

Manual

Metodología para la evaluación de actos de promoción de la competencia de la CNMC

Febrero 2022

(La versión en inglés debe tomarse como el documento oficial)



Acrónimos

Administración	Refiere a cualquier organismo público español a nivel nacional, regional o local, así como cualquier entidad pública dependiente de estos
CNMC	Comisión Nacional de los Mercados y la Competencia
DG REFORM	Dirección General de Apoyo a las Reformas Estructurales de la Comisión Europea
EC	Comisión Europea
EU	Unión Europea
Ley 15/2007	Ley 15/2007, de 3 de julio, de Defensa de la Competencia
Ley 3/2013	Ley 3/2013, de 4 de junio, de creación de la Comisión Nacional de los Mercados y la Competencia
LGUM	Ley 20/2013, de 9 de diciembre, de garantía de la unidad de mercado
MINECO	Ministerio de Asuntos Económicos y Transformación Digital
OCDE	Organización para la Cooperación y el Desarrollo Económicos
SECUM	Secretaría del Consejo para la Unidad de Mercado (MINECO)
UK	Reino Unido
US	Estados Unidos

1 Introducción

El objetivo de este manual es presentar y explicar la metodología que permite la evaluación del impacto cualitativo y cuantitativo de los actos de promoción de la competencia de la CNMC. Los Contratantes han desarrollado una metodología flexible que puede ser aplicada bajo diferentes necesidades de evaluación y que provee resultados consistentes y de confianza para ayudar a la CNMC a mejorar su política de promoción de la competencia.

La metodología propuesta sigue la Solicitud de Servicio y está basada en los resultados de la investigación documental, incluyendo las metodologías de evaluación ex-post existentes aplicadas por otras agencias de naturaleza similar a nivel internacional, y la literatura y estudios académicos sobre evaluación del impacto de las políticas de competencia.

La metodología ha sido diseñada con el suficiente grado de flexibilidad con el objeto de responder a la heterogeneidad de las actividades objeto de evaluación, y es suficientemente versátil como para ser aplicada ex-ante o ex-post. Para que la metodología propuesta cumpla con su propósito, se necesita que ésta sea aplicada de manera consistente a lo largo del tiempo por aquellos que asuman el rol de evaluadores y que sus resultados sean tenidos en cuenta en el diseño de las políticas de promoción de la competencia. Además, una correcta implementación de la metodología requiere de los recursos adecuados, una clara distribución de tareas y apoyo en todos los niveles de la CNMC.

El manual está basado en un conjunto de modelos para cada tipo de acto de promoción, los cuales se encuentran estructurados alrededor de secciones similares pero que – al mismo tiempo – tienen en cuenta las especificidades de cada tipo de acto, incluyendo las acciones de unidad del mercado. La metodología propuesta ofrece un conjunto de indicadores cuantitativos para estimar el impacto potencial o real de las medidas recomendadas en cada acto, permitiendo, de este modo, la comparación cruzada y la priorización y, en última instancia, ayudando a reforzar la legitimidad de la política de promoción de la competencia de la CNMC ante sus grupos de interés.

Para ayudar al entendimiento del funcionamiento de la metodología propuesta, los Contratantes la han aplicado a 12 casos seleccionados y participarán con el equipo de la CNMC en un conjunto de sesiones de formación para discutir y resolver cualquier pregunta que pudiese surgir.

2 Enfoque metodológico

La metodología propuesta para la Evaluación del Impacto en las actividades de promoción de la competencia de la CNMC está basada en revisión de literatura e investigación documental (**Subsección 2.1**). La metodología ha sido diseñada tomando en consideración las especificidades únicas de la política de promoción de la competencia de la CNMC, que emplea un amplio rango de instrumentos de intervención. Además, la metodología provee, en última instancia, bajo un fundamento común, un conjunto de diferentes plantillas que el evaluador podrá cumplimentar para evaluar los diferentes tipos de actos de promoción de la competencia (**Subsección 2.2**).

Como cualquier otra metodología, su implementación necesita seguir una serie de principios que la CNMC puede diseñar posteriormente en función de sus necesidades y recalibrar de acuerdo con la experiencia (**Subsección 2.3.1**).

2.1 Conclusiones principales de la investigación documental

La revisión de las metodologías de evaluación ex-post y de las Directrices existentes ofrecidas por organizaciones internacionales, muestra que la evaluación ex – post de impacto se centran predominantemente en los efectos económicos de las actividades de *enforcement* de las autoridades de competencia. Los mayores desafíos identificados respecto a la evaluación de la política de promoción de la competencia están relacionados con las dificultades existentes para la atribución del impacto, es decir, para la determinación del nexo causal entre la acción de promoción y el cambio regulatorio perseguido.

La literatura académica sugiere que el método predilecto para estimar los efectos de las acciones de promoción de la competencia es la realización de entrevistas con los grupos de interés para determinar el grado por el cual las actividades de promoción de la competencia son capaces de influir y alterar la regulación, por un lado, y, el bienestar de los consumidores, por otro.

Una buena referencia como punto de partida es el provisto por la *Guía de Evaluación de la Competencia* de la OCDE. Esta guía proporciona un marco general para evaluar borradores de leyes y regulaciones. La *Guía de Evaluación de la Competencia* también proporciona orientación en la evaluación de políticas de competencia relacionadas con la regulación, por lo que resulta de utilidad para el análisis de impacto de las actividades de promoción de la competencia.

Por su parte, la *Guía para la asistencia a las autoridades de competencia en la evaluación del impacto esperado de sus actividades* de la OCDE proporciona una metodología simple y fácilmente aplicable para las actividades de *enforcement* de la competencia, que son relativamente poco exigentes en términos de coste y tiempo. Esta guía propone una estimación de beneficios del consumidor que deriva del producto de tres variables: el volumen de mercado afectado, el incremento del precio eliminado o evitado, y la duración esperada del efecto sobre el precio. Si no hay información específica disponible, los evaluadores podrán entonces utilizar un conjunto definido de asunciones por defecto para aproximar el tamaño del volumen afectado, para el efecto esperado del precio y para la duración probable del incremento del precio. Este enfoque ha sido utilizado por diferentes autoridades de competencia, incluyendo a la CNMC, para cuantificar el impacto de sus actividades de *enforcement*.

A pesar del incremento en las acciones de promoción por parte de las autoridades de competencia en años recientes y el mayor foco en el impacto de sus intervenciones, las evaluaciones ex – post son todavía bastante excepcionales o, al menos, no se hacen públicas. De hecho, sólo un reducido número de autoridades de competencia a nivel global evalúan los beneficios de sus actividades de

promoción la CMA (antigua OFT) de UK es una de las más activas en este ámbito: cada año las comisiones de la CMA realizan una evaluación profunda de un estudio de mercado. La mayoría de las evaluaciones ex – post son de naturaleza cualitativa.

2.2 Lógica de las plantillas para la evaluación de los actos

Las plantillas propuestas son diseñadas para proveer de una estructura común para acomodar la diversidad de naturalezas, objetivos y alcance de cada tipo de actividad de promoción de la CNMC. Cada plantilla incluye secciones a medida con el objetivo de abordar las cuestiones específicas de cada categoría, mientras preservan la consistencia entre ellas. Además, estas plantillas proporcionan para cada categoría una estructura específica y un conjunto de reglas particulares.

Las plantillas tienen una estructura general similar, y comparten un número de elementos. Esta estructura común divide la evaluación de cada acto en 2 partes bien diferenciadas:

- La primera parte, que podría ser considerada como introspectiva, se centra en la evaluación del acto en sí mismo. Proporciona una evaluación del proceso de creación de la acto y de su capacidad para influir sobre los grupos de interés a los que va destinado. Esta parte de la evaluación ofrece información útil a la dirección de la CNMC para una mejor asignación y priorización de los recursos de promoción de la competencia (**Evaluación del acto**).
- La segunda parte, que puede ser considerada como externa, busca conocer el impacto del acto y proporciona información sobre si éste ha tenido éxito a la hora de influir sobre la regulación y sobre los beneficios reales o potenciales, asociados con los cambios de regulación propuestos. Esta parte de la evaluación proporciona información para apoyar y legitimar las intervenciones de la CNMC para la promoción de la competencia (**Evaluación de impacto**).

La estructura común de cada plantilla se completa con una sección de **Introducción** y una parte final con las observaciones concluyentes (**Conclusiones**). A continuación, se describe cada una de las cuatro secciones que comprenden las plantillas propuestas.

2.2.1 Introducción

Como se expone en cada una de las plantillas, el objetivo principal de la sección introductoria es presentar el contexto global en el que acto de promoción es adoptado, proporcionando una perspectiva clara de los aspectos clave del mercado afectado, su marco regulatorio (sobre el que el acto pretende influir), así como de la motivación de la CNMC para adoptar dicho acto.

Esta sección debería mantenerse breve, clara y entendible para un lector no especializado. En aras de la simplicidad y la eficacia del proceso de evaluación en sí mismo, la introducción no debería convertirse en un resumen extendido del acto.

2.2.2 Evaluación de la actividad

Esta primera fase de la evaluación consiste, básicamente, en evaluar el acto en sí mismo. Analiza el potencial del acto de promoción para influir de manera relevante sobre la regulación y compara ese potencial con los esfuerzos internos y costes asociados a la producción del acto.

Una observación importante para tener en mente cuando se define el alcance de esta fase es que ésta es muy dependiente de los datos disponibles sobre las actividades propias de la CNMC. Por tanto, un prerequisite para llevar a cabo una evaluación efectiva es establecer los correspondientes mecanismos de recolección de datos internos.

La profundidad y alcance de los mecanismos de recolección de datos debería definirse buscando un equilibrio entre los objetivos del evaluador y los costes y esfuerzo necesarios para recolectar la información. Por ejemplo, si el evaluador quiere clasificar diferentes actividades de acuerdo con su eficiencia, una recolección de datos consistente y simple con respecto a los costes internos de producir el acto (número de semanas/trabajadores empleados) y con respecto a su difusión (número de descargas o número de discusiones sobre la política con los grupos de interés) podría ser suficiente.

2.2.2.1 Relevancia

Este primer paso proporciona una visión general de la importancia de los problemas abordado en la actividad. Tener esta información correcta al principio del proceso de evaluación es lógico teniendo en cuenta que es una evaluación directa de la relevancia de las cuestiones tratadas por la actividad, que pueden ser comparadas con diferentes aspectos más tarde, como el coste de producir la actividad, o el éxito en alcanzar a los grupos de interés a los que concierne.

La metodología propuesta para esta sección mira la relevancia del acto desde una perspectiva cualitativa y cuantitativa. Para proporcionar una primera **indicación cuantitativa de la relevancia** de la actividad, el evaluador debería buscar indicadores básicos del sector afectado. Esta lista de indicadores puede ser diseñada para cada tipo de actividad e, incluso, para cada acto. No obstante, se aconseja mantener los mismos simples y consistentes

La siguiente tabla incluye los indicadores propuestos para incluir en el análisis de la relevancia cuantitativa de la mayoría de los actos. A este respecto, algunas de las plantillas (básicamente Actividades de Unidad de Mercado) no incluyen una evaluación cuantitativa de la relevancia, ya que están muy enfocadas a operadores de mercado específicos y, aunque una evaluación cuantitativa podría añadirse, el evaluador debería considerar que el acto podría tener efectos secundarios en todo el sector, más allá de los operadores afectados.

Cuadro 1. Lista de indicadores propuestos para evaluar la relevancia de la actividad

Tipo de variable	Indicador
Peso económico y estructura del mercado	Ingreso total del sector
	Número de empresas
	Ingreso medio por compañía
	Localización geográfica/concentración de compañías
Mercado laboral y empleo	Número total de empleados
	Salario medio
Dimensiones opcionales	...

Para las fuentes de datos, utilizar una base de datos general, como SABI o la *Central de Balances* (Banco de España) es fácil de implementar y proporcionará consistencia a través de las diferentes evaluaciones. Estas fuentes de información general pueden ser complementadas con fuentes sectoriales o especializadas, si el evaluador considera que los datos recogidos de fuentes de datos generales no representan la relevancia del sector de manera apropiada.

Una vez que el aspecto cuantitativo de la relevancia ha sido abordado, la metodología lleva al evaluador a proporcionar información sobre la **relevancia cualitativa de las actividades**. Esto es llevado a cabo mediante la identificación de los fallos del mercado o los asuntos de unidad del mercado que el acto aborda. Para ello, se propone seguir la clasificación de la OCDE¹, adaptada a las actividades de la CNMC

Tabla 2. Lista de fallos de mercado o incidencias de unidad de mercado a ser evaluadas en las diferentes actividades

OCDE Fallos de mercado	Cuestiones específicas
A. Limitación del número o rango de proveedores.	A1. Garantiza derechos exclusivos para un proveedor para suministrar bienes o servicios.
	A2. Establece un proceso de licencia, permiso o autorización como requerimiento de la operación.
	A3. Incrementa significativamente el coste de entrada o salida para un proveedor.
	A4. Crea una barrera geográfica para que empresas suministren bienes, servicios o mano de obra o inviertan capital.
B. Limitación de la capacidad de los proveedores para competir.	B1. Limita la capacidad del vendedor para fijar precios de bienes o servicios.
	B2. Limita la libertad de los proveedores para anunciar o introducir en el mercado sus bienes o servicios
	B3. Fija estándares para la calidad del producto que proporciona una ventaja a algunos proveedores sobre otros o están por encima del nivel que algunos consumidores bien informados elegirían
	B4. Incrementos significativos en costes de producción para algunos proveedores en relación con otros (especialmente por un trato diferencia a aquellos que están dentro respecto a nuevos entrantes).
C. Reducción de los incentivos de los proveedores para competir	C1. Crea un régimen auto-regulatorio o co-regulatorio.
	C2. Requiere o fomenta publicación de la información sobre la producción, precio, ventas o costes de proveedores.
	C3. Exime la actividad de una industria particular o grupo de proveedores, de la operación de ley de la competencia general.
D. Limitación de las opciones e información disponible para clientes.	D1. Desarrollo regulatorio insuficiente para garantizar la seguridad y protección de consumidores y usuarios
	D2. Reduce la movilidad de consumidores entre proveedores de bienes o servicios por el incremento de costes implícitos o explícitos derivados del cambio de proveedores.
	D3. Fundamentalmente cambia información requerida por los compradores para realizar compras efectivas.
(*) Fallos de mercado adicionales identificados por la CNMC en este tipo de actividades.	E1. Desarrollo regulatorio insuficiente para garantizar la seguridad y protección de consumidores y usuarios.
	E2. Desarrollo regulatorio insuficiente para garantizar el correcto proceso de liberalización o una regulación económica eficiente.
	F1. Los impuestos se establecen para generar costes adicionales y no para tener un propósito extrafiscal claro.

¹ OECD (2019), Guía de Evaluación de la Competencia: Volumen 1 (principios), Volumen 2 (guía) and Volumen 3 (manual operacional). Disponible en: <https://www.oecd.org/daf/competition/assessment-toolkit.htm>

	F2. Promocional la colusión entre operadores económicos / obstaculiza la libre competencia.
	F3. Puede llevar a incumplimiento con el esquema de Ayuda Estatal.
	F4. Insuficiente especificación de la actividad no normativa para garantizar una regulación económica eficiente.

2.2.2.2 Efectividad

El objetivo del siguiente paso dentro del proceso de evaluación del acto analiza cómo de efectivo es éste para llegar a sus destinatarios objetivo, especialmente a los encargados de la regulación. Se trata de un análisis crucial, ya que el propósito último de toda actividad de promoción de la competencia es, precisamente, el de influir a aquellos en cargo de la regulación del mercado

La capacidad de influencia se mide desde dos perspectivas complementarias: divulgación cuantitativa y cualitativa. La evaluación de ambas perspectivas requiere de los correspondientes mecanismos de recolección de datos por parte de la CNMC.

Desde **la perspectiva de la divulgación cuantitativa**, el evaluador debe proporcionar un grupo de cifras relacionadas con la medida en que el acto haya alcanzado su audiencia objetivo. Podría ser medida, por ejemplo, por el impacto de la publicación de el acto en los medios o el número de descargas desde la página web de la CNMC. En este sentido, la metodología sugiere la utilización de los siguientes indicadores, sujetos a su disponibilidad real o futura.

