higher salaries on different goods and services. The increase in production in different industries is called the *induced effect*.

2.2.4 Conclusions

The conclusions chapter shall allow the reader to have a quick overview of the results of the whole evaluation. Thus, it shall include the key information and insights concerning the advocacy act itself (i.e. sector, rationale behind the study, objectives), the key competition issues identified and the overall assessment of effectiveness, efficiency and coherence. Then, it shall summarise the observable impact of the act on the regulatory framework, and the estimated (actual or foregone) impacts on the specific market and, if applicable, its indirect impacts on the wider economy. Finally, the evaluator shall discuss potential follow-up questions for further interventions by the CNMC in the same sector.

⁶ For further detail: Eurostat (2008). "Eurostat Manual of Supply, Use and Input-Output Tables"

⁷ Accessible at [INEbase / Economía / Cuentas económicas / Contabilidad nacional anual de España: tablas Input-Output / Resultados](https://inecbase.inet.es/Economia/Cuentas_economicas/Contabilidad_nacional_anual_de_Espana_tablas_Input-Output_Resultados)

2.3 General principles for the application of the methodology

For the proposed methodology to develop its full potential the following five principles need to be observed:

2.3.1 Identify objectives

Whereas the methodology could be applied to individual acts on a non-systematic basis, to realise its full potential, it is recommended to carefully plan the application, after careful consideration of the objectives to be achieved.

It is important to identify such objectives and to bear them in mind when executing the implementation plan. A simple way to identify these objectives is asking which question we want to answer through the application of the methodology. Some examples of such questions would be:

- *Are we being heard by the recipients of the act?*
- *What is the relative efficacy across the different types of acts?*
- *Are we using too many resources to deliver acts with little impact?*
- *What is the overall economic impact of all the recommendations done under a certain type of act or in a particular sector?*

2.3.2 Allocate resources

Although it may sound obvious, successful implementation of the methodology requires a designated allocation of resources, since it consumes time and effort from all those involved: the evaluators, the surveyed staff and those in management positions.

Resource allocation could simply consist of expressly recognizing that carrying out and analysing the evaluations is an added task for specific staff members. These staff then need to plan and allocate time to perform the evaluations and to discuss the results.

2.3.3 Apply consistently

The third principle speaks for a consistent application of the methodology, following a predefined plan. Being aware of the time and resources required to perform the assessments, the implementation plan should, ideally, define the concrete terms of its application beforehand. That means, to determine:

- *To which acts?* Ideally to all the acts, but implementation could also start with a random or targeted selection (e.g. every second act, a fixed percentage, etc)
- *When?* The implementation plan should determine and balance the appropriate timing for carrying out the evaluation, given that some time is needed to find an observable impact. Regulatory changes need their time and market variables are typically only available with some delay. But, on the other hand, the more time has elapsed, the more difficult to administer targeted questionnaires to the stakeholders.

The implementation plan could also consider a partial evaluation of the act right after its adoption, obtaining information, for instance, on the potential economic gains. Such information might be useful for legitimization purposes and for prioritization. The assessment could then be completed with actual impact information following implementation.

- *Who shall perform the evaluations?* There should be a separation between the staff responsible for drafting the act and those assigned to its evaluation, at least for the evaluation of the act itself (Relevance, Efficiency, Effectiveness and Coherence).
- *How shall the results be considered?* A predefined plan to read, interpret and circulate or publicise the results is also recommended.

2.3.4 Confront results

Since the ultimate objective of the methodology is to improve the CNMC's advocacy capabilities, the results of the evaluations need to be compared with the CNMC management's expectations. This will provide a first view of how CNMC advocacy policy is actually performing and it will provide clues as to the measures for improvement.

The information provided in Deliverable 3 and, especially, its report, provides initial information on the degree to which CNMC recommendations are being followed. The report also offers recommendations on how to improve the drafting of the acts to reach better compliance levels.

2.3.5 Calibrate

Finally, the methodology has been designed to be flexible enough to incorporate lessons learnt through experience or to fine-tune some of the parameters in line with new research.



3 Templates

In order to ensure consistency in assessing the CNMC's advocacy acts, a different template for each type of act is provided: Market Studies (CODE E), Regulatory Proposals (CODE PRO), Reports on Draft Laws and Regulations (CODE IPN), Reports on matters that are not strictly linked to laws or regulations (CODE INF), Judicial appeals ex article of 5.4 of Law 3/2013 and Article 27 of LGUM (CODE LA) and Market Unity reports under Articles 26 and 28 of LGUM (CODES UM).

3.1 Market Studies – CODE E

3.1.1 Intro

The introduction shall provide a clear overview of the key features of the market concerned by the act. It should be brief, clear, and understandable also for a non-specialised reader. Its main goal is to present the overall context in which the market studies was carried by providing description of its features and characteristics. Moreover, the introductions should clearly define the regulatory framework applied to the specific market and the motivation behind the CNMC choice to carry out the study.

3.1.2 Key features of the assessment

3.1.2.1 Short description of the market to be assessed

This section should provide a brief overview of the key features of the market (e.g. which is the product/service to be assessed, recent developments and innovation). The overall goal is to provide the reader with a sufficient understanding of the market to be assessed.

This information can be found in the introduction of the Market Study

3.1.2.2 Short description of the regulatory framework

In this section, the evaluator should provide an overview of the current regulatory framework which discipline the market to be assessed. If there have been significant legislative changes since the publication of the Market Study, it is recommended to split this section into "ex-ante" and "ex-post".

This information on the regulatory framework at the time of the Market Study is found in the section "Juridical Analysis" (sometimes it is also available in the INTRO).

It recommended to check this section once the evaluation is over as potential changes in the legislation may have been brought about by the Market Study itself. If this is the case, then it should be clearly mentioned.

3.1.2.3 Short description of the rationale behind the study

This section should explain the reasons behind the decision to carry out a Market Study of a given sector. In other terms, the evaluators should highlight why the CNMC had decided to assess this specific market and which were the pressing underlying issues justifying this choice. By doing this,

the evaluator should also understand the specific objectives targeted by the CNMC when carrying out this study.

Overall information can be found in the Intro of the Market Study. However, if possible, it is recommended to carry out interviews with the Market Study authors and/or other CNMC staff involved in the study.

3.1.2.4 Specific objectives of the act

The mainstream objectives of a Market Study are the following (source: Market Study Methodology)

- *The CNMC aims to promote and preserve effective competition among economic operators in the markets. This competition produces efficiency gains that allow consumers and users, companies and the public sector itself to benefit from efficient prices, greater variety and quality of available products and services, and greater innovation in the market.*
- *The CNMC Studies analyze the situation of a sector or branch of economic activity from the perspective of competition and efficient economic regulation. These Studies combine the examination of the regulatory framework with the analysis of the market structure, the behavior and incentives of the operators and the economic conditions of the sector or sectors analyzed.*
- *Propose modifications or revisions of the regulation or make clarifications or warnings to economic agents and Administrations*

The evaluator should check whether there are others specifically defined for the specific market

Overall information can be found in the Intro of the Market Study. However, if possible, it is recommended to carry out interviews with the Market Study authors and/or other CNMC staff involved in the study.

3.1.3 Evaluation of the act

The first step to evaluate the Market Study itself. This preliminary step aims at the defining the likelihood of the act to be able to produce its expected outreach. The evaluation is carried according to the following criteria:

- 1. Relevance which describes the significance of the act in terms of the existing competition issues it addresses and the magnitude of the affected market;**
- 2. Effectiveness which describes whether the declared Market Study had a real outreach in terms of audience and public debate;**
- 3. Efficiency defines whether the costs and effort of delivering the Study were proportionated to its significance (or relevance) of the act and its outreach;**
- 4. Coherence defines the overall consistency of the Market Study with the other relevant regulatory framework;**

3.1.3.1 Relevance

3.1.3.1.1 Relevance of the sector

This section defines the key features of the sector to be assessed including its overall turnover, its possible impacts on the wider economy. The goal is to identify the overall importance of the sector within the whole economy and – thus – understanding whether the market study may have wider impacts. While no rigid threshold is set, it is up to the evaluator to understand to which degree the sector can have spill over on the wider economy. It is also useful to define the scope of the assessment.

Some of this info can be easily found in the Market Study itself, others may require some statistical data collection.

Table 5: Relevance of the sector

Theme	Indicators	Possible sources	Shortcuts / comments
Economic weight and structure of the market	Total sector turnover	Market Study (if recent) or other statistical sources	<i>If data on total turnover are not available, the evaluator may multiply the number of undertakings by the average turnover. As an alternative, average prices to consumers can be used as proxy. The goal of this data is to provide an estimation on the size of the market.</i>
	Number of undertakings	Market Study (if recent) or other statistical sources	<i>These data are usually available on undertaking associations or Chamber of Commerce.</i>
	Average turnover per company	Statistical sources	<i>optional but may be useful to understand market structure</i>
	Geographical location/concentration of companies	Statistical sources	<i>optional but may be useful to understand market structure and possible impacts in specific regions</i>
Labour market and employment	Total number of employees	Statistical sources	<i>These data are usually kept by trade unions or can be found in collective agreements by region.</i>
	Average salary	Statistical sources	
Perception of consumers and policymakers	Is there the perception that the sector needs reform?	Surveys/Interviews	<i>See Annex 1</i>

3.1.3.1.2 Relevance of the act

The goal of this section is to identify how many competitions issues are addressed in the market study. The higher number of competition issues are addressed the most likely the Market Study can have an impact. The Competition issues are those defined by the OECD.

Each competition issue relevant for the study should be mentioned in the table below together with a short explanation taken from the market study itself.

A shortcut is available for the Market Studies included in the database the competition issues are already identified – thus no further research is needed.

Tips to fill in the table

- ✓ *Mention only the relevant competition issue (i.e. no need to list all of them)*
- ✓ *Read carefully sections related to "conclusions" and "benefits for consumers" as key information is there. (if the "benefits for consumers" section is not included in the MS, the evaluator should focus on similar sections highlighting the key competition concerns to be addressed)*
- ✓ *The text of the Market Study should include specific description on possible impacts on the relevant anti-competitive behaviours.*

Table 2: Relevance of the act to competition issues

OECD Competition Issues	Specific question	Comments from the act
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.	
	A2. Establishes a license, permit or authorisation process as a requirement of operation.	
	A3. Limits the ability of some suppliers to provide a good or service.	
	A4. Significantly raises cost of entry or exit by a supplier.	
	A5. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.	
B. Limits the ability of suppliers to compete.	B1. Limits sellers' ability to set prices for goods or services.	
	B2. Limits freedom of suppliers to advertise or market their goods or services	
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.	
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).	
C. Reduces the incentive of suppliers to compete	C1. Creates a self-regulatory or co-regulatory regime	
	C2. Requires or encourages information on suppliers outputs, prices, sales or costs to be published	
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users	
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.	
	D3. Fundamentally changes information required by buyers to shop effectively.	

E. Public intervention in the context of liberalization process	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.	
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.	
F. Public intervention in the context of liberalization process	F1. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.	
	F2. Collusion between economic operators or free competition	
	F3. It may lead to non-compliance with the State Aid scheme	
	F4. Insufficient specifications of the non-normative act to guarantee an efficient economic regulation	

3.1.3.2 Effectiveness

The effectiveness of Market Study is defined by its capacity to achieve its overall objectives. These are identified in section 1. To assess the act effectiveness, it is essential to measure the outreach. By doing this, the evaluator seeks to determine whether the act has been consulted by policy-makers in their decision-making process and/or has been discussed in public debates and has contributed to raise awareness about the proposed changes in legislation. Indeed, **possible impacts (which are to evaluate in Section 3) can also be attributed if the act had reached a certain level of outreach**. There are different ways to assess and measure effectiveness:

1. A quantitative assessment focused on measuring **how many times** the act had been consulted/read
2. A qualitative assessment focused on understating **who are the users/readers** of the act.

Both approaches are valuable and complementary. It is up to the evaluator to choose the most suitable for the specific Market Study to be assessed.

The following table presents an overview of the data collection strategy for assessing the effectiveness.

3.1.3.2.1 Outreach: quantitative assessment

Tips to fill in the table

- ✓ Have a preliminary check with CNMC if the information is available (if the Market Study is not recent, some information may be missing)
- ✓ It is not necessary to have "accurate figure", benchmarking and estimation are also useful
- ✓ If quantitative data are lacking, it is possible to shift to the qualitative data collection

Theme	Indicators	Source
Outreach to the general public	Number of views/downloads of press releases	CNMC internal database
	Number of views/downloads of web pages announcements	
	Official publications on the webpage (numbers of downloads)	
Outreach to policy makers	Outreach and impact of confidential versions shared with relevant Ministries	As these data may be confidential, a preliminary screening is required. If not available, the outreach to policy makers can be assessed only from a qualitative point of view.
	Number of Ministerial meetings discussing the Market Study results	
Outreach to general stakeholders	Number of stakeholders involved in the Focal Points	CNMC should have the data
	Number of comments to the draft versions of the study	

Outreach to the academia	Number of studies quoting the study	Reference systems
Outreach to the general press	Number of articles/blogs quoting the study	Web research

3.1.3.2 Outreach: qualitative assessment

How to identify the respondents

- 1) *Policy makers should have at least one/two of the following features:*
 - a. *They have been directly involved in legislative process relevant to the Market Study (i.e. the implementation of the recommendations)*
 - b. *They have participated in at least one Focal Point*
 - c. *They have requested or supported the realisation of the Market Study*
 - d. *They have been involved in the decision-making process (i.e. political debate) which followed the publication of the Market Study*
 - e. *They are in charge of regulatory bodies (i.e. department, units, ...) which are directly concerned by the topics addressed in the Market Study*
- 2) *The following types of stakeholders are considered relevant for a possible interview/survey:*
 - a. *Business associations operating in the relevant market*
 - b. *Consumers associations*
 - c. *Local associations (if the relevant market appears to be particularly regionalised)*
 - d. *Business associations operating in vertically/horizontally integrated markets*
- 3) *For academia and experts, these are some suggestions*
 - a. *Academics (i.e. professors, researchers, PhDs) focused on theme relevant to the Market Study*
 - b. *Competition lawyers assisting business operating in the relevant market*

When carrying out the interviews/surveys

- ✓ *If the Market assessed by the Study is particularly relevant (see relevance section)*
- ✓ *If quantitative information are missing*

Theme	Indicators	Source
Outreach to policy makers	Perception of policy makers on the quality and usefulness of the act	Interviews
Outreach to general stakeholders	Perception of stakeholders on the market study	Interview or survey
Outreach to the academia	Expert opinion on the quality of the act	Interview or survey

3.1.3.3 Efficiency

*The efficiency of a Market Study is understood as the relation between the outreach of a Market Study and its costs and effort incurred into its delivery. Efficiency analysis can only be conducted for those cases when not only the internal information on costs is available, but also information on the outreach is available. If these data are available, the efficiency assessment is grounded on a **Cost-benefit analysis for the CNMC** (cost of carrying out the study vs. the impact it has had).*

While quantitative data should be preferred, it is rather unlikely that these data are available. In that case, estimated costs by the CNMC might be used. A quantitative approach is recommended only in the case the Market Study deals with a sector that represents a significant share of the wider economy, and it is likely to have an impact on other markets. If this is not the case, a qualitative assessment is sufficient.

3.1.3.3.1 Efficiency for CNMC

How to identify the respondent(s)

The questionnaire is addressed to CNMC staff who:

- ✓ Have authored/co-authored the Market Study
- ✓ Have supervised its delivery and publication
- ✓ Have overall knowledge of the implementation of the Market Study
- ✓ Are aware of internal costs and can provide estimation

Tips for the questionnaire

- ✓ *The objective is not to assess the efficiency of CNMC work practices, but to understand whether the resources needed for Market Study have been matched by its outputs (i.e. its outreach achievements)*
- ✓ *Focus on direct outputs (i.e. number of views, outreach to policy makers); economic impact will be assessed at a later stage*
- ✓ *If precise figures are not available, estimation and proxy can be used*

- 1) *Is it possible to define the time spent by CNMC employees in delivering the Market Study? If yes, was it in line with the average effort required to elaborate this kind of act?*
- 2) *Did the study require advice from or consultation by external experts? If so, was the seniority of these external experts and the time and effort spent by them in line with the expected output of the act?*
- 3) *Was the study delivered on time?*
- 4) *In light of the achieved outputs in terms of audience and public debate (see effectiveness section), were they proportionate to the cost (resources used for the study)?*
- 5) *Compared with other Market Studies, do you think that this act had higher/lower outputs for the same costs?*

3.1.3.4 Coherence

The coherence of a Market Study is understood as the extent to which the act supports or undermines other relevant policies/instruments in that area. It assesses its consistency with the overall regulatory framework and thus it is deeply interconnected with the legal analysis report. To assess coherence, the evaluator should address the following questions:

- To what extent are the Market Study key findings and conclusions coherent with the overall competition policy?
- To what extent are the Market Study recommendations coherent with the other regional and national regulatory framework?
- To which extent is the Market Study contributing to achieving the overall goals of the CNMC?
- Are there any internal inconsistencies in the features of the Market Study and the other CNMC acts concerning the same or similar markets?

How to answer coherence questions

- ✓ If the Market Study is included in the legal analysis, most of the information are available there
- ✓ If the Market Study is not included in the legal analysis, desk research based on Section "Regulatory Framework" should be sufficient
- ✓ Interviews with experts or CNMC staff may be useful as complementary data sources

Coherence checklist	Yes	No
Does the MS clearly define the regulatory framework?		
Do the MS recommendations describe their alignment with the existing measures?		
Is it possible to identify other CNMC acts (especially previous MS) which are consistent with the key findings of the MS?		
Do the MS mention a number of CNMC competition principles which are relevant to the specific market?		
Are there any clear inconsistencies with previous CNMC acts, especially Market Unity Report?		
Are the decision-making bodies clearly identified? Do they the institutional authority to implement possible recommendations?		

3.1.4 Impact Assessment

The evaluation phase aimed at assessing the potentialities of the MS to deliver impacts in the specific market and beyond. Several preliminary considerations need to be made:

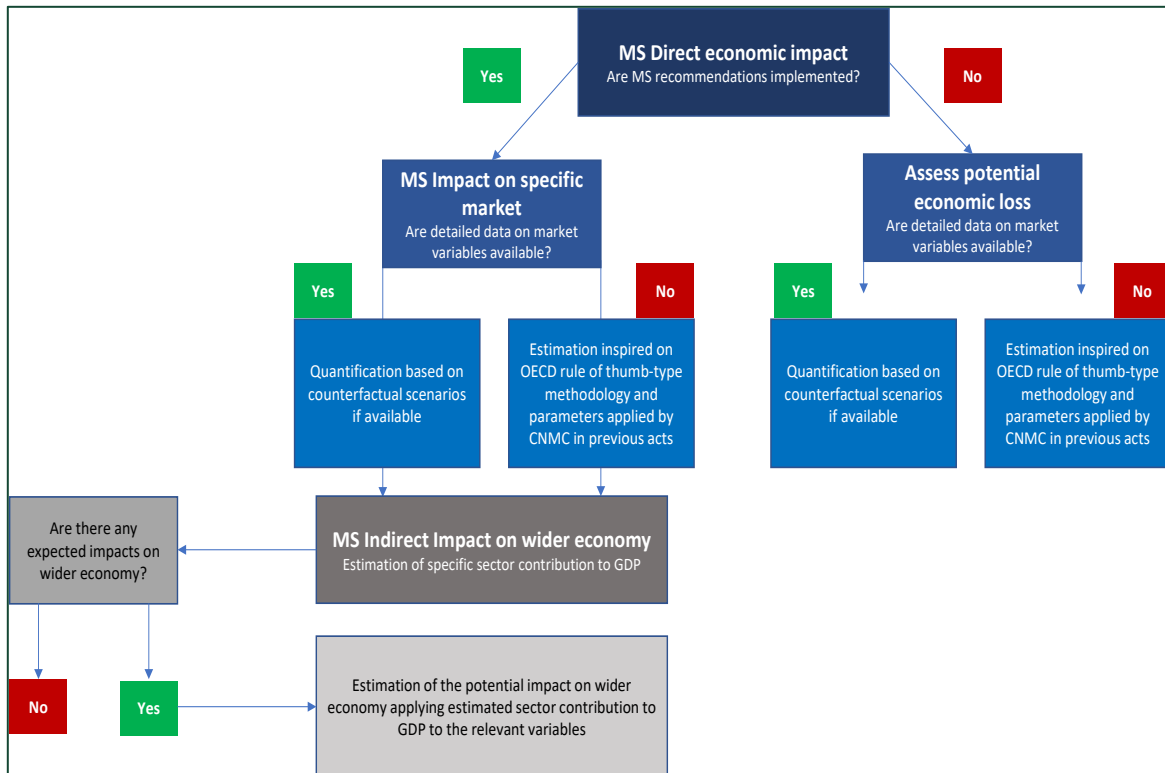
- 1) **Attribution** meaning that impacts have to be clearly linked to the outputs of the MS and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on)
- 2) **Reliability of estimation** meaning that potential impacts must be calculated taking into account existing data and information. To do so, it is important to focus on actual impacts rather than potential ones.

Considering these two guiding principles, the Evaluator shall assess the following interconnected impacts



How to carry out the impact assessment – step by step

The following diagram shows the steps of the Impact Assessment to be followed by the Evaluator:



3.1.4.1 Direct impacts

The direct impacts of the Market Study can be any change in legislation which results from the outputs of the Market Study. It can affect the national or regional regulatory framework. The evaluator should:

- 1) Define the **recommendations** included in the Market Study and understand their features and objectives
- 2) If possible, describe the **actions** that the Market Study suggest taking in order to achieve the recommendations
- 3) For each recommendation included in the Market Study, assess whether it was:
 - a. **Fully implemented** → the CNMC's recommendation was implemented and derived in significant changes in the relevant regulatory framework, in line with the goals of the Study.
 - b. **Partially implemented** → only some actions were adopted, and their implementation is not fully in line with the MS purpose.
 - c. **Non-implemented** → no action was adopted
 - d. It is also possible that the some of the MS's recommendations are **non-evaluatable** if no data is available or if changes in legislation were not linked to the Market Study

The evaluator should carry out an ex-post assessment of the regulatory framework focusing on the introduction of new legislations or regulations after the publication of the act. The evaluator should accurately describe how the recommendations were turned into binding regulations (i.e. defining the geographical scope, the applicability and so on).

Once the information is collected, the Evaluator should fill in the following table

Recommendation	Actions	Outputs	Status of implementation
<p>1) Description of the first recommendation as defined by the Market Study</p>	<p>General considerations (only if necessary - e.g. in those cases where recommendations apply to different agents/regions; or the content of the act is complex and requires a brief explanation to better understand the gaps below). General considerations on the overall recommendation. This section is particularly needed if the recommendation addresses different level of geographical administration. Moreover, this section is also relevant if the recommendation lays down only one action.</p>		
	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><u>With 'Actions' we refer to the specific (new or modified) legislation implemented to meet the CNMC's recommendation. The evaluator should indicate in this box the relevant actions derived from the Market Study.</u></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><u>With 'Outputs' we refer to the specific measures introduced by the (new or modified) legislation indicated in the previous box ('Actions'). The evaluator should indicate in this box the relevant measures derived from the implementation of the actions mentioned.</u></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><u>For those cases where the recommendations were partially implemented, the evaluator should indicate if further actions are expected and when. This information should be available at the legal database.</u></p> <p><u>For the rest of the cases, the evaluator should just indicate "Fully implemented" or "Non-Implemented".</u></p>
<p>2) Description of the second recommendation as defined by the Market Study</p>	<p>General considerations (idem):</p>		

3.1.4.2 Impacts on the specific market

Recommendation is fully/partially implemented	Recommendation is not implemented
<p>1) Establish a clear link between the recommendation and the possible impact → in line with the attribution principle, the evaluator should identify the variable which are addressed by recommendation. For instance, if the recommendation suggests to open the market, then the evaluator should assess the potential impact on market structure of its implementation or not implementation. Once the relevant variables that might be affected by the recommendations are defined, the evaluator should find a set of indicators able to capture the MS impact. Some examples are provided in the table below.</p>	
<p>Option A: ex-post vs ex-ante analysis</p> <p>Only in those cases where the data availability allows it, the evaluator may match ex-ante and ex-post data to assess the impact of the MS on specific indicators. However, in order to estimate the specific impact of the MS's recommendations on the market -isolating the effect of any other market shocks- an exhaust econometric analysis would be required. As this methodology is data intensive and very time consuming, the evaluator should be aware that other events may have influenced changes in the relevant variables. If possible, the evaluator should compare several yearly data (i.e. 3 years before and after the study) to offset possible volatility effects or compare the evolution of the relevant variables to those in sufficiently similar markets.</p>	<p>Not applicable when recommendation is not implemented</p>
<p>Option B : "OECD rule of thumbs-type" estimation inspired by OECD's paper on evaluating enforcement activities, that lists a set of flexible thumb-rules to quantify an impact of improving competition in a given market. These assessments quantify in a simple, concise and consistent manner the benefits expected to result from the decisions on mergers and antitrust infringements they took over the period under examination.</p> <p>The paper lists a set of assumptions which are a useful shortcut to assess impacts of MS:</p> <ul style="list-style-type: none"> • for the size of the affected turnover: <ul style="list-style-type: none"> ✓ in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s); ✓ in merger cases, the ex-ante turnover of all the firms in the affected market(s). • for the expected price effect: <ul style="list-style-type: none"> ✓ in cartel cases, an overcharge of 10%; ✓ in abuse of dominance cases, a price increase of 5%; ✓ in merger cases, a price increase of 3%. • For the likely duration of the price increase absent the competition agency's intervention: <ul style="list-style-type: none"> ✓ in cartel cases, a 3-year duration; ✓ in abuse of dominance cases, a 3-year duration; 	

✓ in merger cases, 2-year duration.

Following the OECD's approach, the evaluator should apply a set of flexible indicators related to competition issues and its corresponding market variables as identified by the CNMC in previous acts or any new research. These indicators relate to the expected impact on relevant variables such as prices, employment, number of operators, or turnover, among others. A proposal on the set of flexible indicators will be provided with the final delivery, but they could be further refined thanks to experience.

The evaluator should link the Competition Issue identified in the Relevance sector with the relevant recommendations and then applying the "OECD rule of thumbs" estimation.

The table below includes a list of potentially relevant indicators. This should be assessed on a case by case scenario.

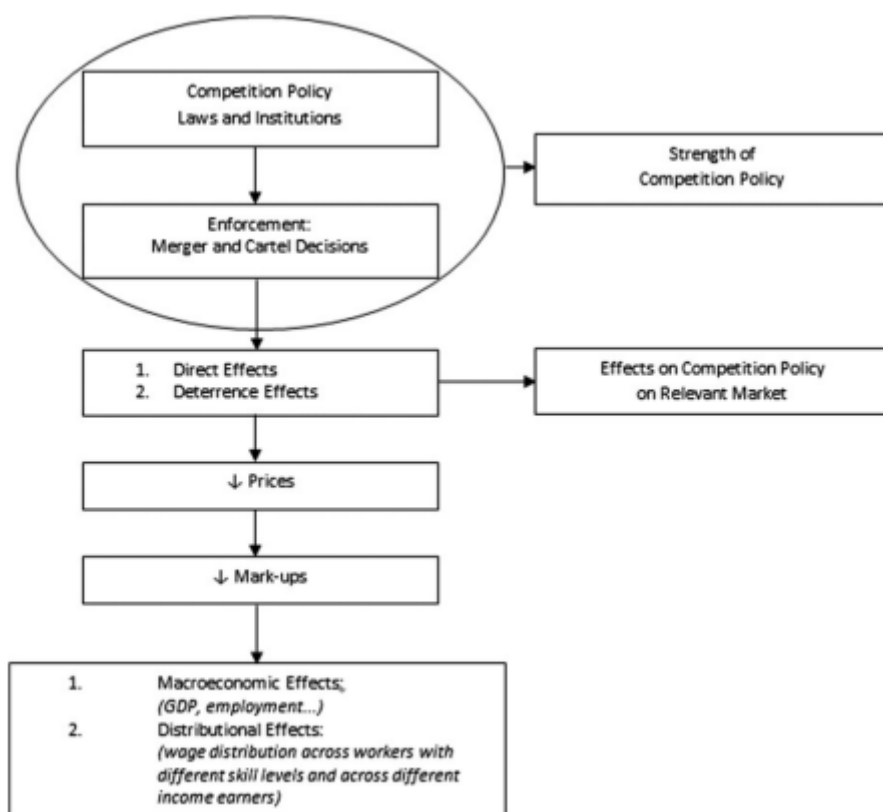
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
A1.		Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: none"> Average turnover/total turnover
			<ul style="list-style-type: none"> New entrants 	<ul style="list-style-type: none"> Number of new established operators (post MS).
			<ul style="list-style-type: none"> Competition improvement 	<ul style="list-style-type: none"> Number of new licenses
		Price level	<ul style="list-style-type: none"> Price oscillation 	<ul style="list-style-type: none"> Average price for service Ex-ante vs ex-post price level
		Demand features	<ul style="list-style-type: none"> Overall consumer satisfaction Overall number of new consumers 	<ul style="list-style-type: none"> Proxies to identify consumer attitude (i.e. "waiting time")
		Labour & Employment	<ul style="list-style-type: none"> Change in labour costs Job created 	<ul style="list-style-type: none"> Ex ante vs ex post wages Number of newly employed workers

3.1.4.3 Impacts on wider economy

Competition policy and enforcement has an impact on the whole economy: weak competition policy can bring a loss of economic efficiency (i.e. a slower diffusion innovation brings to worse macroeconomic performances).

