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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Methodologies for Conducting Market Studies - Note by Spain

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More documents related to this discussion can be found at www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm

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1. Market studies are one of a number of tools at the CNMC's disposal to address competition issues, alongside its enforcement and other advocacy activities. For that reason, the Advocacy Department of the CNMC carried out a methodology on how to conduct market studies, which was adopted last June, 2016. The decision to carry out this methodology was prompted by the CNMC's call for transparency on its internal procedures and the aim to give guidance to operators and the general public on how we conduct our market studies and why we carry them out.

2. The methodology sets out the current CNMC's practice and focuses on five main aspects: (i) how the CNMC identifies and select the markets to study; (ii) The procedures to both gather the information and to treat confidential information; (iii) The relationship with stakeholders; (iv) The overall structure of a market study; and (v) Diffusion and ex-post analysis of the market study. The following contribution will focus on two specific aspects: information gathering and information analysis, where a case study on a recent market study about the pharmaceutical market will be used to illustrate (i) how our methodology has been implemented; and (ii) how the information has been gathered, treated and used for economic analyses.

1. Information gathering

3. The CNMC uses various tools to collect information from stakeholders, institutions and market operators of the market object of study.

4. During the preliminary research (i.e. a research conducted to identify in which markets a further analysed should be conducted) the information is obtained from already-developed and accessible data that does not involve formal requests of information.

5. During this phase, the main sources of information are the following:

- Statistical sources, both internal and external (public).
- Previous studies or studies from other institutions (national, international, the EU, public institutions, sectoral regulatory bodies, regional competition authorities, business associations, recognised centres for economic studies, etc.).
- Information derived from the proceedings of the Enforcement Divisions of the CNMC.
- Academic articles, books, documentaries, podcasts, or other audiovisual information.

6. While a market study has been publicly launched, the CNMC uses three main instruments to gather information: meetings with stakeholders, public consultations and formal requests for information.

7. Bilateral meetings are usually held with sectorial and trade associations, main market institutions and operators, as well as key stakeholders that have a significant influence over the functioning of the sector, its regulation or its level of effective competition. Meetings are always held with each of the operators or institutions individually, without exchanges of information between competitors, and their content is not made available to other operators and/or institutions. The initiative of such meetings can come from the stakeholders and be accepted due to interest on the part of the CNMC, or from the CNMC itself.

8. Another important tool to gather information for market studies' purpose is Public Consultations. The use of Public Consultations depends on various factors. In the case of a highly fragmented market, either due to demand or supply (or both), where it does not seem plausible to gather enough information through conventional means, launching a Public Consultation can be an effective method for obtaining information from market operators and stakeholders. In the case of emerging markets or those with a high component of innovation where little information exists, launching a public consultation could also be an interesting option.

9. Depending on the nature of the Study, the possibility of submitting the preliminary results of the Study to public consultation will be assessed, in order to obtain more information on stakeholders concerning the proposed conclusions. Additionally, an initial public consultation could also have the beneficial effect of collaborating with unidentified stakeholders or those that possess information difficult to obtain otherwise.

10. With regard to requests for information, art. 28 of the Law Creating the CNMC states that: "Any natural or legal person and bodies and agencies of any public administration are subject to the duty of collaboration with Spain's National Authority for Markets and Competition in the exercise of protecting free competition and are required to provide, at its request and on time, all kinds of data and information available to them which may be necessary for the development of the functions of the Commission."

11. In this sense, non-compliance of the duties of collaboration and information with the CNMC could be fined up to EUR 12 000 (Euros) per day of non-compliance with the request. Hence, every stakeholder, institution or operator is obliged to cooperate and answer the requests for information sent by the CNMC. With the information requirements, the CNMC aims to collect all information deemed relevant and necessary for the development of a market study. This way, the requirements can be sent to any market operator or stakeholder, and complement and extend the previously obtained information from the meetings held with the various operators or obtained through Public Consultations.

12. As in other jurisdictions, any party that submitted information to the CNMC may, at any time during the procedure, request the confidentiality of data or documents considered confidential sent to the CNMC. For this purpose, the request for the confidentiality of data and information shall be made to the CNMC, stating clearly the reasons of confidentiality, and providing a separate non-confidential version of the documents.