Tabla 3. Variables propuestas para evaluar el alcance cuantitativo de las actividades

Alcance entre el público general	Número de visualizaciones/descargas de comunicados de prensa / documentación del acto
	Número de visualizaciones/descargas de anuncios en la página web
Alcance entre los actores políticos	Alcance e impacto de las versiones confidenciales compartidas con Ministerios relevantes
	Número de reuniones ministeriales en las que se discuten los resultados del acto
Alcance entre los grupos de interés en general	Número de grupos de interés involucrados en los Puntos Focales o en consulta pública
	Número de comentarios en las versiones borrador del acto
Alcance entre los círculos académicos	Número de publicaciones en las que se cita el acto
Alcance en la prensa	Número de artículos/blogs citando el acto

En cuanto al **alcance cualitativo**, éste requiere que el evaluador proactivamente proporcione una evaluación en relación con la medida en la que el acto ha alcanzado a sus destinatarios. Esta tarea necesita basarse en un cuestionarios o entrevistas con los destinatarios².

El cuestionario puede ser remitido a diferentes grupos de interés, con los reguladores como grupo de mayor relevancia. El objetivo del cuestionario es conocer la percepción de los reguladores y otros grupos de interés respecto a la calidad y utilidad del acto.

Un acto sólo puede ser considerado como efectivo si ha alcanzado (perspectiva cuantitativa) a sus destinatarios objetivo **y** si ha tenido un impacto positivo en su audiencia (perspectiva cualitativa). Cada tipo de acto está diseñado para alcanzar a diferentes grupos de interés, por lo que cada plantilla es adaptada a las especificidades de cada tipo de acto. Un estudio de mercado, por ejemplo, cuenta con un público más extenso que un informe de unidad de mercado, aunque el amplio alcance y publicación de todos los actos contribuye a un mejor conocimiento de los principios de promoción de la competencia. Por consiguiente, la monitorización de cuánto interés genera entre la audiencia una acto es una buena práctica cuyos resultados pueden ser incorporados dentro de la evaluación de la política de promoción.

2.2.2.3 Eficiencia

La metodología propone evaluar la eficiencia de los actos a través de la relación entre su efectividad y el coste y esfuerzo incurridos en su realización y emisión. El análisis de eficiencia es, de nuevo, muy dependiente de la disponibilidad de datos internos y sólo puede llevarse a cabo para aquellos casos en los que la información interna sobre los costes de la CNMC está disponible, y la información respecto al alcance es accesible. Si estos datos están disponibles, entonces la evaluación de eficiencia toma la forma de un Análisis Beneficio-Coste (coste de llevar a cabo el acto vs. su impacto real o potencial).

El análisis de eficiencia debe basarse, preferentemente, en datos cuantitativos, recolectados consistentemente en diferentes actividades y períodos de tiempo, permitiendo una comparación útil entre distintos actos. Sin embargo, como se explica en las propias plantillas, dado que es poco probable tener disponibilidad de datos cuantitativos sobre costes antes de que se implemente un mecanismo de recolección de datos, la metodología sugiere sustituir los datos cuantitativos por una indicación cualitativa del tiempo y esfuerzo requeridos para producir el acto (por ejemplo, a través de entrevistas internas). Estas entrevistas o cuestionarios cualitativos deben ser llevados a cabo por aquellos miembros del equipo directivo que tengan una perspectiva global de los recursos y tiempo dedicados a preparar cada acto.

2.2.2.4 Coherencia

El último paso del proceso de evaluación "introspectiva" del acto, conlleva una verificación de su coherencia. La metodología propone llevar a cabo esta revisión mediante la comprobación de compatibilidad del acto con: i) pronunciamientos y recomendaciones previos de la CNMC; ii) objetivos y principios de promoción y defensa de la competencia tradicionales de la CNMC; y iii) el marco regulatorio e institucional.

La evaluación de coherencia requiere un nivel mínimo del conocimiento sobre la naturaleza e historia de la política de promoción y el ambiente regulatorio en el que se produce. Esta evaluación podría ser realizada por diferentes miembros del equipo de evaluación y el evaluador debe ser capaz de entrevistar y discutirla con el equipo responsables de adoptar el acto de la CNMC. La metodología

² Muchas empresas de servicios han implementado un procedimiento automatizado mediante el cual los clientes son encuestados de manera constante y sus resultados traducidos en índices comparables entre empresas e industrias, midiendo diferentes parámetros de lealtad del consumidor. Uno de los sistemas más conocidos es el llamado NMPS (Net Promoter Score).

sugiere basarse, hasta donde sea posible, en la información proporcionada por el Entregable 3, que puede servir como base para comprobar la coherencia con respecto a actividades pasadas.

Para ayudar a la evaluación de la coherencia, la metodología sugiere responder a un conjunto de preguntas predefinidas, que podrían adaptarse en cada tipo de acto. Si bien es probable que el evaluador encuentre una conclusión positiva sobre la coherencia, estas preguntas sirven como un mecanismo de alerta cuando surge una respuesta negativa. En tales casos, el evaluador no debe detenerse haciendo clic en el cuadro "no". Debe buscar una explicación sobre el alcance de la desviación de los parámetros esperados.

Este paso brinda al evaluador la oportunidad de observar cualquier otra circunstancia especial sobre el acto en sí. Un ejemplo de uno de los 12 casos evaluados se refiere a la situación extraordinaria en la que hubo un voto particular de algunos miembros del consejo de la CNMC que plantearon el punto de que las conclusiones del acto no estaban bien respaldadas por pruebas de mercado. Tal opinión podría ser una señal de que el acto no es coherente con actos anteriores.

2.2.3 Evaluación del impacto

La segunda fase del procedimiento de evaluación examina el impacto que el acto tuvo (o podría haber tenido) en el marco normativo y en la economía. Por lo tanto, esta fase puede describirse como una evaluación "orientada hacia el exterior".

Hay dos retos principales que deben considerarse y que, en gran medida, son comunes a cualquier evaluación de los efectos de las intervenciones políticas. El primer reto es resolver el problema de atribución o causalidad. Cualquier efecto observado en el mercado y/o en el marco regulatorio solo puede atribuirse al acto si se puede establecer un vínculo probable con su producción (generalmente recomendaciones de política). De lo contrario, cualquier cambio observado en la legislación podría ser consecuencia de eventos simultáneos (es decir, cambios regulatorios que no están en línea con las recomendaciones del acto, reformas legislativas más amplias, cambios regulatorios introducidos por otras instituciones, etc.). Del mismo modo, cualquier efecto observado en el mercado podría ser inducido por eventos terceros o condiciones económicas.

El segundo reto se refiere al equilibrio entre la exactitud y fiabilidad de las evaluaciones y el tiempo y los recursos necesarios para obtenerlas. El equilibrio debe alcanzarse de acuerdo con los objetivos generales de la dirección de la CNMC a la hora de implementar la metodología, que de hecho ha sido diseñada para ser lo suficientemente flexible como para dar cabida a diferentes opciones. Sin embargo, se recomienda confiar en estimaciones fácilmente aplicables como regla general y mantener abierta la opción de realizar un análisis en profundidad para casos seleccionados.

2.2.3.1 Impacto sobre el marco regulador

Los impactos directos de los actos de promoción son cualquier cambio observable en la legislación atribuible al acto. Una vez que el evaluador ha definido claramente cada una de las recomendaciones/reivindicaciones contenidas en el acto, la metodología propone determinar si se han aplicado plenamente; se han aplicado parcialmente; no se han aplicado o si su aplicación no es evaluable (es decir, no se dispone de datos o si los cambios en la legislación no están vinculados al acto en sí). Este último caso corresponde, esencialmente, a recomendaciones que son de naturaleza indefinida o que son difíciles de monitorizar.

2.2.3.2 Impactos reales o potenciales en el mercado/sector en cuestión

Los impactos en el mercado específico solo pueden identificarse, en principio, cuando la recomendación se implementa total o parcialmente. No obstante, también es posible estimar los impactos potenciales, básicamente beneficios o pérdidas, de no cumplir con las recomendaciones.

De conformidad con el principio de atribución, el evaluador debe comenzar a identificar las variables económicas que pueden verse afectadas por las recomendaciones. Por ejemplo, si la recomendación sugiere la apertura del mercado, entonces el evaluador debe evaluar el impacto potencial en la estructura del mercado de su implementación o no implementación. En este caso, la variable de interés podría ser el número de empresas en el mercado o cualquier otra variable capaz de captar un mercado más disputado. Si tales variables no son directamente observables, el evaluador podría elegir otras variables que se espera se vean afectadas gracias a las nuevas condiciones del mercado, como el volumen de ventas o, incluso, los precios. En cualquier caso, la elección debe basarse en principios microeconómicos y en los conocimientos sectoriales.

Una vez definidas las variables relevantes que podrían verse afectadas por las recomendaciones, el evaluador tiene dos opciones en función del tiempo disponible, los datos y los recursos que demandan y que necesitan proporcionar resultados comparables.

2.2.3.2.1 Estimación mediante análisis contrafáctico

Una estimación basada en el análisis contrafáctico solo es viable cuando la información requerida es fácilmente accesible y el evaluador tiene suficiente tiempo. En esencia, proporciona una estimación de los efectos del acto (cambio de política o regulación) sobre la variable de interés comparándola con el llamado escenario contrafáctico. Los dos escenarios más utilizados son el mismo mercado antes de que se produjera la intervención (el cambio de política) (un análisis de comparación en el mercado diacrónica) o un mercado suficientemente similar, que podría estar en otra región, país o incluso sector, pero que es lo suficientemente similar donde también se produjo la intervención (una comparación entre mercados).

En cualquier caso, el evaluador debe observar principios estadísticos elementales, como asegurarse que la muestra de datos que mide la variable de interés es representativa. Para llevar a cabo la comparación entre ambos escenarios, el evaluador puede optar por técnicas simples y directas (como comparaciones promedio) o una estimación econométrica más sofisticada, especialmente cuando hay buenas razones para creer que la variable de interés puede verse afectada por terceras variables, cuyos efectos deben ser considerados.

2.2.3.2.2 Estimación inspirada en el enfoque *thumb rule* de la OCDE

La metodología propone utilizar una regla de estimación general (*thumb rule*) para todos los actos, incluso en aquellos casos en los que se haya realizado una estimación contrafáctica. Este método está inspirado en la propuesta de la OCDE para la evaluación de impacto de las actividades de *enforcement* de competencia. Proporciona una manera fácil de obtener estimaciones consistentes y comparables que sirvan a los objetivos de la metodología.

La CNMC ya ha utilizado dicha metodología para estimar el impacto económico de sus actividades de *enforcement*.

Si bien el método en sí es sencillo, debe mantenerse consistente entre los diferentes actos para permitir la comparación. El método comienza clasificando e identificando los impactos potenciales en el mercado del acto, de acuerdo con la naturaleza económica de los fallos del mercado o el problema de unidad del mercado que aborda. Este primer paso permite al evaluador identificar la variable de interés donde se va a estimar el efecto. La elección debe mantenerse simple, evitando duplicaciones y efectos compensatorios. Por ejemplo, si el acto trata de facilitar la entrada al mercado, entonces los efectos obvios es que los precios pueden bajar y las ventas pueden aumentar. El evaluador debe elegir solo una de estas dos variables para llegar a una estimación de "regla general" sobre el bienestar del consumidor. Si el impacto se calcula en ambas variables, entonces podrían compensarse entre sí.

Sin embargo, en algunos otros casos, puede ser posible estimar más de un efecto. Por ejemplo, un aumento en el número de operadores y en el empleo, ya que ambos efectos son complementarios.

El evaluador solo necesita aplicar un parámetro (regla general) al valor de la variable de interés en el mercado en cuestión. Por último, el evaluador puede encontrar que es necesario realizar ajustes para adaptar la estimación a los datos disponibles y a la naturaleza del mercado.

La siguiente lista de parámetros se propone a raíz de los informes económicos de la CNMC que acompañan a sus actos de promoción, tal y como se muestra en el Anexo 1. Podrían ampliarse o calibrarse aún más si se considera necesario, sobre la base de futuras investigaciones.

Tabla 4. Lista de indicadores propuestos para la evaluación de impacto directo

Indicador	Parámetros		
	Encontrado en la literatura	Valor medio	Valor recomendado
Reducción del tiempo de espera	2%-7%	5%	5%
Reducción de precios	3%-35%	19%	5%
Aumento del empleo	1%-12%	7%	5%
Aumento en las ventas y producción	4%-11%	8%	5%
Aumento en el número de operadores	12%	12%	12%

Fuentes: véase Anexo 1

2.2.3.3 Impactos indirectos en la economía en general

El último paso de la evaluación de impacto se refiere a la medición del impacto indirecto del acto en la economía en general. En este caso, los dos desafíos antes mencionados surgen con alta intensidad ya que es muy difícil aislar y cuantificar un impacto atribuible de un acto en el conjunto de la economía.

Por lo tanto, este paso solo puede llevarse a cabo cuando la recomendación se implementa total o, al menos, parcialmente, la recomendación tuvo un impacto claro y significativo en el mercado específico, y dicho mercado tiene un peso significativo en la economía en general.

El evaluador podría proporcionar varias cifras sobre la relevancia del sector afectado dentro de la economía y una explicación cualitativa de por qué se espera que produzca un efecto indirecto. Por ejemplo, si se ha comprobado que un acto produce un efecto positivo en todo el sector turístico, es razonable esperar un efecto indirecto en otros sectores. El evaluador podría identificar el peso del sector turístico en la economía, utilizando diferentes variables (Valor Agregado, Empleo, Inversión, Impuestos, Difusión territorial...) y luego explicar la relevancia de la industria para la economía nacional.

Una vía más intensiva en recursos para estimar el impacto es utilizar un marco estándar de tabla input - output para evaluar cómo los cambios sectoriales pueden afectar a la economía en general. Esta metodología asume que las relaciones productivas entre las diferentes industrias se mantienen constantes y utiliza los llamados coeficientes de Leontieff para estimar los efectos indirectos en diferentes industrias de un aumento específico en la producción de una industria. Los coeficientes requeridos se pueden encontrar en la página web del Instituto Nacional de Estadística. Por ejemplo, si un acto ha generado un aumento atribuible de la producción en el sector de la automoción, los coeficientes de Leontieff permiten estimar el aumento de la producción en todas las industrias que producen insumos para la industria automotriz. También es común, dentro del análisis input-output, estimar los llamados efectos inducidos, atribuibles a los cambios esperados en el gasto por parte de los empleados de una industria afectada. En el ejemplo anterior, debido al aumento de la producción

en la industria automotriz, sus empleados gastarán sus mayores salarios en diferentes bienes y servicios. El aumento de la producción en estas diferentes industrias se denomina efecto inducido.

2.2.4 Conclusiones

El capítulo de conclusiones permitirá al lector tener una visión general rápida de los resultados de toda la evaluación. Por lo tanto, incluirá la información clave y las ideas sobre el acto de promoción en sí (es decir, el sector, la justificación del estudio, los objetivos), las principales cuestiones de competencia identificadas y la evaluación general de la eficacia, la eficiencia y la coherencia. A continuación, resumirá el impacto observable del acto en el marco normativo y en el mercado (real o potencial) y, si corresponde, sus impactos indirectos en la economía en general. Por último, el evaluador debatirá las posibles cuestiones de seguimiento para futuras intervenciones de la CNMC en el mismo sector.

2.3 Principios generales para la aplicación de la metodología

Para que la metodología propuesta desarrolle todo su potencial es necesario observar los siguientes cinco principios:

2.3.1 Identificar objetivos

Aun cuando la metodología podría aplicarse a actos individuales de forma no sistemática, para aprovechar todo su potencial, se recomienda planificar cuidadosamente la aplicación, después de una cuidadosa consideración de los objetivos que quieren alcanzarse. Es importante identificar dichos objetivos y tenerlos en cuenta al ejecutar el plan de implementación. Una forma sencilla de identificar estos objetivos es preguntando qué cuestiones se quiere responder a través de la aplicación de la metodología. Algunos ejemplos de tales preguntas serían:

- *¿Estamos siendo escuchados por los destinatarios del acto?*
- *¿Cuál es la eficacia relativa en los diferentes tipos de actos?*
- *¿Estamos utilizando demasiados recursos para realizar actos con poco impacto?*
- *¿Cuál es el impacto económico global de todas las recomendaciones hechas en virtud de un determinado tipo de acto o en un sector en particular?*

2.3.2 Asignar recursos

Aunque pueda sonar obvio, la implementación exitosa de la metodología requiere una asignación específica de recursos, ya que consume tiempo y esfuerzo de todos los involucrados: los evaluadores, el personal encuestado y los que ocupan puestos directivos.

La asignación de recursos puede consistir simplemente en el reconocimiento explícito de que realizar la evaluación es una tarea adicional del personal en quien recaiga. Por tanto dicho personal necesita tiempo para su realización y la discusión de resultados.