The modelling framework proposed is described in the figure below

Figure 1 Framework to assess impact of competition policy



Dierx, Adriaan & Ilzkovitz, Fabienne & Pataracchia, Beatrice & Ratto, M. & Thum-Thysen, Anna & Varga, Janos. (2017). Does Eu competition policy support inclusive growth?. *Journal of Competition Law and Economics*. 13. 225-260. 10.1093/joclec/nhx015.

	YES	NO
Recommendation is fully/partially implemented ?	x	
Recommendation had an impact on the specific market ?	x	
The specific market has a relevant weight in the wider economy ?	x	
<p>Establish a clear link between the recommendation and the possible impact on macroeconomic and distributional effects → in line with the attribution principle, the evaluator should identify which macroeconomic and distributional effects can be attributed to the sectoral impacts caused by the recommendation. For instance, if the recommendation suggests to open the market, then the evaluator should assess the ex post vs ex ante structure of the market and then assess which can be the impact on an economic variable such as GDP or employment. Once the possible impacts on the wider economy are defined, then the evaluator should find a set of indicators able to capture the MS impact on the wider economy.</p>		

Data requirements Input-Output model⁸	x	
<p>Option A: Input-Output model</p> <p><i>If the data allows it, the evaluator may use a standard input-output framework to assess how the sectoral changes may impact the wider economy.</i></p> <p><i>Firstly, the evaluator will need to have a robust estimation of the shock due to the recommendation on the market in terms of mark-up and prices in order to feed the model to assess direct, indirect and induced effects.</i></p> <p><i>Direct effects comprise all effects directly caused by activities in a sector. Hence, the direct GDP effects of a new policy relate to the change in the GDP that is directly linked to the change in the output of the sector engaged by the new policy.</i></p> <p><i>Indirect effects are the business-to-business purchases in the supply chain that stem from the initial industry input purchases. As an industry spends money with its suppliers, a reduction or increase in this spending is identified through the indirect effect. To forecast indirect GDP effects, the researchers create an IO model that links the output of a certain sector (e.g. coal mining) to those of all the supply sectors, both immediate and indirect (e.g. manufacturing of metals). Based on these tables, the IO multipliers for the sum of direct and indirect output, at sectoral level, is calculated.</i></p> <p><i>Induced effects capture consumption effects at household level due to initial change in economic activity (i.e. due to the new policy) that results in diminishing rounds of new spending as leakages occur through saving or spending outside the local economy.</i></p> <p><i>In the I-O framework, the sector-specific direct and indirect output multipliers provide insights into the industry-wide effects in the specific sector and into the related sectors. Data-sources for multipliers can be found in the World Input Output Database (WIOD)⁹ and in the more recent OECD Input-Output Database¹⁰ and to the National Statistic Office for more recent data and data related to the unemployment.</i></p>		
<p>Otherwise</p>		
<p>Option B: Mixed-methods approach</p> <p><i>One common form of impact assessment is based on the use of a mixed-methods approach. The Evaluator shall provide an assessment based on the general framework presented above and analyse the impacts of the recommendation in terms of macroeconomic impacts and distributional effects.</i></p> <p><i>Macroeconomic effects entails impacts on GDP and unemployment.</i></p> <p><i>Distributional effects entails impacts on: business demographic (i.e. role of SMEs) and skills compensation data (i.e. compensation of low-skilled workers)</i></p> <p><i>This involves the verification of collected evidence against various sources together with quantitative and qualitative data analysis. The analysis is based on various data sources including: desk research, data and document libraries, interviews and/or surveys with stakeholders and experts.</i></p> <p><i>The key stages of this approach will be: (1) identifying macroeconomic impacts of the recommendation, (2) assigning quantitative scores and weights to the direct effects and indirect effects, (3) costing the effects, (4) descriptive assessment of the effects on the wider economy.</i></p>		

⁸ I/O models requires data expenditures and revenues for each industry. The impact on the economy can be assessed if the specific market relates to a sector classified according to the International Standard Industrial Classification revision 4 (ISIC Rev. 4) or 3 (ISIC Rev. 3)

⁹ <http://www.wiod.org/home>

¹⁰ https://stats.oecd.org/Index.aspx?DataSetCode=IOTSI4_2018

Interviews/surveys with industry stakeholders, policymakers and experts (including academics) are the key source in this approach as they can provide qualitative and anecdotal evidence for the descriptive assessment. These stakeholders consultation should be used together with other data collection tool and each finding has to be triangulated and weighted against other sources in order to avoid a biased assessment.

3.1.5 Conclusions

Conclusions:

This section shall contain key information and insights concerning:

- ***Key info about the act itself (i.e. sector, rationale behind the appeal, objectives)***
- ***Key competition issues identified (see relevance section)***
- ***Overall assessment of effectiveness and efficiency***
 - *Has the act had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the act required more or less resources than expected?*
 - *Is the CNMC satisfied with the ratio between input/outputs?*
- ***Were the actions sought by the CNMC in the act implemented? If yes, to which extend? If not, are there any reasons?***
- ***Have the implemented actions sought by the CNMC had any impact on the specific market? If they weren't implemented, which is the economic loss of it?***
- ***Is it reasonable to expect impact on the wider economy? If yes, which one?***

Follow Up:





- ***Were there any further interventions by the CNMC in the same sector? (i.e. other type of acts addressing the same market)***
- ***Did the CNMC further advocate for significant regulatory change in the given market?***
- ***Were there any other studies on similar actions?***

3.1.6 Methodological Annex

OECD Papers

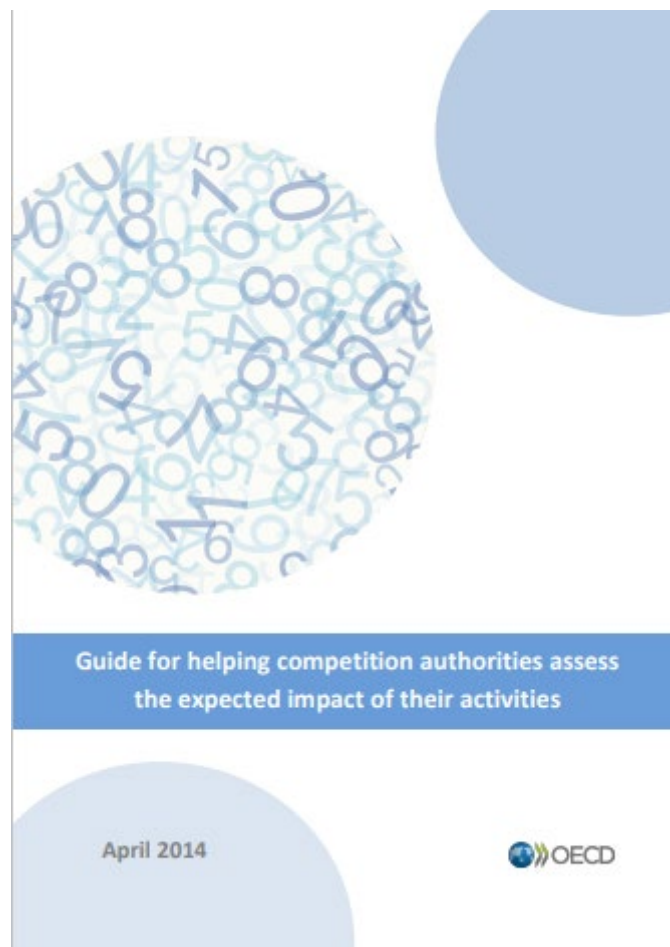
COMPETITION ASSESSMENT CHECKLIST

Competition assessment should be conducted if a legal provision has any of the following effects:



<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">A</div> <h3 style="margin: 0;">Limits the number or range of suppliers</h3> <p style="margin: 0;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> A1 Grants exclusive rights for a supplier to provide goods or services<input type="checkbox"/> A2 Establishes a license, permit or authorisation process as a requirement of operation<input type="checkbox"/> A3 Limits the ability of some suppliers to provide a good or service<input type="checkbox"/> A4 Significantly raises cost of entry or exit by a supplier<input type="checkbox"/> A5 Creates a geographical barrier for companies to supply goods, services or labour, or invest capital	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">B</div> <h3 style="margin: 0;">Limits the ability of suppliers to compete</h3> <p style="margin: 0;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> B1 Limits sellers' ability to set prices for goods or services<input type="checkbox"/> B2 Limits freedom of suppliers to advertise or market their goods or services<input type="checkbox"/> B3 Sets standards for product quality that provide an advantage to some suppliers over others, or are above the level that some well-informed customers would choose<input type="checkbox"/> B4 Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">C</div> <h3 style="margin: 0;">Reduces the incentive of suppliers to compete</h3> <p style="margin: 0;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> C1 Creates a self-regulatory or co-regulatory regime<input type="checkbox"/> C2 Requires or encourages information on supplier outputs, prices, sales or costs to be published<input type="checkbox"/> C3 Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">D</div> <h3 style="margin: 0;">Limits the choices and information available to customers</h3> <p style="margin: 0;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> D1 Limits the ability of consumers to decide from whom they purchase<input type="checkbox"/> D2 Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers<input type="checkbox"/> D3 Fundamentally changes information required by buyers to shop effectively

More info at: <https://www.oecd.org/daf/competition/46193173.pdf>



More info at: [Guide for helping competition authorities assess the expected impact of their activities \(oecd.org\)](http://www.oecd.org)

3.1.7 Questionnaire

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

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 MS? If yes, which one?*
- *Have you (or your organisation) actively stimulated the debate over the regulatory framework?*

- *Have you used the MS to have a better understanding of the regulatory framework?*

Qualitative assessment: effectiveness

Policy makers

- *Please describe your overall knowledge of the Market Study and your familiarity with it*
- *Was the market study used during committees/meeting aimed at updating or changing the regulatory framework?*
- *What was the primary use of the Market Study during the policy-making process?*
- *Do you think that the Market Study was clear enough? Was it consistent with the needs and objectives of the regulatory revisions?*
- *Were the results of the MS a clear factor in your final decision making?*
- *Would have you carried out the same reforms/changes even without the MS?*

Stakeholders

- *Do you consider that the MS capture the key issues affecting the relevant market?*
- *Do you believe that the recommendations in the MS were clear and well designed?*
- *Were you involved in any focus group? If yes, were your considerations considered?*
- *Have you used the MS to have a better understanding of the regulatory framework?*

Experts

- *Do you consider that MS 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 judge the potential usefulness of the MS?*

3.2 Regulatory Proposals – CODE PRO

3.2.1 Intro

The introduction shall provide a clear overview of the key features of the market concerned by the Regulatory Proposal. It should be brief, clear, and understandable also for a non-specialised reader. Its main goal is to present the overall context in which the market studies was carried out by providing a description of its features and characteristics. Moreover, the introduction should clearly define the regulatory framework applied to the specific market and the motivation behind the CNMC's choice to carry out the PRO Report.

3.2.2 Key features of the assessment

3.2.2.1 Short description of the type of report

This template will be used to analyse different types of reports, unlike other templates. Therefore, the evaluator must indicate if this is a report on, for instance, public tenders, public aids, or any other type of policy.

This information can be found in the introduction of the Report.

3.2.2.2 Short description of the market to be assessed

This section should provide a brief overview of the key features of the market (e.g. which is the product/service to be assessed, recent developments and innovation). The overall goal is to provide the reader with a sufficient understanding of the market to be evaluated.

This information can be found in the "Background" section of the Regulatory Proposal.

3.2.2.3 Short description of the regulatory framework

In this section, the evaluator should provide an overview of the current regulatory framework which discipline the market/sector to be assessed.

This information on the regulatory framework should be found in the first sections of the Regulatory Proposal.

3.2.2.4 Short description of the rationale behind the act

This section should explain the reasons behind the decision to put forward a Regulatory Proposal. In other terms, the evaluator should highlight which were the reasons and in which context the CNMC had decided to assess this specific market/sector. By doing this, the evaluator should also understand the specific objectives targeted by the CNMC when carrying out this Regulatory Proposal. Since PRO acts are issued at the CNMC's initiative, this section has to be carefully filled in.

Overall information can be found in the "Background" of the Regulatory Proposal. However, if possible, it is recommended to carry out interviews with the Regulatory Proposal's authors and/or other CNMC staff involved in the PRO Report.

3.2.3 Evaluation of the act

The first step is to evaluate the Regulatory Proposal itself. This preliminary step aims at defining the likelihood of the act to be able to produce its expected outreach. The evaluation is carried out according to the following criteria:

1. **Relevance, which describes the significance of the act in terms of the existing competition issues it addresses and the magnitude of the affected market;**
2. **Effectiveness, which describes whether the PRO Report had a real outreach in terms of audience and public debate;**
3. **Efficiency, which defines whether the costs and effort of delivering the Regulatory Proposal were proportionated to the significance (or relevance) of the act and its outreach;**
4. **Coherence, which defines the overall consistency of the Regulatory Proposal with the other relevant regulatory framework.**

3.2.3.1 Relevance

3.2.3.1.1 Relevance of the sector

This section defines the key features of the sector to be assessed including its overall turnover, and, its possible impacts on the wider economy. The goal is to identify the overall importance of the sector within the whole economy and – thus – understanding whether the Regulatory Proposal may have wider impacts. While no rigid threshold is set, it is up to the evaluator to understand to which degree the sector can have spill over effects on the wider economy. It is also useful to define the scope of the assessment.

Some of this info can be easily found in the Regulatory Proposal itself, others may require some statistical data collection.

Moreover, Regulatory Proposals often mention previous reports which are relevant for the specific sector. This can be a useful source to assess the size of the market.

Table 6: Relevance of the sector

Theme	Indicators	Possible sources	Shortcuts / comments
Economic weight and structure of the market	Total sector turnover	Regulatory Proposal (if recent) or other statistical sources	<i>If data on total turnover are not available, the evaluator may multiply the number of undertakings by the average turnover. As an alternative, average prices to consumers can be used as proxy. The goal of this data is to provide an estimation on the size of the market.</i>
	Number of undertakings	Regulatory Proposal (if recent) or other statistical sources	<i>These data are usually available on undertaking</i>

			<i>associations or Chamber of Commerce.</i>
	Average turnover per company	Statistical sources	<i>Optional but may be useful to understand market structure</i>
	Geographical location/concentration of companies	Statistical sources	<i>Optional but may be useful to understand market structure and possible impacts in specific regions</i>
Labour market and employment	Total number of employees	Statistical sources	<i>These data are usually kept by trade unions or can be found in collective agreements by region.</i>
	Average salary	Statistical sources	

3.2.3.1.2 Relevance of the act

The goal of this section is to identify the competition issues addressed by the Regulatory Proposal. The higher number of competition issues are addressed the more likely the Regulatory Proposal can have an impact. The Competition issues are those defined by the OECD, for which a correspondence with the classification by the CNMC is established in Deliverable 3 database.

Each competition issue relevant for the PRO Report should be mentioned in the table below, together with a short explanation taken from the Regulatory Proposal itself. This explanation is already included in the Deliverable 3 database, so no further research is needed.

Tips to fill in the table

- ✓ *Mention only the relevant competition issue (i.e. no need to list all of them).*
- ✓ *The text of the Regulatory Proposal should include specific description on possible impacts on the relevant anti-competitive behaviours or contrary to the principles of efficient economic regulation.*

Table 2: Relevance of the act to competition issues

OECD Competition Issues	Specific question	Comments from the act
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.	
	A2. Establishes a license, permit or authorisation process as a requirement of operation.	
	A3. Limits the ability of some suppliers to provide a good or service.	
	A4. Significantly raises cost of entry or exit by a supplier.	
	A5. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.	
B. Limits the ability of suppliers compete.	B1. Limits sellers' ability to set prices for goods or services.	
	B2. Limits freedom of suppliers to advertise or market their goods or services	
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.	
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).	
C. Reduces incentive suppliers compete	C1. Creates a self-regulatory or co-regulatory regime	
	C2. Requires or encourages information on suppliers outputs, prices, sales or costs to be published	
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users	
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.	
	D3. Fundamentally changes information required by buyers to shop effectively.	

E. Public intervention in the context of liberalization process	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.	
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.	
F. Public intervention in the context of liberalization process	F1. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.	
	F2. Collusion between economic operators or free competition	
	F3. It may lead to non-compliance with the State Aid scheme	
	F4. Insufficient specifications of the non-normative act to guarantee an efficient economic regulation	

3.2.3.2 Effectiveness

The effectiveness of the Report is defined by its capacity to achieve its overall objectives. These are identified in Section 1. To assess the Report's effectiveness, it is essential to measure the outreach. By doing this, the evaluator seeks to determine whether the Report has been consulted by policymakers in their decision-making process and/or has contributed to raise awareness about the proposed changes in legislation. Indeed, **possible impacts (which are to be evaluated in Section 3) can also be attributed if the act had met sufficient outreach.** There are different ways to assess and measure effectiveness:

1. A qualitative assessment, focused on understanding **if the Report's recommendations and suggestions have been implemented, and to what extent.**
2. A quantitative assessment, focused on measuring **how many times** the Report has been consulted/read;

Both approaches are valuable and complementary. The evaluator should use both to the extent that relevant data for the analysis can be found.

The text below presents an overview of the data collection strategy for assessing effectiveness.

3.2.3.2.1 Outreach: qualitative assessment

How to identify the respondents

- 1) Policy makers should have at least one/two of the following features:
 - a. They have been directly involved in legislative process relevant to the Regulatory Proposal (i.e. the implementation of the recommendations).
 - b. They have supported the realisation of the Regulatory Proposal.
 - c. They have been involved in the decision-making process (i.e. political debate) which followed the publication of the Regulatory Proposal.
 - d. They are in charge of the regulatory bodies (i.e. department, units, ...) which are directly concerned by the topics addressed by the Regulatory Proposal.
- 2) The following types of stakeholders are considered relevant for a possible interview/survey:
 - a. Business associations operating in the relevant market.
 - b. Consumers associations.
- 3) Third parties that have informed the CNMC about competition problems related to the PRO.
- 4) For academia and experts, these are some suggestions:
 - a. Academics (i.e. professors, researchers, PhDs) focused on themes relevant to the Regulatory Proposal.
 - b. Competition lawyers assisting business operating in the relevant market.

Interviews/surveys are particularly useful in the following cases:

- ✓ If the market assessed by the Regulatory Proposal is particularly relevant (see relevance section).
- ✓ If quantitative information are missing.

Theme	Indicators	Source
Outreach to policy makers	Perception of policy makers on the quality and usefulness of the act	Interviews
Outreach to academia	Number of studies quoting the PRO Report.	Reference systems
Outreach to the general press / public	Number of articles/blogs quoting the PRO Report.	Web research

3.2.3.2 Outreach: quantitative assessment

Tips to fill in the table

- ✓ Have a preliminary check with the CNMC if the information is available (if the Regulatory Proposal is not recent, some information may be missing).
- ✓ It is not necessary to have “accurate figures”, benchmarking and estimation are also useful.
- ✓ If quantitative data are lacking, it is possible to shift to the qualitative data collection.

Theme	Indicators	Source
Outreach to the general public	Number of views of press releases	CNMC internal database
	Number of views of web pages announcements	
	Official publications on the webpage (numbers of views)	
Outreach to policy makers	Outreach and impact of confidential versions shared with relevant Ministries	<i>As these data may be confidential, a preliminary screening is required. If not available, the outreach to policy makers can be assessed only from a qualitative point of view.</i>
	Number of Ministerial meetings discussing the Regulatory Proposal results	

3.2.3.3 Efficiency

*The efficiency of a Regulatory Proposal is understood as the relation between its outreach and the costs and effort incurred into its delivery. Efficiency analysis can only be conducted for those cases when not only the internal information on costs is available, but also information on the outreach is available. If these data are available, the efficiency assessment is grounded on a **Cost-benefit analysis for the CNMC** (cost of carrying out the PRO Report vs. the impact it has had).*

While quantitative data should be preferred, it is rather unlikely that these data are available. In that case, estimated costs by the CNMC might be used. A quantitative approach is recommended only in the case the Regulatory Proposal deals with a sector that represents a significant share of the wider economy, and it is likely to have an impact on other markets. If this is not the case, a qualitative assessment is sufficient.

3.2.3.3.1 Efficiency for the CNMC

How to identify the respondent(s)

The questionnaire is addressed to the CNMC staff who:

- ✓ Have authored/co-authored the Regulatory Proposal.
- ✓ Have overall knowledge of the implementation of the Regulatory Proposal.
- ✓ Are aware of internal costs and can provide estimation.

Tips for the questionnaire

- ✓ The objective is not to assess the efficiency of the CNMC work practices, but to understand whether the resources needed for the Regulatory Proposal have been matched by its outputs (i.e. its outreach achievements).
- ✓ Focus on direct outputs (i.e. number of views, outreach to policy makers); economic impact will be assessed at a later stage.
- ✓ If precise figures are not available, estimation and proxy can be used.

- 1) Is it possible to define the time spent by the CNMC employees in delivering the Regulatory Proposal? If yes, was it in line with the average effort required to elaborate this kind of act?
- 2) Was the Regulatory Proposal delivered on time?
- 3) In light of the achieved outputs in terms of audience and public debate (see effectiveness section), were they proportionated to the cost?
- 4) Compared to other advocacy acts, do you think that this act had higher/lower outputs for the same costs?

3.2.3.4 Coherence

The coherence of a Regulatory Proposal is understood as the extent to which the act supports or undermines other relevant policies/instruments in that area. It assesses its consistency with the overall regulatory framework and thus it is deeply interconnected with the legal analysis report. To assess coherence, the evaluator should address the following questions:

- To what extent are the Regulatory Proposal's key findings and conclusions coherent with the overall competition policy?
- To which extent is the Regulatory Proposal contributing to achieving the overall goals of the CNMC?
- Are there any internal inconsistencies in the features of the Regulatory Proposal and the other CNMC acts concerning the same or similar economic sectors?

How to answer coherence questions

- ✓ If the Regulatory Proposal is included in the legal analysis, most of the information are available there.
- ✓ If the Regulatory Proposal is not included in the legal analysis, desk research based on Section concerning the "Regulatory Framework" should be sufficient.
- ✓ Interviews with experts or CNMC staff may be useful as complementary data sources.

Coherence checklist	Yes	No
Does the Regulatory Proposal clearly define the regulatory framework?		
Do the Regulatory Proposal recommendations describe their alignment with the existing measures?		

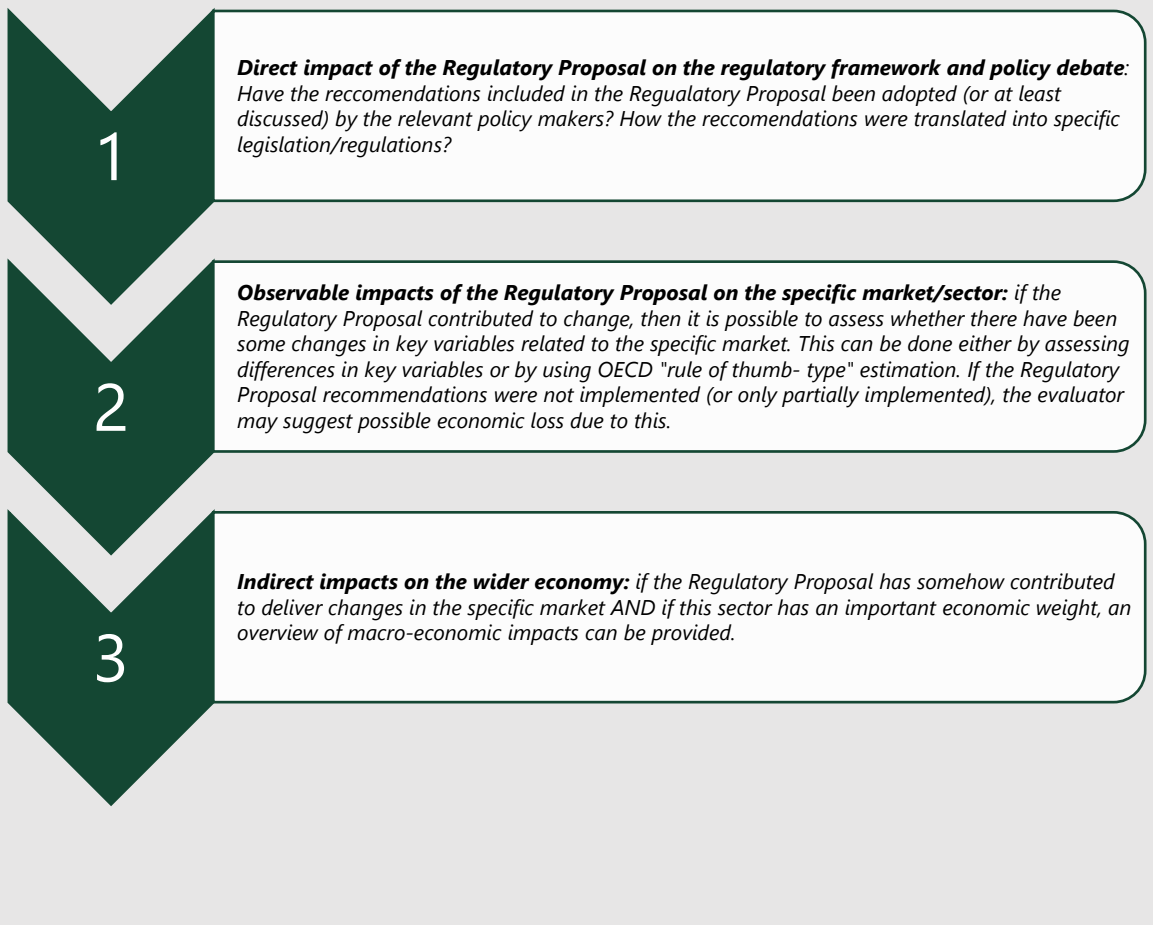
Is it possible to identify other CNMC acts (especially previous research such as Market Study) which are consistent with the recommendation of the Regulatory Proposal?		
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3.2.4 Impact Assessment

The evaluation phase aims at assessing the potentialities of the Regulatory Proposal to influence relevant policy and decision making. Moving to the Impact Assessment, the evaluator should focus on the implications of the Regulatory Proposal on the market/sector it seeks to reform. Several preliminary considerations need to be made:

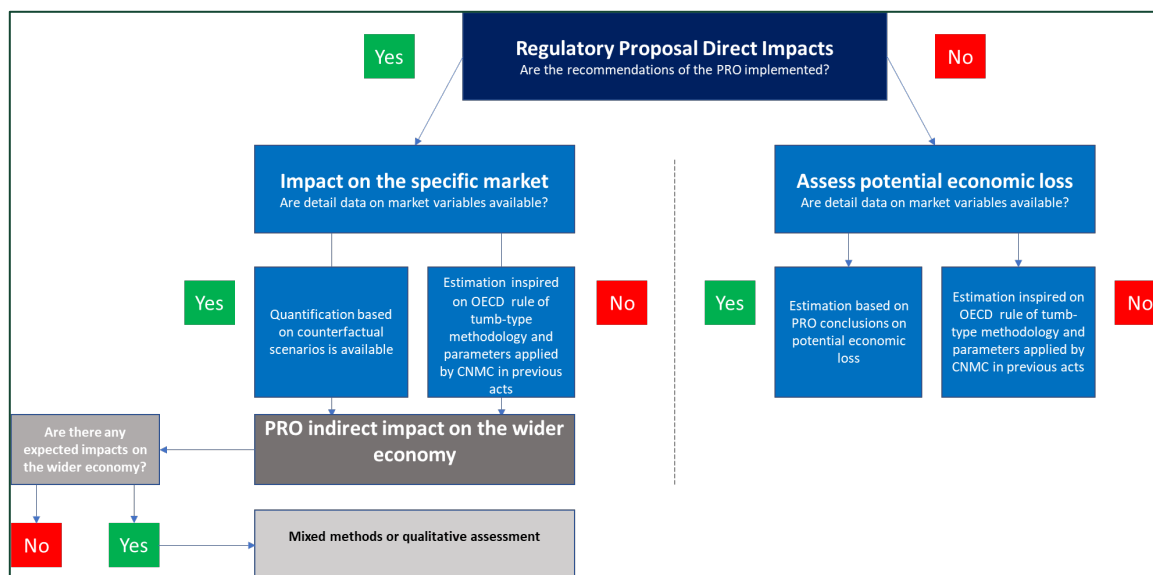
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Regulatory Proposal and not be caused by simultaneous events (i.e. regulatory changes not in line with the Regulatory Proposal recommendations, wider legislative reforms, regulatory changes brought by other institutions).
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated taking into account existing data and information. To do so, it is important to focus on actual impacts rather than potential ones.

Considering these two guiding principles, the evaluator shall assess the following interconnected impacts:



How to carry out the impact assessment – step by step

The diagram below shows the steps of the Impact Assessment to be followed by the evaluator:



3.2.4.1 Direct impact

The direct impacts of the Regulatory Proposal are any change in legislation recommended by the act itself. It can affect the national or regional regulatory framework. The evaluator should:

- 4) Define the **recommendations** included in the Regulatory Proposal and understand their features and objectives.
- 5) For each recommendation included in the Regulatory Proposal, assess whether it was:
 - a. **Fully implemented** → the CNMC's recommendation was implemented and derived in significant changes in the relevant regulatory framework, in line with the goals of the Regulatory Proposal.
 - b. **Partially implemented** → only some actions were adopted, and their implementation is not fully in line with the Regulatory Proposal purpose.
 - c. **Non-implemented** → no action was adopted.
 - d. It is also possible that the some of the recommendations are **non-evaluable** if no data is available or if changes in legislation were not linked to the Regulatory Proposal.

Ideally, the evaluator should be able to carry out an ex-post assessment of the regulatory framework, which focuses on the introduction of new legislations or regulations after the publication of the act. It would be also desirable to describe how the recommendations were turned into binding regulations (i.e. defining the geographical scope, the applicability and so on).

