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Assessing the impact of competition authorities' activities – Contribution from Spain

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Spain

1. Introduction

1. Competition advocacy is an important part of the work of the Spanish National Markets and Competition Commission (CNMC). Through market studies, regulatory proposals, reports on draft legislation, public-aid assessments and other forms of advice to public authorities, the CNMC seeks to identify and remove barriers to competition and to improve the design of public policies and regulation.

2. Since these instruments normally include non-binding recommendations, an ex-post assessment of their impact on the markets is relevant. This evaluation can also help competition authorities improve their advocacy activity[1].

3. This section describes the CNMC's experience at assessing the impact of advocacy. Subsection 2 explains the methodological work developed between 2020 and 2021 and its application on a sample of the actions issued by the CNMC between 2013 and 2019. Subsections 3 and 4 reflect two practical examples related to: (1) intercity bus passenger transport and (2) the distribution of medicines. Finally, subsection 4 draws out some conclusions.

2. The methodological framework developed at the CNMC for assessing advocacy impact

4. As advocacy activity expanded, and taking into consideration that most of the advocacy activities of the CNMC have non-binding recommendations as main output, the need to determine their impact in the markets grew.

5. In response to this need, the CNMC participated in the Technical Support Instrument of the European Commission which led to the publication in March 2022 of the Study Impact of Competition Advocacy and Market Unity Reforms in Spain. Elaborated by two independent consultancy companies[2], the project included the review and classification of more than 500 advocacy actions adopted between October 2013 and December 2019, the assessment on the follow-up of various recommendations and the development of a methodology for impact assessment.

2.1. The methodology

6. The methodology allows for a qualitative and quantitative impact assessment of the CNMC's advocacy interventions. It is based on literature and desk research, including existing ex-post evaluation methodologies applied by other similar agencies internationally, academic literature and studies that evaluate and assess the impact of competition policy. The OECD Competition Assessment Toolkit and the OECD Guide for helping competition authorities assess the expected impact of their activities were also taken as a reference.

[1] The CNMC also undertakes impact assessments of its enforcement activities. For more details, see the written contribution from Spain submitted for Item 4 of the 79th meeting of Working Party 2 on 16 June 2025.

[2] KPMG and VVA.

7. The methodology was designed with a certain degree of flexibility to respond to the heterogeneity of the advocacy actions of the CNMC, which include market studies, regulatory proposals, reports on draft laws and regulations, reports on matters that are not strictly linked to laws or regulations, judicial appeals and market unity reports. It also offers a set of flexible quantitative indicators to estimate the potential (or actual) welfare impact of the measures recommended in each act.

8. For every action the methodology foresees two complementary dimensions. The first dimension focuses on the CNMC's own action, describing the relevance of the sector analysed and the effectiveness and efficiency of the advocacy effort in influencing policy makers and stakeholders. The second dimension takes a more external approach, aimed at assessing the degree of compliance with the recommendations by Public Administrations and the potential effects on the economy.

2.2. Applying the methodology to advocacy actions between 2013 and 2019

9. The methodology was first tested on a sample of advocacy interventions that took place between October 2013, when the CNMC was created, and December 2019. During this period, the CNMC adopted more than 510 measures and 2,500 recommendations as part of its function to promote competition and market unity.

10. Not all recommendations could be evaluated. For example, in some cases, they were too recent for regulators to consider and implement. For those that could be assessed, more than 60% had been followed.

11. Twelve cases were chosen for detailed analysis, applying a common framework while adapting the evidence and methods to the characteristics of each case. In terms of economic impact, it was estimated that the uptake of the CNMC's recommendations would have generated a positive monetary impact of approximately €2 billion to €2.3 billion through lower prices, reduced waiting times, public administration savings, and increased business volume. The study also indicates non-monetary benefits, including the creation of 490 jobs, the market entry of 54 new operators, and the opening of 67 new service stations.

12. After the publication of the study, the methodology has been applied to other concrete advocacy actions of the CNMC. The most recent ones, related to intercity bus passenger transport and the distribution of medicines, are explained below. The following subsections explain the insights that were obtained.