13. Only those data and documents which contain trade secrets or whose public knowledge may seriously damage the affected individuals, even without constituting trade secrets, may be declared confidential. Additionally, the CNMC will treat as confidential the information that involves a business secret, even if the economic operator itself does not consider it as such. In any case, the handling of aggregate information may be public while the information of individual market operators is declared confidential.

2. Case study: information analysis and gathering

14. In October 2015, the CNMC published a study on the Market for Retail Distribution of Medicines in Spain in which restrictions on competition imposed by current regulations were analysed.

15. The current regulation of pharmacies in Spain imposes restrictions on access, property and the activity of retail distribution of medicines. These restrictions have a negative impact on competition and, consequently, harm patients (as consumers) and raise the cost of supplying the public health sector. As a result, there is a reduction of general welfare.

16. In this sense, Act 16/1997 of 25 April on the Regulation of Pharmacy Services establishes some basic principles for the geographical planning of pharmacies. In particular, it falls on the Autonomous Communities to develop the planning criteria for granting authorisation to new pharmacies. These criteria must take into account the demographic density and the geographical characteristics and spread of the population.

17. The wide variety of pharmaceutical planning models adopted by the Autonomous Regions allowed the CNMC to carry out a quantitative analysis of the effect of the restrictions imposed by each model on competition in the market and on the degree of attainment of the objective of ensuring the population's access to medicines.

18. To that end, the CNMC conducted a quantitative analysis of the impact of the reform introduced by Regional Law 12/2000, of 16 November, on pharmaceutical care on the number of pharmacies in the Autonomous Region of Navarre. Regional Law 12/2000, of 16 November, on pharmaceutical care in Navarre gave a different interpretation of pharmaceutical planning from the other Autonomous Regions in Spain, defining it as the forecasting of the minimum number of pharmacies needed in each Basic Health Zone to achieve equitable access to pharmaceutical care for the whole population of the Autonomous Region.

19. As a result, the planning model adopted by Navarre is different from that of the state law. Instead of setting the maximum number of pharmacies per population module, as all the other regional laws do, the Navarre law sets the minimum number of pharmacies that must open in order to serve the population of the Basic Health Zones forming part of a locality and of each locality forming a Basic Health Zone.

20. The analysis performed was a dual one. On the one hand, the CNMC quantified the increase in the number of pharmacies at aggregate level years after the passing of the reform. On the other hand, the CNMC analyzed the effect of the reform in relatively small municipalities, excluding the larger ones. In the latter, a difference-in-differences method was used to provide more robust evidence of the impact of the reform on relatively small municipalities. In both cases, the analysis clearly showed that the reform had a considerable positive effect in terms of market entry.

21. Specifically, the quantitative analysis concluded that the reform in Navarre increased the number of pharmacies in relatively small municipalities in comparison with what would have happened in a scenario with no reform. Thanks to the reform of 2 000, the relatively small municipalities of Navarre are now better supplied as regards the provision of pharmaceutical services. In fact, the data illustrated how the restrictive legislation in force before the reform condemned these municipalities to a considerable shortage in the supply of pharmacies. Therefore, the reform generated gains in welfare for Navarre consumers living in these municipalities in comparison with the situation that would have prevailed in a scenario of no reform.

22. In order to conduct this in-depth economic analysis, access to sufficient and robust data was necessary. To that end, a number of formal requests for information were sent to the Public Administrations, Regional Governments, specialized consultancy firms, and sectorial associations, *inter alia*. The process to gather information was burdensome

and lengthy, but successful as disaggregated and robust data sets were finally obtained which allowed the CNMC to conduct a thorough economic analysis.

23. As an example of the information provided and analyzed by the CNMC, just for conducting the difference-in-differences method the CNMC had to request (and obtain) data at municipal level for Navarre and La Rioja (which was the control group for the reform) for the period 1998-2003 for the variables: (i) number of pharmacies by municipality; and (ii) population by municipality. The data on the number of pharmacies come from the Government of Navarre (Department of Health) and the Government of Rioja (General Directorate of Care, Benefits and Pharmacy). Population data of the National Statistics Institute (INE). The number of municipalities with fewer than 15,000 inhabitants for which the CNMC had information was 171 in La Rioja and 268 in Navarre.

24. After obtaining the relevant information, that data had to be treated and analysed. In particular, the data on the number of pharmacies and population were collapsed in time dimension, into averages by municipality for two periods: pre-reform (average of 1998-2000) and post-reform (average of 2001-2003). This helped avoiding section effects of any one particular year, and it also helped mitigating possible problems of serial correlation in the estimates with each year of the time series. To illustrate how the data was used and the analysis conducted, we enclosed below a summary of the diff-in-diff analysis method applied.