Once the information is collected, the evaluator should fill in the following table:

Recommendation	Actions/Outputs	Status of implementation
<p>1) Description of the first recommendation as defined by the Regulatory Proposal</p>	<p><i>General considerations (only if necessary - e.g. in those cases where recommendations apply to different agents/regions; or the content of the act is complex and requires a brief explanation to better understand the gaps below).</i></p> <p><i>General considerations on the overall recommendation. This section is particularly needed if the recommendation addresses different levels of geographical administrations. Moreover, this section is also relevant if the recommendation lays down only one action.</i></p> <hr/> <p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Actions' we refer to the specific (new or modified) legislation implemented to meet the CNMC's recommendation. The evaluator should indicate in this box the relevant actions.</i></p> <p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Outputs' we refer to the specific measures introduced by the (new or modified) legislation indicated in the previous box ('Actions'). The evaluator should indicate in this box the relevant measures derived from the implementation of the actions mentioned.</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>For those cases where the recommendations were partially implemented, the evaluator should indicate if further actions are expected and when. This information should be available at the legal database.</i></p> <p><i>For the rest of the cases, the evaluator should just indicate "Fully implemented" or "Non-Implemented".</i></p>
<p>2) Description of the second recommendation as defined by the Regulatory Proposal</p>		

3.2.4.2 Impacts on the specific market

Recommendation is fully/partially implemented	Recommendation is not implemented
<p>1) Establish a reasonable link between the recommendation and the possible impact → in line with the attribution principle, the evaluator should identify the variables which are addressed by the recommendation. For instance, if the recommendation suggests opening the market, then the evaluator should assess the potential impact on market structure of its implementation or non-implementation. Once the relevant variables that might be affected by the recommendations are defined, the evaluator should find a set of indicators which are able to capture the Regulatory Proposal impact. Some examples are provided in the table below.</p>	
<p>Option A: ex-post vs ex-ante analysis</p> <p>Only in those cases where the data availability allows it, the evaluator may match ex-ante and ex-post data to assess the impact of the Regulatory Proposal on specific indicators. However, in order to estimate the specific impact of the Regulatory Proposal's recommendations on the market - isolating the effect of any other market shocks- an exhaust econometric analysis would be required. As this methodology is data intensive and very time consuming, the evaluator should be aware that other events may have influenced changes in the relevant variables. If possible, the evaluator should compare several yearly data (i.e. 3 years before and after the Report) to offset possible volatility effects or compare the evolution of the relevant variables to those in sufficiently similar markets.</p>	<p>Not applicable when recommendation is not implemented.</p>
<p>Option B : "OECD rule of thumbs-type" estimation inspired by OECD's paper on evaluating enforcement activities, which lists a set of flexible thumb-rules to quantify an impact of improving competition in a given market. These assessments quantify in a simple, concise and consistent manner the benefits expected to result from the decisions on mergers and antitrust infringements they took over the period under examination. The paper lists a set of assumptions which are a useful shortcut to assess impacts of Regulatory Proposals:</p> <ul style="list-style-type: none"> • For the size of the affected turnover: <ul style="list-style-type: none"> ✓ in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s); ✓ in merger cases, the ex-ante turnover of all the firms in the affected market(s). • For the expected price effect: <ul style="list-style-type: none"> ✓ in cartel cases, an overcharge of 10%; ✓ in abuse of dominance cases, a price increase of 5%; ✓ in merger cases, a price increase of 3%. • For the likely duration of the price increase absent the competition agency's intervention: <ul style="list-style-type: none"> ✓ in cartel cases, a 3-year duration; 	

- ✓ in abuse of dominance cases, a 3-year duration;
- ✓ in merger cases, 2-year duration.

Following the OECD's approach, the evaluator should apply a set of flexible indicators related to competition issues and its corresponding market variables as identified by the CNMC in previous acts or any new research. These indicators relate to the expected impact on relevant variables such as prices, employment, number of operators, or turnover, among others. A proposal on the set of flexible indicators will be provided with the final delivery, but they could be further refined thanks to experience.

The evaluator should link the Competition Issue identified in the Relevance sector with the relevant recommendations and then apply the "OECD rule of thumbs" estimation.

The table below includes a list of potentially relevant indicators. This should be assessed on a case by case scenario.

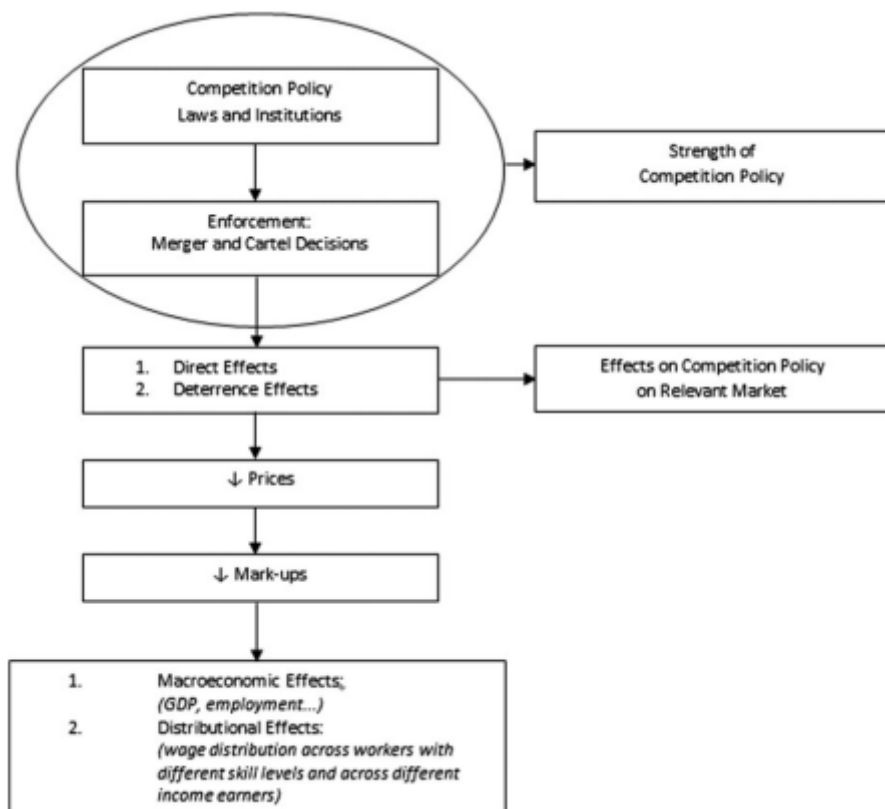
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
	{Insert recommendation from table above}	Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: none"> Average turnover/total turnover
			<ul style="list-style-type: none"> New entrants 	<ul style="list-style-type: none"> Number of new established operators (post PRO).
			<ul style="list-style-type: none"> Competition improvement 	<ul style="list-style-type: none"> Number of new licenses
		Price level	<ul style="list-style-type: none"> Price oscillation 	<ul style="list-style-type: none"> Average price for service Ex-ante vs ex-post price level
		Demand features	<ul style="list-style-type: none"> Overall consumer satisfaction Overall number of new consumers 	<ul style="list-style-type: none"> Proxies to identify consumer attitude (i.e. "waiting time")
		Labour & Employment	<ul style="list-style-type: none"> Change in labour costs Job created 	<ul style="list-style-type: none"> Ex ante vs ex post wages Number of newly employed workers

3.2.4.3 Impacts on wider economy

Competition policy and enforcement has an impact on the whole economy: weak competition policy can bring a loss of economic efficiency (i.e. a slower diffusion innovation brings to worse macroeconomic performances).

The modelling framework proposed is described in the figure below

Figure 2 Framework to assess impact of competition policy



Dierx, Adriaan & Ilzkovitz, Fabienne & Pataracchia, Beatrice & Ratto, M. & Thum-Thysen, Anna & Varga, Janos. (2017). Does Eu competition policy support inclusive growth? *Journal of Competition Law and Economics*. 13. 225-260. 10.1093/joclec/nhx015.

	YES	NO
Recommendation is fully/partially implemented?	x	
Recommendation had an impact on the specific market?	x	
The specific market has a relevant weight in the wider economy?	x	
<p>Establish a reasonable link between the recommendation and the possible impact on macroeconomic and distributional effects → in line with the attribution principle, the evaluator should identify which macroeconomic and distributional effects can be attributed to the sectoral impacts caused by the recommendation. For instance, if the recommendation suggests opening the market, then the evaluator should assess the ex post vs ex ante structure of the market and then assess which can be the impact on the GDP or employment. Once the possible impacts on the wider economy are defined, then the Evaluator should find a set of indicators which are able to capture the Regulatory Proposal's impact on the wider economy.</p>		

Data requirements Input-Output model¹¹		
<p>Option A: Input-Output model</p> <p><i>If the data allows it, the evaluator may use a standard input-output framework to assess how the sectoral changes may impact the wider economy.</i></p> <p><i>Firstly, the evaluator will need to have a robust estimation of the shock due to the recommendation on the market in terms of mark-up and prices in order to feed the model to assess direct, indirect and induced effects.</i></p> <p><i>Direct effects comprise all effects directly caused by activities in a sector. Hence, the direct GDP effects of a new policy relate to the change in the GDP that is directly linked to the change in the output of the sector engaged by the new policy.</i></p> <p><i>Indirect effects are the business-to-business purchases in the supply chain that stem from the initial industry input purchases. As an industry spends money with its suppliers, a reduction or increase in this spending is identified through the indirect effect. To forecast indirect GDP effects, the researchers create an IO model that links the output of a certain sector (e.g. coal mining) to those of all the supply sectors, both immediate and indirect (e.g. manufacturing of metals). Based on these tables, the IO multipliers for the sum of direct and indirect output, at sectoral level, is calculated.</i></p> <p><i>Induced effects capture consumption effects at household level due to initial change in economic activity (i.e. due to the new policy) that results in diminishing rounds of new spending as leakages occur through saving or spending outside the local economy.</i></p> <p><i>In the I-O framework, the sector-specific direct and indirect output multipliers provide insights into the industry-wide effects in the specific sector and into the related sectors. Data-sources for multipliers can be found in the World Input Output Database (WIOD)¹² and in the more recent OECD Input-Output Database¹³ and to the National Statistic Office for more recent data and data related to the unemployment.</i></p>		
<p>Otherwise</p>		
<p>Option B: Mixed-methods approach</p> <p><i>One common form of impact assessment is based on the use of a mixed-methods approach. The evaluator shall provide an assessment based on the general framework presented above and analyse the impacts of the recommendation in terms of macroeconomic impacts and distributional effects.</i></p> <p><i>Macroeconomic effects entails impacts on GDP and unemployment.</i></p> <p><i>Distributional effects entails impacts on: business demographic (i.e. role of SMEs) and skills compensation data (i.e. compensation of low-skilled workers)</i></p> <p><i>This involves the verification of collected evidence against various sources together with quantitative and qualitative data analysis. The analysis is based on various data sources including desk research, data and document libraries, interviews and/or surveys with stakeholders and experts.</i></p> <p><i>The key stages of this approach will be: (1) identifying macroeconomic impacts of the recommendation, (2) assigning quantitative scores and weights to the direct effects and indirect effects, (3) costing the effects, (4) descriptive assessment of the effects on the wider economy.</i></p>		

¹¹ I/O models requires data expenditures and revenues for each industry. The impact on the economy can be assessed if the specific market relates to a sector classified according to the International Standard Industrial Classification revision 4 (ISIC Rev. 4) or 3 (ISIC Rev. 3)

¹² <http://www.wiod.org/home>

¹³ https://stats.oecd.org/Index.aspx?DataSetCode=IOTSI4_2018

Interviews/surveys with industry stakeholders, policymakers and experts (including academics) are the key source in this approach as they can provide qualitative and anecdotal evidence for the descriptive assessment. These stakeholders consultation should be used together with other data collection tool and each finding has to be triangulated and weighted against other sources in order to avoid a biased assessment.

3.2.5 Conclusions

Conclusions:

This section shall contain key information and insights concerning:

- ***Key info about the act itself (i.e. sector, rationale behind the appeal, objectives)***
- ***Key competition issues identified (see relevance section)***
- ***Overall assessment of effectiveness and efficiency***
 - *Has the act had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the act required more or less resources than expected?*
 - *Is the CNMC satisfied with the ratio between input/outputs?*
- ***Were the actions sought by the CNMC in the act implemented? If yes, to which extend? If not, are there any reasons?***
- ***Have the implemented actions sought by the CNMC had any impact on the specific market? If they weren't implemented, which is the economic loss of it?***
- ***Is it reasonable to expect impact on the wider economy? If yes, which one?***

Follow Up:





- ***Were there any further interventions by the CNMC in the same sector? (i.e. other type of acts addressing the same market)***
- ***Did the CNMC further advocate for significant regulatory change in the given market?***
- ***Were there any other studies on similar actions?***

3.2.6 Methodological Annex

OECD Papers

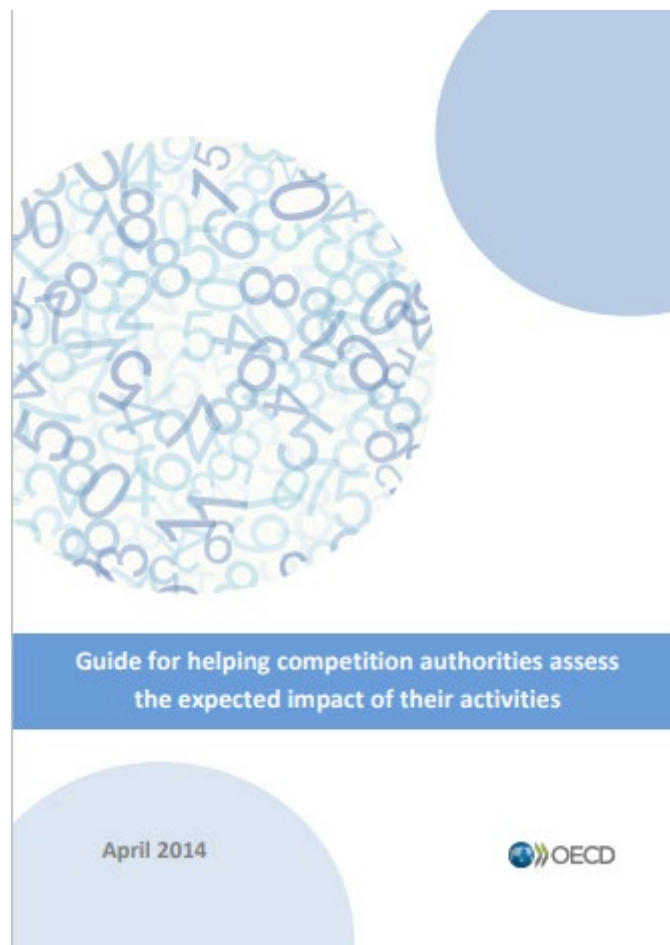
COMPETITION ASSESSMENT CHECKLIST

Competition assessment should be conducted if a legal provision has any of the following effects:



<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">A</div> <h3 style="margin: 0;">Limits the number or range of suppliers</h3> <p style="margin: 0;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> A1 Grants exclusive rights for a supplier to provide goods or services<input type="checkbox"/> A2 Establishes a license, permit or authorisation process as a requirement of operation<input type="checkbox"/> A3 Limits the ability of some suppliers to provide a good or service<input type="checkbox"/> A4 Significantly raises cost of entry or exit by a supplier<input type="checkbox"/> A5 Creates a geographical barrier for companies to supply goods, services or labour, or invest capital	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">B</div> <h3 style="margin: 0;">Limits the ability of suppliers to compete</h3> <p style="margin: 0;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> B1 Limits sellers' ability to set prices for goods or services<input type="checkbox"/> B2 Limits freedom of suppliers to advertise or market their goods or services<input type="checkbox"/> B3 Sets standards for product quality that provide an advantage to some suppliers over others, or are above the level that some well-informed customers would choose<input type="checkbox"/> B4 Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">C</div> <h3 style="margin: 0;">Reduces the incentive of suppliers to compete</h3> <p style="margin: 0;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> C1 Creates a self-regulatory or co-regulatory regime<input type="checkbox"/> C2 Requires or encourages information on supplier outputs, prices, sales or costs to be published<input type="checkbox"/> C3 Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">D</div> <h3 style="margin: 0;">Limits the choices and information available to customers</h3> <p style="margin: 0;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> D1 Limits the ability of consumers to decide from whom they purchase<input type="checkbox"/> D2 Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers<input type="checkbox"/> D3 Fundamentally changes information required by buyers to shop effectively

More info at: <https://www.oecd.org/daf/competition/46193173.pdf>



More info at: [Guide for helping competition authorities assess the expected impact of their activities \(oecd.org\)](http://www.oecd.org)

3.2.7 Questionnaires

Policy makers

- *Was the market in need of reform/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 Regulatory Proposal?*
- *Which were the needs the Regulatory Proposal aimed to address?*
- *How urgent were the issues to be addressed by the Regulatory Proposal?*

Qualitative assessment: effectiveness

Policy makers

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

Experts

- *Do you consider that the Regulatory Proposal is consistent with overall competition law framework and principles?*
- *Do you think that the recommendations were sufficiently clear to be effectively implemented by the relevant policy makers?*
- *Overall, how would you judge the potential usefulness of the Regulatory Proposal?*

3.3 Reports on Draft Laws and Regulations – CODE IPN

3.3.1 Intro

The introduction shall provide a clear overview of the key features of the market concerned by the IPN Report. It should be brief, clear, and understandable also for a non-specialised reader. Its main goal is to present the overall context in which the market studies was carried by providing description of its features and characteristics. Moreover, the introduction should clearly define the regulatory framework applied to the specific market and the reasons why the Administration requested CNMC support.

3.3.2 Key features of the assessment

3.3.2.1 Short description of the type of report

This template will be used to analyse different types of reports, unlike other templates. Therefore, the evaluator must indicate if this is a report on, for instance, public tenders, public aids, or any other type of policy.

Then the evaluator shall identify the stakeholder that requested the Report in order to ensure that this stakeholder is engaged in further data collection activities

This information can be found in the introduction of the Report.

3.3.2.2 Short description of the market to be assessed

This section should provide a brief overview of the key features of the market (e.g. which is the product/service to be assessed, recent developments and innovation). The overall goal is to provide the reader with a sufficient understanding of the market to be assessed.

This information can be found in the “Background” section of the IPN Report.

3.3.2.3 Short description of the regulatory framework

In this section, the evaluator should provide an overview of the current regulatory framework which discipline the market/sector to be assessed. If there have been significant legislative changes since the publication of the Report, it is recommended to split this section into “ex-ante” and “ex-post”.

It is recommended to check this section once the evaluation is over as potential changes in the legislation may have been brought about by the Report itself. If this is the case, then it should be clearly mentioned.

This information on the regulatory framework should be found in the first sections (e.g. “VALORACIÓN”) of the IPN Reports.

3.3.2.4 Short description of the rationale behind the act

This section should explain the reasons behind the specific request for an IPN Report from the Administration. By doing this, the evaluator should also understand the specific goals the Administration pursue when requesting support by the CNMC.

Overall information can be found in the “Background”. However, if possible, it is recommended to carry out interviews with authors and/or other CNMC staff involved in the IPN Report.

3.3.3 Evaluation of the act

The first step is to evaluate the IPN Report itself. This preliminary step aims at defining the likelihood of the act to be able to produce its expected outreach. The evaluation is carried out according to the following criteria:

- 5. Relevance, which describes the significance of the act in terms of the existing competition issues it addresses and the magnitude of the affected market;**
- 6. Effectiveness, which describes whether the IPN Report had a real outreach in terms of audience and public debate;**
- 7. Efficiency, which defines whether the costs and effort of delivering the IPN Report were proportionated to the significance (or relevance) of the act and its outreach;**
- 8. Coherence, which defines the overall consistency of the IPN Report with the other relevant regulatory framework.**

3.3.3.1 Relevance

3.3.3.1.1 Relevance of the sector

This section defines the key features of the sector to be assessed including, among others, its overall turnover and its possible impact on the wider economy. The goal is to identify the overall importance of the sector within the whole economy and – thus – understanding whether the IPN Report may have wider impacts. While no rigid threshold is set, it is up to the evaluator to understand to which degree the sector can have spill over effects on the wider economy. It is also useful to define the scope of the assessment.

Some of this info can be easily found in the IPN Report itself, others may require some statistical data collection.

Moreover, the IPN Report often mention previous “Market Studies” which are relevant for the specific sector. This can be a useful source to assess the size of the market.

Table 7: Relevance of the sector

Theme	Indicators	Possible sources	Shortcuts / comments
Economic weight and structure of the market	Total sector turnover	IPN Report (if recent) or other statistical sources	<i>If data on total turnover are not available, the evaluator may multiply the number of undertakings by the average turnover. As an alternative, average prices to consumers can be used as proxy. The goal of this data</i>

			<i>is to provide an estimation on the size of the market.</i>
	Number of undertakings	IPN Report (if recent) or other statistical sources	<i>These data are usually available on undertaking associations or Chamber of Commerce.</i>
	Average turnover per company	Statistical sources	<i>Optional but may be useful to understand market structure.</i>
	Geographical location/concentration of companies	Statistical sources	<i>Optional but may be useful to understand market structure and possible impacts in specific regions.</i>
Labour market and employment	Total number of employees	Statistical sources	<i>These data are usually kept by trade unions or can be found in collective agreements by region.</i>
	Average salary	Statistical sources	

3.3.3.1.2 Relevance of the act

The goal of this section is to identify the competition issues addressed by the IPN Report. The higher number of competition issues are addressed the more likely the IPN Report can have an impact. The Competition issues are those defined by the OECD and Research Team.

Each competition issue relevant for the IPN Report should be mentioned in the table below together with a short explanation taken from the IPN Report itself. This explanation is already included in the Deliverable 3 database, so no further research is needed.

Tips to fill in the table

- ✓ *Mention only the relevant competition issue (i.e. no need to list all of them).*
- ✓ *The text of the IPN Report should include specific description on possible impacts on the relevant anti-competitive behaviours or contrary to the principles of efficient economic regulation.*

Table 2: Relevance of the act to competition issues

OECD Competition Issues	Specific question	Comments from the act
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.	
	A2. Establishes a license, permit or authorisation process as a requirement of operation.	
	A3. Limits the ability of some suppliers to provide a good or service.	
	A4. Significantly raises cost of entry or exit by a supplier.	
	A5. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.	
B. Limits the ability of suppliers to compete.	B1. Limits sellers' ability to set prices for goods or services.	
	B2. Limits freedom of suppliers to advertise or market their goods or services	
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.	
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).	
C. Reduces the incentive of suppliers to compete	C1. Creates a self-regulatory or co-regulatory regime	
	C2. Requires or encourages information on suppliers outputs, prices, sales or costs to be published	
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users	
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.	
	D3. Fundamentally changes information required by buyers to shop effectively.	

E. Public intervention in the context of liberalization process	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.	
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.	
F. Public intervention in the context of liberalization process	F1. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.	
	F2. Collusion between economic operators or free competition	
	F3. It may lead to non-compliance with the State Aid scheme	
	F4. Insufficient specifications of the non-normative act to guarantee an efficient economic regulation	

3.3.3.2 Effectiveness

The effectiveness of the Report is defined by its capacity to achieve its overall objectives. These are identified in Section 1. To assess the Report's effectiveness, it is essential to measure the outreach. By doing this, the evaluator seeks to determine whether the Report has been consulted by policymakers in their decision-making process and/or has contributed to raise awareness about the proposed changes in legislation. Indeed, **possible impacts (which are to be evaluated in Section 3) can also be attributed if the act had met sufficient outreach.** There are different ways to assess and measure effectiveness:

1. A qualitative assessment, focused on understanding **if the Report's recommendations and suggestions have been implemented, and to what extent.**
2. A quantitative assessment, focused on measuring **how many times** the Report has been consulted/read.

Both approaches are valuable and complementary. The evaluator should use both to the extent that relevant data for the analysis can be found.

The text below presents an overview of the data collection strategy for assessing effectiveness.

3.3.3.2.1 Outreach: qualitative assessment

How to identify the respondents

- 1) Policy makers should have at least one/two of the following features:
 - a. They have been directly involved in the request of the IPN Report.
 - b. They have participated in the subsequent policy-making debate.
 - c. They are in charge of regulatory bodies (i.e. department, units, ...) which are directly concerned by the topics addressed by the IPN Report.
- 2) The following types of stakeholders are considered relevant for a possible interview/survey:
 - a. Business associations operating in the relevant market.
 - b. Consumers associations.
- 3) For academia and experts, these are some suggestions:
 - a. Academics (i.e. professors, researchers, PhDs) focused on themes relevant to the IPN.
 - b. Competition lawyers assisting business operating in the relevant market.

Interviews/surveys are particularly useful in the following cases:

- ✓ If the Market assessed by the IPN Report is particularly relevant (see relevance section).
- ✓ If quantitative information are missing.

Theme	Indicators	Source
Outreach to policy makers	Perception of policy makers on the quality and usefulness of the act	Interviews

3.3.3.2 Outreach: quantitative assessment

Tips to fill in the table

- ✓ Have a preliminary check with the CNMC if the information is available (if the IPN Report is not recent, some information may be missing).
- ✓ It is not necessary to have “accurate figures”, benchmarking and estimation are also useful.
- ✓ If quantitative data are lacking, it is possible to shift to the qualitative data collection.

Theme	Indicators	Source
Outreach to the general public	Number of views of press releases	CNMC internal database
	Number of views of web pages announcements	
	Official publications on the webpage (numbers of views)	
Outreach to policy makers	Number of policy-making units requiring the Report	<i>As these data may be confidential, a preliminary screening is required. If not available, the outreach to policy makers can be assessed only from a qualitative point of view.</i>
	Number of requests made by policy makers to the CNMC (e.g. how many units asked the CNMC for support)	
	Number of Ministerial meetings discussing the IPN Report results	
Outreach to the academia	Number of studies quoting the IPN Report	Reference systems
Outreach to the general press	Number of articles/blogs quoting the IPN Report	Web research

3.3.3.3 Efficiency

*The efficiency of an IPN Report is understood as the relation between its outreach and the costs and effort incurred into its delivery. Efficiency analysis can only be conducted for those cases when not only the internal information on costs is available, but also information on the outreach is accessible. If these data are available, the efficiency assessment is grounded on a **Cost-benefit analysis for the CNMC** (cost of carrying out the IPN Report vs. the impact it has had).*

While quantitative data should be preferred, it is rather unlikely that these data are available. In that case, estimated costs by the CNMC might be used. A quantitative approach is recommended only in the case the IPN Report deals with a sector that represents a significant share of the wider economy, and it is likely to have an impact on other markets. If this is not the case, a qualitative assessment is sufficient.

3.3.3.3.1 Efficiency for the CNMC

How to identify the respondent(s)

The questionnaire is addressed to the CNMC staff who:

- ✓ Have authored/co-authored the IPN Report.
- ✓ Have overall knowledge of the implementation of the IPN Report.
- ✓ Are aware of internal costs and can provide estimation.

Tips for the questionnaire

- ✓ *The objective is not to assess the efficiency of the CNMC work practices, but to understand whether the resources needed for the IPN Report have been matched by its outputs (i.e. its outreach achievements).*
- ✓ *Focus on direct outputs (i.e. number of views, outreach to policy makers); economic impact will be assessed at a later stage.*
- ✓ *If precise figures are not available, estimation and proxy can be used.*

- 5) *Is it possible to define the time spent by the CNMC employees in delivering the IPN Report? If yes, was it in line with the average effort required to elaborate this kind of act?*
- 6) *Was the IPN report delivered on time?*
- 7) *In light of the achieved outputs in terms of audience and public debate (see effectiveness section), were they proportionated to the cost?*
- 8) *Compared with other advocacy acts, do you think that this act had higher/lower outputs for the same costs?*

3.3.3.4 Coherence

The coherence of a Report is understood as the extent to which the act supports or undermines other relevant policies/instruments in that area. It assesses its consistency with the overall regulatory framework and thus it is deeply interconnected with the legal analysis report. To assess coherence, the evaluator should address the following questions:

- *To what extent are the Report's key findings and conclusions coherent with the overall competition policy?*
- *To which extent is the Report contributing to achieving the overall goals of the CNMC?*
- *Are there any internal inconsistencies in the features of the Report and the other CNMC acts concerning the same or similar economic sectors?*

How to answer coherence questions

- ✓ *If the IPN Report is included in the legal analysis, most of the information are available there.*
- ✓ *If the IPN Report is not included in the legal analysis, desk research based on Section concerning the "Regulatory Framework" should be sufficient.*
- ✓ *Interviews with experts or CNMC staff may be useful as complementary data sources.*

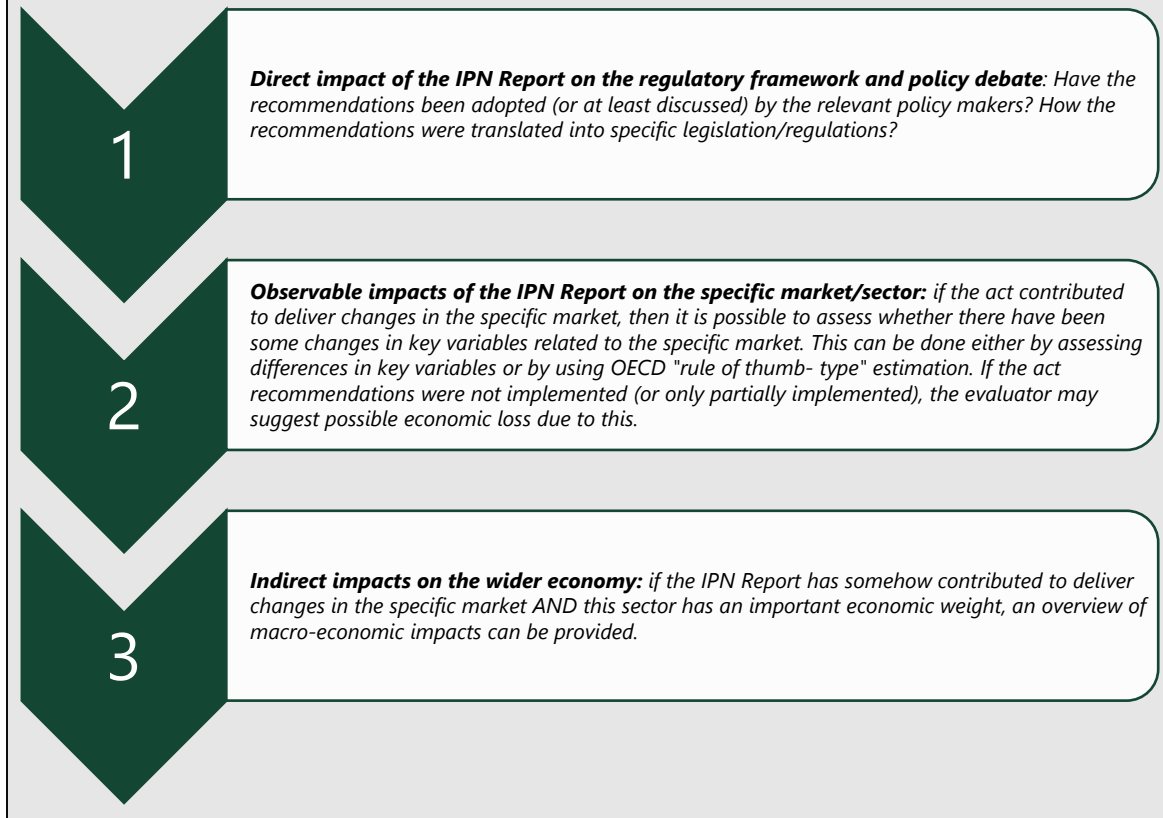
Coherence checklist	Yes	No
Does the IPN Report clearly define the regulatory framework?		
Do the IPN Report recommendations describe their alignment with the existing measures?		
Is it possible to identify other CNMC acts (especially previous research such as Market Study) which are consistent with the recommendation of the IPN Report?		

