

Unclassified**English - Or. English**

21 November 2020

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Global Forum on Competition****USING MARKET STUDIES TO TACKLE EMERGING COMPETITION
ISSUES – Contribution from Colombia****- Session IV -**

10 December 2020

This contribution is submitted by Colombia under Session IV of the Global Forum on Competition to be held on 7-10 December 2020.

More documentation related to this discussion can be found at: oe.cd/mktcomp.

Please contact Mr. James Mancini [E-mail: James.Mancini@oecd.org], if you have any questions regarding this document.

JT03468842

Using market studies to tackle emerging competition issues

- Contribution from Colombia -

1. This contribution addresses the key questions raised by the Secretariat in the call for contributions to the present Roundtable. Particularly, we develop on the methodology to conduct market studies and the challenges and strengths of the activity. The aim then is to provide Colombia's view on the value of market studies to tackle emerging competition issues through the presentation of our recent experience.
2. The collection of digital evidence marked a milestone in the procedures and standards of evidence collection for the Colombian Competition Authority. However, as expected, the adoption of the latest tools for the collection of digital evidence was accompanied by a learning process on the part of the subjects under surveillance. In this sense, the design of mechanisms to encourage potential infringers to respect the competition regime is a matter of prime necessity for the competition authority. This requires obtaining information on the markets to follow up on the alarm signals related to the infringement of the rules protecting free competition. In this sense, market studies have emerged as a tool for assessing potential risks in the markets subject to intervention.
3. The Deputy Superintendence for Competition Protection of the SIC established the goal of preparing two (2) market studies per year in order to, first, contribute to the development of a culture of free competition in the country, and second, to exercise a prospective control over the behavior of some markets where there would be a risk of infringements to the free competition regime.
4. These studies emerged as a necessity to pursue the following objectives:
 1. Build warning signals on the behavioral dynamics.
 2. Evaluate the levels of competition in the markets.
 3. Understand the structure and dynamics of market functioning.
 4. Identify:
 - a. Abnormal behavior patterns of economic agents that could potentially affect consumers without constituting an infringement of the free competition regime.
 - b. Identify coordination failures, nominal or real rigidities in the markets that prevent the realization of active competition.
 - c. Limited rationality or information problems that limit consumers' ability to make informed decisions or lead them to sub-optimal decisions.
 - d. Regulation or government intervention that may create unnecessary obstacles or distortions in the competitive dynamics.
5. Thus, the market studies concentrate on solving a set of revealing questions formulated by the SIC team of economists. These questions focus on the assessment of some minimum risk factors to be considered, which are:

- Market Power
- Entry and exit barriers
- Investments in Innovation and Development
- Behavioral strategies to raise the cost of rivals or potential entrants

6. The Colombian competition authority has been active in its campaign to raise awareness and create a competition culture. Market studies complete the cycle by being a tool to encourage compliance with the law, identify anomalies in the competition variables or institutional problems in the markets that may be leading to sub-optimal solutions. In relation to the risks related to the elaboration of market studies, in the case of the Colombian competition authority, an agency problem could arise that ends without due diligence, audit and control in a false positive (type 2 error).

7. Market studies are a way of analyzing and intervening in a market without the initiation of administrative action when the competition authority has no indication that an anti-competitive practice is taking place in the market. For the Colombian competition authority, market studies have the weakness of not ceasing to be recommendations to the team of judicial prosecutors and regulators. Market studies can be improved with a mechanism to socialize the results and through the implementation of a monitoring mechanism to evaluate whether warning signals persist in the market.

8. During 2019 the SIC prepared two market studies to monitor sensitive markets. The first one analyzed the dynamics of prices in the domestic air transport market for selected routes by studying the price formation processes and their volatility. The second one studied the matching platforms in tourism services. Evaluating, their contractual relationships, the behaviors that lead to price formation and the dynamics of two-sided markets.

9. We have realized from our recent experience that market studies are indeed a very useful tool to advance the functions of inspection, surveillance and control assigned to the Deputy Superintendence for Competition Protection. Market studies are a prospective tool to identify alarm signals in the market in case of abnormal behavior of competition variables or institutional or regulatory failures that may be affecting the competitive dynamics. They do not constitute a substitute for ordinary administrative actions but are part of the generation of incentives for the creation and promotion of a competition culture in Colombia.