25. The Table below shows the main statistical data for the variables number of pharmacies and population in the sample of municipalities with fewer than 15 000 inhabitants that was used in the study. The econometric strategy used centres on making different estimates, taking as the sample the municipalities with fewer than 15 000 inhabitants, those with fewer than 10 000 inhabitants and those with fewer than 5 000 inhabitants, with and without incorporation of the population. The estimates were made by ordinary least squares. It was also assumed that if the reform had not been passed, the municipalities of Navarre would have behaved like La Rioja control group. In the table below, a positive and significant ratio indicates a positive and significant effect of the reform.

Table 1. Main statistics for the variable number of pharmacies and population, sample of municipalities with fewer than 15 000 inhabitants

	Mean	Standard deviation	Minimum	Maximum
Variable				
Number of pharmacies	0.68	1.05	0.00	14.00
Population (in thousands)	0.96	1.79	0.01	13.40

Source: prepared by the CNMC.

26. In addition, Table 2 shows the models estimated for the various samples by size of municipality. For the case of municipalities with fewer than 15 000 inhabitants, in specification (i) - without controlling for the population - the ratio of interest seemed to indicate that the effect of the reform was to increase the average number of pharmacies in Navarre municipalities of fewer than 15 000 inhabitants by 0.32¹.

¹ We stress that the result is in average terms for all the municipalities.

27. Controlling for population, the ratio remained practically unaltered - 0.31 - which indicated that the difference in averages after the reform is not associated with changes in the demographic characteristics of the municipalities.

28. As was to be expected, the model's explanatory capability increases considerably when the population is included, since this variable constitutes the main determinant of the number of pharmacies in a municipality.

29. Based on the average number of pharmacies in Navarre municipalities with fewer than 15 000 inhabitants before the reform, the ratio of interest in the estimate with population - 0.31 - indicated an average increase of 50% in the period 2001-2003 compared with a scenario of no reform.

Table 2. Results of the econometric estimation

	Municipalities < 15,000		Municipalities < 10,000		Municipalities < 5,000	
	(i)	(ii)	(i)	(ii)	(i)	(ii)
Constant	0,48 *** (0,06)	0,15 *** (0,04)	0,45 *** (0,05)	0,18 *** (0,03)	0,40 *** (0,04)	0,17 *** (0,03)
Post	0,01 * (0,01)	- 0,00 (0,01)	0,01 * (0,01)	0,00 (0,01)	0,01 * (0,01)	0,00 (0,01)
Navarre	0,16 ** (0,07)	- 0,04 (0,05)	0,13 ** (0,06)	- 0,03 (0,04)	0,14 *** (0,05)	- 0,04 (0,04)
Post*Navarre	0,32 *** (0,05)	0,31 *** (0,05)	0,28 *** (0,04)	0,27 *** (0,04)	0,21 *** (0,04)	0,20 *** (0,04)
Population		0,48 *** (0,04)		0,43 *** (0,02)		0,52 *** (0,03)
Number of obs.	878	878	870	870	844	844
R ²	0,04	0,71	0,05	0,64	0,05	0,55

Note: (i) in all estimates, the dependent variable is the average number of pharmacies in the municipality; (ii) standard errors robust to heteroscedasticity in parentheses; (iii) * indicate that the ratio is significant to 10%, ** that the ratio is significant to 5% and *** that the ratio is significant to 1%.

Source: prepared by the CNMC.

30. The estimates for municipalities with fewer than 10 000 and fewer than 5 000 inhabitants showed similar results. Controlling for population, the ratio of interest is 0.27 and 0.20 respectively. As in the previous case, when controlling for population, the results of the ratio in the difference-in-differences remained practically unchanged. In both cases the ratios of interest are significant.

31. In short, the difference-in-differences models estimated indicated a positive and significant effect of the reform on Navarre municipalities with fewer than 15 000, 10 000 and 5 000 inhabitants, confirming the preliminary conclusions of the descriptive analysis carried out during the market investigation.

32. Following the above mentioned analysis, the CNMC made a number of recommendations to the relevant authorities, with the goal of achieving a higher degree of competition. In particular, and as regards the limit on outlets, the CNMC recommended that restrictions to market access currently in force in the regulation should be eliminated.