3.3.4 Impact Assessment

The evaluation phase aims at assessing the potentialities of the IPN Report to influence relevant policy and decision making. Moving to the Impact Assessment, the evaluator should focus on the implications of the IPN Report on the market/sector it seeks to reform. Several preliminary considerations need to be made:

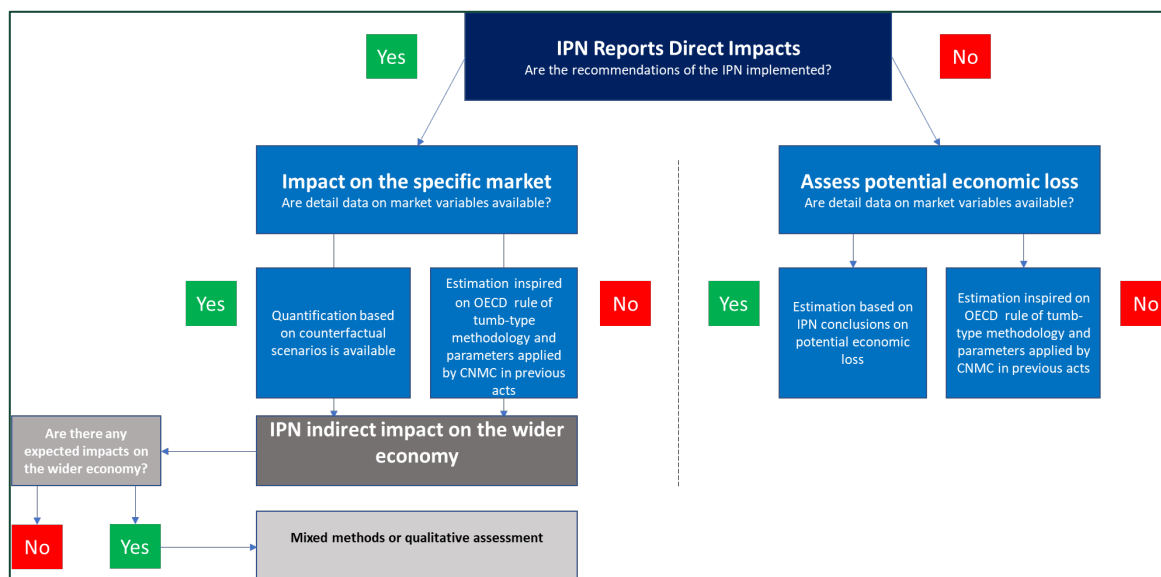
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the IPN Report and not be caused by simultaneous events (i.e. regulatory changes not in line with IPN Report recommendations, wider legislative reforms, regulatory changes brought by other institutions)
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated taking into account existing data and information. To do so, it is important to focus on actual impacts rather than potential ones.

Considering these two guiding principles, the evaluator shall assess the following interconnected impacts:



How to carry out the impact assessment – step by step

The diagram below shows the steps of the Impact Assessment to be followed by the evaluator:



3.3.4.1 Direct impact

The direct impacts of the IPN Report are any change in legislation recommended by the act itself. It can affect the national or regional regulatory framework. The evaluator should:

- 1) Define the **recommendations** included in the IPN Report and understand their features and objectives.
- 2) For each recommendation included in the IPN Report, assess whether it was:
 - a. **Fully implemented** → the CNMC's recommendation was implemented and derived in significant changes in the relevant regulatory framework, in line with the goals of the IPN Report.
 - b. **Partially implemented** → only some actions were adopted, and their implementation was not fully in line with the IPN Report purpose.
 - c. **Non-implemented** → no action was adopted.
 - d. It is also possible that the some of the recommendations are **non-evaluable**, if no data are available or if changes in legislation were not linked to the IPN Report.

Ideally, the evaluator should be able to carry out an ex-post assessment of the regulatory framework, which focuses on the introduction of new legislations or regulations after the publication of the act. It would be also desirable to describe how the recommendations were turned into binding regulations (i.e. defining the geographical scope, the applicability and so on).

Once the information is collected, the evaluator should fill in the following table:

Recommendation	Actions/Outputs	Status of implementation
<p>1) Description of the first recommendation as defined by the IPN Report</p>	<p><i>General considerations (only if necessary - e.g. in those cases where recommendations apply to different agents/regions; or the content of the act is complex and requires a brief explanation to better understand the gaps below). General considerations on the overall recommendation. This section is particularly needed if the recommendation addresses different levels of geographical administrations. Moreover, this section is also relevant if the recommendation lays down only one action.</i></p>	
	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Actions' we refer to the specific (new or modified) legislation implemented to meet the CNMC's recommendation. The evaluator should indicate in this box the relevant actions.</i></p> <p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Outputs' we refer to the specific measures introduced by the (new or modified) legislation indicated in the previous box ('Actions'). The evaluator should indicate in this box the relevant measures derived from the implementation of the mentioned actions.</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>For those cases where the recommendations were partially implemented, the evaluator should indicate if further actions are expected and when. This information should be available at the legal database.</i></p> <p><i>For the rest of the cases, the evaluator should just indicate "Fully implemented" or "Non-Implemented".</i></p>
<p>2) Description of the second recommendation as defined by the IPN Report</p>		

3.3.4.2 Impacts on the specific market

Recommendation is fully/partially implemented	Recommendation is not implemented
<p>1) Establish a reasonable link between the recommendation and the possible impact → in line with the attribution principle, the evaluator should identify the variables which are addressed by the recommendation. For instance, if the recommendation suggests opening the market, then the evaluator should assess the potential impact on market structure of its implementation or non-implementation. Once the relevant variables that might be affected by the recommendations are defined, the evaluator should find a set of indicators which are able to capture the IPN Report impact. Some examples are provided in the table below.</p>	
<p>Option A: ex-post vs ex-ante analysis</p> <p>Only in those cases where the data availability allows it, the evaluator may match ex-ante and ex-post data to assess the impact of the IPN Report on specific indicators. However, in order to estimate the specific impact of the IPN Report's recommendations on the market -isolating the effect of any other market shocks- an exhaust econometric analysis would be required. As this methodology is data intensive and very time consuming, the evaluator should be aware that other events may have influenced changes in the relevant variables.</p> <p>If possible, the evaluator should compare several yearly data (i.e. 3 years before and after the IPN Report) to offset possible volatility effects or compare the evolution of the relevant variables to those in sufficiently similar markets.</p>	<p>Not applicable when recommendation is not implemented.</p> <p>IPN Reports' conclusions may contain information on the potential loss.</p>
<p>Option B : "OECD rule of thumbs-type" estimation inspired by OECD's paper on evaluating enforcement activities, which lists a set of flexible thumb-rules to quantify an impact of improving competition in a given market. These assessments quantify in a simple, concise and consistent manner the benefits expected to result from the decisions on mergers and antitrust infringements they took over the period under examination.</p> <p>The paper lists a set of assumptions which are a useful shortcut to assess impacts of IPN Reports:</p> <ul style="list-style-type: none"> • For the size of the affected turnover: <ul style="list-style-type: none"> ✓ in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s); ✓ in merger cases, the ex-ante turnover of all the firms in the affected market(s). • For the expected price effect: <ul style="list-style-type: none"> ✓ in cartel cases, an overcharge of 10%; ✓ in abuse of dominance cases, a price increase of 5%; ✓ in merger cases, a price increase of 3%. • For the likely duration of the price increase absent the competition agency's intervention: <ul style="list-style-type: none"> ✓ in cartel cases, a 3-year duration; 	

- ✓ in abuse of dominance cases, a 3-year duration;
- ✓ in merger cases, 2-year duration.

Following the OECD's approach, the evaluator should apply a set of flexible indicators related to competition issues and its corresponding market variables as identified by the CNMC in previous acts or any new research. These indicators relate to the expected impact on relevant variables such as prices, employment, number of operators, or turnover, among others. A proposal on the set of flexible indicators will be provided with the final delivery, but they could be further refined thanks to experience.

The evaluator should link the Competition Issue identified in the Relevance sector with the relevant recommendations and then apply the "OECD rule of thumbs" estimation.

The table below includes a list of potentially relevant indicators. This should be assessed on a case by case scenario.

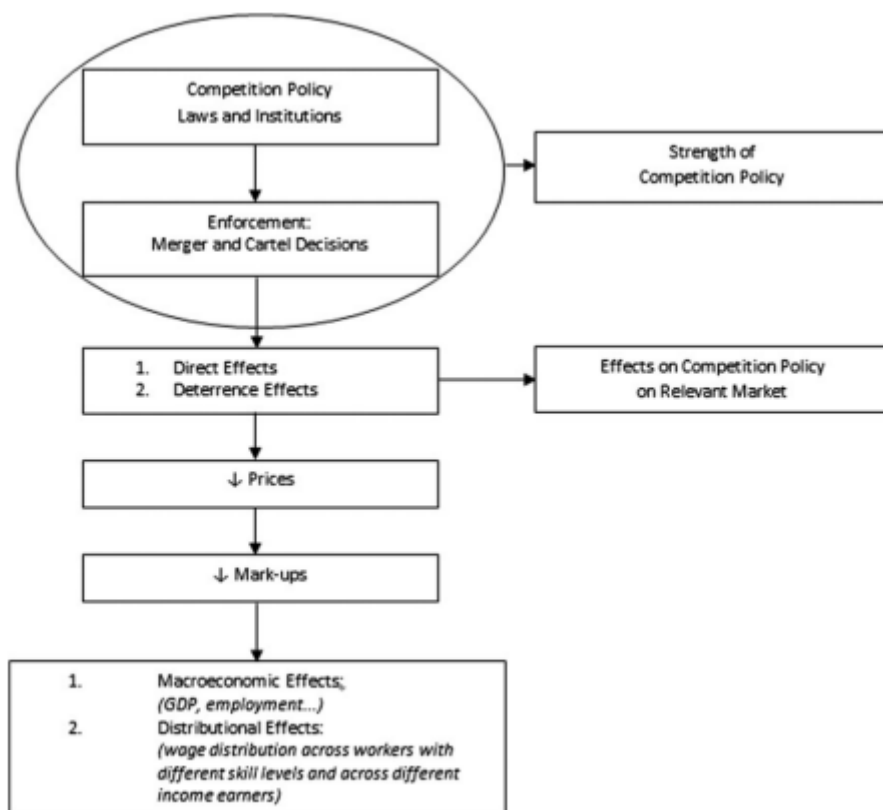
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
A3. Significantly raises cost of entry or exit by a supplier		Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: none"> Average turnover/total turnover
			<ul style="list-style-type: none"> New entrants 	<ul style="list-style-type: none"> Number of new established operators (post IPN Report).
			<ul style="list-style-type: none"> Competition improvement 	<ul style="list-style-type: none"> Number of new licenses
		Price level	<ul style="list-style-type: none"> Price oscillation 	<ul style="list-style-type: none"> Average price for service Ex-ante vs ex-post price level
		Demand features	<ul style="list-style-type: none"> Overall consumer satisfaction Overall number of new consumers 	<ul style="list-style-type: none"> Proxies to identify consumer attitude (i.e. "waiting time")
		Labour & Employment	<ul style="list-style-type: none"> Change in labour costs Job created 	<ul style="list-style-type: none"> Ex ante vs ex post wages Number of newly employed workers

3.3.4.3 Impacts on wider economy

Competition policy and enforcement has an impact on the whole economy: weak competition policy can bring a loss of economic efficiency (i.e. a slower diffusion innovation brings to worse macroeconomic performances).

The modelling framework proposed is described in the figure below

Figure 3 Framework to assess impact of competition policy



Dierx, Adriaan & Ilzkovitz, Fabienne & Pataracchia, Beatrice & Ratto, M. & Thum-Thysen, Anna & Varga, Janos. (2017). Does Eu competition policy support inclusive growth?. *Journal of Competition Law and Economics*. 13. 225-260. 10.1093/joclec/nhx015.

	YES	NO
Recommendation is fully/partially implemented?	x	
Recommendation had an impact on the specific market?	x	
The specific market has a relevant weight in the wider economy?	x	
Establish a reasonable link between the recommendation and the possible impact on macroeconomic and distributional effects → in line with the attribution principle, the evaluator should identify which macroeconomic and distributional effects can be attributed to the sectoral impacts caused by the recommendation. For instance, if the recommendation suggests opening the market, then the evaluator should assess the ex post vs ex ante structure of the market and then assess which can be the impact on the GDP or employment. Once the possible impacts on the wider		

economy are defined, then the evaluator should find a set of indicators which are able to capture the IPN Report's impact on the wider economy.

Data requirements Input-Output model¹⁴

Option A: Input-Output model

If the data allows it, the evaluator may use a standard input-output framework to assess how the sectoral changes may impact the wider economy.

Firstly, the evaluator will need to have a robust estimation of the shock due to the recommendation on the market in terms of mark-up and prices in order to feed the model to assess direct, indirect and induced effects.

Direct effects comprise all effects directly caused by activities in a sector. Hence, the direct GDP effects of a new policy relate to the change in the GDP that is directly linked to the change in the output of the sector engaged by the new policy.

Indirect effects are the business-to-business purchases in the supply chain that stem from the initial industry input purchases. As an industry spends money with its suppliers, a reduction or increase in this spending is identified through the indirect effect. To forecast indirect GDP effects, the researchers create an IO model that links the output of a certain sector (e.g. coal mining) to those of all the supply sectors, both immediate and indirect (e.g. manufacturing of metals). Based on these tables, the IO multipliers for the sum of direct and indirect output, at sectoral level, is calculated.

Induced effects capture consumption effects at household level due to initial change in economic activity (i.e. due to the new policy) that results in diminishing rounds of new spending as leakages occur through saving or spending outside the local economy.

In the I-O framework, the sector-specific direct and indirect output multipliers provide insights into the industry-wide effects in the specific sector and into the related sectors. Data-sources for multipliers can be found in the World Input Output Database (WIOD)¹⁵ and in the more recent OECD Input-Output Database¹⁶ and to the National Statistic Office for more recent data and data related to the unemployment.

Otherwise

Option B: Mixed-methods approach

One common form of impact assessment is based on the use of a mixed-methods approach. The evaluator shall provide an assessment based on the general framework presented above and analyse the impacts of the recommendations in terms of macroeconomic impacts and distributional effects.

Macroeconomic effects entails impacts on GDP and unemployment.

Distributional effects entails impacts on: business demographic (i.e. role of SMEs) and skills compensation data (i.e. compensation of low-skilled workers).

This involves the verification of collected evidence against various sources together with quantitative and qualitative data analysis. The analysis is based on various data sources including desk research, data and document libraries, interviews and/or surveys with stakeholders and experts.

¹⁴ I/O models requires data expenditures and revenues for each industry. The impact on the economy can be assessed if the specific market relates to a sector classified according to the International Standard Industrial Classification revision 4 (ISIC Rev. 4) or 3 (ISIC Rev. 3)

¹⁵ <http://www.wiod.org/home>

¹⁶ https://stats.oecd.org/Index.aspx?DataSetCode=IOTSI4_2018

The key stages of this approach will be: (1) identifying macroeconomic impacts of the recommendation, (2) assigning quantitative scores and weights to the direct effects and indirect effects, (3) costing the effects, (4) descriptive assessment of the effects on the wider economy.

Interviews/surveys with policymakers are the key source in this approach as they can provide qualitative and anecdotal evidence for the descriptive assessment. These stakeholders' consultation should be used together with other data collection tool and each finding has to be triangulated and weighted against other sources in order to avoid a biased assessment.

3.3.5 Conclusions

Conclusions:

This section shall contain key information and insights concerning:

- **Key info about the act itself (i.e. sector, rationale behind the appeal, objectives)**
- **Key competition issues identified (see relevance section)**
- **Overall assessment of effectiveness and efficiency**
 - *Has the act had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the act required more or less resources than expected?*
 - *Is the CNMC satisfied with the ratio between input/outputs?*
- **Were the actions sought by the CNMC in the act implemented? If yes, to which extend? If not, are there any reasons?**
- **Have the implemented actions sought by the CNMC had any impact on the specific market? If they weren't implemented, which is the economic loss of it?**
- **Is it reasonable to expect impact on the wider economy? If yes, which one?**





Follow Up:

- **Were there any further interventions by the CNMC in the same sector? (i.e. other type of acts addressing the same market)**
- **Did the CNMC further advocate for significant regulatory change in the given market?**
- **Were there any other studies on similar actions?**

3.3.6 Methodological Annex

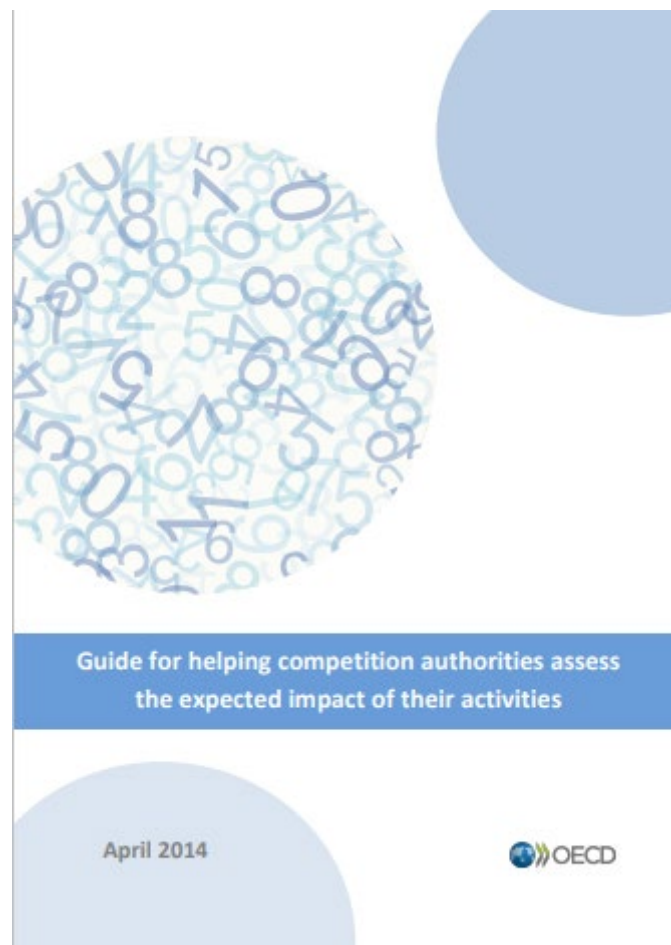
COMPETITION ASSESSMENT CHECKLIST

Competition assessment should be conducted if a legal provision has any of the following effects:



<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">A</div> <h4 style="margin: 0;">Limits the number or range of suppliers</h4> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> A1 Grants exclusive rights for a supplier to provide goods or services<input type="checkbox"/> A2 Establishes a license, permit or authorisation process as a requirement of operation<input type="checkbox"/> A3 Limits the ability of some suppliers to provide a good or service<input type="checkbox"/> A4 Significantly raises cost of entry or exit by a supplier<input type="checkbox"/> A5 Creates a geographical barrier for companies to supply goods, services or labour, or invest capital	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">B</div> <h4 style="margin: 0;">Limits the ability of suppliers to compete</h4> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> B1 Limits sellers' ability to set prices for goods or services<input type="checkbox"/> B2 Limits freedom of suppliers to advertise or market their goods or services<input type="checkbox"/> B3 Sets standards for product quality that provide an advantage to some suppliers over others, or are above the level that some well-informed customers would choose<input type="checkbox"/> B4 Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">C</div> <h4 style="margin: 0;">Reduces the incentive of suppliers to compete</h4> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> C1 Creates a self-regulatory or co-regulatory regime<input type="checkbox"/> C2 Requires or encourages information on supplier outputs, prices, sales or costs to be published<input type="checkbox"/> C3 Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">D</div> <h4 style="margin: 0;">Limits the choices and information available to customers</h4> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> D1 Limits the ability of consumers to decide from whom they purchase<input type="checkbox"/> D2 Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers<input type="checkbox"/> D3 Fundamentally changes information required by buyers to shop effectively

More info at: <https://www.oecd.org/daf/competition/46193173.pdf>



More info at: [Guide for helping competition authorities assess the expected impact of their activities \(oecd.org\)](http://www.oecd.org)

3.3.7 Questionnaires

Policy makers

- *Was the market in need of reform/updates? If yes, which were the main concerns from a competition policy point of view?*
- *Were you aware of any possible market operator's concern over the functioning of the market addressed by the IPN Report?*
- *Which were the needs the IPN Report aimed to address?*
- *How urgent were the issues to be addressed by the IPN Report?*

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 you have carried out the same reforms/changes even without the IPN Report?*

Experts

- Do you consider that the IPN Report is consistent with the overall competition law framework and principles?
- Do you think that the recommendations were sufficiently clear to be effectively implemented by the relevant policy makers?
- Overall, how would you judge the potential usefulness of the IPN Report?

3.4 Reports on matters that are not strictly linked to laws or regulations – CODE INF

3.4.1 Intro

The introduction shall provide a clear overview of the key features of the market concerned by the report. It should be brief, clear, and understandable also for a non-specialised reader. Its main goal is to present the overall context in which the reports were carried by providing description of its features and characteristics, as well as a description of the type of report. Moreover, the introduction should clearly define the regulatory framework applied to the specific market and the reasons why the Administration requested CNMC support.

3.4.2 Key features of the assessment

3.4.2.1 Short description of the type of report

This template will be used to analyse different types of reports, unlike other templates. Therefore, the evaluator must indicate if this is a report on, for instance, public tenders, public aids, or any other type of policy.

Then the evaluator shall identify the stakeholder that requested the Report in order to ensure that this stakeholder is engaged in further data collection activities.

This information can be found in the introduction of the Report.

3.4.2.2 Short description of the market/asset to be assessed

This section should provide a brief overview of the key features of the market/asset (e.g. which is the product/service to be assessed, recent developments and innovation). The overall goal is to provide the reader with a sufficient understanding of the market to be assessed.

This information can be found in the "Background" section of the INF Report.

3.4.2.3 Short description of the regulatory framework

In this section, the evaluator should provide an overview of the current regulatory framework which discipline the market to be assessed. If there have been significant legislative changes since the publication of the Report, it is recommended to split this section into "ex-ante" and "ex-post".

This information on the regulatory framework can be found either in the Report or in the references to legislation in it included.

It is recommended to check this section once the evaluation is over as potential changes in the legislation may have been brought about by the Report itself. If this is the case, then it should be clearly mentioned.

3.4.2.4 Short description of the rationale behind the INF Reports

This section should explain the reasons behind the specific request for an INF Report by the Administration. By doing this, the evaluator should also understand the specific goals the Administration pursue when requesting support from the CNMC.

Overall information can be found in the "Background". However, if possible, it is recommended to carry out interviews with authors and/or other CNMC staff involved in the INF Report.

3.4.3 Evaluation of the act

The first step is to evaluate the Report itself. This preliminary step aims at defining the likelihood of the act to be able to produce its expected outreach. The evaluation is carried out according to the following criteria:

- 9. Relevance, which describes the significance of the Report in terms of the existing competition issues it addresses and the magnitude of the matter addressed;***
- 10. Effectiveness, which describes whether the Report had a real outreach in terms of audience and public debate;***
- 11. Efficiency, which defines whether the costs and effort of delivering the Report were proportionated to the significance (or relevance) of the act and its outreach;***
- 12. Coherence, which defines the overall consistency of the Report with the other relevant regulatory framework.***

3.4.3.1 Relevance

3.4.3.1.1 Relevance of the sector

This section defines the key features of the economic sector affected by the matter of the Report, including its overall turnover and its possible impacts on the wider economy. The goal is to identify the overall importance of the sector within the whole economy and – thus – understanding whether the Report may have wider impacts. While no rigid threshold is set, it is up to the evaluator to understand to which degree the sector can have spill over effects on the wider economy. It is also useful to define the scope of the assessment.

Some of this info can be easily found in the Report itself, others may require some statistical data collection.

Table 8: Relevance of the sector

Theme	Indicators	Possible sources	Shortcuts / comments
Economic weight and	Total sector turnover	Report or other statistical sources	<i>If data on total turnover are not available, the evaluator may multiply the number of</i>

structure of the market			<i>undertakings by the average turnover. As an alternative, average prices to consumers can be used as proxy. The goal of this data is to provide an estimation on the size of the market.</i>
	Number of undertakings	Report or other statistical sources	<i>These data are usually available on undertaking associations or Chamber of Commerce.</i>
	Average turnover per company	Statistical sources	<i>optional but may be useful to understand market structure</i>
	Geographical location/concentration of companies	Statistical sources	<i>optional but may be useful to understand market structure and possible impacts in specific regions</i>
Labour market and employment	Total number of employees	Statistical sources	<i>These data are usually kept by trade unions or can be found in collective agreements by region.</i>
	Average salary	Statistical sources	

3.4.3.1.2 Relevance of the act

The goal of this section is to identify how many competitions issues are addressed in the Report. The list of competition issues follows a classification defined by the OECD, for which a correspondence with the classification by the CNMC is established in Deliverable 3 database.

Each competition issue relevant for the INF Report should be mentioned in the table below together with a short explanation taken from the INF Report itself. This explanation is already included in the Deliverable 3 database, so no further research is needed.

Tips to fill in the table

- ✓ *Mention only the relevant competition issue (i.e. no need to list all of them).*
- ✓ *The text of the Report should include specific description on possible impacts of the relevant anti-competitive behaviours or contrary to the principles of efficient economic regulation.*

Table 2: Relevance of the act to competition issues

OECD Competition Issues	Specific question	Comments from the act
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.	
	A2. Establishes a license, permit or authorisation process as a requirement of operation.	
	A3. Limits the ability of some suppliers to provide a good or service.	
	A4. Significantly raises cost of entry or exit by a supplier.	
	A5. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.	
B. Limits the ability of suppliers to compete.	B1. Limits sellers' ability to set prices for goods or services.	
	B2. Limits freedom of suppliers to advertise or market their goods or services	
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.	
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).	
C. Reduces the incentive of suppliers to compete	C1. Creates a self-regulatory or co-regulatory regime	
	C2. Requires or encourages information on suppliers outputs, prices, sales or costs to be published	
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users	
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.	

	D3. Fundamentally changes information required by buyers to shop effectively.	
E. Public intervention in the context of liberalization process	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.	
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.	
F. Public intervention in the context of liberalization process	F1. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.	
	F2. Collusion between economic operators or free competition	
	F3. It may lead to non-compliance with the State Aid scheme	
	F4. Insufficient specifications of the non-normative act to guarantee an efficient economic regulation	

3.4.3.2 Effectiveness

The effectiveness of the Report is defined by its capacity to achieve its overall objectives. These are identified in Section 1. To assess the Report's effectiveness, it is essential to measure the outreach. By doing this, the evaluator seeks to determine whether the Report has been consulted by policymakers in their decision-making process and/or has contributed to raise awareness about the proposed changes in legislation. Indeed, **possible impacts (which are to be evaluated in Section 3) can also be attributed if the act had met sufficient outreach.** There are different ways to assess and measure effectiveness:

1. A qualitative assessment, focused on understanding **if the Report's recommendations and suggestions have been implemented, and to what extent.**
2. A quantitative assessment, focused on measuring **how many times** the Report has been consulted/read;

Both approaches are valuable and complementary. The evaluator should use both to the extent that relevant data for the analysis can be found.

The text below presents an overview of the data collection strategy for assessing effectiveness.

3.4.3.2.1 Outreach: qualitative assessment

The qualitative reach of the Report is defined by the extent to which the recommendations were persuasive to the public administration and provided clear guidance for the administration to implement the recommendations successfully.

The evaluator must carry out desk research that can be supported with additional interviews to key stakeholders, such as the relevant body of the public administration, the public administration that asked for the Report to be conducted (if applicable) and economic operators directly affected by the matter of the Report.

The evaluator must **first** examine the text of the Report and the official document of the public tender, public aid, or any other matter that the Report analysed and for which it elaborated proposals. This will provide information on the degree to which the suggestions of the Report were considered and incorporated. However, it might not be sufficient to determine how the recommendations were implemented in practice.