2.3.3 Aplicar de manera coherente

El tercer principio aboga por una aplicación coherente de la metodología, siguiendo un plan predefinido. Siendo conscientes del tiempo y los recursos necesarios para realizar las evaluaciones, el plan de implementación debería, idealmente, definir los términos concretos de su aplicación de antemano. Eso significa, determinar:

- ¿A qué actos? Idealmente a todos los actos, pero la implementación también podría comenzar con una selección aleatoria o específica (por ejemplo, cada dos actos, un porcentaje fijo, etc.)
- ¿Cuándo? El plan de aplicación debe determinar y equilibrar el momento adecuado para llevar a cabo la evaluación, dado que se necesita cierto tiempo para encontrar un impacto observable. Los cambios regulatorios necesitan su tiempo y las variables de mercado generalmente solo están disponibles con cierto retraso. Pero, por otro lado, cuanto más tiempo ha transcurrido, más difícil es gestionar los cuestionarios específicos a las partes interesadas.

El plan de aplicación también podría considerar una evaluación parcial del acto inmediatamente después de su adopción, obteniendo información, por ejemplo, sobre los potenciales beneficios económicos. Dicha información podría ser útil para fines de legitimación y para la priorización. La evaluación podría completarse con información de impacto real después de la implementación.

- ¿Quién realizará las evaluaciones? Debe haber una separación entre el personal responsable de redactar el acto y los asignados a su evaluación, al menos para la evaluación del acto en sí (Relevancia, Efectividad, Eficiencia, y Coherencia).
- ¿Cómo se considerarán los resultados? También se recomienda un plan predefinido para leer, interpretar y distribuir o dar a conocer los resultados.

2.3.4 Confrontar resultados

Dado que el objetivo final de la metodología es mejorar las capacidades de la política de promoción de la CNMC, los resultados de las evaluaciones deben compararse con las expectativas de la dirección de la CNMC. Esto proporcionará una primera visión de cómo está funcionando realmente la política de promoción de la CNMC y proporcionará pistas sobre las medidas de mejora. La información proporcionada en el Entregable 3 y, especialmente, su informe, proporciona información inicial sobre el grado en que se están siguiendo las recomendaciones de la CNMC. El informe también ofrece recomendaciones sobre cómo mejorar la redacción de los actos para alcanzar mejores niveles de cumplimiento.

2.3.5 Calibrar

Finalmente, la metodología ha sido diseñada para ser lo suficientemente flexible como para poder incorporar las lecciones aprendidas a través de la experiencia o para afinar algunos de los parámetros en línea con las nuevas investigaciones.



3 Plantillas

Con el fin de garantizar la coherencia en la valoración de los actos de incidencia de la CNMC, se proporciona un modelo diferente para cada tipo de acto: Estudios de Mercado (CODE E), Propuestas Normativas (CODE PRO), Informes sobre Proyectos de Ley y Reglamento (CODE IPN), Informes sobre asuntos que no están estrictamente vinculados a leyes o reglamentos (CODE INF), Recursos Judiciales ex artículo de 5.4 de la Ley 3/2013 y Artículo 27 de LGUM (CODE LA) e informes de Unidad de Mercado en virtud de los artículos 26 y 28 de LGUM (CÓDIGOS UM).

3.1 Estudios de mercado– 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 act

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 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	

3.1.3.2 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:

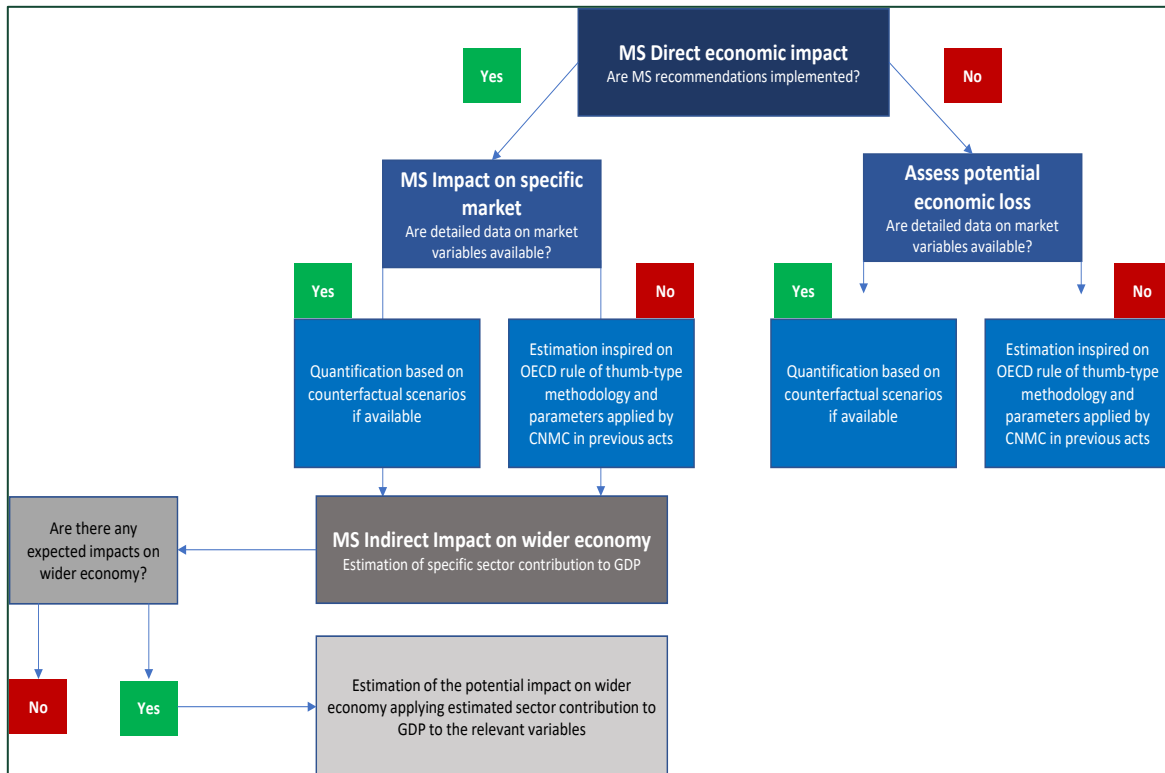
- 1) **Attribution** meaning that impacts have to be clearly linked to the outputs of the MS and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on)
- 2) **Reliability of estimation** meaning that potential impacts must be calculated taking into account 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 impact

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-evaluable** 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.

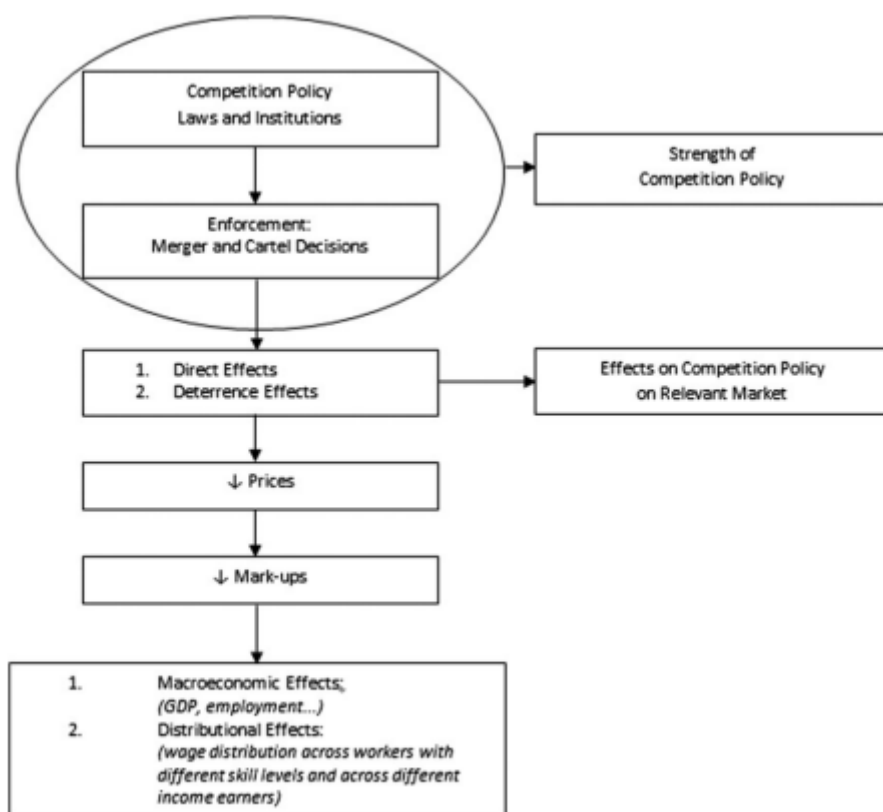
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
A1.		Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: 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 model³	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)⁴ and in the more recent OECD Input-Output Database⁵ 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>		

³ 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)

⁴ <http://www.wiod.org/home>

⁵ https://stats.oecd.org/Index.aspx?DataSetCode=IOTS14_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

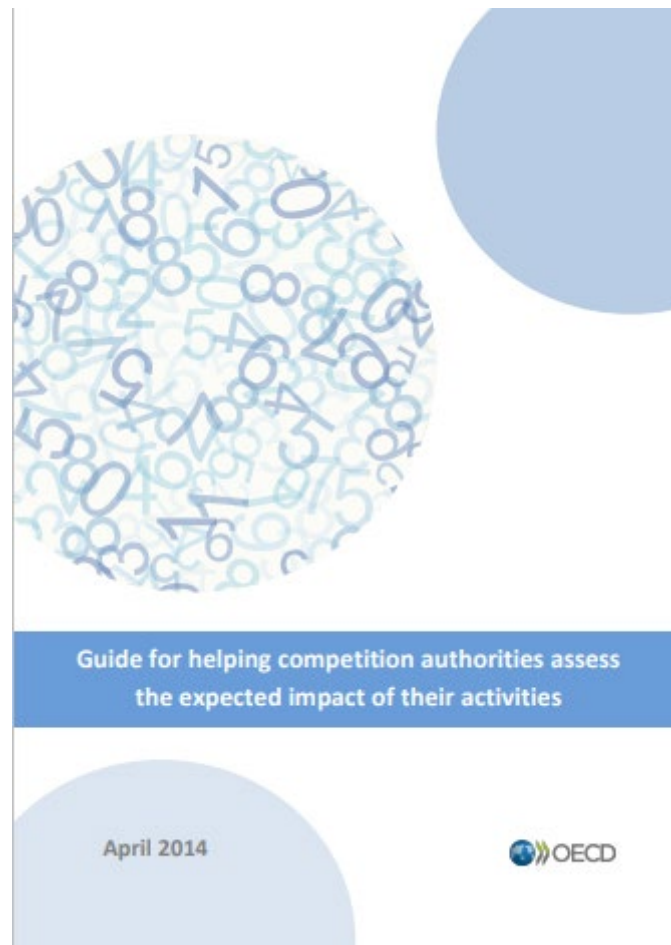
COMPETITION ASSESSMENT CHECKLIST

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: 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 \(oecd.org\)](https://www.oecd.org/competition/guide-for-helping-competition-authorities-assess-the-expected-impact-of-their-activities/)

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 Propuestas reglamentarias– 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:

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 PRO Report had a real outreach in terms of audience and public debate;**
7. **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;**
8. **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 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	

3.2.3.2 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:

3. A qualitative assessment, focused on understanding **if the Report's recommendations and suggestions have been implemented, and to what extent.**
4. 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

- 4) 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.
- 5) The following types of stakeholders are considered relevant for a possible interview/survey:
 - a. Business associations operating in the relevant market.
 - b. Consumers associations.
- 6) Third parties that have informed the CNMC about competition problems related to the PRO.
- 7) 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	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 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?		

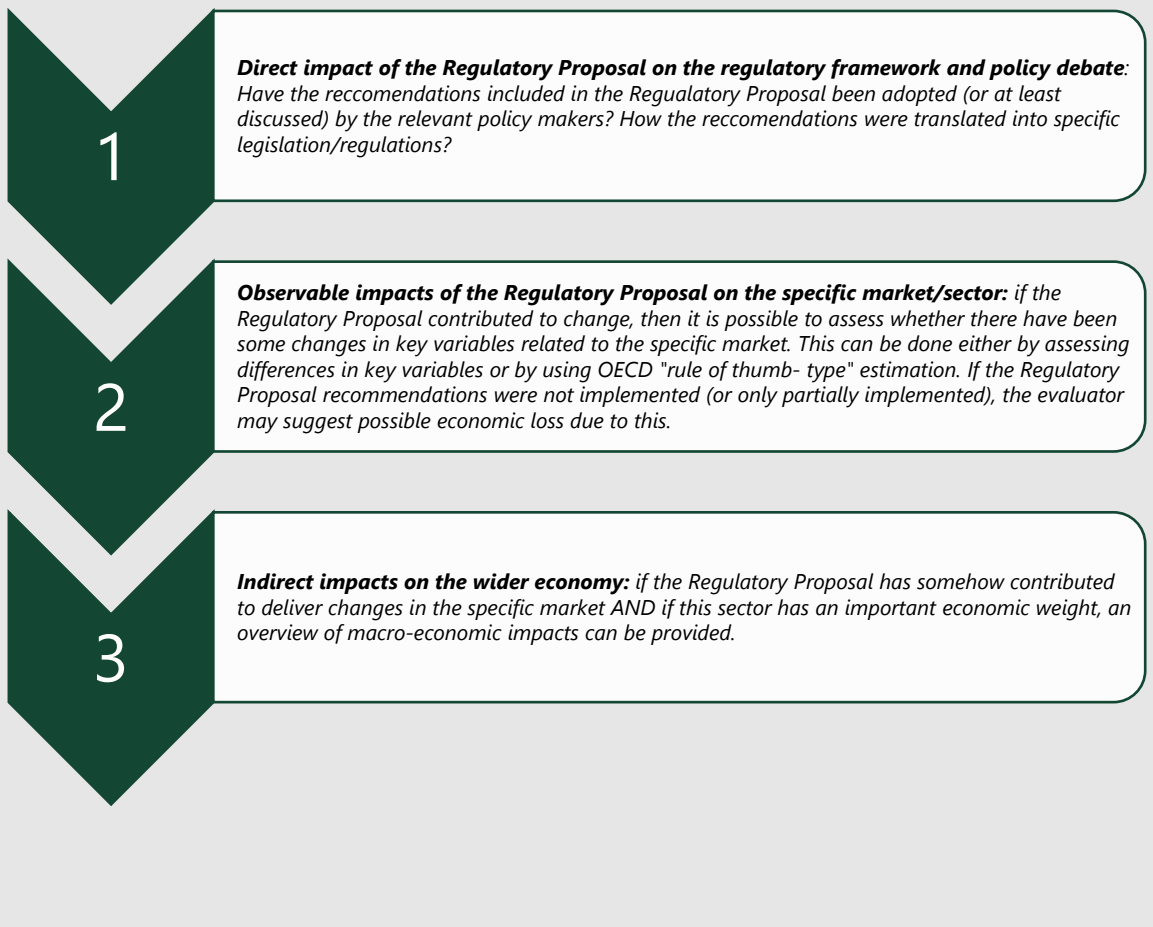
Is it possible to identify other CNMC acts (especially previous research such as Market Study) which are consistent with the recommendation of the Regulatory Proposal?		
---	--	--

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:

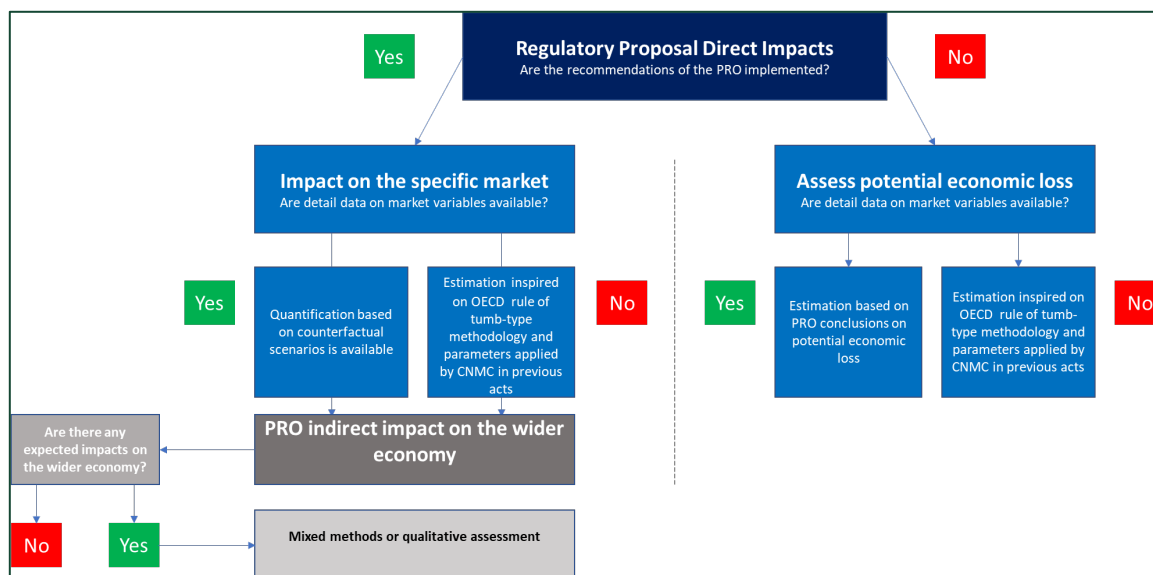
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Regulatory Proposal and not be caused by simultaneous events (i.e. regulatory changes not in line with the Regulatory Proposal recommendations, wider legislative reforms, regulatory changes brought by other institutions).
- 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:

- 1) Define the **recommendations** included in the Regulatory Proposal and understand their features and objectives.
- 2) 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.

