

**Unclassified**

**English - Or. English**

**2 September 2020**

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Cancels & replaces the same document of 14 August 2020**

## **Global Forum on Competition**

### **USING MARKET STUDIES TO TACKLE EMERGING COMPETITION ISSUES**

**– Session IV – Call for country contributions**

This document is a call for country contributions for Session IV (former session III) of the Global Forum on Competition to be held virtually from 7 to 10 December 2020 (with Zoom). GFC participants are invited to submit their contributions by **30 October 2020** at the latest.

**JT03464854**

## TO ALL GLOBAL FORUM PARTICIPANTS

### **RE: Roundtable on “Using Market Studies to Tackle Emerging Competition Issues”**

**19th Global Forum on Competition (7 to 10 December 2020)**

Dear GFC Participant,

In December, the OECD Global Forum on Competition will hold a session on *Using Market Studies to Tackle Emerging Competition Issues*. We are writing to you in order to provide you with some information about the topic and organisation of the session, as well as to invite you to submit a written contribution describing the experience or views of your authority in using market studies as a tool to tackle emerging issues.

The debate on how best to use and adjust the current competition policy framework and tools to deliver benefits to society in a changing world continues to evolve as competition authorities gain experience in both antitrust and merger cases in various industries. This experience has shown that challenges to effective competition do not come solely from anti-competitive behaviour and merger strategies.

For example, when markets are characterised by high or discriminatory prices or poor quality it may well be the case that the cause is not anticompetitive conduct by incumbents, or agreements between firms, but instead market features such as concentration, high barriers to entry, behavioural bias leading to consumer lock-in, network effects, anticompetitive regulation, or distortions of competitive neutrality.

Having the tools to investigate, and where possible remedy, such features is particularly important in the context of increasing concerns over the trend towards greater concentration and profitability in many markets around the world. Making competition more effective may require market studies to create space for business to start, compete and grow. More generally, they may play a key role in identifying and diagnosing emerging competition issues by exploring the different drivers and clarifying what options there are to tackle them from a competition policy, competition enforcement, regulatory, or other policy perspective. As a result, such a tool can initiate solutions to mitigate consumer harm before it becomes significant, promote further competition, and reduce the likelihood of (or opportunities for) violations of competition rules.

The Global Forum on Competition already held a session on the role of market studies as a tool to promote competition in 2016, where it discussed the significant differences on the concept, goals, outcomes, and legal frameworks of market studies across jurisdictions. Such discussion led the OECD to carry out further work on market studies. In 2017, the OECD held a workshop in Paris to explore the selection and prioritisation of sectors when carrying out a market study followed by a roundtable discussion on market studies methodologies. Such discussions contributed to the OECD release of a Market Studies Guide for competition authorities in 2018.

This session therefore aims to build on previous work by focusing the discussion on market studies as a pro-competitive tool to tackle emerging issues in markets or sectors at a time when the world is changing. Questions to cover during this session include:

- What type of emerging competition issues of a structural or regulatory nature are competition authorities currently facing?
- What role can the market study tool play to address and potentially remedy them?
- What are the strategic considerations competition authorities take into account when deciding whether to use the market study tool.

In order to address these questions, we encourage you to submit a written contribution that describes your experience or views in using market studies to tackle emerging competition issues, including success stories and lessons learnt. In order to assist you with the preparation of your contribution, we refer you to the Secretariat Note on the subject, which will be circulated in the coming months. We have also included suggested reference materials at the end of this letter and to the list of questions included in the Annex. The list in the Annex is not exhaustive and you are encouraged to raise and address other issues in your submission and during the discussion.

*The OECD webpage on “Using Market Studies to Tackle Emerging Competition Issues” will be the primary vehicle for conveying documentation and related links on this subject. It will become available on the main roundtables page at [www.oecd.org/competition/roundtables](http://www.oecd.org/competition/roundtables) and the GFC website: [oe.cd/gfc](http://oe.cd/gfc). Unless explicitly requested not to do so, the Secretariat will reproduce all written contributions on the site.*

*I would like to remind you that the Secretariat will compile short summaries of the written contributions to be distributed before the meeting. I invite you to submit such a short summary (no more than one page) together with your contribution. Alternatively the Secretariat will produce one, but given the time constraints you might not be in a position to check it before distribution on O.N.E.*

Should you wish to provide a contribution, please inform the Secretariat by **11 September 2020**. Written replies to this call for contributions are due **by 30 October 2020** to enable the Secretariat to prepare the summary of the responses in advance of the session. Please note that not meeting this deadline may result in your contribution not being distributed to delegates in a timely fashion in advance of the meeting.

All communications regarding the documentation for this roundtable should be sent to Ms Angélique Servin ([Angelique.SERVIN@oecd.org](mailto:Angelique.SERVIN@oecd.org)). Please address all substantive queries relating to this discussion to Ms Patricia Bascunana-Ambros (Email: [Patricia.BASCUNANA-AMBROS@oecd.org](mailto:Patricia.BASCUNANA-AMBROS@oecd.org)).

## Annex I. Suggested questions for consideration in written contributions

1. What types of emerging competition issues of a structural or regulatory nature does your competition authority face?
2. What non-enforcement tools has your competition authority used (or is considering using) to tackle them? What factors did your competition authority consider when deciding which tool would be most appropriate to tackle such emerging competition issues? What were the main trade-offs (if any) when deciding which tool to use?
3. What does your competition authority consider the key strengths and limitations of the market study tool are relative to other tools to tackle emerging competition issues?
4. When does your competition authority consider market studies might be the most appropriate tool to tackle such issues?
5. What are the key lessons learnt by your competition authority on the use of market studies to tackle emerging competition issues? How could the use of market studies be improved?

### Suggested Bibliography

- ICN (2019), Report on ICN Members' Recent Experiences (2015-2018) in Conducting Competition Advocacy in Digital Markets, available at: [https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/06/AWG\\_AdvDigitalMktsReport2019.pdf](https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/06/AWG_AdvDigitalMktsReport2019.pdf).
- ICN (2020), Report on the results of the ICN survey on dominance/substantial market power on digital markets, available at: <https://www.internationalcompetitionnetwork.org/wp-content/uploads/2020/07/UCWG-Report-on-dominance-in-digital-markets.pdf>.
- OECD (2016), The role of market studies as a tool to promote competition, [https://one.oecd.org/document/DAF/COMP/GF\(2016\)4/en/pdf](https://one.oecd.org/document/DAF/COMP/GF(2016)4/en/pdf)
- OECD (2017) Market studies methodologies for competition authorities, <https://www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm>
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- OECD (2019) Market concentration issues paper, [https://one.oecd.org/document/DAF/COMP/WD\(2018\)46/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2018)46/en/pdf)
- OECD (2020) Competition policy responses to Covid-19, <https://www.oecd.org/fr/concurrence/competition-policy-responses-to-covid-19.htm>