3. The intercity bus passenger transport in Spain

3.1. The advocacy action under assessment

13. In January 2025, the CNMC approved an **ex post evaluation of the impact of its market study on intercity bus passenger transport** (**E/CNMC/006/19**), which was published in 2022. The evaluation was based on the methodology described above.

14. The intercity bus passenger transport sector is economically significant: buses accounted for 52% of intercity journeys in Spain during 2023, with 789 million passengers on scheduled services. In Spain, this service is provided under a concession system in which administrative concessions grant operators exclusive operation rights on certain routes. Competition therefore takes place for the market, through the tendering of concessions, rather than in it. Regulatory competence is divided between the General State Administration and the Autonomous Communities, depending on whether a route crosses regional boundaries. Supply has become progressively more concentrated: three operators

held more than half of the 77 state concession contracts in 2023 and accounted for over 79% of passengers carried under those contracts.

15. The study had issued four groups of recommendations.

- The first was to liberalise bus passenger transport services over 100 kilometres, accompanied by the creation of an independent sectoral regulator, and a redefinition and stable funding of the services kept under public service obligations.
- The second aimed at improving the design of tender specifications, by encouraging the division of contracts into lots, shorter contract durations, the elimination of fleet and personnel secondment obligations, less restrictive solvency requirements and a greater weight for the economic bid.
- The third concerned the management of the remaining concessions, and in particular the tendering of the many expired ones according to a pre-planned and staggered calendar.
- The fourth sought to mitigate the inefficiencies inherent to the concession system, through stronger transparency obligations, free access to operating data for potential bidders and the elimination of the artificial segmentation of related markets.

3.2. Effectiveness of the advocacy action

16. According to the ex-post evaluation, the study was effective in reaching its intended audiences. It was referenced in more than 95 national and local newspapers as well as specialised trade press, and its conclusions were disseminated through conferences, academic journals and economics blogs. Its recommendations on liberalisation were subsequently reiterated in the CNMC's report on the draft Sustainable Mobility Act (IPN/CNMC/036/22).

3.3. The level of uptake of the recommendations

17. **No effective change had occurred on the first recommendation at the time of the evaluation**, when the Sustainable Mobility Bill included only an enabling provision allowing the Council of Ministers to authorise the liberalisation of selected routes. The Act as finally approved did not take up the recommendation.

18. **To assess compliance with the second group of recommendations, the CNMC analysed the 14 tenders that had been launched since the publication of the study, which represented a combined estimated value of EUR 1,943 million.** Compliance was partial and uneven across administrations. The recommendation to encourage division into lots was not followed in substance: although three administrations introduced lots, average contract size was similar to, or even larger than, before the study. All tenders retained fleet and personnel secondment obligations, and all imposed technical solvency requirements based on prior experience of similar services. Compliance was higher on contract duration (where the state administration and Andalusia set terms below the ten-year legal maximum) and on the weighting of the economic bid in most tenders. No tender had adopted a gross cost remuneration scheme, which the study had identified as weakening incentives to reduce the operating costs offered. No progress was recorded on inter-territorial cooperation in the design of tender specifications, and the CNMC received no requests for prior reports on them.

19. **On the third group of recommendations, seven of the 77 state contracts in force at the end of 2023 had been annulled by the courts and 41 had expired, the latter** all continuing to operate under extensions. The principal exception was Andalusia, which tendered almost its entire regional network, although the delay in doing so meant that the whole route map had to be tendered simultaneously, rather than on the staggered calendar the study had recommended.

20. **Little movement was recorded on the fourth group of recommendations**, other than some steps towards inter-territorial cooperation in the design of new route maps.

3.4. Impact assessment of the recommendations

21. **The impact of the recommendations could not be quantified**. A full estimate would have required granular data that was not available at the time of assessment. The evaluation therefore approximated the order of magnitude of the benefits that full implementation could have delivered, drawing on the experience of other European countries that have already liberalised their markets and on the relevant literature. Direct extrapolation to Spain is necessarily imperfect, since these comparisons do not control for differences in initial market structure, regulation or geography.