Should the evidence collected through desk research not be deemed sufficient, the evaluation must **additionally** interview the parties mentioned above. Questions suggested are included in the Annex 2.

3.4.3.2.2 Outreach: quantitative assessment

Tips to fill in the table

- ✓ Have a preliminary check with the CNMC if the information is available (if the Report is not recent, some information may be missing).
- ✓ It is not necessary to have "accurate figures", benchmarking and estimation are also useful.
- ✓ If quantitative data are lacking, it is possible to shift to the qualitative data collection.

Theme	Indicators	Source
	Number of views of press releases	CNMC internal database

Outreach to the general public	Number of views of web pages announcements	
	Official publications on the webpage (numbers of views)	
Outreach to the academia	Number of studies quoting the INF Report	Reference systems
Outreach to the general press	Number of articles/blogs quoting the INF Report	Web research

3.4.3.3 Efficiency

*The efficiency of a Report is understood as the relation between the outreach of a Report and the costs and effort incurred into its delivery. Efficiency analysis can only be conducted for those cases when not only the internal information on costs is available, but also information on the outreach is available. If these data are available, the efficiency assessment is grounded on a **Cost-benefit analysis for the CNMC** (cost of carrying out the INF Report vs. the impact it has had).*

While quantitative data should be preferred, it is possible that these data are not available, particularly for older Reports. In that case, estimated costs by the CNMC might be used. A quantitative approach is recommended only in the case the Report deals with a sector that represents a significant share of the wider economy, and it is likely to have an impact on other markets. If this is not the case, a qualitative assessment is sufficient.

3.4.3.3.1 Efficiency for the CNMC

How to identify the respondent(s)

The questionnaire is addressed to the CNMC staff who:

- ✓ Have authored/co-authored the Report.
- ✓ Have supervised its delivery and publication.
- ✓ Have overall knowledge of the implementation of the Report.
- ✓ Are aware of internal costs and can provide estimation.

Tips for the questionnaire

- ✓ *The objective is not to assess the efficiency of the CNMC work practices, but to understand whether the resources needed for the Report have been matched by its outputs (i.e. its outreach achievements).*
- ✓ *Focus on direct outputs (i.e. number of views, outreach to policy makers); economic impact will be assessed at a later stage.*
- ✓ *If precise figures are not available, estimation and proxy can be used.*

- 1) *Is it possible to define the time spent by the CNMC employees in delivering the Report? If yes, was it in line with the average effort required to elaborate this kind of act?*
- 2) *Was the INF report delivered on time?*
- 3) *In light of the achieved outputs in terms of audience and public debate (see effectiveness section), were they proportionated to the cost?*

4) Compared to other advocacy acts, do you think that this act had higher/lower outputs for the same costs?

3.4.3.4 Coherence

The coherence of a Report is understood as the extent to which the act supports or undermines other relevant policies/instruments in that area. It assesses its consistency with the overall regulatory framework and thus it is deeply interconnected with the legal analysis report. To assess coherence, the evaluator should address the following questions:

- To what extent are the Report's key findings and conclusions coherent with the overall competition policy?
- To which extent is the Report contributing to achieving the overall goals of the CNMC?
- Are there any internal inconsistencies in the features of the Report and the other CNMC acts concerning the same or similar economic sectors?

How to answer coherence questions

- ✓ Consult Market Studies, Regulatory Proposals and Reports on Drafts Laws and Regulation in particular;
- ✓ Consult other reports under this category addressing the same type of matter (public aid, public tendering, etc.);
- ✓ Interviews with experts or CNMC staff may be useful as complementary data sources.

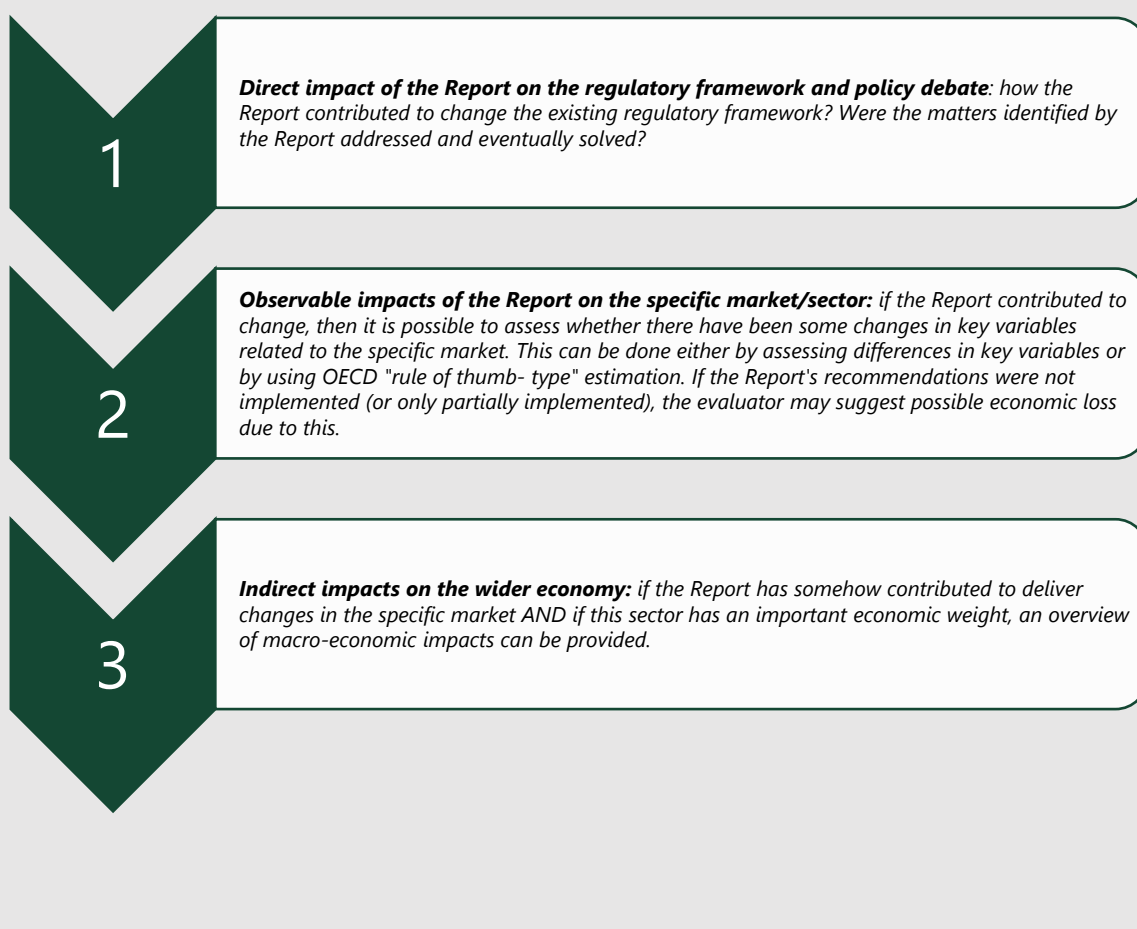
Coherence checklist	Yes	No
Do the Report's recommendations describe their alignment with the existing measures?		
Is it possible to identify other CNMC acts (especially previous market studies) which are consistent with the key recommendations and arguments of the Report's?		
Does the Report mention a number of the CNMC competition principles which are relevant to the specific market?		
Are there any clear inconsistencies with previous CNMC acts?		

3.4.4 Impact Assessment

The evaluation phase aims at assessing the potentialities of the Report to deliver impacts in the specific market and beyond. Several preliminary considerations need to be made:

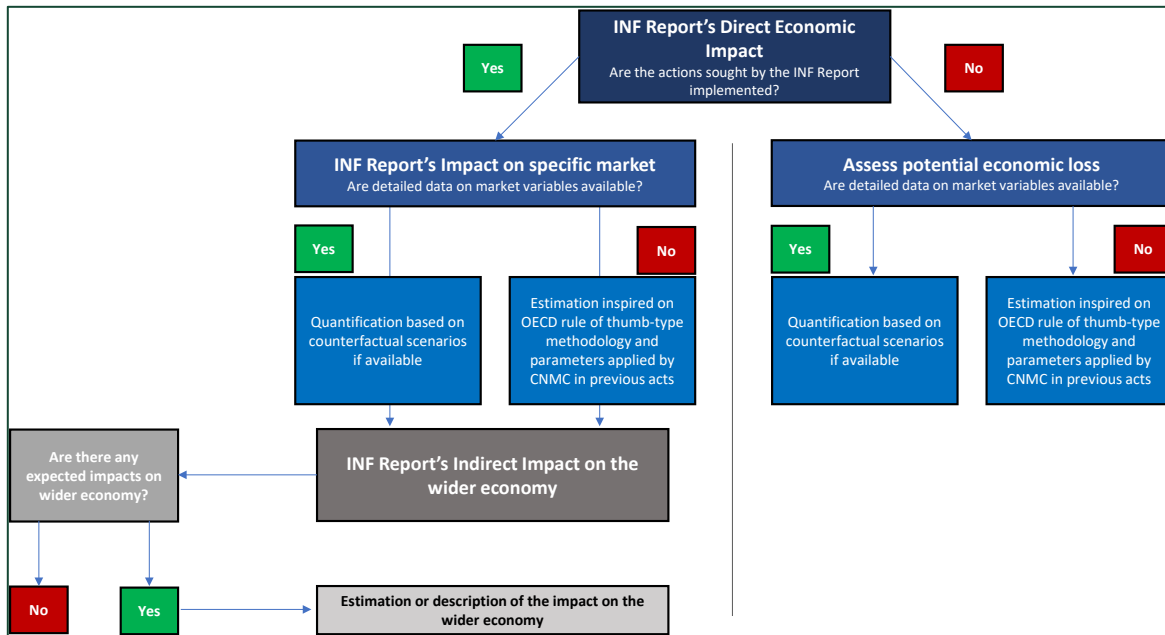
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Report, and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on).
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated taking into account existing data and information. To do so, it is important to focus on actual impacts rather than potential ones.

Considering these two guiding principles, the evaluator shall assess the following interconnected impacts:



How to carry out the impact assessment – step by step

The diagram below shows the steps of the Impact Assessment to be followed by the evaluator:



3.4.4.1 Direct impacts of the Report

The direct impacts of the Report can be any change in legislation which results from the outputs of the Report. It can affect the national or regional regulatory framework. The evaluator should:

- 1) Define the **recommendations** included in the Report and understand their features and objectives.
- 2) If possible, describe the **actions** that the Report suggest taking in order to achieve the recommendations.
- 3) For each recommendation included in the Report, assess whether it was:
 - a. **Fully implemented** → the CNMC's recommendation was implemented and derived in significant changes in the relevant regulatory framework, in line with the goals of the Report.
 - b. **Partially implemented** → only some actions were adopted, and their implementation is not fully in line with the Report's purpose.
 - c. **Non-implemented** → no action was adopted.
 - d. It is also possible that the some of the Report's recommendations are **non-evaluable** if no data is available or if changes in legislation were not linked to the Report.

Ideally, the evaluator should be able to carry out an ex-post assessment of the policies introduced as a result of the Report. It would be also desirable to describe how the recommendations were turned into binding regulations (i.e. defining quantitative aspects, etc).

Once the information is collected, the evaluator should fill in the following table:

Recommendation	Actions	Outputs	Status of implementation
<p>1) Description of the first recommendation as defined by the Report</p>	<p>General considerations (only if necessary - e.g. in those cases where recommendations apply to different agents/regions; or the content of the act is complex and requires a brief explanation to better understand the gaps below).</p> <p>General considerations on the overall recommendation. This section is particularly needed if the recommendation addresses different levels of geographical administrations. Moreover, this section is also relevant if the recommendation lays down only one action.</p> <p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Actions' we refer to the specific (new or modified) policies to meet the CNMC's recommendation. The evaluator should indicate in this box the relevant actions derived from the Report</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Outputs' we refer to the specific measures introduced by the (new or modified) legislation or policies indicated in the previous box ('Actions'). The evaluator should indicate in this box the relevant measures derived from the implementation of the actions mentioned.</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>For those cases where the recommendations were partially implemented, the evaluator should indicate if further actions are expected and when.</i></p> <p><i>For the rest of the cases, the evaluator should just indicate "Fully implemented" or "Non-Implemented".</i></p>
<p>2) Description of the second recommendation as defined by the Report</p>	<p>General considerations (idem):</p>		

3.4.4.2 Impacts on the specific market

Recommendation is fully/partially implemented	Recommendation is not implemented
<p>1) Establish a reasonable link between the recommendation and the possible impact → in line with the attribution principle, the evaluator should identify the variables which are addressed by recommendation. For instance, if the recommendation suggests opening the market, then the evaluator should assess the potential impact on market structure of its implementation or non-implementation. Once the relevant variables that might be affected by the recommendations are defined, the evaluator should find a set of indicators which are able to capture the Report's impact. Some examples are provided in the table below.</p>	
<p>Option A: ex-post vs ex-ante analysis</p> <p>Only in those cases where the data availability allows it, the evaluator may match ex-ante and ex-post data to assess the impact of the Report on specific indicators. However, in order to estimate the specific impact of the Report's recommendations on the market -isolating the effect of any other market shocks- an exhaust econometric analysis would be required. As this methodology is data intensive and very time consuming, the evaluator should be aware that other events may have influenced changes in the relevant variables.</p> <p>If possible, the evaluator should compare several yearly data (i.e. 3 years before and after the INF Report) to offset possible volatility effects or compare the evolution of the relevant variables to those in sufficiently similar markets.</p>	<p>Not applicable when recommendation is not implemented</p>
<p>Option B : "OECD rule of thumbs-type" estimation inspired by OECD's paper on evaluating enforcement activities, which lists a set of flexible thumb-rules to quantify an impact of improving competition in a given market. These assessments quantify in a simple, concise and consistent manner the benefits expected to result from the decisions on mergers and antitrust infringements they took over the period under examination.</p> <p>The paper lists a set of assumptions which are a useful shortcut to assess impacts of Report:</p> <ul style="list-style-type: none"> • For the size of the affected turnover: <ul style="list-style-type: none"> ✓ in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s); ✓ in merger cases, the ex-ante turnover of all the firms in the affected market(s). • For the expected price effect: <ul style="list-style-type: none"> ✓ in cartel cases, an overcharge of 10%; ✓ in abuse of dominance cases, a price increase of 5%; ✓ in merger cases, a price increase of 3%. • For the likely duration of the price increase absent the competition agency's intervention: <ul style="list-style-type: none"> ✓ in cartel cases, a 3-year duration; 	

- ✓ in abuse of dominance cases, a 3-year duration;
- ✓ in merger cases, 2-year duration.

Following the OECD's approach, the evaluator should apply a set of flexible indicators related to competition issues and its corresponding market variables as identified by the CNMC in previous acts or any new research. These indicators relate to the expected impact on relevant variables such as prices, employment, number of operators, or turnover, among others. A proposal on the set of flexible indicators will be provided with the final delivery, but they could be further refined thanks to experience.

The evaluator should link the Competition Issue identified in the Relevance sector with the relevant recommendations and then apply the "OECD rule of thumbs" estimation.

The table below includes a list of potentially relevant indicators. This should be assessed on a case by case scenario.

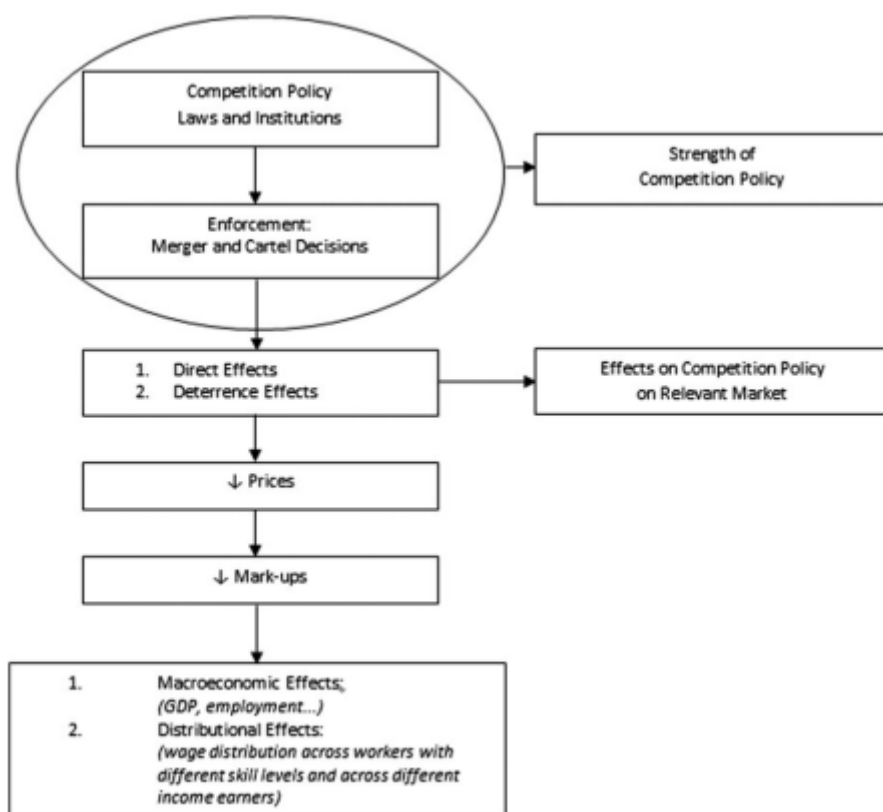
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
A1.		Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: none"> Average turnover/total turnover
			<ul style="list-style-type: none"> New entrants 	<ul style="list-style-type: none"> Number of new established operators (post-Report).
			<ul style="list-style-type: none"> Competition improvement 	<ul style="list-style-type: none"> Number of new licenses
		Price level	<ul style="list-style-type: none"> Price oscillation 	<ul style="list-style-type: none"> Average price for service Ex-ante vs ex-post price level
		Demand features	<ul style="list-style-type: none"> Overall consumer satisfaction Overall number of new consumers 	<ul style="list-style-type: none"> Proxies to identify consumer attitude (i.e. "waiting time")
		Labour & Employment	<ul style="list-style-type: none"> Change in labour costs Job created 	<ul style="list-style-type: none"> Ex ante vs ex post wages Number of newly employed workers

3.4.4.3 Impacts on wider economy

Competition policy and enforcement has an impact on the whole economy: weak competition policy can bring a loss of economic efficiency (i.e. a slower diffusion innovation brings to worse macroeconomic performances).

The modelling framework proposed is described in the figure below

Figure 4 Framework to assess impact of competition policy



Dierx, Adriaan & Ilzkovitz, Fabienne & Pataracchia, Beatrice & Ratto, M. & Thum-Thysen, Anna & Varga, Janos. (2017). Does Eu competition policy support inclusive growth?. *Journal of Competition Law and Economics*. 13. 225-260. 10.1093/joclec/nhx015.

	YES	NO
Recommendation is fully/partially implemented?	x	
Recommendation had an impact on the specific market?	x	
The specific market has a relevant weight in the wider economy?	x	
<p>Establish a reasonable link between the recommendation and the possible impact on macroeconomic and distributional effects → in line with the attribution principle, the evaluator should identify which macroeconomic and distributional effects can be attributed to the sectoral impacts caused by the recommendation. For instance, if the recommendation suggests to widen the scope of candidates to tender to a specific body of the public administration, then the evaluator should assess the ex-post vs ex-ante structure of the market and then assess which can be the impact on the GDP or employment. Once the possible impacts on the wider economy are defined,</p>		

<i>then the evaluator should find a set of indicators which are able to capture the Report's impact on the wider economy.</i>		
Data requirements Input-Output model¹⁷	x	
Option A: Input-Output model		
<i>If the data allows it, the evaluator may use a standard input-output framework to assess how the sectoral changes may impact the wider economy.</i>		
<i>Firstly, the evaluator will need to have a robust estimation of the shock due to the recommendation on the market in terms of mark-up and prices in order to feed the model to assess direct, indirect and induced effects.</i>		
<i>Direct effects comprise all effects directly caused by activities in a sector. Hence, the direct GDP effects of a new policy relate to the change in the GDP that is directly linked to the change in the output of the sector engaged by the new policy.</i>		
<i>Indirect effects are the business-to-business purchases in the supply chain that stem from the initial industry input purchases. As an industry spends money with its suppliers, a reduction or increase in this spending is identified through the indirect effect. To forecast indirect GDP effects, the researchers create an IO model that links the output of a certain sector (e.g. coal mining) to those of all the supply sectors, both immediate and indirect (e.g. manufacturing of metals). Based on these tables, the IO multipliers for the sum of direct and indirect output, at sectoral level, is calculated.</i>		
<i>Induced effects capture consumption effects at household level due to initial change in economic activity (i.e. due to the new policy) that results in diminishing rounds of new spending as leakages occur through saving or spending outside the local economy.</i>		
<i>In the I-O framework, the sector-specific direct and indirect output multipliers provide insights into the industry-wide effects in the specific sector and into the related sectors. Data-sources for multipliers can be found in the World Input Output Database (WIOD)¹⁸ and in the more recent OECD Input-Output Database¹⁹ and to the National Statistic Office for more recent data and data related to the unemployment.</i>		
Otherwise		
Option B: Mixed-methods approach		
<i>One common form of impact assessment is based on the use of a mixed-methods approach. The evaluator shall provide an assessment based on the general framework presented above and analyse the impacts of the recommendation in terms of macroeconomic impacts and distributional effects.</i>		
<i>Macroeconomic effects entails impacts on GDP and unemployment.</i>		
<i>Distributional effects entails impacts on: business demographic (i.e. role of SMEs) and skills compensation data (i.e. compensation of low-skilled workers)</i>		
<i>This involves the verification of collected evidence against various sources together with quantitative and qualitative data analysis. The analysis is based on various data sources including desk research, data and document libraries, interviews and/or surveys with stakeholders and experts.</i>		

¹⁷ I/O models requires data expenditures and revenues for each industry. The impact on the economy can be assessed if the specific market relates to a sector classified according to the International Standard Industrial Classification revision 4 (ISIC Rev. 4) or 3 (ISIC Rev. 3)

¹⁸ <http://www.wiod.org/home>

¹⁹ https://stats.oecd.org/Index.aspx?DataSetCode=IOTSI4_2018

The key stages of this approach will be: (1) identifying macroeconomic impacts of the recommendation, (2) assigning quantitative scores and weights to the direct effects and indirect effects, (3) costing the effects, (4) descriptive assessment of the effects on the wider economy.

Interviews/surveys with industry stakeholders, policymakers and experts (including academics) are the key source in this approach as they can provide qualitative and anecdotal evidence for the descriptive assessment. These stakeholders consultation should be used together with other data collection tool and each finding has to be triangulated and weighted against other sources in order to avoid a biased assessment.

3.4.5 Conclusions

Conclusions:

This section shall contain key information and insights concerning:

- **Key info about the act itself (i.e. sector, rationale behind the appeal, objectives)**
- **Key competition issues identified (see relevance section)**
- **Overall assessment of effectiveness and efficiency**
 - *Has the act had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the act required more or less resources than expected?*
 - *Is the CNMC satisfied with the ratio between input/outputs?*
- **Were the actions sought by the CNMC in the act implemented? If yes, to which extend? If not, are there any reasons?**
- **Have the implemented actions sought by the CNMC had any impact on the specific market? If they weren't implemented, which is the economic loss of it?**
- **Is it reasonable to expect impact on the wider economy? If yes, which one?**

Follow Up:





- **Were there any further interventions by the CNMC in the same sector? (i.e. other type of acts addressing the same market)**
- **Did the CNMC further advocate for significant regulatory change in the given market?**
- **Were there any other studies on similar actions?**

3.4.6 Methodological Annex

OECD Papers

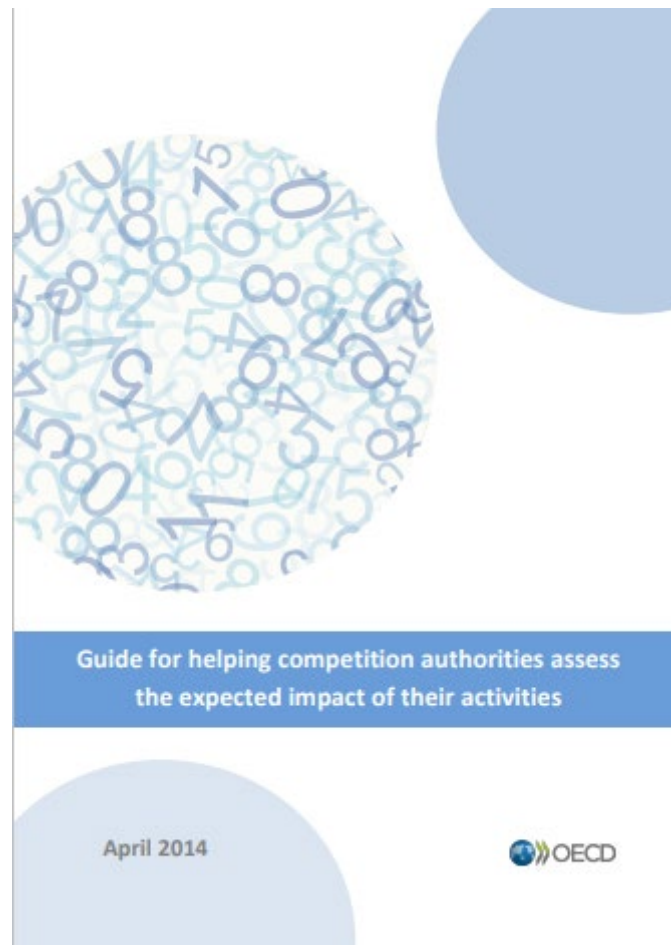
COMPETITION ASSESSMENT CHECKLIST

Competition assessment should be conducted if a legal provision has any of the following effects:



<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">A</div> <h3 style="margin: 0;">Limits the number or range of suppliers</h3> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> A1 Grants exclusive rights for a supplier to provide goods or services<input type="checkbox"/> A2 Establishes a license, permit or authorisation process as a requirement of operation<input type="checkbox"/> A3 Limits the ability of some suppliers to provide a good or service<input type="checkbox"/> A4 Significantly raises cost of entry or exit by a supplier<input type="checkbox"/> A5 Creates a geographical barrier for companies to supply goods, services or labour, or invest capital	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">B</div> <h3 style="margin: 0;">Limits the ability of suppliers to compete</h3> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> B1 Limits sellers' ability to set prices for goods or services<input type="checkbox"/> B2 Limits freedom of suppliers to advertise or market their goods or services<input type="checkbox"/> B3 Sets standards for product quality that provide an advantage to some suppliers over others, or are above the level that some well-informed customers would choose<input type="checkbox"/> B4 Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">C</div> <h3 style="margin: 0;">Reduces the incentive of suppliers to compete</h3> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> C1 Creates a self-regulatory or co-regulatory regime<input type="checkbox"/> C2 Requires or encourages information on supplier outputs, prices, sales or costs to be published<input type="checkbox"/> C3 Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">D</div> <h3 style="margin: 0;">Limits the choices and information available to customers</h3> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> D1 Limits the ability of consumers to decide from whom they purchase<input type="checkbox"/> D2 Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers<input type="checkbox"/> D3 Fundamentally changes information required by buyers to shop effectively

More info at: <https://www.oecd.org/daf/competition/46193173.pdf>



More info at: [Guide for helping competition authorities assess the expected impact of their activities \(oecd.org\)](http://www.oecd.org)

3.4.7 Questionnaires

Effectiveness qualitative outreach – questionnaire

- *Were the recommendations fully implemented in practice?*
- *Has the implementation of the recommendations solved the competition issue identified?*
- *Was further interaction with the CNMC needed to implement the recommendations?*
- *In case that the recommendations were not implemented, what were the reasons?*

3.5 Judicial appeals under Article 5.4 Law 3/2013 and Art. 27 of LGUM – CODE LA

3.5.1 Intro

The introduction shall provide a clear overview of the key features of the market concerned by the act. It should be brief, clear, and understandable also for a non-specialised reader. Its main goal is to present the overall context in which the market studies was carried out by providing description of its features and characteristics. Moreover, the introduction should clearly define the regulatory

framework applied to the specific market and the motivation behind the CNMC choice to carry out the Legal Appeal.

3.5.2 Key features of the assessment

3.5.2.1 Short description of the market to be assessed

This section should provide a brief overview of the key features of the market (e.g. which is the product/service to be assessed, recent developments and innovation). The overall goal is to provide the reader with a sufficient understanding of the market to be assessed.

This information can be found in the Economic Study supporting the Legal Appeal or, in the absence of an Economic Study, through desk research.

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

This section should provide a brief overview of the competition issue that is addressed in the Legal Appeal, the geographical scope, and the economic operators directly affected.

This information can be found in the Legal Appeal²⁰, the Economic Study supporting the Legal Appeal and/or the judicial ruling(s) following the appeal.

3.5.2.3 Specific objectives of the act

This section should explain the action that the CNMC proposes that is taken to address with the competition issue mentioned in the subsection above.

This information can be found in Legal Appeal and/or in the judicial ruling(s) following the appeal.

3.5.3 Evaluation of the act

The first step is to evaluate the Legal Appeal itself. This preliminary step aims at defining the scope of the action to be able to produce its expected outreach. The evaluation is carried out according to the following criteria:

- 1. Relevance, which describes the significance of the appeal in terms of the existing competition issues;***
- 2. Effectiveness, which describes whether the Legal Appeal had a real outreach in persuading its direct audience and reaching a broader audience as well;***
- 3. Efficiency, which defines the extent to which the costs and effort of delivering the Legal Appeal were proportionate to the outreach of the Appeal;***
- 4. Coherence, which defines the overall consistency of the Legal Appeal with the other similar advocacy acts by the CNMC.***

²⁰ The Legal Appeal document is not publicly available on the website for the consulted examples of legal appeals shortlisted for the study. The proposed evaluation methodology presumes that the evaluator will have access to the legal appeal issued by the CNMC.

