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Competition in the Healthcare Sector – Contribution from Spain

- Session II -

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

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1. Introduction

1. Competition authorities play a key role in ensuring that healthcare markets remain both efficient and accessible. In Spain, the National Commission on Markets and Competition (CNMC) views competition as complementary to public health objectives, contributing to affordability, innovation and the sustainability of healthcare systems.
2. The CNMC's mandate covers not only enforcement but also a strong advocacy function, carried out through market studies, opinions on draft regulations, and structured dialogue with public authorities and stakeholders. These instruments enable the CNMC to identify regulatory obstacles, promote pro-competitive reforms and improve market outcomes while upholding the principles of patient safety and universal access.
3. Healthcare is a sector of strategic importance in Spain, both in economic and social terms, and it operates within a highly regulated environment that seeks to balance patient safety, quality standards and universal access. Within this context the CNMC, through its Competition Advocacy Department, has consistently examined how regulation and market structure affect competition, efficiency and innovation.

2. Recent initiatives from the standpoint of competition advocacy

4. One area of sustained analysis has been the pharmaceutical distribution chain. The *Study on the retail distribution of medicines* (E/CNMC/003/15¹), published in 2015, revealed that rigid rules on pharmacy ownership, establishment and geographic location reduce competitive pressure and limit efficiency gains. It recommended introducing more flexible criteria to facilitate entry, allow multi-store operation and adapt to evolving consumer needs while maintaining the necessary protections for patient safety. The main recommendations were:
 - Lifting legal restrictions on market access, since population-based limits and mandatory minimum distances between pharmacies (or between pharmacies and healthcare centres) do not seem to be justified to protect the general interest.²
 - Removing restrictions on the retail dispensing of medicines:
 - Extending the right to sell non-prescription medicines to other establishments meeting minimum health and hygiene standards, and liberalising ownership of websites authorised to sell such medicines online.
 - Allowing online sale of prescription medicines, provided that dispensing is supervised by a qualified professional who safeguards public health, without requiring ownership of a physical pharmacy.
 - Removing the requirement that pharmacy owners and operators must hold a pharmacy degree and be members of a professional association. In addition,

¹ https://www.cnmc.es/sites/default/files/1185462_8.pdf (English version). Market Study in Spanish: <https://www.cnmc.es/expedientes/ecnmc00315>

² The study included a quantitative analysis.

allowing ownership of multiple pharmacies and vertical integration with wholesale distributors.

- Reviewing the system of pharmacy margins so that remuneration reflects the pharmaceutical services actually provided, rather than the price of the medicine. Exploring alternative models that incentivise quality and reward the provision of value-added services for patients.
- Removing barriers to the voluntary extension of opening hours.
- Eliminating the exclusive right of the Official Pharmacists' Associations to invoice and collect prescriptions.

5. The *Study on the wholesale distribution of medicines* (E/CNMC/002/17³), published in 2022, found that certain elements of the current regulatory framework weaken competition and limit the pass-through of efficiency gains to patients and payers. The main recommendations were:

- Carrying out continuous therapeutic and economic evaluations of innovative medicines using new technologies and big data.
- Reviewing the pricing system to enhance competition among off-patent medicines reimbursed by Spain's National Health System.
- Replacing the current price-proportional distribution margin with a service-based remuneration system linked to logistics and quality performance.
- Adjusting prescription and dispensing policies to foster competition and switching between brand-name and generic medicines, promoting patient's ability to choose, and complementing this reform with information and education campaigns on generic and biosimilar medicines.
- Several of the proposals contained in the *Study on the wholesale distribution of medicines* (E/CNMC/002/17) are being considered in ongoing regulatory initiatives. The recent Draft medicines and medical devices bill, published by the Ministry of Health, incorporates a number of these recommendations, illustrating the productive interplay between competition analysis and regulatory reform. In its opinion on the draft (IPN/CNMC/006/25⁴), the CNMC welcomed this direction and, in the same constructive spirit, suggested further improvements – such as reassessing the exclusive right of pharmacies to sell non-prescription medicines online, streamlining licensing requirements for certain medical devices, reducing incompatibilities along the supply chain to avoid blanket prohibitions on vertical relationships and calibrating price intervention with clearer criteria.