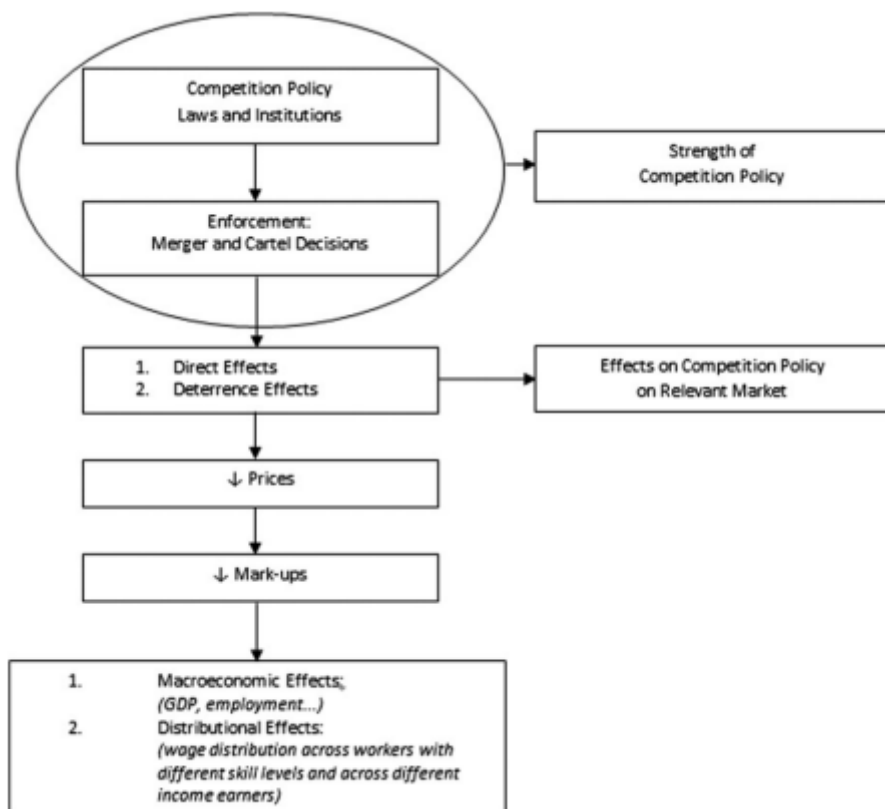
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
	{Insert recommendation from table above}	Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes 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 model⁶		
<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)⁷ and in the more recent OECD Input-Output Database⁸ 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>		

⁶ 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)

⁷ <http://www.wiod.org/home>

⁸ https://stats.oecd.org/Index.aspx?DataSetCode=IOTS14_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 Informes sobre proyectos de ley y reglamento – 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:

- 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 IPN Report had a real outreach in terms of audience and public debate;**
- 3. 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;**
- 4. 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 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	

3.3.3.2 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.*

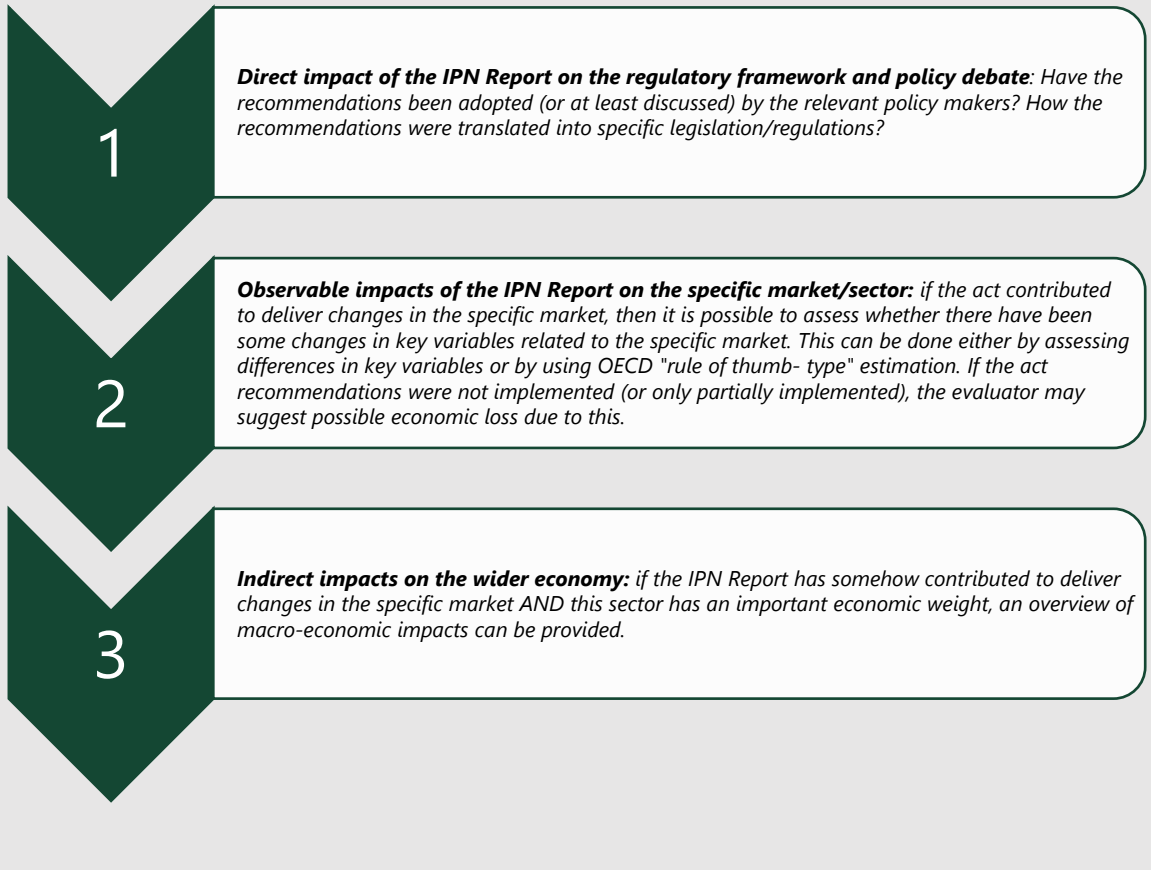
Coherence checklist	Yes	No
Does the IPN Report clearly define the regulatory framework?		
Do the IPN Report recommendations describe their alignment with the existing measures?		
Is it possible to identify other CNMC acts (especially previous research such as Market Study) which are consistent with the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

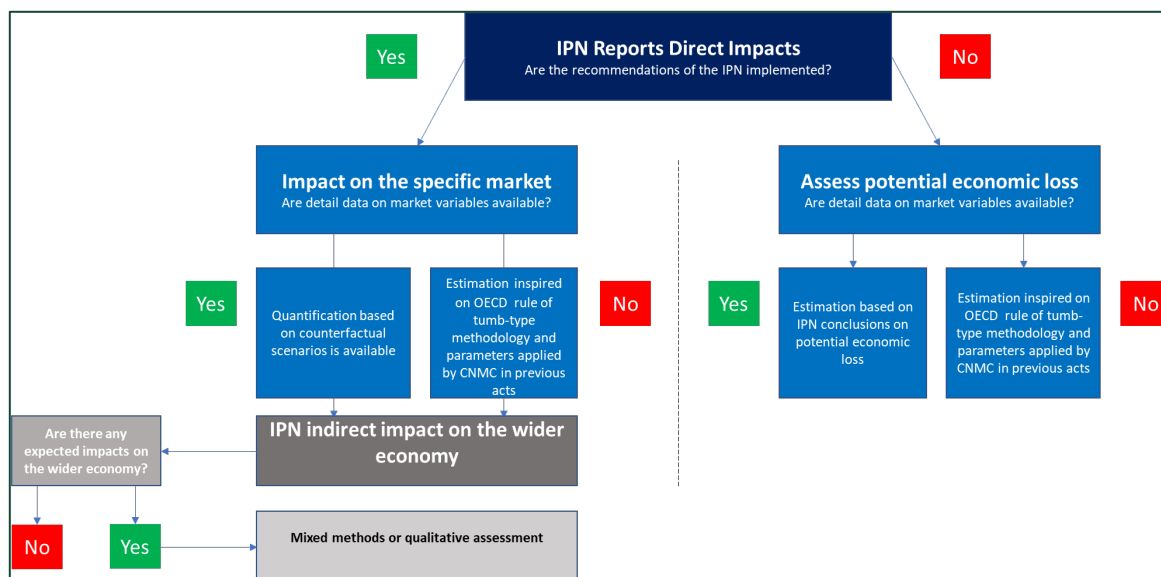
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the IPN Report and not be caused by simultaneous events (i.e. regulatory changes not in line with IPN Report recommendations, wider legislative reforms, regulatory changes brought by other institutions)
- 2) **Reliability 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 impacts of the act

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>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.</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.

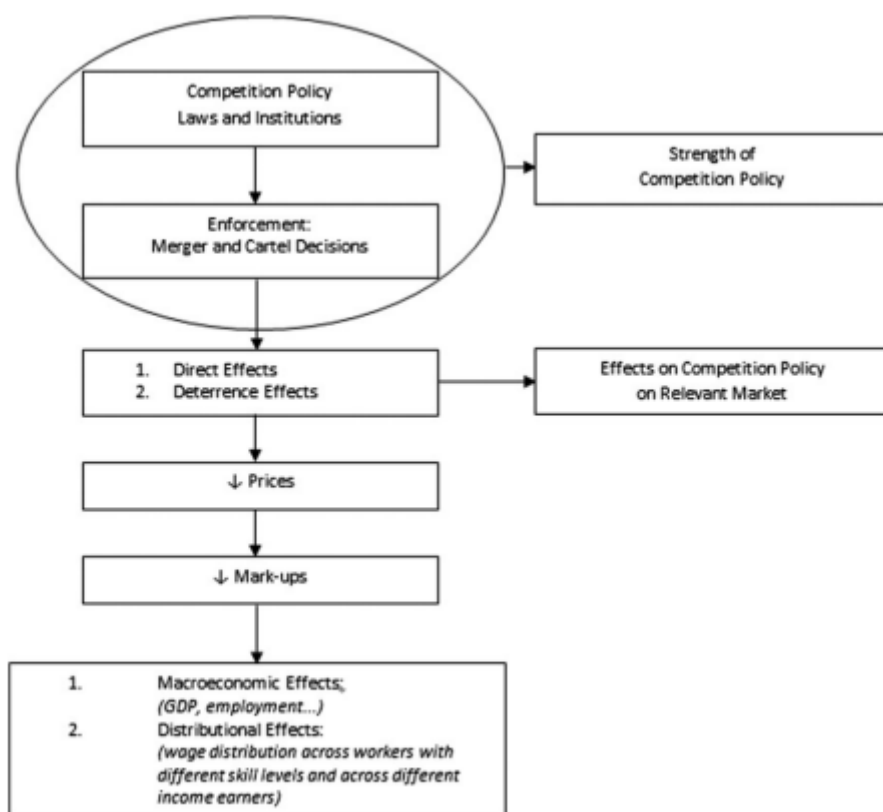
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
A3. Significantly raises cost of entry or exit by a supplier		Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: 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 model⁹

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)¹⁰ and in the more recent OECD Input-Output Database¹¹ 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.

⁹ 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)

¹⁰ <http://www.wiod.org/home>

¹¹ https://stats.oecd.org/Index.aspx?DataSetCode=IOTS14_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 and follow up

3.3.6 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?**

3.3.7 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> <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)

3.3.8 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 Informes sobre asuntos que no están estrictamente vinculados a leyes o reglamentos – 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 act

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:

1. **Relevance, which describes the significance of the Report in terms of the existing competition issues it addresses and the magnitude of the matter addressed;**
2. **Effectiveness, which describes whether the Report had a real outreach in terms of audience and public debate;**
3. **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;**
4. **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 structure of the market	Total sector turnover	Report or other statistical sources	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.

	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.

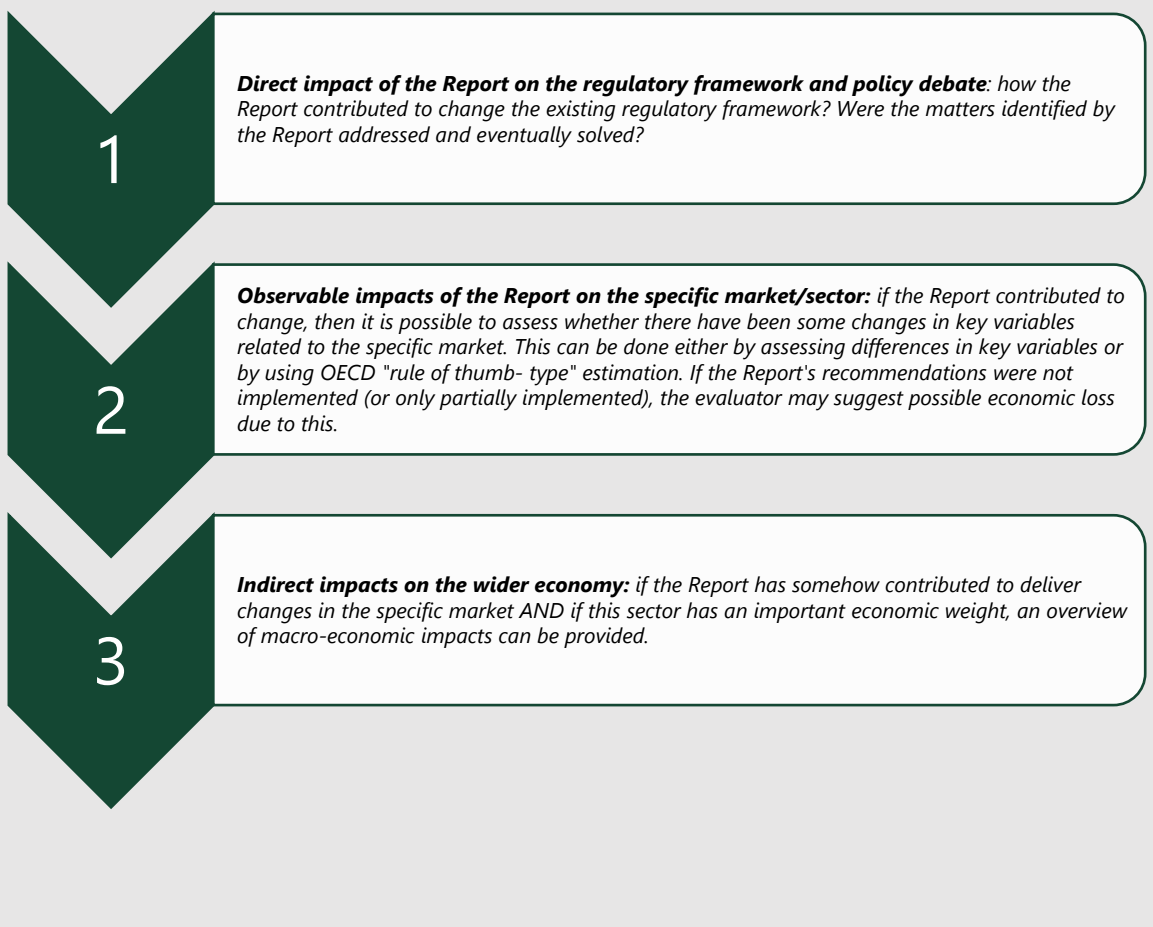
Coherence checklist	Yes	No
Do the Report's recommendations describe their alignment with the existing measures?		
Is it possible to identify other CNMC acts (especially previous market studies) which are consistent with the key recommendations and arguments of the Report's?		
Does the Report mention 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:

