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**USING MARKET STUDIES TO TACKLE EMERGING COMPETITION
ISSUES – Contribution from Finland**

- Session IV -

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More documentation related to this discussion can be found at: [oe.cd/mktcomp](https://www.oecd.org/mktcomp).

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Using market studies to tackle emerging competition issues

- Contribution from Finland -

1. Background of market studies in the Finnish Competition and Consumer Authority

1. The Finnish Competition and Consumer Authority (the FCCA hereafter) has conducted research projects which have resembled market studies for years. However, a strategic shift in the FCCA's approach to market studies was recently initiated. The FCCA has started to build up a capacity to utilize also large datasets and empirical quantitative methods. This has been reflected in several new economist recruitments as well as collaborative projects with the academia.
2. The mandate of the FCCA to do research projects that resemble market studies stems from the general law on the FCCA. There is no explicit format or formal requirements for the projects and thus their type can vary. Overall, the FCCA has a relatively flexible mandate to use different types of data and information, although the data gathering possibilities for the market studies are not quite as intrusive as in infringement cases.

2. What type of emerging competition issues are competition authorities currently facing?

3. There are currently four larger themes that emerge from a number of distinct projects within the FCCA. These are: the effects of changes in the market regulation, digitalization, competition policy tools, and the roles of public and private actors in the markets. In the following we discuss each of the themes in more detail.

2.1. The effects of changes in the market regulation

4. There are regulated markets that have either been liberalized recently, or where a more market-based approach would yield better results than current regulation. The primary recent examples of this in Finland are pharmacy and taxi markets.
5. Pharmacies are heavily regulated in Finland. Prices of the medicines are set by the government decree. Pharmacy licences are reserved to only one specific occupational category. Also, the number, location, and ownership of pharmacies is regulated. The FCCA is working on a large project that evaluates the functioning of the pharmacy markets and the potential for lifting some of these restrictions.
6. The taxi markets were liberalized in Finland in 2018. Prior the reform, both taxi licenses and the taxi ride pricing were heavily regulated. The reform made the licenses more easily obtainable and liberated the pricing of the taxi rides. However, after the reform increases in the taxi prices were observed, and there has been significant uncertainty whether the reform improved the functioning of the market. There have been proposals to backwind some aspects of the reform.

2.2. Digitalization

7. Advances in digitalization and its impact on the functioning of the markets and the effects on consumers are also of interest for the FCCA.

8. Large and dominant platforms may make the market entry of competitors more difficult, as well as customers highly dependent on a certain provider. Some platforms can be described as gatekeepers that have considerable market power. The contract terms of the platforms may also in some cases be considered unfair and/or restrict competition. For example, platforms may engage in self-referencing and utilize their data in order to harm their competitors.

9. Consumers should have a choice to move from one service provider to another, and to transfer effortlessly their data from one platform to another. This portability of the data would also facilitate the entry of new companies into the market. Yet this is not always the case in practice.

2.3. Effectiveness of competition policy tools

10. The threshold for merger control in Finland is based on the annual turnover of the merging firms. Yet it is suspected that these annual turnover thresholds are too high to effectively review potentially harmful mergers, and concurrently, the merger policy is too lenient to prevent market concentration that harms competition. Consequently, the FCCA has launched a study to evaluate what impact the lower levels for merger control would mean in terms of cases that would need to be reviewed by the Authority.

11. There is also a concern that the sanction levels for competition infringements might be too low to prevent harmful behaviour and the optimality of sanction levels would also warrant a further examination.

12. In addition, the FCCA is also launching a survey for firms to assess how well the competition policy rules, such as leniency rule for whistle-blowers, are known and followed by the market participants.

2.4. The roles of public and private actors in the markets

13. One general theme in enforcement activities and market studies is the interface of public and private participants in the markets and the role of the public companies. This issue is present in multiple places such as:

- public procurement,
- public enterprises operating in the competitive markets,
- certain sectors with natural monopoly characteristics such as,
 - railway
 - electricity
 - water
 - sewage
- legalized monopolies, such as gambling and alcohol monopolies, with societal function to reduce the harm from the use of their products or services.¹

14. For example, the FCCA has been studying gambling markets, in which there is a monopoly in Finland. The justification for the legal monopoly in gambling is the need to reduce its harms. Currently the Lotteries Act is being reformed. This reform aims to further strengthen the monopoly, so that the gambling would continue to, and increasingly be channelled to the legal venues.

15. As a side effect, limiting the gambling to the legal monopoly offers the best possible coverage of the gambling database, providing the tools with which it would be possible to assess the causes and effective remedies for the problem gambling.

3. The role of market studies in tackling competition issues

16. Some markets might not be working well for the benefit of the consumers even when there is no actual antitrust infringement present. There the FCCA can tackle these market concerns by making recommendations, publishing research and reports (i.e. market studies), as well as via public collaboration with other public officials, for example, with legislative work. Market studies can act as a tool supporting policy decisions and eliciting certain problematic markets and market characteristic into a public debate. Market studies might, for example, initiate other consumer agencies (e.g. ECC) or (sectoral) regulators to take action, possibly in co-operation with the competition authority. The market studies can (i) play an important role in initiating further enforcement investigation by the FCCA, (ii) support initiatives for legislative reforms, and (iii) provide background for the FCCA for its statements. Additionally, the FCCA can initiate a discourse on topics that are not so much in the focus of public debate or priority of the current policy agenda.

17. Some recent examples where research by the FCCA has played a role in the public discourse are the study on the taxi markets and another on the national gambling monopoly. For example, in the case of the taxi markets, it was specifically requested from the Ministry of Economic Affairs and Employment, that the FCCA would evaluate the effects of the taxi reform and needs for re-regulation.

¹ Any alcohol with alcohol content above 5,5% is sold by the state monopoly in Finland.

4. What are the strategic considerations when deciding whether to use a market study tool?

18. There is no specific model or process on how the FCCA decides on its topics for the research projects. Yet, at least one of the following factors usually tends to be present when a research project is launched:

- a) It is considered within the Authority that specific sectors or markets need a closer examination. Typical competition concerns or consumer protection problems in the markets, based, for example, on the market structure, market conduct and performance or other characteristics that induces the FCCA to pay a closer attention towards certain industries/sectors. The opinion might also be based, for example, on the expertise of the individual researchers or anti-trust/consumer protection experts.
- b) A market study is needed to support some core functions of the FCCA.
- c) Public policy agenda that raises an interest in the topic. This may relate to government programme or other work carried out in various ministries.

19. Obviously, these factors can also jointly incentivize the FCCA to launch a market study. Besides these driving factors behind the market studies, the FCCA must also consider its resource limitations in choosing which projects to pursue. For example, many projects involving large volumes of quantitative data require significant resources. Furthermore, as in any research project, researchers at the FCCA must evaluate whether the research question at hand and the methodological approaches are solid enough to warrant a high-quality study. Also, pre-existing knowledge of the FCCA or the existence of external dataset may play a role in making the decision to launch a project.