3.5.3.1 Relevance

3.5.3.1.1 Relevance of the sector

This section defines the key features of the sector to be assessed including its overall turnover, its possible impacts on the wider economy. The goal is to identify the overall importance of the sector within the whole economy and – thus – understanding whether the Legal Appeal may have wider impacts. While no rigid threshold is set, it is up to the evaluator to understand to which degree the sector can have spill over on the wider economy. It is also useful to define the scope of the assessment.

Some of this info can be easily found in the Economic Study supporting the Legal Appeal, others may require some statistical data collection.

Table 9: Relevance of the sector

Theme	Indicators	Possible sources	Shortcuts / comments
Economic weight and structure of the market	Total sector turnover	Economic Study (if recent) or other statistical sources (i.e. Eurostat)	<i>If data on total turnover are not available, the evaluator may multiply the number of undertakings by the average turnover. As an alternative, average prices to consumers can be used as proxy. The goal of this data is to provide an estimation on the size of the market.</i>
	Number of undertakings	Economic Study or other statistical sources	<i>These data are usually available on undertaking associations or Chamber of Commerce.</i>
	Average turnover per company	Economic Study or statistical sources	<i>optional but may be useful to understand market structure</i>
	Geographical location/concentration of companies	Statistical sources	<i>optional but may be useful to understand market structure and possible impacts in specific regions</i>
Labour market and employment	Total number of employees	Economic study or statistical sources	<i>These data are usually kept by trade unions or can be found in collective agreements by region.</i>
	Average salary	Statistical sources	
Perception of consumers and policymakers	Is there the perception that the sector needs reform?	Surveys/Interviews	<i>See Annex 1</i>

3.5.3.1.2 Relevance of the act

The goal of this section is to identify how many competitions issues are addressed in the Legal Appeal. The list of competition issues follows a classification defined by the OECD, for which a correspondence with the classification by the CNMC is established in Deliverable 3 database.

Each competition issue relevant for the study should be mentioned in the table below together with a short explanation taken from the Legal Appeal or Economic Study. This explanation is already included in the Deliverable 3 database, so no further research is needed.

Tips to fill in the table

- ✓ Discuss the relevant competition issues.
- ✓ When an Economic Study is available to support the Legal Appeal, follow closely the arguments in the study to further identify the competition issues described in the main report.
- ✓ The text of the Economic Study might include specific descriptions of likely impacts on welfare of actions or lack of actions by public authorities that hinder market unity.

Table 1: Relevance of the act to competition issues

OECD Competition Issues	Specific question	Comments from the act
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.	
	A2. Establishes a license, permit or authorisation process as a requirement of operation.	
	A3. Limits the ability of some suppliers to provide a good or service.	
	A4. Significantly raises cost of entry or exit by a supplier.	
	A5. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.	
B. Limits the ability of suppliers to compete.	B1. Limits sellers' ability to set prices for goods or services.	
	B2. Limits freedom of suppliers to advertise or market their goods or services	
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.	
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).	
C. Reduces the incentive of suppliers to compete	C1. Creates a self-regulatory or co-regulatory regime	
	C2. Requires or encourages information on suppliers outputs, prices, sales or costs to be published	
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users	
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.	
	D3. Fundamentally changes information required by buyers to shop effectively.	

E. Public intervention in the context of liberalization process	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.	
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.	
F. Public intervention in the context of liberalization process	F1. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.	
	F2. Collusion between economic operators or free competition	
	F3. It may lead to non-compliance with the State Aid scheme	
	F4. Insufficient specifications of the non-normative act to guarantee an efficient economic regulation	

3.5.3.2 Effectiveness

The effectiveness of a Legal Appeal is defined by its capacity to lead to an action that addresses the identified market unity failure (See Section 2.1.2). To assess the effectiveness of the Legal Appeal, it is essential to measure its outreach. The outreach has two dimensions, a qualitative and a quantitative dimension:

1. The **qualitative dimension** is related to the extent to which the relevant actor to whom the act is addressed (administrative Court) incorporates the argument made in the Legal Appeal and decides in a manner that is attributable to the Legal Appeal.
2. The **quantitative dimension** refers to the outreach in terms of general visibility, this is, the times that documents related to Legal Appeal have been consulted (i.e. the number of times a page is consulted).

Both approaches are valuable and complementary. The evaluator must use both, as data is commonly available to do so.

The following table presents an overview of the data collection strategy for assessing the effectiveness.

3.5.3.2.1 Outreach: qualitative assessment

The qualitative assessment of the act must essentially discuss whether the Legal Appeal persuaded the administrative Court to instruct the public administration to take action in line with what was proposed in the Appeal.

To assess the qualitative side of the effectiveness of the act, one must consider whether the Legal Appeal has been accepted by the court and its outcome, positive or negative.

Legal Appeals issued against the local or regional administration are first heard by the High Court of Justice at the Autonomic level. The evaluator must identify the following aspects in the ruling by this court:

Autonomic High Court of Justice	Yes	Partially	No
<i>Did the ruling by the High Court of Justice endorse the identification of competition issues raised by the CNMC in the Legal Appeal?</i>			
<i>Did the High Court of Justice ruling adopt the measures sought by the Legal Appeal by the CNMC?</i>			
<i>Where 'individual opinions' (votos particulares) issued against the ruling?</i>			
<i>Did these individual opinions endorse the identification of competition issues raised by the CNMC in the Legal Appeal?</i>			

The parties to the case in cases following Legal Appeals to National High Court of Justice might raise the issue to the Supreme Court of Spain. Legal Appeals that seek to address competition issues in national legislation are heard directly in the Supreme Court of Spain. The evaluator must identify the following aspects of the ruling:

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

3.5.3.2 Outreach: quantitative assessment

The quantitative assessment of the effectiveness of the outreach is aimed at capturing the extent to which the Legal Appeal reached a wider audience beyond the court and the parties to the trial. This does not contribute to the direct aims of the Legal Appeal but assessing this is necessary to grasp the extent to which the promotion of competition policy reaches other stakeholders and the population.

The quantitative assessment of effectiveness is assessed through a review of the documents related to the Legal Appeal, such as press releases or the Economic Study and these documents being referenced in academic articles or in the press.

Tips to fill in the table

- ✓ Have a preliminary check with the CNMC if the information is available (if the Legal appeal is not recent, some information may be missing).
- ✓ Should there lack precise figures, benchmarking and estimation are also useful.

Theme	Indicators	Source
Outreach to the general public	Number of views of press releases	CNMC internal database
	Number of views of web pages announcements	
	Number of potential users affected	
	Official publications on the webpage (numbers of downloads)	
Outreach to the academia	Number of studies quoting the Legal Appeal or the ruling	Reference systems
Outreach to the general press	Number of articles/blogs quoting the Legal Appeal or the ruling	Web research
Outreach to policy makers	Perception of policy makers on the quality and usefulness of the act	Interviews and Web research
	Changes in regulations in other administrations	

Outreach to general stakeholders	Perception of stakeholders on the Legal Appeal or the ruling	Interview or survey
----------------------------------	--	---------------------

3.5.3.3 Efficiency

*The efficiency of a Legal Appeal is understood as the relation between the outcome in terms of the judgement (favourable/non-favourable) of the contestation for which the Legal Appeal was drafted and the costs and effort incurred into its delivery. Efficiency analysis can only be conducted for those cases when internal information on costs is available and data on the outreach of the Legal Appeal could be identified and analysed (Section 2.2.). If these data are available, the efficiency assessment is grounded on a **Cost-benefit analysis for the CNMC** (cost of carrying out the act vs. the impact it has had).*

While quantitative data should be preferred, it is possible that these data are not available. In that case, estimated costs by the CNMC might be used.

3.5.3.3.1 Efficiency for the CNMC

How to identify the respondent(s)

The questionnaire is addressed to the CNMC staff who:

- ✓ Have authored/co-authored the Legal Appeal and/or the supporting Economic Study;
- ✓ Have supervised its delivery and publication;
- ✓ Are aware of internal costs and can provide estimation.

If the staff above cannot be reached, then the questionnaire is to be addressed to CNMC staff who:

- ✓ Have overall knowledge of the implementation of the Legal Appeal.

Tips for the questionnaire

- ✓ The objective is not to assess the efficiency of the CNMC work practices, but to understand whether the resources needed for a Legal Appeal have been matched by its outputs (i.e. its outreach achievements);
- ✓ If precise figures are not available, estimation and proxy can be used.

Examples of questions that can be included in a questionnaire are included in Annex 2.

3.5.3.4 Coherence

The coherence of a Legal Appeal is understood as the extent to which the act supports or undermines other relevant policies/instruments in that area. Legal Appeals are often issued after less binding actions of competition advocacy are taken by the CNMC and might be followed by other types of actions, aimed at promoting best practices in the same sector by other bodies of the public administration. To assess coherence, the evaluator should address the following questions:

- *To what extent is the Legal Appeal coherent with Market Studies or other advocacy acts on the same economic sector by CNMC?*
- *To what extent is the Legal appeal coherent with other Legal Appeals issued on the same economic sector by CNMC?*
- *To what extent is the Legal appeal coherent with other Legal Appeals invoked under the same normative (art. 5.4 Law 3/2013 or art. 27 LGUM) by CNMC?*

- *To which extent is the Legal Appeal in line with the overall goals of the CNMC?*
- *To what extent is the Legal Appeal coherent with other Legal Appeals issued invoking the same market unity principle or principles (See Section 2.1.2)?*

How to answer coherence questions

- ✓ *Consult the list of Market Studies and identify if any Legal Appeal addresses the same economic sector.*
- ✓ *Consult the list of Legal Appeals and identify those on cases in the same economic sector or based on the same principle of Market Unity (this can easily be done in the website of CNMC as there is an option to use a filter).*

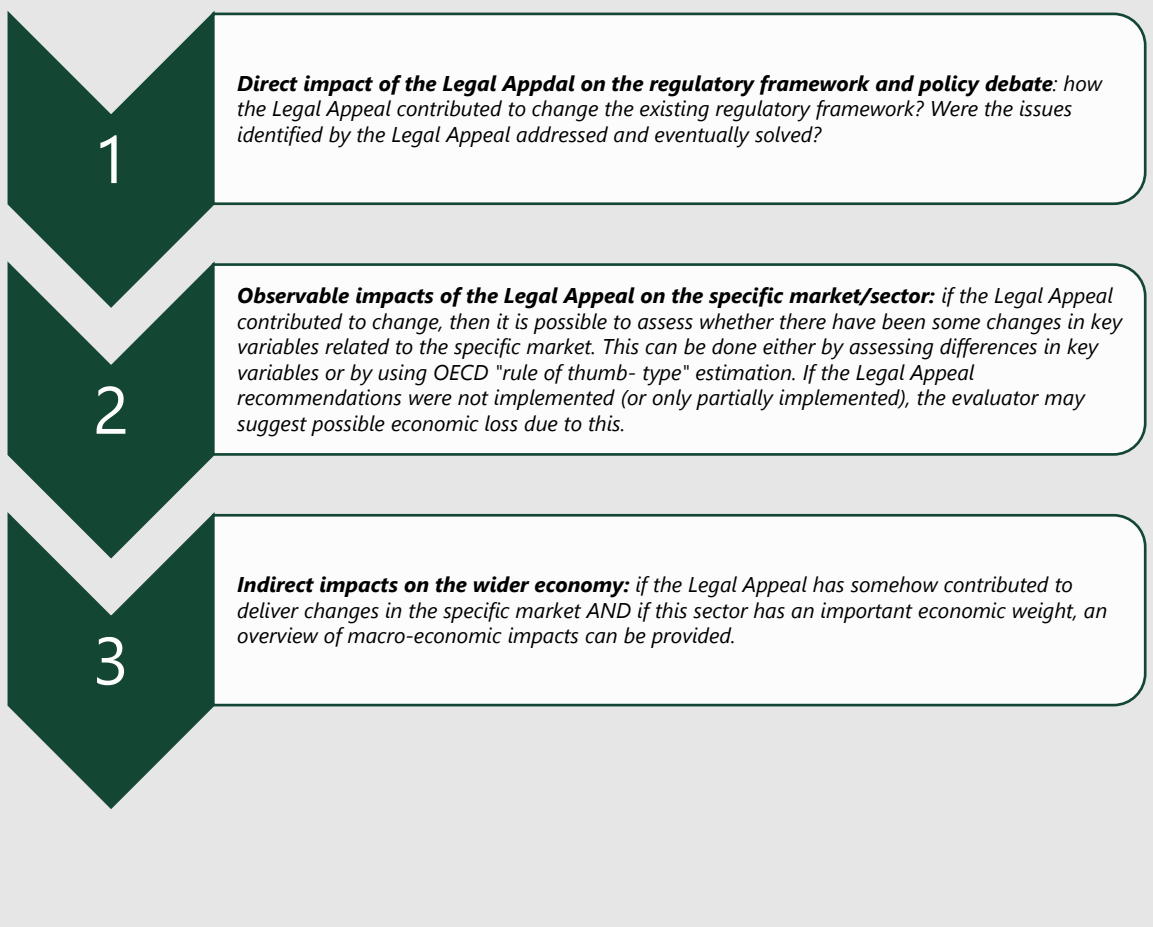
Coherence checklist	Yes	No
Are there inconsistencies between the Legal Appeal and reports of other types issued by the CNMC, including Market Studies and other Legal Appeals?		
Are there clear inconsistencies between the Legal Appeal and other Legal Appeals issued invoking the same principles?		
Is the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

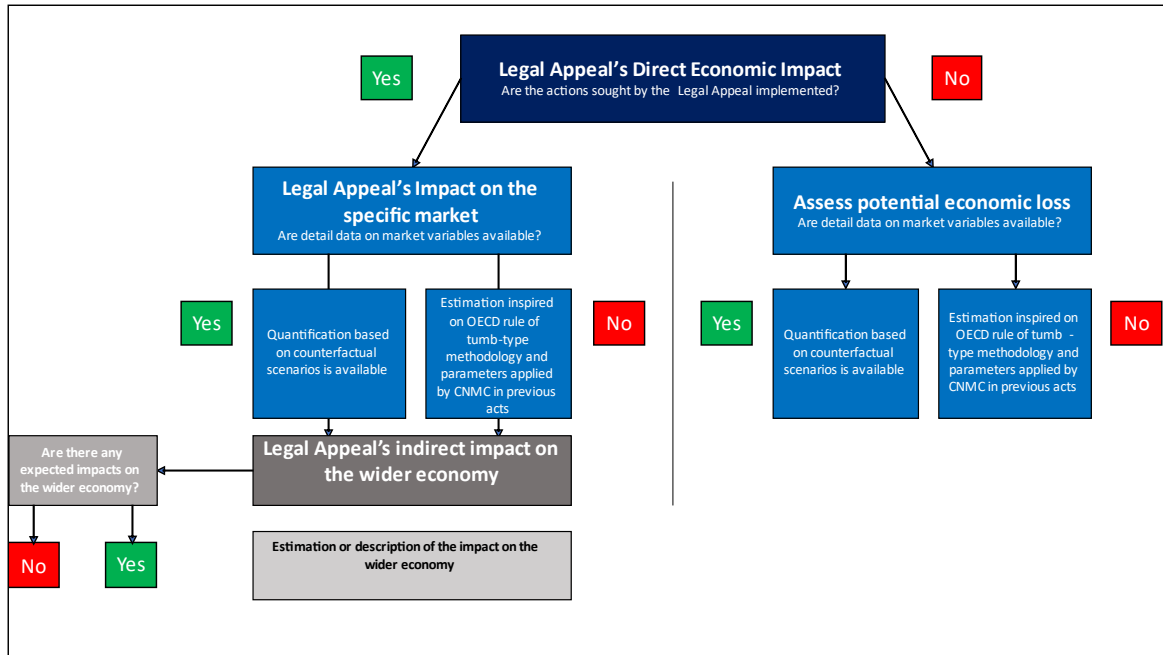
3.5.4 Impact Assessment

The evaluation phase aims at assessing the potentialities of the Legal Appeal to deliver impacts in the specific market and beyond. Several preliminary considerations need to be made:

- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Legal Appeal and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on).
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated taking into account existing data and information. To do so, it is important to focus on actual impacts rather than potential ones.

Considering these two guiding principles, the Evaluator shall assess the following interconnected impacts:





3.5.4.1 Direct impact

The direct impacts of the Legal Appeal are any change in legislation recommended by the act itself. It can affect the national or regional regulatory framework. The evaluator should:

- 1) Define the **recommendations** included in the Legal Appeal and understand its features and objectives
- 2) For each recommendation included in the Legal Appeal, assess whether it was:
 - a. **Fully implemented** → the CNMC's recommendation was implemented and derived in significant changes in the relevant regulatory framework, in line with the goals of the LA.
 - b. **Partially implemented** → only some actions were adopted, and their implementation is not fully in line with the Legal Appeal purpose.
 - c. **Non-implemented** → no action was adopted.
 - d. It is also possible that the some of the recommendations are **non-evaluable** if no data is available or if changes in legislation were not linked to the Legal Appeal.

Ideally, the evaluator should be able to carry out an ex-post assessment of the regulatory framework, which focuses on the introduction of new legislations or regulations after the publication of the act. It would be also desirable to describe how the recommendations were turned into binding regulations (i.e. defining the geographical scope, the applicability and so on).

Once the information is collected, the Evaluator should fill in the following table:

Recommendation	Actions	Outputs	Status of implementation
<p>1) Description of the first recommendation as defined by the Appeal</p>	<p>General considerations (only if necessary - e.g. in those cases where recommendations apply to different agents/regions; or the content of the act is complex and requires a brief explanation to better understand the gaps below).</p> <p>General considerations on the overall recommendation. This section is particularly needed if the recommendation addresses different level of geographical administration. Moreover, this section is also relevant if the recommendation lays down only one action.</p> <p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Actions' we refer to the specific (new or modified) policies to meet the CNMC's recommendation. The evaluator should indicate in this box the relevant actions derived from the Report</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Outputs' we refer to the specific measures introduced by the (new or modified) legislation or policies indicated in the previous box ('Actions'). The evaluator should indicate in this box the relevant measures derived from the implementation of the actions mentioned.</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>For those cases where the recommendations were partially implemented, the evaluator should indicate if further actions are expected and when.</i></p> <p><i>For the rest of the cases, the evaluator should just indicate "Fully implemented" or "Non-Implemented".</i></p>
<p>2) Description of the second recommendation as defined by the Appeal</p>	<p>General considerations (idem):</p>		

3.5.4.2 Impacts on the specific market

Recommendation is fully/partially implemented	Recommendation is not implemented
<p>1) Establish a clear link between the recommendation and the possible impact → in line with the attribution principle, the evaluator should identify the variable which are addressed by recommendation. For instance, if the recommendation suggests opening the market, then the evaluator should assess the potential impact on market structure of its implementation or non-implementation. Once the relevant variables that might be affected by the recommendations are defined, the evaluator should find a set of indicators which are able to capture the Legal Appeal impact. Some examples are provided in the table below.</p>	
<p>Option A: ex-post vs ex-ante analysis</p> <p>Only in those cases where the data availability allows it, the evaluator may match ex-ante and ex-post data to assess the impact of the Legal Appeal on specific indicators. However, in order to estimate the specific impact of the Legal Appeal's recommendations on the market -isolating the effect of any other market shocks- an exhaust econometric analysis would be required. As this methodology is data intensive and very time consuming, the evaluator should be aware that other events may have influenced changes in the relevant variables. If possible, the evaluator should compare several yearly data (i.e. 3 years before and after the Legal Appeal) to offset possible volatility effects or compare the evolution of the relevant variables to those in sufficiently similar markets.</p>	<p>Not applicable when recommendation is not implemented.</p>
<p>Option B : "OECD rule of thumbs-type" estimation inspired by OECD's paper on evaluating enforcement activities, which lists a set of flexible thumb-rules to quantify an impact of improving competition in a given market. These assessments quantify in a simple, concise and consistent manner the benefits expected to result from the decisions on mergers and antitrust infringements they took over the period under examination.</p> <p>The paper lists a set of assumptions which are a useful shortcut to assess impacts of Legal Appeals:</p> <ul style="list-style-type: none"> • For the size of the affected turnover: <ul style="list-style-type: none"> ✓ in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s); ✓ in merger cases, the ex-ante turnover of all the firms in the affected market(s). • For the expected price effect: <ul style="list-style-type: none"> ✓ in cartel cases, an overcharge of 10%; ✓ in abuse of dominance cases, a price increase of 5%; ✓ in merger cases, a price increase of 3%. • For the likely duration of the price increase absent the competition agency's intervention: <ul style="list-style-type: none"> ✓ in cartel cases, a 3-year duration; 	

- ✓ in abuse of dominance cases, a 3-year duration;
- ✓ in merger cases, 2-year duration.

Following the OECD's approach, the evaluator should apply a set of flexible indicators related to competition issues and its corresponding market variables as identified by the CNMC in previous acts or any new research. These indicators relate to the expected impact on relevant variables such as prices, employment, number of operators, or turnover, among others. A proposal on the set of flexible indicators will be provided with the final delivery, but they could be further refined thanks to experience.

The evaluator should link the Competition Issue identified in the Relevance sector with the relevant recommendations and then apply the "OECD rule of thumbs" estimation.

The table below includes a list of potentially relevant indicators. This should be assessed on a case by case scenario.

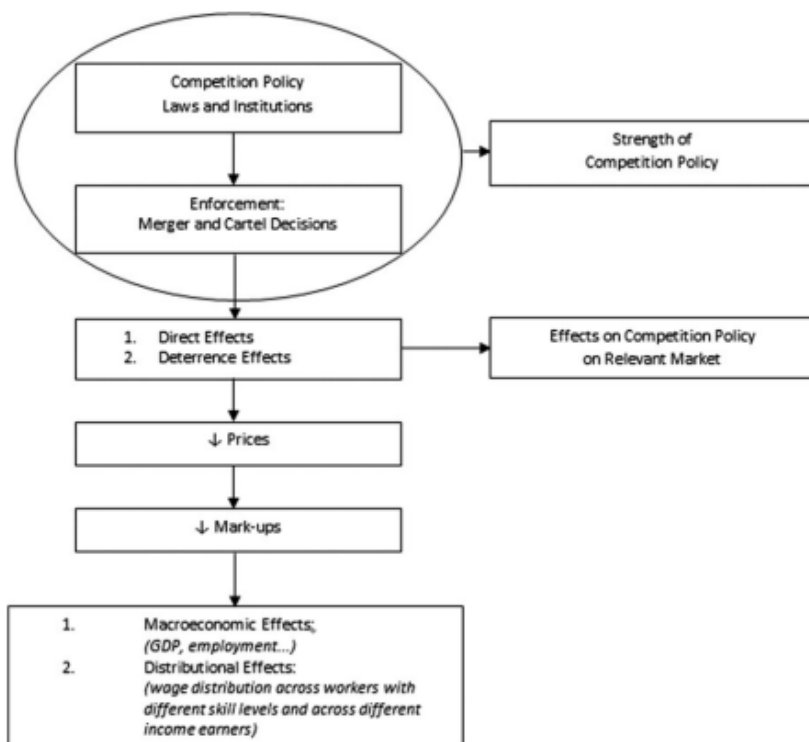
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
	{Insert recommendation from table above}	Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: none"> Average turnover/total turnover
			<ul style="list-style-type: none"> New entrants 	<ul style="list-style-type: none"> Number of new established operators (post LA).
			<ul style="list-style-type: none"> Competition improvement 	<ul style="list-style-type: none"> Number of new licenses
		Price level	<ul style="list-style-type: none"> Price oscillation 	<ul style="list-style-type: none"> Average price for service Ex-ante vs ex-post price level
		Demand features	<ul style="list-style-type: none"> Overall consumer satisfaction Overall number of new consumers 	<ul style="list-style-type: none"> Proxies to identify consumer attitude (i.e. "waiting time")
		Labour & Employment	<ul style="list-style-type: none"> Change in labour costs Job created 	<ul style="list-style-type: none"> Ex ante vs ex post wages Number of newly employed workers

3.5.4.3 Impacts on the wider economy

Competition policy and enforcement has an impact on the whole economy: weak competition policy can bring a loss of economic efficiency (i.e. a slower diffusion innovation brings to worse macroeconomic performances).

The modelling framework proposed is described in the figure below:

Figure 5 Framework to assess impact of competition policy



Dierx, Adriaan & Ilzkovitz, Fabienne & Pataracchia, Beatrice & Ratto, M. & Thum-Thysen, Anna & Varga, Janos. (2017). Does Eu competition policy support inclusive growth? *Journal of Competition Law and Economics*. 13. 225-260. 10.1093/joclec/nhx015.

	YES	NO
Court action sought is fully/partially implemented?	x	
Recommendation had an impact on the specific market?	x	
The specific market has a relevant weight in the wider economy?	x	
<p>Establish a clear link between the action and the possible impact on macroeconomic and distributional effects → in line with the attribution principle, the evaluator should identify which macroeconomic and distributional effects can be attributed to the sectoral impacts caused by the recommendation. For instance, if the action sought by the CNMC demands to open the market to certain competitors, then the evaluator should assess the ex-post vs ex-ante structure of the market and then assess which can be the impact on the GDP or employment. Once the possible impacts on the wider economy are defined, then the evaluator should find a set of indicators able to capture the Legal Appeal's impact on the wider economy.</p>		

Mixed-methods approach

One common form of impact assessment is based on the use of a mixed-methods approach. The evaluator shall provide an assessment based on the general framework presented above and analyse the impacts of the recommendation in terms of macroeconomic impacts and distributional effects.

Macroeconomic effects entails impacts on GDP and unemployment.

Distributional effects entails impacts on: business demographic (i.e. role of SMEs) and skills compensation data (i.e. compensation of low-skilled workers)

This involves the verification of collected evidence against various sources together with quantitative and qualitative data analysis. The analysis is based on various data sources including desk research, data and document libraries, interviews and/or surveys with stakeholders and experts.

The key stages of this approach will be: (1) identifying macroeconomic impacts of the recommendation, (2) assigning quantitative scores and weights to the direct effects and indirect effects, (3) costing the effects, (4) descriptive assessment of the effects on the wider economy.

Interviews/surveys with industry stakeholders, policymakers and experts (including academics) are the key source in this approach as they can provide qualitative and anecdotal evidence for the descriptive assessment. These stakeholders consultation should be used together with other data collection tool and each finding has to be triangulated and weighted against other sources in order to avoid a biased assessment.

3.5.5 Conclusions

Conclusions:

This section shall contain key information and insights concerning:

- **Key info about the act itself (i.e. sector, rationale behind the appeal, objectives)**
- **Key competition issues identified (see relevance section)**
- **Overall assessment of effectiveness and efficiency**
 - *Has the act had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the act required more or less resources than expected?*
 - *Is the CNMC satisfied with the ratio between input/outputs?*
- **Were the actions sought by the CNMC in the act implemented? If yes, to which extend? If not, are there any reasons?**
- **Have the implemented actions sought by the CNMC had any impact on the specific market? If they weren't implemented, which is the economic loss of it?**
- **Is it reasonable to expect impact on the wider economy? If yes, which one?**

Follow Up:

- **Were there any further interventions by the CNMC in the same sector? (i.e. other type of acts addressing the same market)**





- *Did the CNMC further advocate for significant regulatory change in the given market?*
- *Were there any other studies on similar actions?*

3.5.6 Methodological Annex

OECD Papers

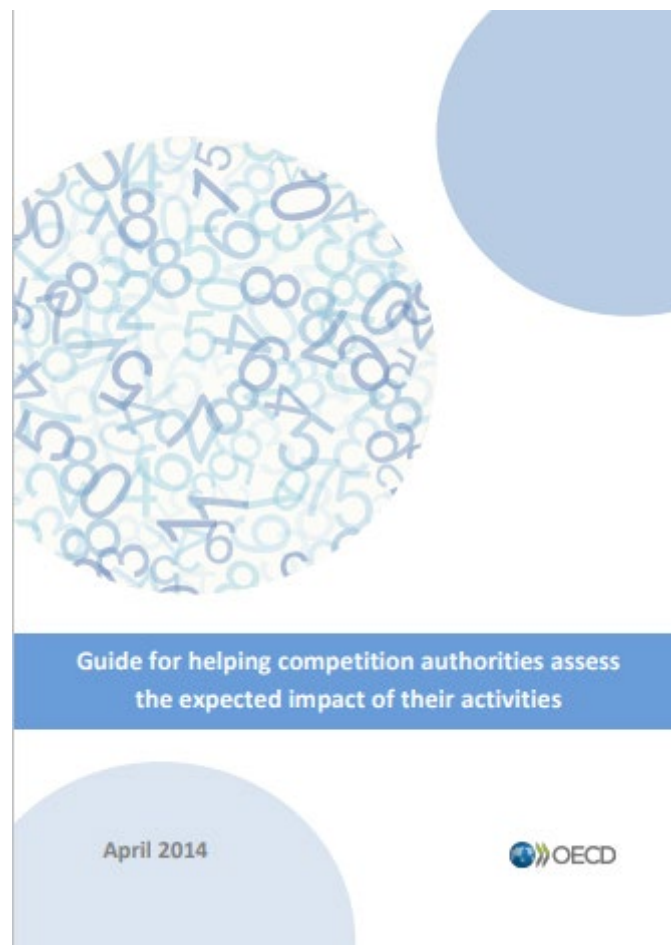
COMPETITION ASSESSMENT CHECKLIST

Competition assessment should be conducted if a legal provision has any of the following effects:



<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">A</div> <h3 style="margin: 0;">Limits the number or range of suppliers</h3> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> A1 Grants exclusive rights for a supplier to provide goods or services<input type="checkbox"/> A2 Establishes a license, permit or authorisation process as a requirement of operation<input type="checkbox"/> A3 Limits the ability of some suppliers to provide a good or service<input type="checkbox"/> A4 Significantly raises cost of entry or exit by a supplier<input type="checkbox"/> A5 Creates a geographical barrier for companies to supply goods, services or labour, or invest capital	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">B</div> <h3 style="margin: 0;">Limits the ability of suppliers to compete</h3> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> B1 Limits sellers' ability to set prices for goods or services<input type="checkbox"/> B2 Limits freedom of suppliers to advertise or market their goods or services<input type="checkbox"/> B3 Sets standards for product quality that provide an advantage to some suppliers over others, or are above the level that some well-informed customers would choose<input type="checkbox"/> B4 Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">C</div> <h3 style="margin: 0;">Reduces the incentive of suppliers to compete</h3> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> C1 Creates a self-regulatory or co-regulatory regime<input type="checkbox"/> C2 Requires or encourages information on supplier outputs, prices, sales or costs to be published<input type="checkbox"/> C3 Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">D</div> <h3 style="margin: 0;">Limits the choices and information available to customers</h3> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> D1 Limits the ability of consumers to decide from whom they purchase<input type="checkbox"/> D2 Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers<input type="checkbox"/> D3 Fundamentally changes information required by buyers to shop effectively

More info at: <https://www.oecd.org/daf/competition/46193173.pdf>



More info at: [Guide for helping competition authorities assess the expected impact of their activities \(oecd.org\)](http://www.oecd.org)

3.5.7 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 for economic operators and/or users and consumers

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, internal:

- 5) *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?*
- 6) *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?*
- 7) *Compared with other Legal appeals, do you think that this act had higher/lower outputs for the same costs?*

3.6 Market Unity reports under Articles 26 and 28 of LGUM – CODES UM

3.6.1 Intro

The introduction shall provide a clear overview of the key features of the market concerned by the act. It should be brief, clear, and understandable also for a non-specialised reader. Its main goal is to present the overall context in which the market studies was carried by providing description of its features and characteristics. Moreover, the introductions should clearly define the regulatory framework applied to the specific market and the motivation behind the CNMC choice to carry out the study.