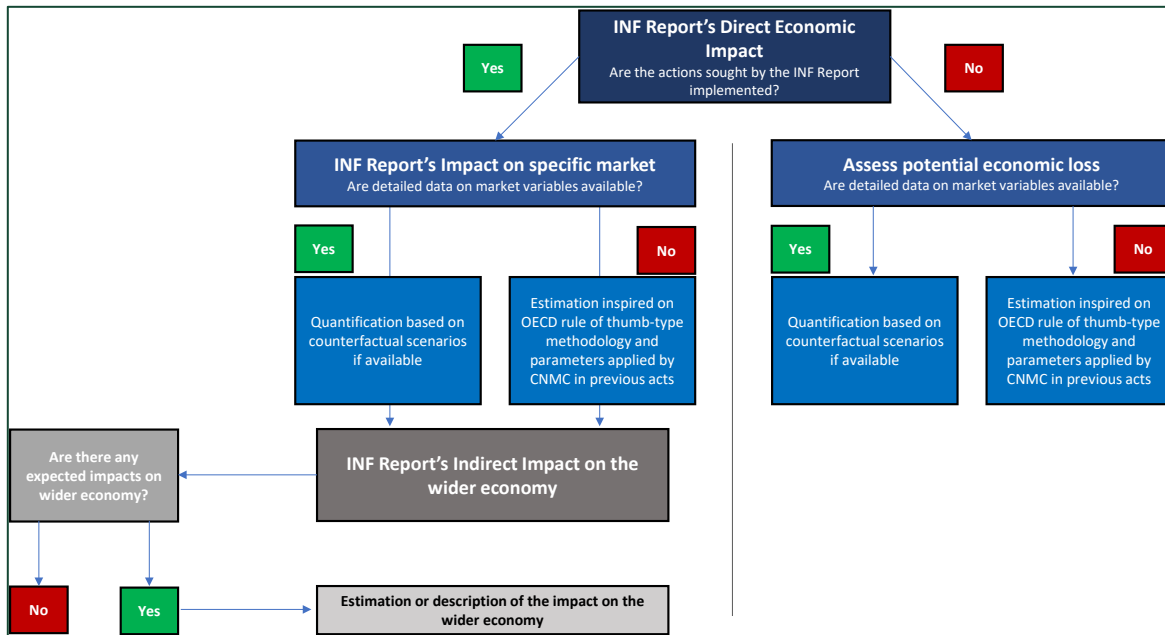
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Report, and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on).
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated taking into 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

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>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.</p>	<p><u>Implemented/Partially implemented/Non-implemented/Non-evaluable</u></p> <p>For those cases where the recommendations were partially implemented, the evaluator should indicate if further actions are expected and when.</p> <p>For the rest of the cases, the evaluator should just indicate "Fully implemented" or "Non-Implemented".</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><i>The paper lists a set of assumptions which are a useful shortcut to assess impacts of Report:</i></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.

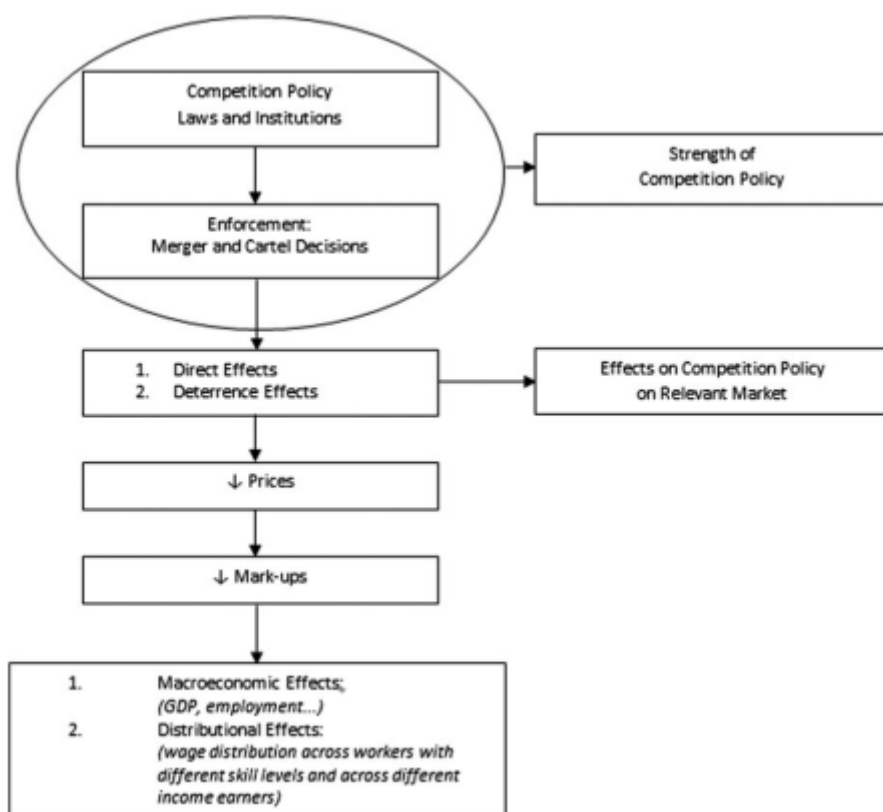
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
A1.		Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes in market share 	<ul style="list-style-type: 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 model¹²	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)¹³ and in the more recent OECD Input-Output Database¹⁴ 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>		

¹² 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)

¹³ <http://www.wiod.org/home>

¹⁴ https://stats.oecd.org/Index.aspx?DataSetCode=IOTS14_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: 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)

3.4.7 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 Recursos judiciales al amparo del artículo 5.4 Ley 3/2013 y del art. 27 de la 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 behind 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 Appeal¹⁵, 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;***

¹⁵ 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.

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.**

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>
	Total number of employees	Economic study or statistical sources	<i>These data are usually kept by trade unions or can be</i>

Labour market and employment	Average salary	Statistical sources	<i>found in collective agreements by region.</i>
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 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	

3.5.3.2 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
Did the ruling by the High Court of Justice endorse the identification of competition issues raised by the CNMC in the Legal Appeal?			
Did the High Court of Justice ruling adopt the measures sought by the Legal Appeal by the CNMC?			
Where 'individual opinions' (votos particulares) issued against the ruling?			
Did these individual opinions endorse the identification of competition issues raised by the CNMC in the Legal Appeal?			

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).*

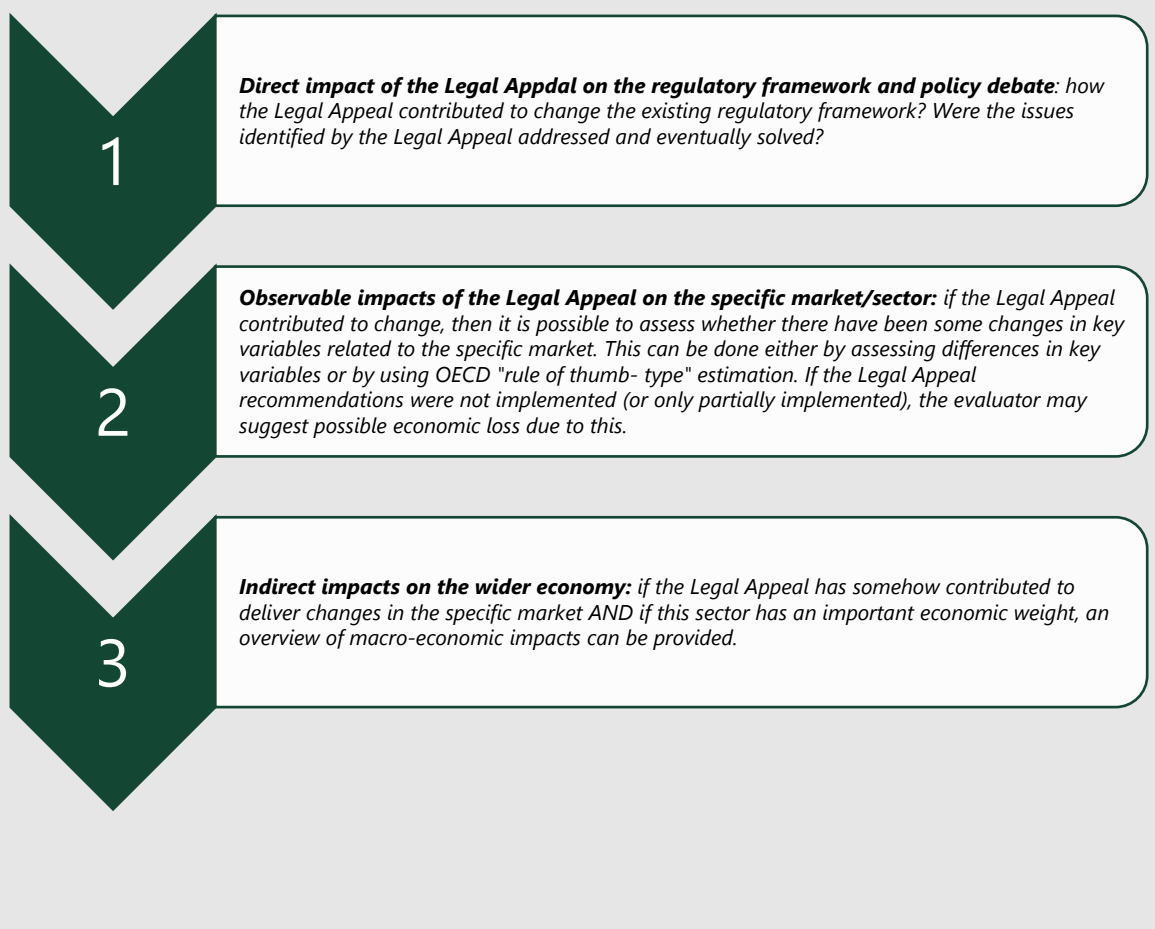
Coherence checklist	Yes	No
Are there inconsistencies between the Legal Appeal and reports of other types issued by the CNMC, including Market Studies and other Legal Appeals?		
Are there clear inconsistencies between the Legal Appeal and other Legal Appeals issued invoking the same principles?		
Is the 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?		

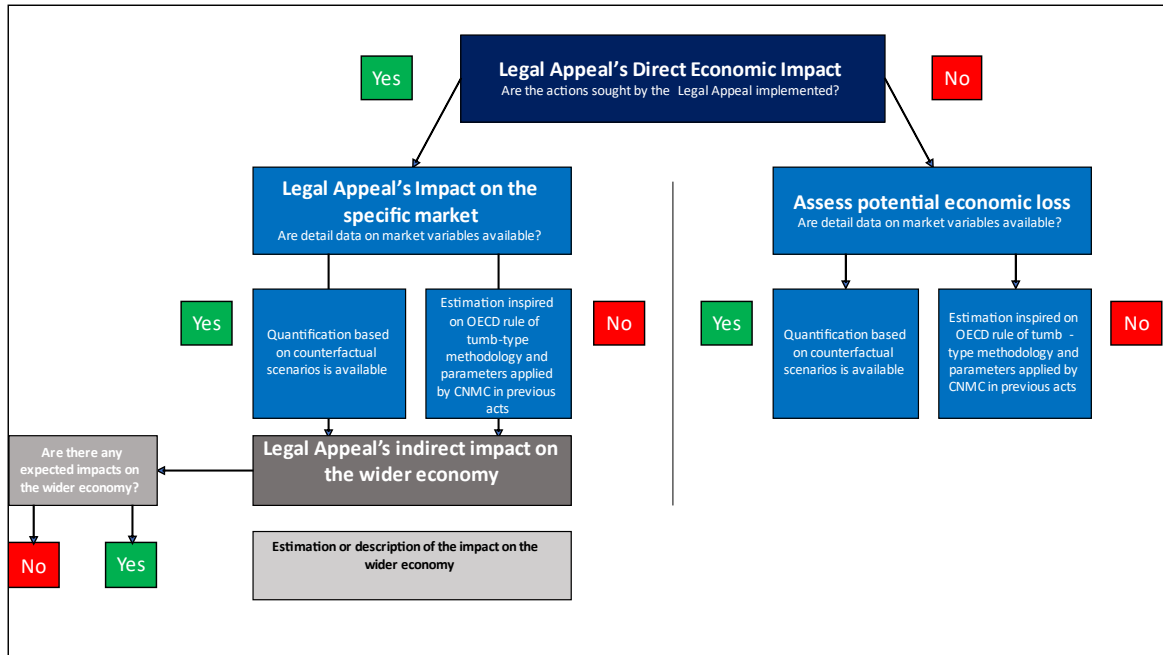
3.5.4 Impact Assessment

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.

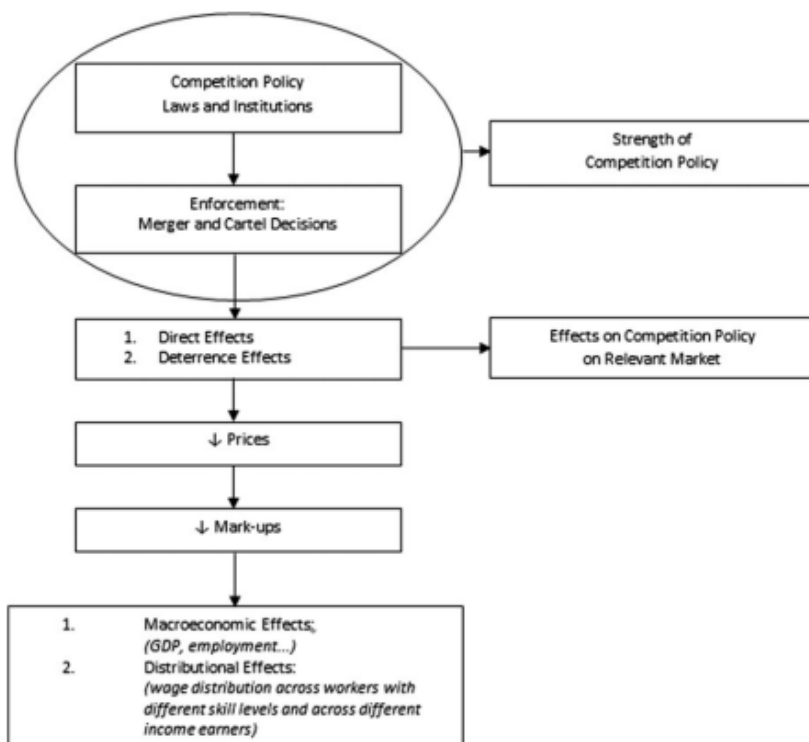
OECD Competition issues	Relevant recommendation	Impact	Indicator	Data
	{Insert recommendation from table above}	Market	<ul style="list-style-type: none"> Potential increase in the number of operators 	<ul style="list-style-type: none"> Number of operators:
			<ul style="list-style-type: none"> Changes 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 Legal Appeal itself (i.e. sector, rationale behind the appeal, objectives)**
- **Key competition issues identified (see relevance section)**
- **Overall assessment of effectiveness and efficiency**
 - Has the Legal Appeal had a satisfactory outreach? Who were the most involved stakeholders?
 - Has the Legal Appeal 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 Legal Appeal 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:

A Limits the number or range of suppliers

This is likely to be the case if the provision:

- 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 invest capital

B Limits the ability of suppliers to compete

This is likely to be the case if the provision:

- 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

This may be the case if the provision:

- 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

D Limits the choices and information available to customers

This may be the case if the provision:

- D1** Limits the ability of consumers to decide from whom they purchase
- 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

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/competition/guide)

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

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

Questionnaire on efficiency, internal:

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

3.6 Informes de Market Unity en virtud de los artículos 26 y 28 de 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 behind the act

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 act

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:

- 1. 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.*
- 2. 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).*