22. Italy offers the closest comparison as its previous regulation resembled the Spanish concession model. Liberalisation there was followed by an increase of between 15% and 18% in medium- and long-distance passengers within two years, while scheduled kilometres rose by 70% between 2012 and 2015. Estimates for the United Kingdom point to fare reductions of between 33% and 50%. Recent work finds average prices per kilometre on a sample of routes in the liberalised French and German markets to be between 22.8% and 37.9% below Spanish levels in December 2024. On tender design, the CNMC had previously estimated that each additional bidder reduces the award price by some 2.1%[3]. On expired concessions, the 2022 study estimated potential efficiency gains of 8% to 20% on the supply side and 5% to 23% on the demand side, with expired concessions charging fares on average 30% higher than the rest.

23. The evaluation concluded that the limited and slow implementation of the recommendations represented a material opportunity cost for consumers and identified the channels through which the recommendations could still be implemented: the Sustainable Mobility Bill which was under elaboration, the redesign of the state and regional route maps, and the renewal of expired contracts.

24. Beyond the formal degree of compliance, the study has proved a useful instrument for reopening the debate on the regulatory model of this sector. Although the Sustainable Mobility Act did not take up its proposals, the study and its ex-post evaluation have become reference points for public administrations, operators and academics in the ongoing discussion on how the sector should be regulated.

4. The distribution of medicines

4.1. The advocacy actions under assessment

25. The CNMC also conducted an impact assessment of the recommendations set out in two CNMC market studies about medicine distribution, one focused on the retail

[3] Overview of public procurement procedures in Spain, CNMC (E/CNMC/004/18).

distribution of medicines (2015) and the other one on the wholesale distribution of medicines (2022), following the general methodology developed in 2020-2021[4].

26. These advocacy actions examined the limitations on the distribution of medicines from a competition and efficient economic regulation perspective. While always bearing in mind the need to safeguard public health and the safety, quality and efficacy of medicines, and to ensure access to them by the entire population, the studies identified the areas in the sector in which efficiency and competition could be improved.

27. Accordingly, the CNMC issued recommendations aiming at: (i) in the retail segment, easing the restrictions on pharmacy ownership, market entry and the exercise of pharmacy activity; and (ii) in the wholesale segment, strengthening the pharmaco-economic assessment of innovative (patented) medicines, fostering competition in off-patent medicines through changes to the Reference Pricing System and the rules on prescription and dispensation, and revising the remuneration of wholesalers and retailers to align it more closely to the quality of the service provided, among other measures.

4.2. Relevance and efficiency of the advocacy intervention

28. The wholesale and retail distribution of medicines is of particular importance because of its influence on two essentials matters: individual and collective health. As a reference, in retail distribution there are more than 22,000 community pharmacies, which on average employ 4.6 workers (2.5 of them pharmacists) and have an annual turnover of 1.1 million euros. It is also a very significant sector in economic terms because of its high value added, the large number of skilled jobs it generates and its strong innovation intensity. On the other hand**, the consumption of medicines has a significant impact on the public accounts and on the sustainability of the Spanish National Health System (SNHS), which in 2024 spent 13,865 million euros on medicines dispensed in community pharmacies, continuing the upward trend of recent years.** Furthermore, information asymmetries and other market failures may arise in this area, causing very significant risks and harm to patients.

29. **The publication of the studies analysing the existing restrictions on the distribution of medicines were echoed by the media, both general and specialised**, with at least 18 mentions to the retail distribution study and 36 to the wholesale distribution one.

4.3. The level of uptake of the recommendations

30. Some of these recommendations on the wholesale distribution segment had been taken into consideration in the Draft Bill on medicines and medical devices, published by the Ministry of Health in September 2025 and assessed by the CNMC[5]. However, this Bill will not entry into force since the legislative proposal lapsed upon the dissolution of Parliament that took place on the 5th of October, after the calling of general elections for the 29th of November 2026[6].

31. The measures included in the Draft Bill would have strengthened the assessment of health technologies. They would have also promoted greater competition when medicines

[4] For further details, see the Note by Spain for the Working Party No. 2 on Competition and Regulation Competition and Regulation in the Healthcare Sector (DAF/COMP/WP2/WD(2026)12).

[5] IPN/CNMC/006/25.