3.6.2 Key features of the assessment

3.6.2.1 Short description of the market to be assessed

This section should provide a brief overview of the key features of the market (e.g. which is the product/service to be assessed, recent developments and innovation). The overall goal is to provide the reader with a sufficient understanding of the market to be assessed.

This information can be found in Market Unity Report and/or the supporting Economic Study

3.6.2.2 Short description of the market unity failure and rationale for the Market Unity Report

This section should provide a brief overview of principle of market unity that is addressed in the report, the geographical scope, and the economic operators directly affected.

This information can be found in Market Unity Report and/or the supporting Economic Study

3.6.2.3 Specific objectives of the act

This section should explain the action that the CNMC proposes that is taken to address with the market unity failure.

This information can be found in the introduction of the Market Unity Report

3.6.3 Evaluation of the Market Unity Report

The first step to evaluate the Market Unity Report itself. This preliminary step aims at the defining the likelihood of the act to be able to produce its expected outreach. The evaluation is carried according to the following criteria:

- 1. Relevance, which describes the significance of the act in terms of the existing competition issues;***
- 2. Effectiveness, which describes whether the declared Market Unity Report had a real outreach in persuading its direct audience and reaching a broader audience as well;***
- 3. Efficiency, which defines the extent to which the costs and effort of delivering the Market Unity Report were proportionate to the outreach of the report;***
- 4. Coherence, which defines the overall consistency of the Market Unity Report with the other similar advocacy acts by the CNMC.***

3.6.3.1 Relevance

3.6.3.1.1 Relevance of the act

The goal of this section is to identify how many competitions issues are addressed in the Market Unity Report. The list of competition issues follows a classification defined by the OECD, for which a correspondence with the classification by the CNMC is established in Deliverable 3 database.

Each competition issue relevant for the study should be mentioned in the table below together with a short explanation taken from the Market Unity Report itself. This explanation is already included in the Deliverable 3 database, so no further research is needed.

Tips to fill in the table

- ✓ *Discuss only the relevant competition issue (i.e. no need to list all of them).*
- ✓ *When an Economic Study is available to support the Market Unity Report, follow closely the arguments in the study to further identify the competition issues described in the main report.*
- ✓ *The text of the Market Unity Report might include specific descriptions of likely impacts on welfare of actions or lack of actions by public authorities that hinder market unity.*

Table 1: Relevance of the act to competition issues

OECD Competition Issues	Specific question	Comments from the act
A. Limits the number or range of suppliers.	A1. Grants exclusive rights for a supplier to provide goods or services.	
	A2. Establishes a license, permit or authorisation process as a requirement of operation.	
	A3. Limits the ability of some suppliers to provide a good or service.	
	A4. Significantly raises cost of entry or exit by a supplier.	
	A5. Creates a geographical barrier for companies to supply goods, services or labour, or to invest capital.	
B. Limits the ability of suppliers to compete.	B1. Limits sellers' ability to set prices for goods or services.	
	B2. Limits freedom of suppliers to advertise or market their goods or services	
	B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.	
	B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).	
C. Reduces incentive suppliers to compete	C1. Creates a self-regulatory or co-regulatory regime	
	C2. Requires or encourages information on suppliers outputs, prices, sales or costs to be published	
	C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	
D. Limits the choices and information available to customers	D1. Insufficient regulatory development to guarantee the safety and protection of consumers and users	
	D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.	
	D3. Fundamentally changes information required by buyers to shop effectively.	

E. Public intervention in the context of liberalization process	E1. Insufficient regulatory development to guarantee the safety and protection of consumers and users.	
	E2. Insufficient regulatory development to guarantee a correct liberalization process or efficient economic regulation.	
F. Public intervention in the context of liberalization process	F1. Taxes are established that generate additional costs and do not have a clear extra-fiscal purpose.	
	F2. Collusion between economic operators or free competition	
	F3. It may lead to non-compliance with the State Aid scheme	
	F4. Insufficient specifications of the non-normative act to guarantee an efficient economic regulation	

3.6.3.2 Effectiveness

The effectiveness of a Market Unity Report is defined by its capacity to lead to an action that addresses the identified market unity failure (See Section 2.1). To assess the effectiveness of the report, it is essential to measure its outreach. The outreach had two dimensions, a qualitative and a quantitative dimension:

- 3. The **qualitative dimension** related to the extent to which the relevant actor to whom the act is addressed (Secretaría del Consejo para la Unidad de Mercado in Art. 26 and Art 28. Market Unity Reports and a Court in Art. 27) incorporates the argument made in the Market Unity Report and decides in a manner that is attributable to the Market Unity Report to instruct the public administration to take action.*
- 4. The **quantitative dimension** refers to the outreach in terms of general visibility, this is, the times that the Market Unity Report has been consulted or read.*

Both approaches are valuable and complementary. The evaluator must use both, as data is always available to conduct both.

The following table presents an overview of the data collection strategy for assessing the effectiveness.

3.6.3.2.1 Outreach: qualitative assessment

The qualitative assessment of the act must essentially discuss whether the Market Unity Report persuaded the key stakeholders, this is, the administrative courts or the Secretaría del Consejo para la Unidad de Mercado to instruct the public administration to take action in line with what was proposed in the report.

Additionally, the perception by other relevant stakeholders involved in the process must be accounted for.

Perception by public authority

In the cases of Market Unity Report acts issued under Art. 26 and Art. 28 LGUM, the assessment of the effectiveness from a qualitative perspective must lay on whether the *Secretaría del Consejo para la Unidad de Mercado* takes action following the issuing of the Market Unity Reports by the CNMC.

Perception by economic operators and/or by consumers and users

In the cases where Market Unity Reports are issued following a complaint by an economic operator or an organisation representing them, or by a consumer, a user, or an organisation representing them, the outreach of the act in terms of the interested party's level of satisfaction with the actions taken by the CNMC and their outcome can be measured through a short survey (See Annex 4.1).

3.6.3.2.2 Outreach: quantitative assessment

The quantitative assessment of the effectiveness is aimed at capturing the extent to which the Market Unity Report reached a wider audience. This does not contribute to the direct aims of the Market Unity Report but assessing this is necessary to grasp the extent to which the promotion of competition reaches other stakeholders and the population.

The quantitative assessment of effectiveness is assessed through a review of the vies of the Market Unity Report or other documents (such as press releases or the Economic Study) and these documents being referenced in academic articles or in the press.

Tips to fill in the table

- ✓ Have a preliminary check with the CNMC if the information is available (if the Market Unity Report is not recent, some information may be missing);
- ✓ Should there lack precise figures, benchmarking and estimation are also useful.

Theme	Indicators	Source
Outreach to the general public	Number of views of press releases	CNMC internal database
	Number of views of web pages announcements	
	Official publications on the webpage (numbers of views)	
	Number of comments to the draft versions of the Market Unity Report	
Outreach to the academia	Number of studies quoting the Market Unity Report	Reference systems
Outreach to the general press	Number of articles/blogs quoting the Market Unity Report	Web research

3.6.3.3 Efficiency

*The efficiency of a Market Unity Report is understood as the relation between the outcome in terms of the judgement (favourable/non-favourable) of the contestation for which the Market Unity Report was drafted and its costs and effort incurred into its delivery. Efficiency analysis can only be conducted for those cases when internal information on costs is available and data on the outreach of the Report could be identified and analysed (Section 2.2.). If these data are available, the efficiency assessment is grounded on a **Cost-benefit analysis for the CNMC** (cost of carrying out the study vs. the impact it has had).*

While quantitative data should be preferred, it is possible that these data are not available. In that case, estimated costs by the CNMC might be used.

3.6.3.3.1 Efficiency for CNMC

How to identify the respondent(s)

The questionnaire is addressed to the CNMC staff who:

- ✓ Have authored/co-authored the Market Unity Report and/or the supporting Economic Study
- ✓ Have supervised its delivery and publication
- ✓ Are aware of internal costs and can provide estimation

If the staff above cannot be reached, then the questionnaire is to be addressed to CNMC staff who:

- ✓ Have overall knowledge of the implementation of the Market Unity Report

Tips for the questionnaire

- ✓ *The objective is not to assess the efficiency of CNMC work practices, but to understand whether the resources needed for a Market Unity Report have been matched by its outputs (i.e. its outreach achievements)*
- ✓ *If precise figures are not available, estimation and proxy can be used.*

Examples of questions that can be included in a questionnaire are included in Annex 2.

3.6.3.4 Coherence

The coherence of a Market Unity Report is understood as the extent to which the act supports or undermines other relevant policies/instruments in that area. To assess coherence, the evaluator should address the following questions:

- *To what extent is the Market Unity Report coherent with Market Studies on the same economic sector?*
- *To what extent is the Market Unity Report coherent with other Market Unity Reports issued on the same economic sector?*
- *To which extent is the Market Unity Report contributing to achieving the overall goals of the CNMC?*
- *To what extent is the Market Unity Report coherent with other Market Unity Reports issued invoking the same market unity principle or principles (See Section 2.1)?*

How to answer coherence questions

- ✓ *Consult the list of Market Studies and identify if any Market Unity Report addresses the same economic sector*
- ✓ *Consult the list of Market Unity Reports and identify those on cases in the same economic sector or based on the same principle of Market Unity (this can easily be done in the website of CNMC as there is an option to use a filter).*

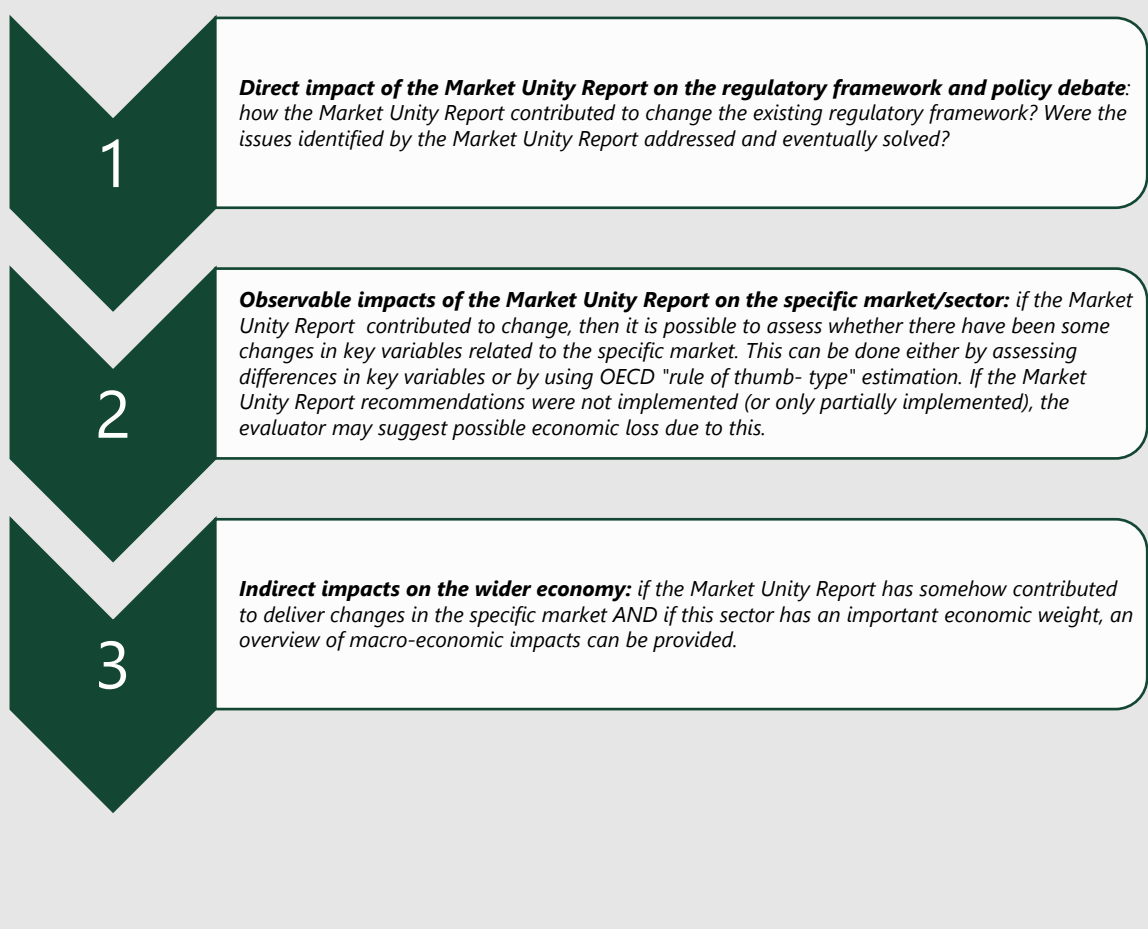
Coherence checklist	Yes	No
Does the Market Unity Report contradict acts of other type issued by the CNMC, including Market Studies and other Market Unity Reports?		
Are there clear inconsistencies between the Market Unity Report and other Market Unity acts issued invoking the same principles?		
Are there clear inconsistencies between the Market Unity Report and other Market Unity acts issued on cases affecting the same economic sector?		

3.6.4 Impact Assessment

The evaluation phase aims at assessing the potentialities of the Market Unity Report to deliver impacts in the specific market and beyond. Several preliminary considerations need to be made:

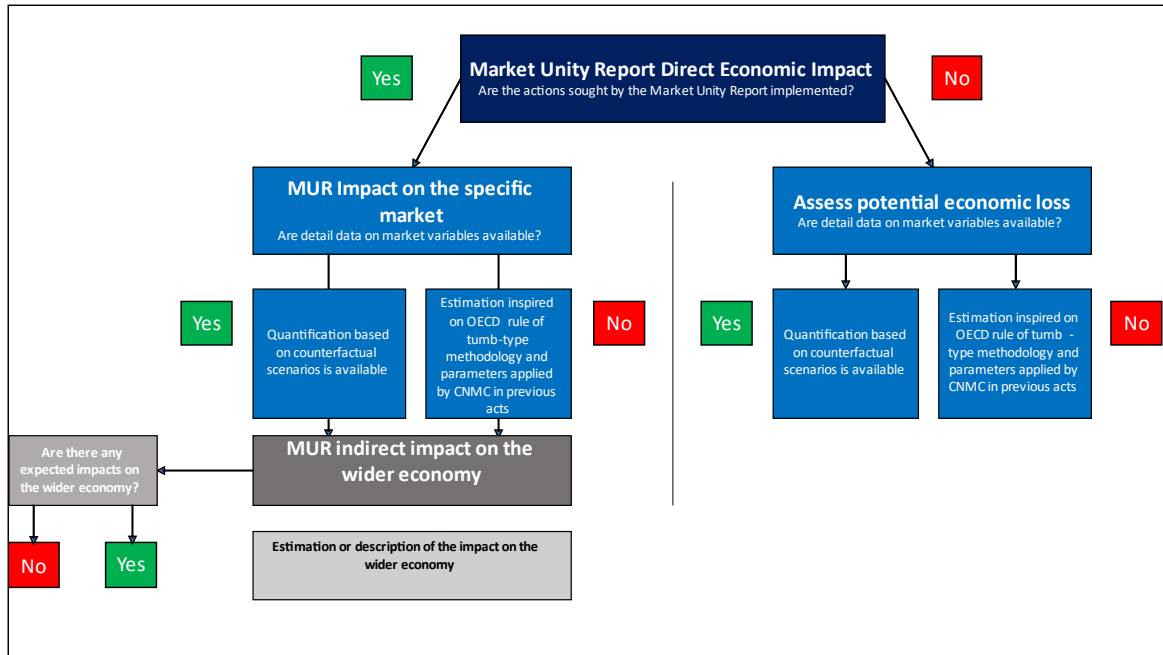
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Market Unity Report and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on).
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated taking into account existing data and information. To do so, it is important to focus on actual impacts rather than potential ones.

Considering these two guiding principles, the Evaluator shall assess the following interconnected impacts:



How to carry out the impact assessment – step by step

The diagram below shows the steps of the Impact Assessment to be followed by the evaluator:



3.6.4.1 Direct impacts of the act

The direct impacts of the Market Unity Report can be any change in the policies of the public administration or the regulation at the local, regional or national level, which results from Market Unity Report's consideration by the relevant authority (Secretaría del Consejo para la Unidad de Mercado in Art. 26 and Art 28. Market Unity Reports or a Court in Art. 27). The evaluator should:

- 1) Identify the **aim** of the Market Unity Report,
- 2) Describe the **actions** that the Market Unity Report seeks that an authority instructs the relevant body of the public administration to perform,
- 3) For each of the issues addressed in the Market Unity Report, identify if the action sought in the Market Unity report is:
 - a. **Fully implemented** → the CNMC's sought action was implemented and lead to an impact on the market
 - b. **Partially implemented** → only some actions were adopted
 - c. **Non-implemented** → no action was adopted
- 4) It is also possible that the some of the Market Unity Report's sought action are **non-evaluable** if no data is available or the case of the Market Unity Report is ongoing.

Ideally, the evaluator should be able to carry out an ex-post assessment of the regulatory framework, which focuses on the introduction of new legislations or regulations after the publication of the act. It would be also desirable to describe how the recommendations were turned into binding regulations (i.e. defining the geographical scope, the applicability and so on).

Once the information is collected, the evaluator should fill in the following table, unless there is not data available on the impacts of the Market Unity Report.

Actions sought by the CNMC	Actions	Status of implementation
<p>1) Description of the first action by public administration sought by the Market Unity Report</p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'Action' we refer to the specific action by the relevant authority (Secretaría del Consejo para la Unidad de Mercado in Art. 26 and Art 28, Market Unity Reports or a Court in Art. 27 Market Unity Reports. The evaluator should indicate in this box the action by these authorities in response to the Market Unity Report</i></p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p><i>By 'the Status of Implementation' we refer to the actions taken by the different addressees. In some cases, the sentence by the relevant authority directly implements the action, but in some others, it requires a body of the public administration to act accordingly. The evaluator should indicate in this box the action by the public administration following the binding request by either the Secretaría del Consejo para la Unidad de Mercado or by an administrative court</i></p>
<p>2) Description of the second action by public administration sought by the Market Unity Report</p>	<p>...</p>	<p>...</p>

3.6.4.2 Impacts on the specific market

Recommendation is fully/partially implemented	Recommendation is not implemented
<p>1) Establish a clear link between the recommendation and the possible impact → in line with the attribution principle, the evaluator should identify the variable which are addressed by the action sought by the CNMC. The evaluator must identify the extent to which the court decision accepts the arguments presented in the Market Unity Report, to justify that the action by the public administration is a direct consequence of the Market Unity Report and that the impacts should not be attributed to different factors.</p>	
<p>Option A: ex-post vs ex-ante analysis</p> <p>Only in those cases where the data availability allows it, the evaluator may match ex-ante and ex-post data to assess the impact of the Market Unity Report on specific indicators. However, in order to estimate the specific impact of the MUR's sought actions on the market -isolating the effect of any other market shocks- an exhaust econometric analysis would be required. As this methodology is data intensive and very time consuming, the evaluator should be aware that other events may have influenced changes in the relevant variables. If possible, the evaluator should compare several yearly data (i.e. 3 years before and after the study) to offset possible volatility effects or compare the evolution of the relevant variables to those in sufficiently similar markets.</p>	<p>Not applicable when actions are not implemented.</p>
<p>Option B : "OECD rule of thumbs-type" estimation inspired by OECD's paper on evaluating enforcement activities, which lists a set of flexible thumb-rules to quantify an impact of improving competition in a given market. The paper lists a set of assumptions which are a useful shortcut to assess impacts of Market Unity Report. The price increase scenario is particularly likely to be valid assumption for market unity cases.</p> <ul style="list-style-type: none"> • For the size of the affected turnover: <ul style="list-style-type: none"> ✓ in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s); ✓ in merger cases, the ex-ante turnover of all the firms in the affected market(s). • For the expected price effect: <ul style="list-style-type: none"> ✓ in cartel cases, an overcharge of 10%; ✓ in abuse of dominance cases, a price increase of 5%; ✓ in merger cases, a price increase of 3%. • For the likely duration of the price increase absent the competition agency's intervention: <ul style="list-style-type: none"> ✓ in cartel cases, a 3-year duration; ✓ in abuse of dominance cases, a 3-year duration; ✓ in merger cases, 2-year duration. 	

Following the OECD's approach, the evaluator should apply a set of flexible indicators related to competition issues and its corresponding market variables as identified by the CNMC in previous acts or any new research. These indicators relate to the expected impact on relevant variables such as prices, employment, number of operators, or turnover, among others. A proposal on the set of flexible indicators will be provided with the final delivery, but they could be further refined thanks to experience.

The evaluator should link the Competition Issue identified in the Relevance section with the relevant recommendations and then apply the "OECD rule of thumbs" estimation.

The table below includes a list of potentially relevant indicators. This should be assessed on a case by case scenario.

In those cases where both national and regional data are available, the evaluator must consider only the geographical scope of the market unity case, and identify changes affecting only the jurisdiction on which the Market Unity Report had effects.

OECD Competition issues	Relevant market unity principle	Impact	Indicator	Data
A1.	<i>National territory efficacy/non-discrimination/need and proportionality/simplification of burden/guarantees to the freedom of economic operators/transparency/cooperation and mutual trust</i>	Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: none"> Average turnover/total turnover, Size of companies in the market
			<ul style="list-style-type: none"> New entrants 	<ul style="list-style-type: none"> Number of new established operators (post Market Unity Report).
			<ul style="list-style-type: none"> Competition improvement 	<ul style="list-style-type: none"> Number of new licenses
		Price level	<ul style="list-style-type: none"> Price oscillation 	<ul style="list-style-type: none"> Average price for service Ex-ante vs ex-post price level
		Demand features	<ul style="list-style-type: none"> Overall consumer satisfaction Overall number of new consumers 	<ul style="list-style-type: none"> Proxies to identify consumer attitude (i.e. "waiting time")

		Labour & Employment	<ul style="list-style-type: none">• Change in labour costs• Job created	<ul style="list-style-type: none">• Ex ante vs ex post wages• Number of newly employed workers
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3.6.4.3 Impacts on the wider economy

Competition policy and enforcement have impacts on the economy as a whole: weak competition policy can bring a loss of economic efficiency (i.e. a slower diffusion innovation brings to worse macroeconomic performances). However, due to the small geographical and sectoral scope of Market Unity Reports, it is not expected that most Market Unity Reports will have an effect on the wider economy that is measurable.

Therefore, it is proposed that the economic impact on the wider economy is assessed to the extent that the impacts are observable. If the actions sought by the CNMC are implemented, had a discernible impact on a specific market and that market has a significant weight in the wider economy, then the evaluator must assess the economic impacts on the wider economy as described below.

	YES	NO
Action sought by the CNMC is fully/partially implemented?	x	
Action sought by the CNMC had an impact on the specific market?	x	
The specific market has a relevant weight in the wider economy?	x	
<p>Establish a clear link between the recommendation and the possible impact on macroeconomic and distributional effects → in line with the attribution principle, the evaluator should identify which macroeconomic and distributional effects can be attributed to the sectoral impacts caused by the actions sought by the CNMC. For instance, if the Market Unity Report's aim is that transport companies can register second-hand vehicles, then the evaluator should assess the ex post vs ex ante structure of the market and then assess which can be the impact on the GDP or employment. Once the possible impacts on the wider economy are defined, then the evaluator should find a set of indicators which are able to capture the Market Unity Report's impact on the wider economy.</p>		
<p>Option A: Mixed-methods approach</p> <p>One common form of impact assessment is based on the use of a mixed-methods approach. The Evaluator shall provide an assessment based on the general framework presented above and analyse the impacts of the recommendation in terms of macroeconomic impacts and distributional effects.</p> <p>Macroeconomic effects entails impacts on GDP and unemployment.</p> <p>Distributional effects entails impacts on: business demographic (i.e. role of SMEs) and skills compensation data (i.e. compensation of low-skilled workers).</p> <p>This involves the verification of collected evidence against various sources together with quantitative and qualitative data analysis. The analysis is based on various data sources including desk research, data and document libraries, interviews and/or surveys with stakeholders and experts.</p> <p>The key stages of this approach will be: (1) identifying macroeconomic impacts of the actions sought, (2) assigning quantitative scores and weights to the direct effects and indirect effects, (3) costing the effects, (4) descriptive assessment of the effects on the wider economy.</p> <p>Interviews/surveys with industry stakeholders, policymakers and experts (including academics) are the key source in this approach as they can provide qualitative and anecdotal evidence for the</p>		

descriptive assessment. These stakeholders consultation should be used together with other data collection tool and each finding has to be triangulated and weighted against other sources in order to avoid a biased assessment.

Option B: Qualitative description of impacts

If there is not enough data to conduct the mixed-methods approach described above, the evaluator should provide an assessment of the impacts on the wider economy that relies on qualitative information. For this, the evaluator must interview staff at the CNMC who were involved in the drafting of the Market Unity Report and seek to define the nature of the economic impacts, the causal relation, or any additional information that the staff at the CNMC can possibly provide in the absence of observable quantitative data (See Annex 4.3).