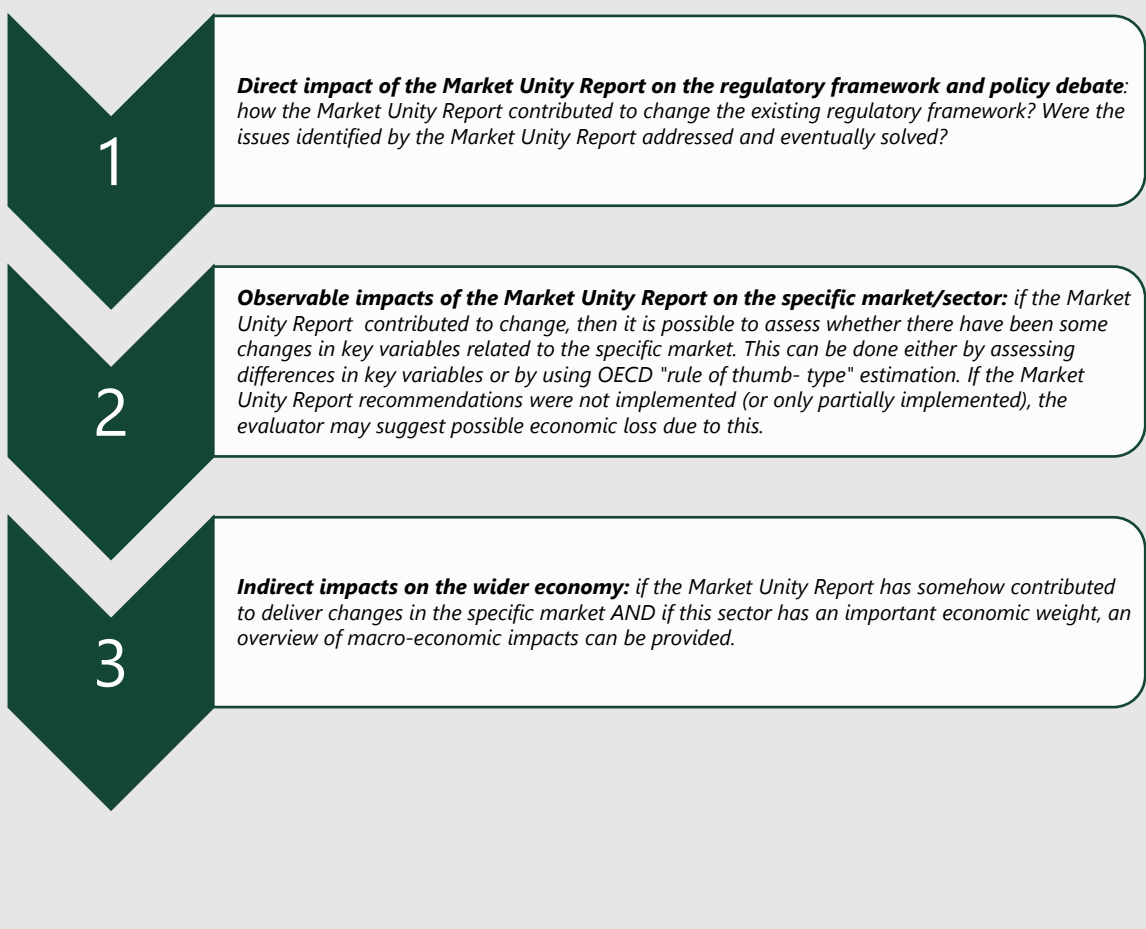
Coherence checklist	Yes	No
Does the Market Unity Report contradict acts of other type issued by the CNMC, including Market Studies and other Market Unity Reports?		
Are there clear inconsistencies between the Market Unity Report and other Market Unity acts issued invoking the same principles?		
Are there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

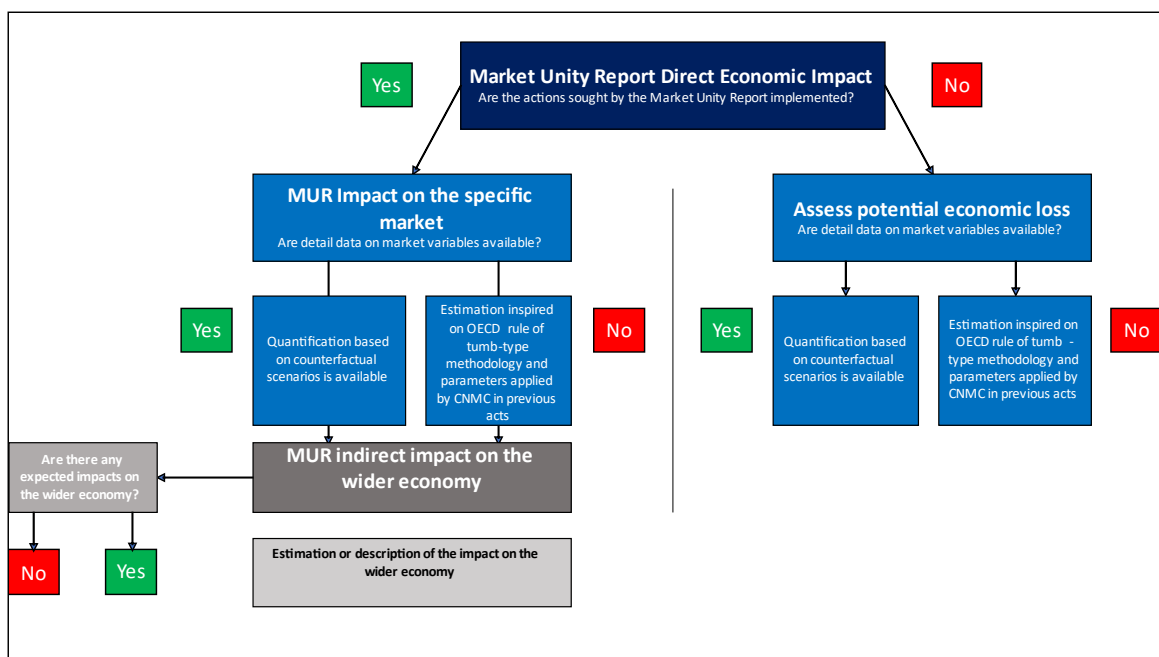
- 1) **Attribution**, meaning that impacts have to be clearly linked to the outputs of the Market Unity Report and not be caused by simultaneous events (i.e. change in market structures, economic crisis, and so on).
- 2) **Reliability of estimation**, meaning that potential impacts must be calculated 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 impact

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
--	--	--------------------------------	--	---

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 Market Unity Report itself (i.e. sector, rationale behind the study, objectives)**
- **Key competition issues identified (see relevance sector)**
- **Overall assessment of effectiveness and efficiency**
 - *Has the Market Unity Report had a satisfactory outreach? Who were the most involved stakeholders?*
 - *Has the Market Unity Report 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 Market Unity Report 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?**

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:

A Limits the number or range of suppliers

This is likely to be the case if the provision:

- 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 invest capital

B Limits the ability of suppliers to compete

This is likely to be the case if the provision:

- 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

This may be the case if the provision:

- 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

D Limits the choices and information available to customers

This may be the case if the provision:

- D1** Limits the ability of consumers to decide from whom they purchase
- 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

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:

- 1) *Please describe your overall knowledge of the Market Unity Report and your familiarity with it.*
- 2) *Do you consider that the Market Unity Report reflects the market unity issue that you experienced?*
- 3) *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?*
- 4) *Do you consider that the Market Unity Report proposes effective solutions to the market unity issue that you experienced?*

Questionnaire on efficiency, internal:

- 1) *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?*
- 2) *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?*

- 3) *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 Revisión de la literatura

4.1 Introducción: evaluación de los actos de promoción

En las últimas décadas, las autoridades de competencia se han interesado cada vez más en realizar evaluaciones ex post de sus intervenciones. De hecho, la política de competencia se ha enfrentado a críticas sobre su capacidad para abordar el poder de mercado y para evolucionar ante nuevas tendencias como la globalización y la digitalización. Estas críticas aumentaron la importancia de trabajar en evaluaciones ex post creíbles y en una evaluación de impacto de las prácticas de las autoridades de competencia con el fin de defender su legitimidad para tomar este tipo de acciones y probar su valía. En esta sección, definiremos los conceptos relacionados con la evaluación ex post y la evaluación de impacto tanto desde una perspectiva micro como macroeconómica.

La evaluación ex post y la evaluación de impacto examinan los efectos económicos de la aplicación de la normativa en materia de competencia y el marco regulador subyacente. Los efectos económicos son los efectos de la política de competencia en los precios, los márgenes, los efectos no relacionados con los precios y, desde una perspectiva agregada, en la productividad, el empleo y el crecimiento económico. (Ilzkovitz y Dierx, Capítulo 1, 2020).

En términos generales, de acuerdo con la literatura económica relevante, se pueden identificar cinco objetivos principales de las evaluaciones ex post:

1. mejorar la toma de decisiones y las prácticas de ejecución;
2. mejorar la eficacia del Derecho de la competencia;
3. establecer prioridades internas;
4. defender la legitimidad de la aplicación de la política de competencia y abogar por la competencia; y
5. mejorar la transparencia de las decisiones políticas. (Ilzkovitz y Dierx, Capítulo 1, 2020).

Los principales problemas identificados en relación con la defensa de la competencia están relacionados con las dificultades en la atribución de los impactos sobre una mayor competencia o protección del consumidor. A diferencia de otros estudios de evaluación de impacto, cuyo objetivo es determinar en qué medida una medida política específica tendría un cierto efecto, la evaluación del impacto de la promoción de la competencia requiere determinar su influencia en los responsables políticos, las instituciones gubernamentales o los tribunales, que a su vez llevan a cabo políticas, introducen modificaciones regulatorias o toman decisiones judiciales con consecuencias económicas. Según Zywicki et al (2004), el valor de la defensa de la competencia debe medirse por el grado en que los actos de promoción cambiaron los resultados regulatorios multiplicado por el valor para los consumidores de esos resultados mejorados. Medir el grado en que la promoción de la competencia influyó en los responsables de la toma de decisiones es difícil de alcanzar por múltiples razones, como el hecho de que la promoción de la competencia no sólo tiene un efecto directo en una política específica, sino que tiene un efecto más amplio, efecto intangible en favor de la aparición de una cultura de competencia (Zywicki et al 2004).

La literatura académica muestra que el método preferido para estimar los efectos de las acciones de promoción de la competencia es realizar encuestas con las partes interesadas por parte de ellas seleccionadas. Concretamente, se pregunta directamente a estas partes interesadas sobre el grado

en que son o eran conscientes de las acciones de promoción de la competencia y la medida en que esta conciencia influyó en las decisiones específicas que tomaron (Zywicki et al 2007, ICN, 2012).

Aunque es difícil medir con precisión el impacto de los actos de promoción en los resultados regulatorios, las actividades de promoción de las autoridades nacionales de competencia son más rentables que las de *enforcement*. De hecho, ésta última tiene costes altos y la incertidumbre inherente de los litigios, mientras que la promoción requiere un menor número de recursos. Además, al prevenir o mejorar las restricciones anticompetitivas antes de que se impongan, la promoción de la competencia puede evitar o atenuar el daño al consumidor. (Zywicki, Todd & Cooper, James & Pautler, Paul. 2004)

4.2 Descripción y evaluación de las directrices existentes

Evaluar el impacto de las normas y reglamentos en la competencia puede ayudar a lograr objetivos económicos importantes: los mercados que son competitivos son más eficientes e innovadores. A este respecto, varias autoridades y organizaciones de competencia han elaborado directrices para evaluar el impacto de la regulación en la competencia y los resultados económicos.

El marco principal lo proporciona el Conjunto de herramientas de evaluación de la competencia de la OCDE. Este conjunto de herramientas proporciona un marco general para evaluar los proyectos de nuevas leyes y reglamentos (por ejemplo, a través de programas de evaluación del impacto regulatorio), para evaluar las leyes y regulaciones existentes (que se aplican a la economía en su conjunto o a sectores específicos) y para evaluar los impactos competitivos de las modificaciones regulatorias implementadas por los organismos gubernamentales (como las autoridades de competencia). En este conjunto de herramientas, la OCDE proporciona un marco útil para comprender qué situaciones o fallos del mercado podrían requerir una evaluación de la competencia sobre la regulación nueva o existente. La Tabla 1 a continuación presenta la lista de fallas de mercado identificadas por el Kit de Herramientas de Evaluación de la Competencia de la OCDE (OCDE 2019).

Tabla 10. Kit de herramientas de evaluación de la competencia: límites a la competencia o fallas del mercado

La evaluación de la competencia debe llevarse a cabo si una disposición legal tiene alguno de los siguientes efectos:
A1. Otorga derechos exclusivos para que un proveedor proporcione bienes o servicios.
A2. Establece un proceso de licencia, permiso o autorización como requisito de operación.
A3. Limita la capacidad de algunos proveedores para proporcionar un bien o servicio.
A4. Aumenta significativamente el costo de entrada o salida de un proveedor.
A5. Crea una barrera geográfica para que las empresas suministren bienes, servicios o mano de obra, o inviertan capital.
B1. Limita la capacidad de los vendedores para establecer precios de bienes o servicios.
B2. Limita la libertad de los proveedores para publicitar o comercializar sus bienes o servicios.
B3. Establece estándares para la calidad del producto que proporcionan una ventaja a algunos proveedores sobre otros o están por encima del nivel que algunos clientes bien informados elegirían.
B4. Aumenta significativamente los costos de producción para algunos proveedores en relación con otros (especialmente al tratar a los operadores tradicionales de manera diferente a los nuevos participantes).

La evaluación de la competencia debe llevarse a cabo si una disposición legal tiene alguno de los siguientes efectos:
C1. Crea un régimen de autorregulación o corregulación.
C2. Requiere o fomenta la publicación de información sobre los productos, precios, ventas o costos de los proveedores.
C3. Exime a la actividad de una industria o grupo de proveedores en particular de la aplicación de la legislación general de competencia.
D1. Limita la capacidad de los consumidores para decidir a quién compran.
D2. Reduce la movilidad de los clientes entre proveedores de bienes o servicios al aumentar los costos explícitos o implícitos de cambiar de proveedor.
D3. fundamentalmente la información requerida por los compradores para comprar de manera efectiva.

Guidance Fuente: OCDE (2019), Competition Assessment Toolkit: Volume 2. Orientación

Las directrices de la OFT para la apreciación de competencia en las evaluaciones de impacto¹⁶ sugiere que, en el proceso de evaluación de impacto, los responsables políticos deben identificar en primer lugar quién, directa o indirectamente, se verá afectado por la política. Esta información se utiliza como punto de partida para la evaluación del impacto de la competencia. De hecho, la evaluación de la competencia requiere que los responsables políticos identifiquen los mercados directamente afectados por las medidas aplicadas, así como otros mercados de la cadena de suministro que también pueden verse afectados (OFT 2010).

El Conjunto de herramientas de evaluación de la competencia de la OCDE¹⁷ también proporciona una orientación sobre la evaluación de las regulaciones relacionadas con la política de competencia que es útil para analizar los impactos de los actos de promoción en la competencia en el mercado. El punto de partida de cualquier evaluación debe ser identificar los objetivos perseguidos por cada reglamento específico. En segundo lugar, el evaluador debe mapear las barreras existentes para cumplir esos objetivos, que podrían estar relacionadas con barreras regulatorias, costes hundidos o el comportamiento de la empresa incumbente (OCDE 2019).

Según la OCDE (2019), una vez identificados estos puntos, el evaluador evaluará varias variables para analizar el impacto de la regulación en la competencia en el mercado. Estos son los siguientes:

- 1) **Examinar el efecto de la regulación en las empresas incumbentes.** Cómo podría afectar la regulación a las operaciones de las empresas, si hay impactos sustancialmente diferentes en diferentes empresas y si los diferentes impactos cambiarían sustancialmente la intensidad de la competencia. Esto requiere un análisis sobre:
 - Costes de cumplimiento de la regulación.
 - Efecto de la regulación sobre la salida de las empresas.
 - Efecto de la regulación sobre el posible comportamiento contrario a la competencia de las empresas incumbentes.
- 2) **Examinar el efecto de la regulación sobre la entrada de nuevas empresas.** Además, el evaluador analizará si la regulación tiene un impacto en la entrada de cualquier tipo de entrantes o en tipos específicos de empresas.
- 3) **Examinar el impacto de la regulación en los precios y la producción.** El evaluador analizará los posibles canales a través de los cuales la regulación puede impactar los precios:

¹⁶ OFT Guideline on Completing competition assessments in Impact Assessments

¹⁷ OECD Competition Assessment Toolkit

- Efecto sobre el posible comportamiento contrario a la competencia de las empresas incumbentes.
 - Aumento de los costes de producción (es decir, nuevos costes para los productores).
 - Aumento del poder de mercado (es decir, aumento de las barreras de entrada y mayores márgenes de beneficio).
 - Probabilidad de comportamiento anticompetitivo (por ejemplo, mayor intercambio de información o mayor colusión).
- 4) **Examinar el impacto de la regulación en la calidad y variedad de los bienes y servicios.** La calidad y la variedad pueden verse afectadas a través de mecanismos alternativos como:
- Regulaciones que establecen estándares mínimos de calidad.
 - Regulaciones que llevan a las empresas a salir en mercados con productos diferenciados.
 - Barreras de entrada y el aumento potencial de la variedad de bienes y servicios derivados de mercados con menos restricciones.
- 5) **Examinar el efecto de la regulación en la innovación.** La innovación puede tener un impacto en la eficiencia de las operaciones comerciales:
- Si la regulación crea barreras de entrada y provoca la salida de las empresas tradicionales, es muy probable que dé lugar a una reducción de la competencia y la innovación en el mercado.
 - Si la regulación impone una determinada forma de operar un negocio, por ejemplo, basada en formas tradicionales de servicio o buena prestación, entonces puede impedir que las empresas adopten nuevas tecnologías y modelos de negocio.
- 6) **Examinar el efecto de la regulación en el crecimiento del mercado.** Las cuestiones de crecimiento del mercado (por ejemplo, la regulación anticompetitiva) pueden examinarse teniendo en cuenta el aumento de la producción y las ventas, así como las nuevas inversiones de capital en instalaciones, equipos y maquinaria.
- 7) **Examinar el efecto de la regulación en los mercados relacionados.** Para evaluar adecuadamente el impacto de un reglamento, el evaluador debe examinar sus efectos en todos los mercados ascendentes y descendentes relacionados.
- 8) **Proporcionar un resumen del impacto de la norma o reglamento en los precios y la producción, la variedad y calidad del producto, la eficiencia y la innovación tanto para los mercados primarios como para los mercados relacionados** (ascendentes y descendentes).
- 9) **Proporcionar alternativas a la regulación propuesta.** Si las normas y reglamentos pueden mejorarse para reducir el daño a la competencia, los evaluadores identificarán formas alternativas de estructurar esas normas y reglamentos, evaluando los posibles efectos de competencia de cada alternativa, comparando las diferentes alternativas y clasificando las opciones con el fin de maximizar los beneficios para los consumidores.