6. In addition, the CNMC recently issued a report (INF/CNMC/161/25⁵) in response to a consultation by the Ministry of Health on whether to publish prices of orthopaedic products financed by the National Health System. Its publication was requested by some mutual insurance companies, sought to facilitate procurement from suppliers. However, the CNMC considered (purely from a competition advocacy perspective and without judging

³ <https://www.cnmc.es/sites/default/files/4358705.pdf> (English version). Market Study in Spanish: <https://www.cnmc.es/expedientes/ecnmc00217>

⁴ <https://www.cnmc.es/sites/default/files/5965217.pdf>

⁵ <https://www.cnmc.es/sites/default/files/6059161.pdf> Footnote 17 of the report also refers to some previous reports. <https://www.cnmc.es/index.php/expedientes/infcnmc16125>

the issue from a competition enforcement perspective) that publishing commercially sensitive information could have a negative impact on competition. It recommended less distortive alternatives – such as publishing the list of suppliers – to achieve transparency objectives without disclosing sensitive pricing data.

3. Current initiatives from the standpoint of competition advocacy

7. The first ongoing project is an ex-post impact evaluation.⁶ In September 2025, the CNMC launched a project to assess the implementation and effects of its recommendations in wholesale and retail distribution. This exercise aims to verify which reforms have been adopted and how they translate into prices, availability and service quality – thereby closing the loop between advocacy, regulation and outcomes.

8. Furthermore, the CNMC is currently conducting a *Study on the private health insurance sector*. A public consultation attracted 619 submissions from insurers, hospital groups, healthcare professionals, consumers and academics.⁷ It aimed to gather evidence on key aspects of market functioning, including contracting relationships between insurers and healthcare providers, transparency and comparability of information for consumers, switching barriers and mobility, and the competitive dynamics associated with market concentration and vertical integration. These inputs are informing the CNMC's ongoing analysis and will help shape evidence-based recommendations to improve transparency, mobility and competitive pressure in the sector.

4. Integrating technical expertise and cooperation with other agents

9. The initiatives referred to above reflect a broader institutional approach grounded in evidence, technical dialogue and inter-agency cooperation. In healthcare markets, effective advocacy requires a deep understanding of clinical, regulatory and economic dimensions. To this end, the CNMC integrates sectoral expertise by engaging with regulators, public health authorities, academic experts and professional associations.

10. To this purpose, the CNMC conducts public consultations such as the one mentioned, holds numerous meetings with a wide range of stakeholders — including regulators, providers and consumer representatives — and carries out extensive outreach activities following the publication of its studies, through the organisation and participation in seminars⁸ and round tables (where there is an engagement with the different stakeholders), as well as through the publication of articles and blog posts.

11. This engagement has proved essential both to ensure that competition assessments are technically sound and to foster mutual trust, thereby facilitating the incorporation of pro-competitive reforms into sectoral regulation.

⁶ <https://www.cnmc.es/prensa/evaluacion-medicamentos-20250904>

⁷ <https://www.cnmc.es/consulta-publica-de-la-cnmc-sobre-el-seguro-de-asistencia-sanitaria-0>

⁸ <https://www.cnmc.es/jornadas/jornada-promocion-de-la-competencia>

5. Conclusions

12. Experience shows that competition and public health objectives are not only compatible but mutually reinforcing when regulation provides the right incentives for innovation, efficiency and informed patient choice.

13. Through evidence-based analysis, constructive engagement with regulators and evaluation of reforms outcomes, the CNMC helps ensure that markets operate in the interest of patients and the long-term sustainability of the health system.