3.6.5 Conclusions

Conclusions:

This section shall contain key information and insights concerning:

- **Key info about the act itself (i.e. sector, rationale behind the appeal, objectives)**
- **Key competition issues identified (see relevance section)**
- **Overall assessment of effectiveness and efficiency**
 - *Has the act had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the act required more or less resources than expected?*
 - *Is the CNMC satisfied with the ratio between input/outputs?*
- **Were the actions sought by the CNMC in the act implemented? If yes, to which extend? If not, are there any reasons?**
- **Have the implemented actions sought by the CNMC had any impact on the specific market? If they weren't implemented, which is the economic loss of it?**
- **Is it reasonable to expect impact on the wider economy? If yes, which one?**

Follow Up:





- **Were there any further interventions by the CNMC in the same sector? (i.e. other type of acts addressing the same market)**
- **Did the CNMC further advocate for significant regulatory change in the given market?**
- **Were there any other studies on similar actions?**

3.6.6 Methodological Annex

OECD Papers

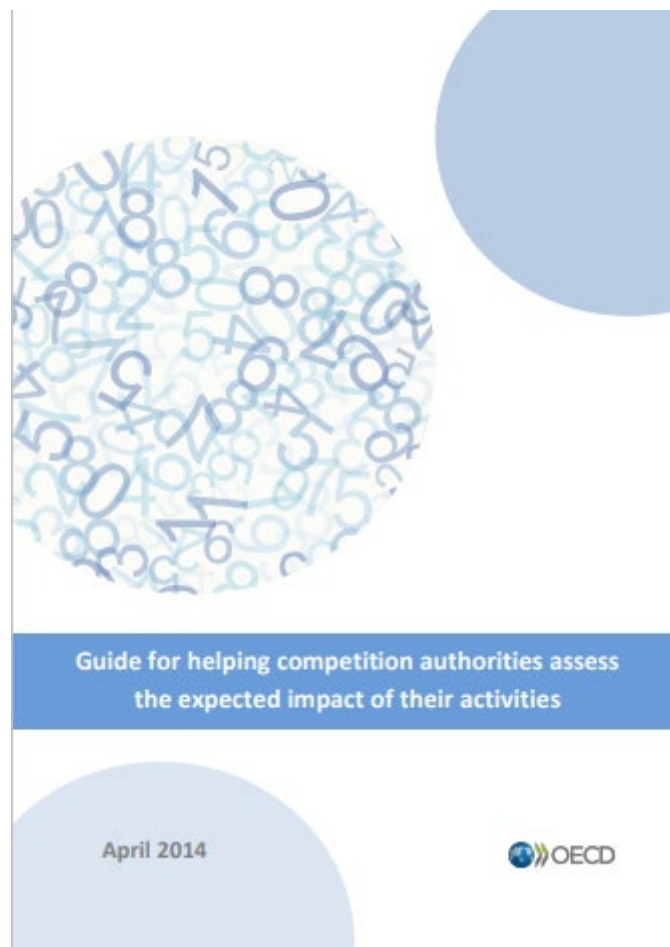
COMPETITION ASSESSMENT CHECKLIST

Competition assessment should be conducted if a legal provision has any of the following effects:



<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">A</div> <h3 style="margin: 0;">Limits the number or range of suppliers</h3> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> A1 Grants exclusive rights for a supplier to provide goods or services<input type="checkbox"/> A2 Establishes a license, permit or authorisation process as a requirement of operation<input type="checkbox"/> A3 Limits the ability of some suppliers to provide a good or service<input type="checkbox"/> A4 Significantly raises cost of entry or exit by a supplier<input type="checkbox"/> A5 Creates a geographical barrier for companies to supply goods, services or labour, or invest capital	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">B</div> <h3 style="margin: 0;">Limits the ability of suppliers to compete</h3> <p style="margin: 5px 0 0 20px;">This is likely to be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> B1 Limits sellers' ability to set prices for goods or services<input type="checkbox"/> B2 Limits freedom of suppliers to advertise or market their goods or services<input type="checkbox"/> B3 Sets standards for product quality that provide an advantage to some suppliers over others, or are above the level that some well-informed customers would choose<input type="checkbox"/> B4 Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">C</div> <h3 style="margin: 0;">Reduces the incentive of suppliers to compete</h3> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> C1 Creates a self-regulatory or co-regulatory regime<input type="checkbox"/> C2 Requires or encourages information on supplier outputs, prices, sales or costs to be published<input type="checkbox"/> C3 Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law	<div style="background-color: #4CAF50; color: white; padding: 5px; text-align: center;">D</div> <h3 style="margin: 0;">Limits the choices and information available to customers</h3> <p style="margin: 5px 0 0 20px;">This may be the case if the provision:</p> <ul style="list-style-type: none"><input type="checkbox"/> D1 Limits the ability of consumers to decide from whom they purchase<input type="checkbox"/> D2 Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers<input type="checkbox"/> D3 Fundamentally changes information required by buyers to shop effectively

More info at: <https://www.oecd.org/daf/competition/46193173.pdf>



More info at: [Guide for helping competition authorities assess the expected impact of their activities \(oecd.org\)](http://www.oecd.org)

3.6.7 Questionnaires

Questionnaire on effectiveness for economic operators and/or users and consumers:

- 7) *Please describe your overall knowledge of the Market Unity Report and your familiarity with it.*
- 8) *Do you consider that the Market Unity Report reflects the market unity issue that you experienced?*
- 9) *Do you consider that the Market Unity Report correctly reflects the impacts that the market unity failure addressed in it had on you as a consumer/user/economic operator? Why or why not?*
- 10) *Do you consider that the Market Unity Report proposes effective solutions to the market unity issue that you experienced?*

Questionnaire on efficiency, internal:

- 8) *Is it possible to define the time spent by the CNMC employees in delivering the Market Unity Report? If yes, was it in line with the average effort required to elaborate this kind of act?*
- 9) *Did the report required the support/advise by external experts? If so, was the cost of these external experts and the time spent by them working on the Market Unity Report?*

- 10) *Compared with other Market Unity Reports, do you think that this act had higher/lower outputs for the same costs?*

Questionnaire – qualitative description of impacts on the wider economy:

- 1) *Did the Market Unity Report have a discernible impact on the wider economy, either at the local, provincial, regional or national level?*
- 2) *How did the adoption of actions sought by the Market Unity Report cause an impact on the wider economy?*
- 3) *Did the implementation of action sought in the market unity report cause any of the following? Please, describe in as much detail as possible these impacts:*
 - *Effects on the GDP and unemployment;*
 - *Distributional effects (business demographics, SMEs, etc);*
 - *Prices.*

4 Literature review

4.1 Introduction: assessing advocacy acts

Over the past decades, competition authorities have become increasingly interested in conducting ex post evaluations of their interventions. In fact, competition policy has faced criticisms regarding its capacity to tackle market power and to evolve to consider new trends such as globalisation and digitalisation. These criticisms increased the importance of working on credible ex post evaluations and impact assessment of past competition authorities' practices in order to defend their legitimacy to take these kinds of actions and to test their worth. In this section, we will define the concepts related to ex post evaluation and impact assessment both from a micro and a macroeconomic perspective.

Ex post evaluation and impact assessment looks at **economic effects of competition enforcement and the underlying regulatory framework**. The economic effects are the impacts of competition policy on prices, mark-ups, non-price effects and, in an aggregate perspective, on productivity, employment and economic growth. (Ilzkovitz and Dierx, Chapter 1, 2020).

In general terms, according to the relevant economic literature, five main objectives of ex-post evaluations can be identified:

1. to enhance decision-making and enforcement practice;
2. to improve the effectiveness of competition law;
3. to set internal priorities;
4. to defend the legitimacy of competition policy enforcement and to advocate competition; and
5. to improve the transparency of policy decisions. (Ilzkovitz and Dierx, Chapter 1, 2020).

The main problems identified concerning competition advocacy are related to the **difficulties in the attribution** of the impacts on greater competition or consumer protection. Unlike other impact assessment studies, whose aim is to determine the extent to which a specific policy measure would have a certain effect, assessing the impact of competition advocacy requires **to determine their influence on policy-makers, government institutions or courts**, which in turn conduct policy, introduce regulatory modifications or take judicial decisions with **economic consequences**.

According to Zywicki et al (2004), the value of competition advocacy should be measured by the degree to which advocacy acts changed regulatory outcomes times the value to consumers of those improved outcomes. Measuring the degree to which competition advocacy influenced decision-makers is elusive for multiple reasons such as the fact that competition advocacy does **not only have a direct effect on a specific policy**, but has a wider, intangible effect in favoring the emergence of a competition culture (Zywicki et al 2004).

The academic literature showcases that the preferred method to estimate the effects of the competition advocacy actions is to conduct surveys with the stakeholders by them targeted. Concretely, these stakeholders are directly asked about the degree to which they are or were aware of the competition advocacy actions and the extent to which this awareness had an influence on the specific decisions they took (Zywicki et al 2007, ICN, 2012).

Although it is difficult to precisely measure the impact of advocacy acts on regulatory outcomes, the advocacy activities by national competition authorities are more cost-effective than enforcement. In fact, enforcement has high costs and inherent uncertainty of litigations, while advocacy activity requires smaller number of resources. Moreover, by preventing or ameliorating anticompetitive restraints before they are imposed, advocacy can avoid, or at least attenuate, consumer harm. (Zywicki, Todd & Cooper, James & Pautler, Paul. 2004)

4.2 Description and assessment of the relevant guidelines

Assessing the impact of rules and regulations on competition can help to accomplish important economic goals: markets that are competitive are more efficient and innovative. In this regard, several competition authorities and organisations have drafted guidelines to assess the impact of regulation on competition and economic outcomes.

The main framework is provided by the *OECD Competition Assessment Toolkit*. This toolkit provides a **general framework to evaluate draft new laws and regulations** (for example, through regulatory impact assessment programs), to evaluate existing laws and regulations (applying either to the economy as a whole or to specific sectors) and to evaluate the competitive impacts of the regulatory modifications implemented by government bodies (such as competition authorities). In this toolkit, the OECD provides a **useful framework to understand which situations or market failures might require a competition assessment on new or existing regulation**. Table 1 below presents the list of market failures identified by the *OECD's Competition Assessment Toolkit* (OECD 2019).

Table 10. Competition Assessment Toolkit: limits to competition or market failures

Competition assessment should be conducted if a legal provision has any of the following effects
A1. Grants exclusive rights for a supplier to provide goods or services.
A2. Establishes a license, permit or authorisation process as a requirement of operation.
A3. Limits the ability of some suppliers to provide a good or service.
A4. Significantly raises cost of entry or exit by a supplier.
A5. Creates a geographical barrier for companies to supply goods, services, or labour, or to invest capital.
B1. Limits sellers' ability to set prices for goods or services.
B2. Limits freedom of suppliers to advertise or market their goods or services.
B3. Sets standards for product quality that provide an advantage to some suppliers over others or are above the level that some well-informed customers would choose.
B4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).
C1. Creates a self-regulatory or co-regulatory regime.
C2. Requires or encourages information on supplier outputs, prices, sales, or costs to be published.
C3. Exempts the activity of a particular industry, or group of suppliers, from the operation of general competition law.
D1. Limits the ability of consumers to decide from whom they purchase.

Competition assessment should be conducted if a legal provision has any of the following effects
D2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.
D3. Fundamentally changes information required by buyers to shop effectively.

Source: OECD (2019), *Competition Assessment Toolkit: Volume 2. Guidance*

The *OFT Guideline on Completing competition assessments in Impact Assessments* suggests that in the impact assessment process, **policy-makers have to firstly identify who, directly or indirectly, will be affected by the policy**. This information is then used as a starting point for the competition impact assessment. In fact, the competition assessment requires policy-makers to identify the markets directly affected by the measures applied as well as other markets in the supply chain which may also be affected²¹ (OFT 2010).

The *OECD Competition Assessment Toolkit* also provides a guidance on the assessment of competition policy related regulations that is helpful in analysing the impacts of advocacy acts on market competition. The starting point of any evaluation should be to identify the objectives pursued by each specific regulation. Secondly, the evaluator should map the existing barriers to fulfil those objectives, which could be related to regulatory barriers, sunk costs or the behaviour of the incumbent firm (OECD 2019).

According to OECD (2019), once these points have been identified, the evaluator shall assess several variables in order to analyse the impact of the regulation on market competition. These are the following:

- 1) **Examine the effect of regulation on incumbent businesses.** How the regulation might affect firms' operations, whether there are substantially different impacts on different firms and whether the differing impacts would substantially change the intensity of competition. This requires an analysis on the:
 - Costs of meeting the regulation.
 - Effect of the regulation on the exit of firms.
 - Effect of the regulation on the potential anti-competitive behaviour of incumbent firms.
- 2) **Examine the effect of regulation on the entry of new firms.** Moreover, the evaluator shall analyse whether the regulation has an impact on the entry of any types of entrants or on specific types of firms.
- 3) **Examine the impact of regulation on prices and production.** The evaluator shall analyse the potential channels through which the regulation can impact prices:
 - Increase in production costs (i.e. new costs on producers).
 - Increase in market power (i.e. increased barriers to entry and higher mark-ups).
 - Likelihood of anti-competitive behaviour (i.e. higher information sharing and increased collusion).
- 4) **Examine the impact of regulation on the quality and variety of goods and services.** Quality and variety can be affected through alternative mechanisms such as:
 - Regulations that set minimum quality standards.
 - Regulations that lead firms to exit in markets with differentiated products.
 - Barriers-to-entry and the potential increase in goods and services variety derived from freer markets.

²¹ It may be an issue where the supply chain is not fully understood. In this case the British guideline suggests that policy-makers should attempt to clarify the supply chain through the consultation process.

- 5) **Examine the effect of regulation on innovation.** Innovation can have an impact on the efficiency of business operations:
 - If a regulation creates barriers to entry and causes the exit of incumbent firms, it is highly likely to result in reducing competition and innovation in the market.
 - If the regulation imposes a certain way of operating a business, for example, based on traditional ways of service or good provision, then it may prevent firms from adopting new technologies and business models.
- 6) **Examine the effect of regulation on the market's growth.** Market growth issues (e.g. anti-competitive regulation) can be examined by considering the increase in production and sales as well as new capital investments in plant, equipment and machinery.
- 7) **Examine the effect of regulation on related markets.** To properly assess the impact of a regulation, the evaluator should examine its effects on all the related upstream and downstream markets.
- 8) **Provide a summary of the impact of the rule or regulation** on prices and production, product variety and quality, efficiency, innovation for both primary markets and related markets (upstream and downstream).
- 9) **Provide alternatives to the proposed rule or regulation.** If rules and regulations can be updated to reduce the harm to competition, the evaluators shall identify alternative ways of structuring those rules and regulations, assessing the potential competition effects of each alternative, comparing the different alternatives and ranking the options in order to maximize consumer benefits.

This preliminary assessment will facilitate, at a later stage, the consideration and evaluation of alternatives to achieve the objectives pursued by the specific regulation with fewer market restrictions.

The OECD list of market failures above has been used also in the European Commission's *Better Regulation Toolbox (Tool #23)* to screen policies for potential detrimental effects on competition. According to the European Commission's *Better Regulation Toolbox* also proposes that when the preliminary assessment concludes that regulation might introduce significant risks that undermine competition in the market, the evaluator can provide **different alternatives** to that regulation. Some of the options proposed by the EC to evaluate these alternatives are the following:

- Tailored transition periods/provisions when adopting new legislation.
- Using economic incentives rather than regulation to deal with externalities.
- Ensuring adequate consumer information rather than mandatory product characteristics.
- Voluntary rather than mandatory product specifications.
- Reliance on competition law/competition enforcement rather than sector specific regulation to deal with inappropriate competitive behavior (European Commission 2017).

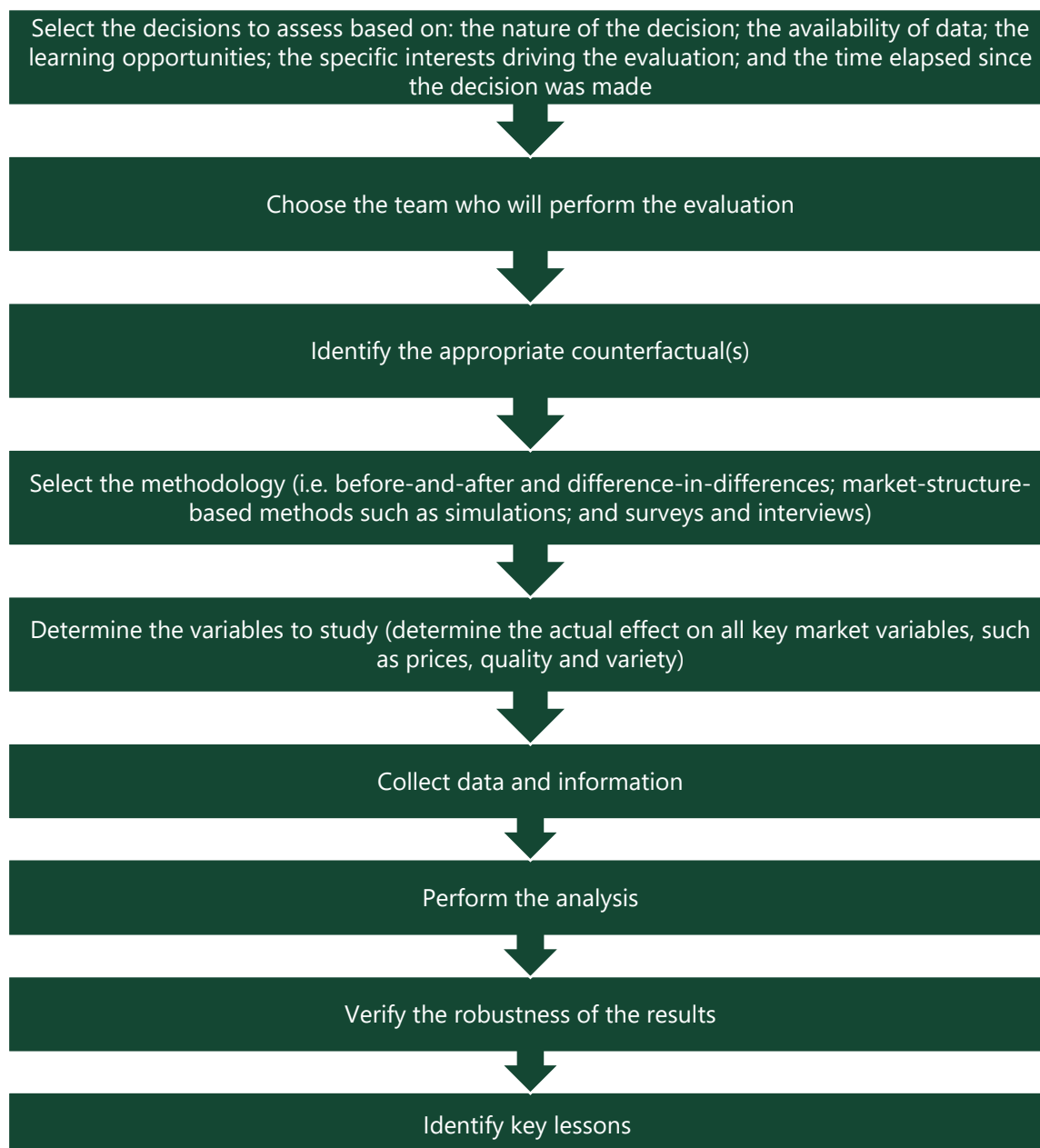
In case of no available alternatives, the *Best Practice Regulation Handbook* of the Australian Government suggests that **the regulation should be assessed from the perspective of economic well-being** (that is, whether there are net benefits from the regulation, taking into account the costs of the anti-competitive impacts) (Australian Government 2007).

The interest of competition authorities is not only to assess whether regulation on a given market or on a wider economy is in line with the competition policy principles, but also to assess the impact that their own actions, decisions and recommendations have on market competition. To do so, the evaluator might carry out an ex-post evaluation.

Ex-post evaluations can help to determine whether an intervention (or non-intervention) by a competition authority achieved its objectives. If it did not, the ex-post evaluation can help to identify the reasons why the intervention (or non-intervention) failed to fulfill its purpose

and how to better design the implementation of future interventions in similar cases. The *OECD Reference guide on ex-post evaluation of competition agencies' enforcement decisions* outlines a number of steps that have to be taken in order to design and perform an ex-post evaluation (see Figure 1 below) OECD (2016).

Figure 6. Key steps of ex-post evaluations



Source: OECD (2016), Reference guide on ex-post evaluation of competition agencies' enforcement decisions.

Regular ex-post evaluations can provide the competition authority with valuable information in terms of improving decision-making and identifying common patterns by conducting a series of studies on the same type of decision (e.g. mergers, abuse of dominance) or on a specific problematic sector (OECD 2016).

Ex-post evaluations might be performed to determine the effect of competition authorities' practices along different periods of time, depending on the kind of decision and the scope of the intervention

they made. On the one hand, an ex-post evaluation of **specific interventions** (e.g. a decision on a merger case) involves the assessment of the impact of such intervention on the relevant market(s). This type of case-specific evaluation is normally performed some time after the interventions have been made to determine their actual effect. These assessments are usually performed to verify the accuracy and appropriateness of the interventions and to improve the competition authority's decision-making process (OECD 2013).

On the other hand, impact assessments might refer to **broader interventions** taken by the authority over a period of time (without distinguishing among types of decisions), or a subset of them (e.g. referred only to cartel decisions). In these cases, ex-post evaluations are performed soon after these decisions are made. Thus, they can only estimate the likely effects on the basis of assumptions. These impact assessments examine the links between competition enforcement and advocacy activities and one or more macro-level economic variables, such as productivity, innovation, growth, or employment, and assess the impact that the former have on the latter (OECD 2013).

The OECD *Guide for helping competition authorities assess the expected impact of their activities* provides an essential framework to assess the impact of the activities of the competition authorities focusing on the enforcement activities rather than advocacy activities. This guide is meant to provide a methodology to assess the overall benefits resulting from the decisions on mergers and antitrust infringements that competition authorities took in the period of time under examination (OECD 2014a).

In particular, the abovementioned guide by the OECD provides a set of general principles to be applied when performing an impact assessment:

- Whenever possible use case-specific information.
- Assume that no intervention will have a negative impact.
- Estimate static consumer benefits (i.e. on prices) and, when possible, also include dynamic ones (i.e. on Innovation, quality and productivity).
- Calculate and publish the impact assessment regularly.
- Present the results both as an annual figure and as an annual moving average over three years.
- Present the results by type of decisions, when possible.
- Give 'point' estimates within a range of plausible values (i.e. though a sensitivity analysis) (OECD 2014a).

In terms of methodology, OECD (2014a) suggests then a simple and easily applicable methodology which should be relatively undemanding in terms of cost and time. The OECD methodology is summarised in the table below.

Table 11. OECD Impact assessment methodology

<p>Consumer benefits</p> <p>In order to assess the static consumer benefits resulting from each decision, the evaluator shall estimate:</p> <ul style="list-style-type: none"> • the size of the affected turnover; • the price increase removed or avoided; • the expected duration of the price effect. <p>The total consumer benefit is the product of these three figures.</p> <p>Set of default assumptions (to be used when specific information that allows calculation of the three figures listed above is not available)</p>

When such information is not available, or it cannot be used for confidentiality or other legal reasons, the following assumptions can be used:

1. for the size of the affected turnover:
 - in cartel and abuse of dominance cases, the ex-ante turnover of the companies under investigation in the affected market(s);
 - in merger cases, the ex-ante turnover of all the firms in the affected market(s).
2. for the expected price effect:
 - in cartel cases, an overcharge of 10%;
 - in abuse of dominance cases, a price increase of 5%;
 - in merger cases, a price increase of 3%.
3. For the likely duration of the price increase absent the competition agency's intervention:
 - in cartel cases, a 3-year duration;
 - in abuse of dominance cases, a 3-year duration;
 - in merger cases, 2-year duration

OECD (2014), *Guide for helping competition authorities assess the expected impact of their activities*

The guide then suggests that the authority, when publishing its impact assessment, includes a clear explanation of the methodology used and its limitations (OECD 2014a).

Despite the increase in the advocacy practices by competition authorities in recent years and the greater focus on the impact of their interventions, ex-post assessments are still quite rare.

Indeed, the only examples found in guidelines concern market studies, which examines why particular markets appear not to be working well for consumers. These market studies may lead to recommendations as to how they might change in order to function better. Markets may be then referred for a market investigation for further analysis.

The UK CMA (former OFT) is one of the most active authorities in these regards. In 2010, the CMA published its *Guide to OFT's Impact Estimation methods*, which is still used by the CMA to perform ex-post impact assessments. Every year, the CMA commissions at least one evaluation of a market study. These independent evaluations typically include monetary ex-post estimates of consumer savings resulting from CMA interventions, based on information gathered after the CMA recommendations have been implemented and an impact might be observed. Therefore, the results of an ex-post evaluation are more robust than the ex-ante estimates provided in the market study. For market studies, or other acts that recommends action by CMA or other agencies, the competition authority uses ex-post estimates from evaluations when available and if not, rely on ex-ante estimates of impact. As it is the case with the rest of competition authorities, the evaluation of CMA activities fulfils a dual role of both external accountability (i.e. whether the CMA delivers its objectives and does so cost-effectively to the taxpayer and Parliament) and internal management (to help prioritise, conduct, and follow up its work to ensure that its impact is maximised) (OFT 2010a).

The OECD in its 2018 *Guide on Market Studies for Competition Authorities* states that **ex-post evaluations can help determine the effectiveness of the market study in meeting its objective and help establish the value of market studies as an advocacy tool** (OECD 2018).

OECD (2018) provides two different methodologies to assess the impacts of a market study ex-post:

- a comprehensive methodology aimed at:
 - o monitoring compliance with mandatory orders, the implementation of recommendations by governments, regulators and market participants, and the effectiveness of the authority outreach activities with policymakers and consumers.
 - o determining whether competition problems in a sector persist, and therefore whether further study or action is required on their part.

- developing lessons learnt regarding the selection and application of remedies, which can be applied to future market studies in the same sector, or studies targeting the same types of problems in other sectors. Testing whether certain types of remedies are more effective than others could also be helpful for merger control and enforcement work.
- a more limited approach methodology to assess the outcomes of the study by simply reporting the number of legislative and policy recommendations that have been made and the number that have been adopted. (OECD 2018).

In the table below a list of relevant guidelines issued by national and international authorities is available.

Table 12. List of relevant Guidelines

- Australian Government (2007), Best Practice Regulation Handbook, Canberra. Available at: <http://regulatoryreform.com/wp-content/uploads/2015/02/Australia-Best-Practice-Regulatory-Handbook-2007.pdf>
- Competition Assessment Toolkit (2010), Korea Fair Trade Commission. Available at: <https://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/46192134.pdf>
- European Commission (2017), Better Regulation Toolbox, TOOL #23. COMPETITION. Available at: https://ec.europa.eu/info/sites/default/files/better-regulation-toolbox_2.pdf
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4.3 Policy papers and other government publications

The evaluation of competition enforcement and advocacy activities refers to all those assessment exercises that competition authorities undertake to determine the effectiveness of their work, to provide transparency about their activities and to account for the use of their resources.

In 2013, the OECD published the results of a survey from 46 competition authorities in 44 jurisdictions in the report *Evaluation of competition enforcement and advocacy activities: the results of an OECD survey*. The aim of this questionnaire was to understand what kind of evaluation exercises competition authorities have been undertaking, why they have been undertaking them and how they have been doing it. The results of this questionnaire shows that, on average, between 20% and 25% of the competition authorities regularly quantify the benefits of their activities deriving from the detection of cartels and other anticompetitive agreements, the appraisal of mergers and the investigation of abuses of dominance. However, **only a few of them assess the benefits of advocacy and other types of interventions** (OECD 2013). Below there are some relevant examples of ex-post assessment of advocacy acts and advocacy activities.

- One example is provided by the Canadian Competition Bureau with its *Self-Regulated Professions - Post-study assessment*. In 2007, the Competition Bureau released a study on *Self-Regulated Professions: Balancing Competition and Regulation*²² that examined the regulation of five self-regulating professions and proposed 53 recommendations that were communicated to the relevant self-regulating bodies. This ex-post assessment provides a concise follow-up on these recommendations highlighting how the study has been effective in accomplishing its objectives and traces the policy developments since the publication of the study: while certain self-regulating professional bodies made significant progress in reviewing the regulations and amended the regulations or rules, still much work remained to be done in order to implement all the recommendations of the study. The approach in this ex-post assessment is quite essential, and it does not follow a robust and structured methodology, but it rather provides a quick snapshot on the policy developments (Competition Bureau 2015).
- Another example is provided by the *Review of the legal services market study in England and Wales* by the CMA. This report sets out the findings of a review undertaken by the CMA to assess the extent to which its recommendations in the 2016 Legal Services market study have been implemented and the impact that these changes have had to date. This review analyses the impact of the market study recommendations aimed at increasing the transparency of price, service and quality information through the use of a consumer survey and price data. The review concluded that the market study had had a huge impact in transparency for the consumers of legal services, but, on the other side, there had not been yet a relevant change in the level of prices and competition in the market. Secondly, it assessed the impact of the market study recommendations concerning the reform of the regulatory framework, concluding that there had been little progress in that regard. The approach and the findings are largely qualitative and there is not any new ex-post estimation of the impacts (CMA 2020).

In the 2010 study *Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market*, the CMA (former OFT) had a more quantitative approach. In 2003, the CMA (former OFT) study recommended that the control of entry regulations for community pharmacies should be abolished. In the following years, the government preferred to move cautiously in the direction recommended by the CMA and it

²² <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/02523.html>.

did not fully implement its recommendations. In its 2010 ex-post study, the CMA (former OFT) measured the impact of the previous study by assessing these reforms against a counterfactual scenario of no change to the control of entry provisions. More specifically, the study analysed with quantitative estimates the changes in market supply since the reforms; impacts on consumer welfare; and, finally, regulatory costs to businesses and the NHS²³ (OFT 2010b).

In OFT (2010b), the CMA (former OFT) estimated that the reforms had delivered quantifiable annual benefits to consumers of £24.7m-£32.8m against quantifiable financial costs to businesses and the NHS of £12.5m at mid-2009 levels of net entry and consumer adoption, plus other additional benefits that the OFT was not able to quantify (such as the value of increased availability and use of extended opening hours and the improved choice and convenience to consumers with diverse preferences). These costs and benefits are measured against a counterfactual scenario where the 1992 control of entry regulations were maintained (OFT 2010b).

- The 2010 *Evaluation of OFT Competition Advocacy* focuses on the effectiveness of the competition advocacy interventions, with special emphasis on their associated benefits to consumers. In this study, the CMA (former OFT) performed a literature review, a survey of officials across the Governments who had received competition advice, and an analysis of three examples where advice was provided (OFT 2010c).

In its yearly *Impact Assessment* (CMA 2021), the CMA provides impact estimates that focus on the direct financial benefits to consumers of the CMA's work completed over the past 3 financial years. The estimates are divided into four areas: competition law enforcement; consumer protection enforcement; merger control; and market studies and market investigation references (collectively referred to as 'markets work') (CMA 2021).

The ex-ante estimates of impact from those projects where the CMA's recommendations and/or orders are expected to be implemented by the relevant bodies (e.g. regulators and other government departments) have been included in the estimate of the direct financial benefits to consumers as they should have a positive impact on consumers. Moreover, when estimating the impact from any markets project, the CMA also considers how likely its recommendations or orders are to be implemented by the relevant bodies. In this regard, the CMA estimates that the direct consumer benefits from the CMA's interventions through market studies and market investigations were £5,638.6m in total during the financial years from 2018/19 to 2020/21, with an average of £1,879.5m per year (73% of the total benefits generated by the CMA) (CMA 2021).

²³ National Health Service.

5 List of Sources

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Annex 1 Parameters used by 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.
Increase in employment	1%-12%	7%	5%	Kleiner, M. (2006): "Licensing Occupations: Ensuring Quality or Restriction Competition?" W.E. Upjohn Institute for Employment Research 1-15. Kalamazoo, MI: Upjohn Institute Press.
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				Bertrand M. y Kramarz F. (2001): "Does entry regulation hinder job creation? Evidence from the French retail industry". Nber working paper series.
Increase in sales and production	4%-11%	8%	5%	Viviano E. (2006): "Entry regulations and labour market outcomes: Evidence from the Italian retail trade sector". Banca d'Italia (Servizio Studi).
				Pilat, D. (1997), "Regulation and Performance in the Distribution Sector," OECD Economics Department Working Papers 180, OECD Publishing
Increase in the number of operators	12%	12%	12%	Goos, M. (2004), "Sinking the Blues: The Impact of Shop Closing Hours on Labour and Product Markets", Center for Economic Performance Discussion Paper Series.
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