La lista de la OCDE de fallos de mercado anterior se ha utilizado también en European Commission's *Better Regulation Toolbox* (Herramienta # 23) para examinar las políticas en busca de posibles efectos perjudiciales para la competencia. Este instrumento para la mejora de la regulación de la Comisión Europea también propone que cuando la evaluación preliminar concluya que la regulación podría introducir riesgos significativos que socaven la competencia en el mercado, el evaluador pueda proporcionar diferentes alternativas. Algunas de las opciones propuestas por las CE para evaluar estas alternativas son las siguientes:

- Períodos de transición/disposiciones a medida al adoptar nueva legislación.
- Utilizar incentivos económicos en lugar de regulación para hacer frente a las externalidades.
- Garantizar una información adecuada al consumidor en lugar de características obligatorias del producto.

- Especificaciones de producto voluntarias en lugar de obligatorias.
- Dependencia de la ley de competencia / aplicación de la competencia en lugar de la regulación específica del sector para hacer frente a un comportamiento competitivo inapropiado (Comisión Europea 2017).

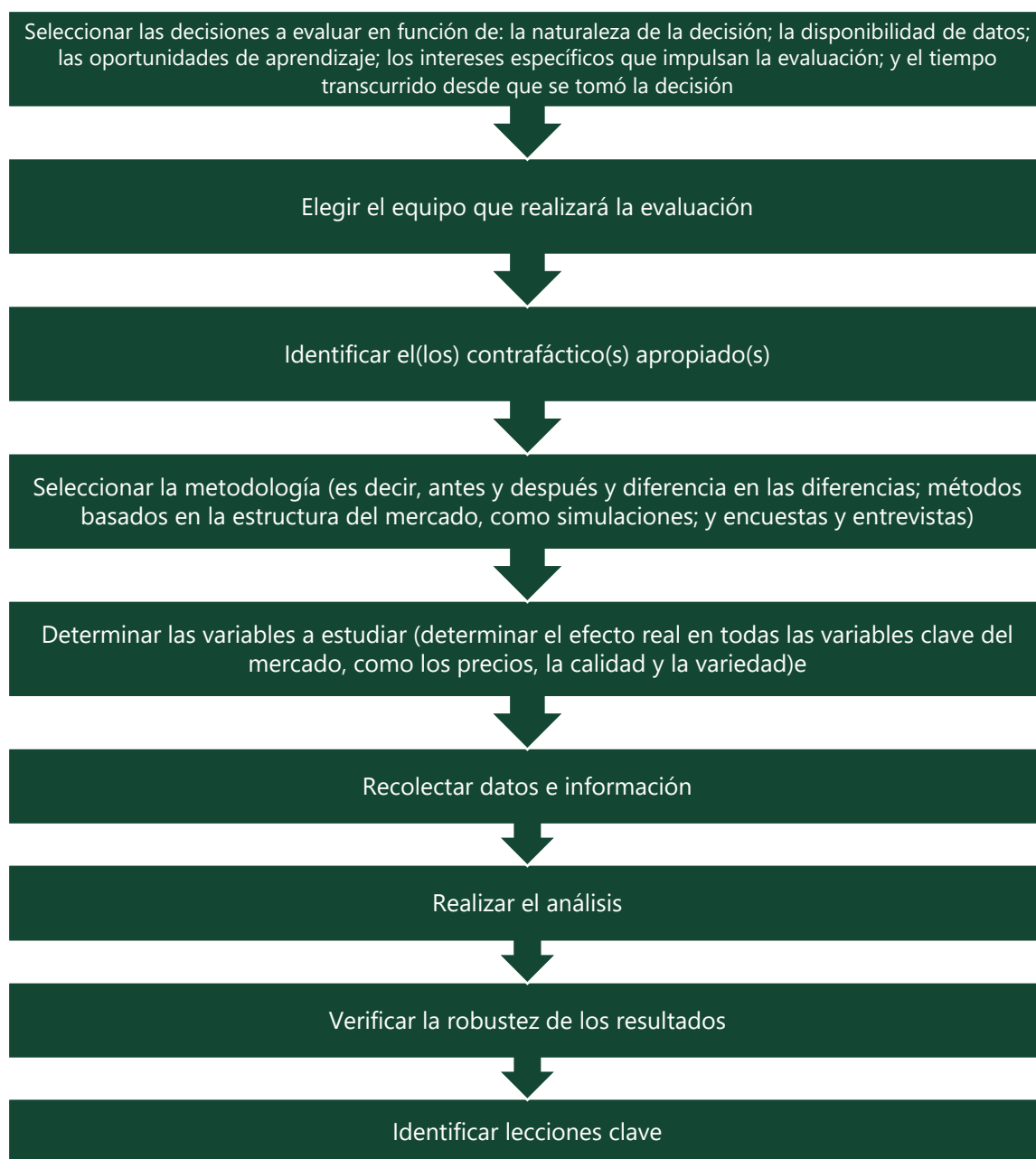
caso de que no se disponga de alternativas, el Manual de Reglamentación de las Mejores Prácticas del Gobierno de Australia¹⁸ sugiere que la reglamentación debe evaluarse desde la perspectiva del bienestar económico (es decir, si la reglamentación tiene beneficios netos, teniendo en cuenta los costos de los efectos anticompetitivos) (Gobierno de Australia, 2007).

El interés de las autoridades de competencia no es sólo evaluar si la regulación en un mercado determinado o en una economía más amplia está en consonancia con los principios de la política de competencia, sino también evaluar el impacto que sus propias acciones, decisiones y recomendaciones tienen en la competencia en el mercado. Para ello, el evaluador podría llevar a cabo una evaluación ex post.

Las evaluaciones ex post pueden ayudar a determinar si una intervención (o no intervención) de una autoridad de competencia logró sus objetivos. Si no lo hizo, la evaluación ex post puede ayudar a identificar las razones por las que la intervención (o no intervención) no cumplió con su propósito y cómo diseñar mejor la implementación de futuras intervenciones en casos similares. La Guía de referencia de la OCDE sobre la evaluación ex post de las decisiones de *enforcement* de las autoridades de competencia describe una serie de pasos que deben tomarse para diseñar y realizar una evaluación ex post (véase la Figura 1 a continuación) OCDE (2016).

¹⁸ *Best Practice Regulation Handbook of the Australian Government*

Figura 1. Pasos clave de las evaluaciones ex post



Fuente: OCDE (2016), *Reference guide on ex-post evaluation of competition agencies' enforcement decisions*.

Las evaluaciones ex post periódicas pueden proporcionar a la autoridad de competencia información valiosa en términos de mejorar la toma de decisiones e identificar patrones comunes mediante la realización de una serie de estudios sobre el mismo tipo de decisión (por ejemplo, fusiones, abuso de posición dominante) o sobre un sector problemático específico (OCDE 2016).

Podrían realizarse evaluaciones ex post para determinar el efecto de las prácticas de las autoridades de competencia a lo largo de diferentes períodos de tiempo, dependiendo del tipo de decisión y del alcance de la intervención que realizaran. Por un lado, una evaluación ex post de intervenciones específicas (por ejemplo, una decisión sobre un caso de concentración) implica la evaluación del impacto de dicha intervención en el mercado o mercados de referencia. Este tipo de evaluación específica del caso normalmente se realiza algún tiempo después de que se hayan realizado las intervenciones para determinar su efecto real. Estas evaluaciones generalmente se realizan para

verificar la exactitud y la idoneidad de las intervenciones y para mejorar el proceso de toma de decisiones de la autoridad de competencia (OCDE 2013).

Por otra parte, las evaluaciones de impacto pueden referirse a intervenciones más amplias adoptadas por la autoridad durante un período de tiempo (sin distinguir entre tipos de decisiones), o a un subconjunto de ellas (por ejemplo, referidas únicamente a decisiones de cártel). En estos casos, las evaluaciones ex post se realizan poco después de que se toman estas decisiones. Por lo tanto, solo pueden estimar los efectos probables sobre la base de suposiciones. Estas evaluaciones de impacto examinan los vínculos entre las actividades de *enforcement* y las de promoción y una o más variables económicas a nivel macroeconómico, como la productividad, la innovación, el crecimiento o el empleo, y evalúan el impacto que las primeras tienen en las segundas (OCDE 2013).

La Guía de la OCDE¹⁹ para ayudar a las autoridades de defensa de la competencia a evaluar el impacto previsto de sus actividades proporciona un marco esencial para evaluar el impacto de las actividades de las autoridades de competencia centrándose en las actividades de observancia en lugar de las actividades de promoción. Esta guía tiene por objeto proporcionar una metodología para evaluar los beneficios globales resultantes de las decisiones sobre fusiones e infracciones de la defensa de la competencia que las autoridades de competencia adoptaron en el período de tiempo examinado. (OECD 2014a).

En particular, la citada guía de la OCDE proporciona un conjunto de principios generales que deben aplicarse al realizar una evaluación de impacto:

- Siempre que sea posible, información específica del caso.
- Asumir que ninguna intervención tendrá un impacto negativo.
- Estimar los beneficios estáticos para el consumidor (es decir, sobre los precios) y, cuando sea posible, también incluir los dinámicos (es decir, sobre la innovación, la calidad y la productividad).
- Calcular y publicar periódicamente la evaluación de impacto.
- Presentar los resultados por tipo de decisiones, cuando sea posible.
- Dar estimaciones "puntuales" dentro de un rango de valores plausibles (es decir, a través de un análisis de sensibilidad) (OCDE 2014a).
- Presentar los resultados tanto como una cifra anual como una media móvil anual durante tres años.

En términos de metodología, la OCDE (2014a) sugiere entonces una metodología simple y fácilmente aplicable que debería ser relativamente poco exigente en términos de costo y tiempo. La metodología de la OCDE se resume en el cuadro que figura a continuación.

Tabla 6. Metodología de evaluación de impacto de la OCDE

<p>Beneficios para el consumidor</p> <p>A fin de evaluar los beneficios estáticos para el consumidor resultantes de cada decisión, el evaluador estimará:</p> <ul style="list-style-type: none">• el tamaño del volumen de negocios afectado;• el aumento de precio eliminado o evitado;• la duración prevista del efecto precio. <p>El beneficio total para el consumidor es el producto de estas tres cifras.</p>
--

¹⁹ OECD Guide for helping competition authorities assess the expected impact of their activities

Conjunto de supuestos predeterminados (que se utilizará cuando no se disponga de información específica que permita el cálculo de las tres cifras enumeradas anteriormente)

Cuando dicha información no está disponible, o no se puede utilizar por confidencialidad u otras razones legales, se pueden utilizar los siguientes supuestos:

1. para el volumen de negocios afectado:
en los casos de cártel y abuso de posición dominante, el volumen de negocios ex ante de las empresas investigadas en el mercado o mercados afectados;
en los casos de concentración, el volumen de negocios ex ante de todas las empresas del mercado o mercados afectados.
2. para el efecto de precio esperado:
en los casos de cártel, un sobrecoste del 10%;
en los casos de abuso de posición dominante, un aumento de los precios del 5%;
en los casos de fusión, un aumento del precio del 3%.
3. Duración probable del aumento de precios sin intervención del organismo de competencia:
en casos de cártel, una duración de 3 años;
en los casos de abuso de posición dominante, una duración de 3 años;
en casos de fusión, duración de 2 años

OCDE (2014), Guía para ayudar a las autoridades de competencia a evaluar el impacto esperado de sus actividades

A continuación, la guía sugiere que la autoridad, al publicar su evaluación de impacto, incluya una explicación clara de la metodología utilizada y sus limitaciones (OCDE 2014a).

A pesar del aumento de las actividades de promoción por parte de las autoridades de defensa de la competencia en los últimos años y de la mayor atención prestada al impacto de sus intervenciones, las evaluaciones ex post siguen siendo bastante raras. De hecho, los únicos ejemplos que se encuentran se refieren a estudios de mercado, que examinan por qué determinados mercados parecen no estar funcionando bien para los consumidores. Estos estudios de mercado pueden dar lugar a recomendaciones sobre cómo podrían cambiar para funcionar mejor. Los mercados pueden ser remitidos a una investigación de mercado para su posterior análisis.

La CMA del Reino Unido (antigua OFT) es una de las autoridades más activas en este sentido. En 2010, la OFT publicó su Guía²⁰ de métodos de estimación de impacto de OFT, que todavía es utilizada por la CMA para realizar evaluaciones de impacto ex post. Cada año, la CMA encarga al menos una evaluación de un estudio de mercado. Estas evaluaciones independientes suelen incluir estimaciones monetarias ex post de los ahorros de los consumidores resultantes de las intervenciones de la CMA, basadas en la información recopilada después de que se hayan implementado las recomendaciones de la CMA y se pueda observar un impacto. Por lo tanto, los resultados de una evaluación ex post son más sólidos que las estimaciones ex ante proporcionadas en el estudio de mercado. Para los estudios de mercado u otros actos que recomienden la adopción de medidas por parte de la CMA u otros organismos, la autoridad de competencia utiliza estimaciones ex post de evaluaciones cuando están disponibles y, de no ser así, se basa en estimaciones ex ante del impacto. Al igual que en el caso del resto de las autoridades de competencia, la evaluación de las actividades de la CMA cumple una doble función tanto de responsabilidad externa (es decir, si la CMA cumple sus objetivos y lo hace de manera rentable para el contribuyente y el Parlamento) como de gestión interna (para

²⁰ *Guide to OFT's Impact Estimation methods*

ayudar a priorizar, conducir y dar seguimiento a su trabajo para garantizar que se maximice su impacto) (OFT 2010a).

La OCDE en su Guía²¹ de Estudios de Mercado para Autoridades de Competencia de 2018 afirma que las evaluaciones ex post pueden ayudar a determinar la efectividad del estudio de mercado para cumplir su objetivo y ayudar a establecer el valor de los estudios de mercado como herramienta de promoción (OCDE 2018).

La OCDE (2018) proporciona dos metodologías diferentes para evaluar los impactos de un estudio de mercado ex post:

- una metodología global dirigida a:
 - o supervisar el cumplimiento de las órdenes obligatorias, la aplicación de las recomendaciones por parte de los reguladores y los participantes en el mercado, y la eficacia de las actividades de divulgación de la autoridad con los responsables de la formulación de políticas y los consumidores.
 - o determinar si persisten los problemas de competencia en un sector y, por lo tanto, si es necesario seguir estudiando o adoptando medidas por su parte.
 - o desarrollar las lecciones aprendidas en relación con la selección y aplicación de remedios, que pueden aplicarse a futuros estudios de mercado en el mismo sector, o estudios dirigidos a los mismos tipos de problemas en otros sectores. Probar si ciertos tipos de remedios son más efectivos que otros también podría ser útil para el control de fusiones y el trabajo de aplicación
- una metodología de enfoque más limitada para evaluar los resultados del estudio simplemente informando del número de recomendaciones legislativas y políticas que se han formulado y del número que se han adoptado. (OCDE 2018).

En el cuadro que figura a continuación figura una lista de las directrices analizadas emitidas por autoridades nacionales e internacionales.

