



*AWG Teleseminar on  
Advocacy and Digital Markets*

27 September, 2018

# *How everything started*

- ✓ The Digital Economy is an structural, unstoppable and disruptive phenomenon that is profoundly changing business models and consumption patterns.
- ✓ To analyse the impact of the digital economy in the markets was of utmost importance. A preliminary research was carried out by the Studies Unit.



- The objective was to identify markets:
  - whose structure and characteristics are linked to potential restrictions on competition concerns or regulatory inefficiencies,
  - with existing market failures (asymmetric information, incomplete markets, non-competitive market structures and/or externalities).
  - the most suitable tool to correct the possible restriction was a Market Study.
- ✓ Findings: the digital phenomenon posed both opportunities and challenges regarding competition. In addition, the markets were:
  1. Technically complex and with a high rate of innovation/dynamism
  2. New markets on which the authority had no sufficient information available.



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# *How to select the market*

*“Among the markets identified in the preliminary research, which markets should be analysed?”*

## **Criteria:**

- ✓ If there is a *“window of opportunity”* for the recommendations to be implemented in future regulatory changes.

- Potentially high levels of concentration
- Regulatory barriers and/or absence of a regulatory framework
- Repeated complaint

- ✓ If the market is important to the economy as a whole and/or if the market is strategic, due to its influence on other sectors and on consumers.

- Gross added value/Production value
- High innovation and dynamism
- Number of employees/ customers affected

- ✓ If the possible restriction on competition affects a significant part of the market in question.

# *Market Studies conducted by the CNMC*

*Following the selection criteria, the CNMC decided to launch two market studies:*

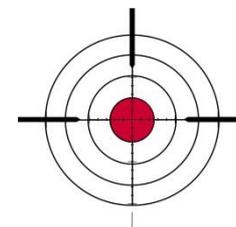


✓ In 2015 - Market study on Sharing Economy and new models of service delivery in the digital economy.

- Objective: to issue recommendations aimed at ensuring an efficient regulation, with a view to guaranteeing effective competition between traditional and new entrants for the benefit of consumers.

✓ In 2018 – Market study on Financial Technologies (FINTECH).

# *Main issues and challenges*



## Common market failures:

- Asymmetric information
- Externalities
- Market power due to scale, scope, learning, and network economies

➔ Existence of market failures may warrant public intervention for efficiency reasons. However, this intervention must conform to the principles of efficient economic regulation: (i) necessity, (ii) proportionality, (iii) non-discrimination.

## Common positive effects:

- Consumers are able to reduce expenses, searching costs, information asymmetries, transactional overhead and/or charged prices, and increase convenience.
- Increased variety (broader and deeper offer of goods and services), quality, efficiency/productivity and innovation.

## Common potential risks and countervailing factors:

- ✓ Network externalities
- ✓ Surveillance and customer data – Big data
- ✓ Reputation Systems

- ✓ Differentiation.
- ✓ Multi-homing
- ✓ Interdependent demands

# *Other Advocacy tools in Digital Markets*

## **Regulatory Reports**

- ✓ The CNMC has published 8 Reports on Draft Regulation, which identified potential restrictions in the Spanish draft regulatory proposals in the markets for vacation rentals and private hire vehicle services.

## **Legal Active Capacity Actions**

The CNMC has *locus standi* to challenge uncompetitive administrative acts and regulations from which obstacles to the maintenance of effective competition in the market are derived from before national Courts.

Cases in the digital arena:

- ✓ The CNMC has challenged 8 national and regional regulations which limited effective competition in the markets for vacation rentals, taxi and private hire vehicle services.
- ✓ To support the Court cases with a sound quantitative analysis, the CNMC has also elaborated a number of economic reports.

# *Fintech*

- ✓ Latest product on digital markets (to be published in the coming days).

## **Definition**

- ✓ Fintech: disruptive ( $\neq$  incremental) innovation in financial markets.
- ✓ Application of digital tools and ICTs (e.g. big data) and platform models
- ✓ Network effects, disintermediation, unbundling, customer centricity...
- ✓ E.g. Neobanks ( $\neq$  mere online banking)

## **Scope**

- ✓ Impact of Fintech on:
  - ✓ Competition in the financial sector (and in the whole economy)
  - ✓ Market failures (and on the rationale for regulation)
- ✓ Fintech (general view) and subsectors (distributed ledger technologies, payments, asset management and advice, crowdfunding, Insurtech).

# *Fintech*

## **Conclusions**

- ✓ Fintech has the potential to increase competition in the financial sector
- ✓ Fintech may address market failures (rationale for some regulation?)

## **Recommendations**

1. Embrace Fintech (no unnecessary or disproportionate restrictions)
2. Reconsider regulation (entry requirements, physical presence...)
3. Regulate activities (not entities) and avoid reserves of activity
4. Take advantage of Regtech to reduce regulation
5. Regulatory sandbox (+ innovation hub)
6. Open banking & insurance (technological neutrality, non-discrimination)



*Thank you!*