Tabla 7. Lista de directrices pertinentes

- 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
- OECD (2014), Guide for assessing the impact of competition authorities' activities. Available at: <https://www.oecd.org/daf/competition/Guide-competition-impact-assessmentEN.pdf>
- OECD (2016), Reference guide on ex-post evaluation of competition agencies' enforcement decisions. Available: <https://www.oecd.org/daf/competition/Ref-guide-expost-evaluation-2016web.pdf>
- OECD (2018), Guide on Market Studies for Competition Authorities, 23 May 2018, DAF/COMP/WD(2018)26. Available at: [https://one.oecd.org/document/DAF/COMP/WD\(2018\)26/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2018)26/en/pdf)

²¹ *Guide on Market Studies for Competition Authorities*

- OECD (2019), OECD Competition Assessment Toolkit Available at: <https://www.oecd.org/daf/competition/assessment-toolkit.htm>
- OFT (2007), Completing competition assessment in Impact Assesments. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191489/Green Book supplementary guidance completing competition ass](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191489/Green_Book_supplementary_guidance_completing_competition_assessments_in_impact_assesments.pdf)
[essments in impact assessments.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191489/Green_Book_supplementary_guidance_completing_competition_assessments_in_impact_assesments.pdf)
- OFT (2010), A guide to OFT's impact estimation methods (July 2010). Available at: [https://webarchive.nationalarchives.gov.uk/20140402172157/http://www.offt.gov.uk/OFT](https://webarchive.nationalarchives.gov.uk/20140402172157/http://www.offt.gov.uk/OFT_work/publications/publication-categories/reports/Evaluating/oft1250)
[work/publications/publication-categories/reports/Evaluating/oft1250](https://webarchive.nationalarchives.gov.uk/20140402172157/http://www.offt.gov.uk/OFT_work/publications/publication-categories/reports/Evaluating/oft1250)
- Spanish Competition Authority (2008), Recommendations to public authorities for more efficient and pro-competitive market regulation. Available at: https://www.cnmec.es/sites/default/files/1185792_7.pdf
- Spanish Competition Authority (2009), A guide to Competition Assessment. Available at: https://www.cnmec.es/sites/default/files/1185518_7.pdf
- UK Department for International Development (2008), Competition Assessment Framework. Available at: [https://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/46](https://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/46192459.pdf)
[192459.pdf](https://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/46192459.pdf)

4.3 Artículos académicos y otras publicaciones

La evaluación de las actividades de *enforcement* y promoción de la competencia se refiere a todos los ejercicios de evaluación que las autoridades de defensa de la competencia emprenden para determinar la eficacia de su labor, proporcionar transparencia sobre sus actividades y dar cuenta de la utilización de sus recursos.

En 2013, la OCDE publicó los resultados de una encuesta de 46 autoridades de competencia en 44 jurisdicciones en el informe *Evaluation of competition enforcement and advocacy activities: the results of an OECD survey*. El objetivo de este cuestionario era comprender qué tipo de ejercicios de evaluación han estado realizando las autoridades de competencia, por qué los han estado realizando y cómo lo han estado haciendo. Los resultados de este cuestionario muestran que, en promedio, entre el 20% y el 25% de las autoridades de competencia cuantifican regularmente los beneficios de sus actividades derivados de la detección de cárteles y otros acuerdos anticompetitivos, la evaluación de fusiones y la investigación de abusos de posición dominante. Sin embargo, solo unos pocos de ellos evalúan los beneficios de la promoción y otros tipos de intervenciones (OCDE 2013). A continuación, se relacionan algunos ejemplos pertinentes de evaluación ex post de actos y actividades de promoción.

- Un ejemplo es proporcionado por la Oficina Canadiense de Competencia con su *Self-Regulated Professions - Post-study assessment*. En 2007, la Oficina de la Competencia publicó un estudio sobre profesiones autorreguladas: equilibrio entre la competencia y la reglamentación, en el que se examinaba la reglamentación de cinco profesiones autorreguladoras y se proponían 53 recomendaciones que se comunicaban a los organismos autorreguladores pertinentes. Esta evaluación ex post proporciona un seguimiento conciso de estas recomendaciones, destacando cómo el estudio ha sido eficaz en el logro de sus objetivos y rastrea los desarrollos de políticas desde la publicación del estudio: si bien ciertos organismos profesionales autorregulados hicieron progresos significativos en la revisión de los reglamentos y modificaron los reglamentos o reglas, aún quedaba mucho trabajo por hacer para implementar todas las recomendaciones del estudio.

El enfoque en esta evaluación ex post es bastante esencial, y no sigue una metodología estructurada, sino que proporciona una instantánea rápida de la evolución de las políticas (Oficina de Competencia 2015).

- Otro ejemplo lo proporciona la Revisión del estudio de mercado de servicios jurídicos en Inglaterra y Gales realizado por la CMA²². Este informe expone las conclusiones de una revisión realizada por la CMA para evaluar en qué medida se han aplicado sus recomendaciones en el estudio de mercado Servicios jurídicos de 2016 y el impacto que estos cambios han tenido hasta la fecha. Esta revisión analiza el impacto de las recomendaciones del estudio de mercado destinadas a aumentar la transparencia de la información de precios, servicios y calidad mediante el uso de una encuesta al consumidor y datos de precios. En la revisión se llegó a la conclusión de que el estudio de mercado había tenido un enorme impacto en la transparencia para los consumidores de servicios jurídicos, pero, por otro lado, aún no se había producido un cambio relevante en el nivel de precios y la competencia en el mercado. En segundo lugar, evaluó el impacto de las recomendaciones del estudio de mercado relativas a la reforma del marco regulador, llegando a la conclusión de que se había avanzado poco a ese respecto. El enfoque y los hallazgos son en gran medida cualitativos y no hay ninguna nueva estimación ex post de los impactos (CMA 2020).

En el estudio de 2010 Evaluación del impacto del estudio OFT de 2003 sobre el control de las regulaciones de entrada en el mercado de farmacias minoristas²³, la CMA (ex OFT) tuvo un enfoque más cuantitativo. En 2003, el estudio de la CMA (antigua OFT) recomendó que se suprimiera el control de las normas de entrada de las farmacias comunitarias. En los años siguientes, el gobierno prefirió avanzar con cautela en la dirección recomendada por la CMA y no implementó plenamente sus recomendaciones. En su estudio ex post de 2010, la CMA (ex OFT) midió el impacto del estudio anterior evaluando estas reformas contra un escenario contrafáctico de no cambiar el control de las disposiciones de entrada. Más concretamente, el estudio analizó con estimaciones cuantitativas los cambios en la oferta del mercado desde las reformas; impactos en el bienestar del consumidor; y, por último, los costes reglamentarios para las empresas y el NHS (OFT 2010b).

En OFT (2010b), la CMA (ex OFT) estimó que las reformas habían proporcionado beneficios anuales cuantificables a los consumidores de £ 24.7m-£ 32.8m contra los costos financieros cuantificables para las empresas y el NHS de £ 12.5 millones a los niveles de entrada neta y adopción del consumidor de mediados de 2009, además de otros beneficios adicionales que el OFT no pudo cuantificar (como el valor de una mayor disponibilidad y uso de horarios de apertura extendidos y la mejora de las opciones y conveniencia para los consumidores con diversas preferencias). Estos costes y beneficios se miden contra un escenario contrafáctico en el que se mantuvo el control de las regulaciones de entrada de 1992 (OFT 2010b).

- La Evaluación 2010 de OFT *Evaluation of OFT Competition Advocacy* se centra en la efectividad de las intervenciones de promoción de la competencia, con especial énfasis en sus beneficios asociados para los consumidores. En este estudio, la CMA (antigua OFT) realizó un examen de la bibliografía, una encuesta a funcionarios de todos los gobiernos que habían recibido asesoramiento en materia de competencia y un análisis de tres ejemplos en los que se prestó asesoramiento (OFT 2010c).

En su Evaluación de Impacto anual (CMA 2021), la CMA proporciona estimaciones de impacto que se centran en los beneficios financieros directos para los consumidores del trabajo de la CMA completado en los últimos 3 años financieros. Las estimaciones se dividen

²² Review of the legal services market study in England and Wales by the CMA

²³ Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market

en cuatro esferas: aplicación de la legislación en materia de competencia; la aplicación de la protección del consumidor; control de concentraciones; y estudios de mercado y referencias de investigación de mercado (denominados colectivamente «markets work») (CMA 2021).

Las estimaciones ex ante del impacto de aquellos proyectos en los que se espera que las recomendaciones y/u órdenes de la CMA sean implementadas por los organismos pertinentes (por ejemplo, reguladores y otros departamentos gubernamentales) se han incluido en la estimación de los beneficios financieros directos para los consumidores, ya que deberían tener un impacto positivo en los consumidores. Además, al estimar el impacto de cualquier proyecto de mercado, la CMA también considera la probabilidad de que sus recomendaciones u órdenes sean implementadas por los organismos pertinentes. En este sentido, la CMA estima que los beneficios directos para el consumidor de las intervenciones de la CMA a través de estudios de mercado e investigaciones de mercado fueron de £ 5,638.6 millones en total durante los años de 2018/19 a 2020/21, con un promedio de £ 1,879.5 millones por año (73% de los beneficios totales generados por la CMA) (CMA 2021).

5 Lista de fuentes de información

Aguzzoni, L., Langus, G., & Motta, M. (2013). The effect of EU antitrust investigations and fines on a firm's valuation. *The Journal of Industrial Economics*, 61(2), 290-338. Retrieved February 24, 2021, from <http://www.jstor.org/stable/43305471>

Alessie, R.J.M., Dijkstra, P.T., Kemp, R. *et al.* Impact Assessment of Competition Policies and Regulation: 10 Years' Experience from the Office of the Chief Economist in the Netherlands. *De Economist* 166, 1–6 (2018). <https://doi.org/10.1007/s10645-018-9313-3>

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>

Bundeskartellamt (2012), Bundeskartellamt presents results of its sector inquiry into compliance schemes - liberalisation reduces costs of packaging disposal by one billion euros per year", Press release, www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2012/03_12_2012_SU-duale-Systeme.html (in German)

CMA (2020), Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA's market study recommendations, 17 December 2020. Available at: https://assets.publishing.service.gov.uk/media/5fd9e53cd3bf7f40ccb335e1/Legal_Services_Review_-_Final_report.pdf

CMA (2021), Impact assessment, CMA impact assessment 2020 to 2021, Published 15 July 2021. Available at: <https://www.gov.uk/government/publications/cma-impact-assessment-2020-to-2021/cma-impact-assessment-2020-to-2021#overview-of-our-methodology>

Competition Assessment Toolkit (2010), Korea Fair Trade Commission. Available at: <https://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/46192134.pdf>

Competition Bureau (2015), Self-Regulated Professions — Post-study assessment. Available at : <https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03407.html>

Connor, John. (2014). Cartel overcharges. *Research in Law and Economics*. 26. 249-387. 10.1108/S0193-589520140000026008

European Commission (2017), Better Regulation Toolbox, TOOL #23. COMPETITION. Available at: https://ec.europa.eu/info/sites/default/files/better-regulation-toolbox_2.pdf

Fabienne Ilzkovitz, Adriaan Dierx (2020), Ex-post economic evaluation of competition policy: The EU experience. (Chapters 11-13)

FTC (2015), Evaluation of the Federal Trade Commission's Bureau of Economics, OIG Evaluation Report No. 15-03. Available at : <https://www.ftc.gov/system/files/documents/reports/evaluation-ftc-bureau-economics/150630beevaluation.pdf>

House of Commons Canada (2005), Air Liberalization and the Canadian Airport System, Commissioner of Competition response to information request by the House of Commons Standing Committee on Transport, (May 2005),
http://www.ourcommons.ca/Content/Committee/381/TRAN/Reports/RP1858323/TRAN_Rpt04/TRAN_Rpt04-e.pdf

ICN Advocacy Workshop "Competition Impact Assessment of Legislation" (2012). Available:
<https://www.ftc.gov/sites/default/files/attachments/key-speeches-presentations/121027icnadvocacyworkshop.pdf>

Ilzkovitz and Dierx (2020), EU Competition Policy and Ex post Evaluation: Key Concepts , Ex post Economic Evaluation of Competition Policy – The EU Experience, Chapter 1, edited by F. Ilzkovitz and A. Dierx , Kluwer Law International, ISBN: 9789403512945 SKU: 10072094-000, May 2020/

OECD (2005), Roundtable on evaluation of the actions and resources of Competition authorities , Competition Committee, June 2005. Available:
https://ec.europa.eu/competition/international/multilateral/2005_june_evaluation_competition_authorities.pdf

OECD (2013), Evaluation of competition enforcement and advocacy activities: the results of an OECD survey, DAF/COMP/WP2(2012)7/FINAL
[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/WP2\(2012\)7/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/WP2(2012)7/FINAL&docLanguage=En)

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

OECD (2014b), Ex-post assessment of government intervention in the taxi market in Ireland: 1978-2014, DAF/COMP/WP2(2014)6, from
[https://one.oecd.org/document/DAF/COMP/WP2\(2014\)6/en/pdf](https://one.oecd.org/document/DAF/COMP/WP2(2014)6/en/pdf)

OECD (2014c), Summary of discussion of the hearing on the Evaluation of Competitive Impacts of Government Intervention, DAF/COMP/WP2/M(2014)1/ANN2/FINAL from
[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=daf/comp/wp2/m\(2014\)1/ann2/final&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=daf/comp/wp2/m(2014)1/ann2/final&doclanguage=en)

OECD (2016), Reference guide on ex-post evaluation of competition agencies' enforcement decisions. Available : <https://www.oecd.org/daf/competition/Ref-guide-expost-evaluation-2016web.pdf>

OECD (2017), Note of the United States, OECD Roundtable on Evaluation of the Actions and Resources of Competition Authorities

OECD (2018), Guide on Market Studies for Competition Authorities, 23 May 2018, DAF/COMP/WD(2018)26. Available at:
[https://one.oecd.org/document/DAF/COMP/WD\(2018\)26/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2018)26/en/pdf)

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>

OFT (2006), Evaluating the impact of the car warranties market study, Prepared for the Office of Fair Trading by Europe Economics, June 2006, OFT852

OFT (2007a), Completing competition assessments in Impact Assessments - oft876, Green Book. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191489/Green Book supplementary guidance completing competition assessments in impact assessments.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191489/Green_Book_supplementary_guidance_completing_competition_assessments_in_impact_assessments.pdf)

OFT (2007b), Evaluating the impact of the taxis market study, A report for the OFT by Europe Economics, October 2007, OFT956

OFT (2010a), A guide to OFT's impact estimation methods (July 2010). Available at:

<https://webarchive.nationalarchives.gov.uk/20140402172157/http://www.oft.gov.uk/OFTwork/publications/publication-categories/reports/Evaluating/oft1250>

OFT (2010b), Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market. OFT1219. Available at:

https://webarchive.nationalarchives.gov.uk/20140402214527/http://www.oft.gov.uk/shared_of/rep/orts/Evaluating-OFTs-work/OFT1219.pdf

OFT (2010c), Evaluation of OFT Competition Advocacy, April 2010 OFT866. Available at :

<https://londonconomics.co.uk/wp-content/uploads/2011/09/21-Evaluation-of-OFT-Competition-Advocacy.pdf>

Spanish Competition Authority (2008), Recommendations to public authorities for more efficient and pro-competitive market regulation. Available at:

https://www.cnmec.es/sites/default/files/1185792_7.pdf

Spanish Competition Authority (2009), A guide to Competition Assessment. Available at:

https://www.cnmec.es/sites/default/files/1185518_7.pdf

U.K. Department for International Development (2008), Competition Assessment Framework. Available at:

<https://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/46192459.pdf>

Zywicki, Todd & Cooper, James & Pautler, Paul. (2004). Theory and Practice of Competition Advocacy at the FTC. SSRN Electronic Journal. 72. 10.2139/ssrn.610586.

Zywicki, Todd & Cooper, James. (2007). The U.S. Federal Trade Commission and Competition Advocacy: Lessons for Latin American Competition Policy.

Anexo 1 Parámetros utilizados por la CNMC en sus estudios económicos

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



Valdani Vicari & Associati

BRUSSELS

Avenue des Arts 10-11
1210 Bruxelles
Phone: +32 476771187
www.vva.it/economics-policy/

MILAN

Palazzo Stampa di Soncino – Via Torino, 61
20123 Milano
Phone: +39 02 727331
www.vva.it



KPMG Asesores, S.L.

Paseo de la Castellana, 259 C
28046 Madrid
T +34 91 456 34 00

www.kpmg.es
www.kpmgtendencias.es