[6] Royal Decree 806/2026, of 5th October, dissolving the Congress and the Senate and calling for general elections.

are no longer protected by patents. Finally, the removal of price controls on medicines delisted from Spanish National Health System (SNHS) funding would have allowed them to compete on a level-playing field with other medicines that were never included in the public system's pharmaceutical formulary. However, for the time being neither the Draft Bill nor any other regulation has taken on board other recommendations, such as those aimed at linking wholesale distribution remuneration to service quality rather than to medicine prices, or the adoption of a clawback mechanism whereby existing discounts along the distribution chain would feed through into lower costs for the SNHS.

32. In the retail distribution segment, the degree of implementation of the CNMC's recommendations is low. At national level, the pharmacy-only retail channel for medicines is maintained, as are the existing limitations on online sales and on the discounts applicable to non-prescription medicines. No legislative changes are envisaged to relax pharmacy ownership rules, which restrict ownership to pharmacists and prevent horizontal and vertical integration of pharmacies. The Draft Bill on medicines and medical devices did envisage that remuneration for pharmaceutical services should not depend exclusively on the price of medicines dispensed, considering alternative modalities for certain products, to be defined at regulatory level. Nonetheless, this reform has lapsed upon the recent dissolution of Parliament.

33. At regional level, the Autonomous Communities, who are responsible for the regulation on pharmacies, have not incorporated the recommendations of the retail distribution study into their legislation. In recent years, no region has amended its rules to relax the pharmacy location regime, despite the benefits this brought to Navarre following a reform enacted in 2000. Nor have there been significant changes in opening hours, the mandatory professional registration requirement for pharmacy owners and employees, or the exclusive role of the Official Pharmacists´ Associations in intermediating the collection of prescriptions billed to the National Health System. By contrast, there has been some progress regarding greater freedom for pharmacy advertising in certain Autonomous Communities and as regards the criteria for granting administrative authorisations for the opening of pharmacies.

4.4. Quantitative impact of the uptake of the recommendations

34. The impact assessment of the recommendations issued in the studies on the wholesale and retail distribution of medicines also concluded that their implementation could deliver important benefits for operators and consumers and generate significant savings for the SNHS.

35. **Based on international experience and taking into account the limitations of any quantitative estimate, in the field of wholesale distribution the benefits would be the following**:

- Improvements in health technology assessment would translate into better access to innovative medicines and a more efficient use of public resources.
- Greater competition between off-patent medicines, due to the penetration of generics and biosimilars, would increase the patients' ability to choose and could lead to a reduction in the prices of medicines. This would lead to important savings in terms of public and private **pharmaceutical expenditure: €1,802 million** estimated for Spain, when moving from a generic share of 47.4% to 70%.
  This estimation is based on the work of García-Goñi, M. (2022), who conducted various regressions using OECD data for 18 countries to explain the impact of the generic penetration rate (explanatory variable) on pharmaceutical spending

(dependent variable). According to the econometric estimates, a 10-percentage point increase in the market share of generics would lead to a 0.05-percentage point reduction in GDP for total pharmaceutical expenditure (both public and private). Based on the generic market share recorded in Spain in 2023 (47.4%), these results can be used to estimate the savings from converging toward higher penetration levels, similar to those of neighbouring countries.

- A clawback system of discounts in the distribution chain would also translate into savings for the SNHS.

36. In retail distribution:

- The impact of more flexibility in the setting rules of pharmacies was calculated taking the regime of Navarre as an example. This region of Spain[7] shifted in 2000 from the system followed by all other regions—which establishes a maximum number of pharmacies per population unit— to a system based on a minimum number of pharmacies.
  The adoption throughout Spain of a model similar to that of Navarre for **locating pharmacies** could lead to the opening of almost **20,000 new pharmacies after 10 years and the creation of more than 45,000 jobs, of which almost 25,000 would be pharmacists**. This effect could be reinforced by liberalising the rules on pharmacy ownership, which limit ownership to pharmacists and prevent vertical and horizontal integration.
- **Allowing medicines to be sold in outlets other than pharmacies** could lead to a drop in prices due to greater competitive pressure (between 4% and 6% in pharmacies and 20% in supermarkets, observed in Lisbon, according to Moura, A. and Pita Barros, P. (2020)). According to estimates made for Spain, **liberalising online sales could save every citizen 84 minutes per year in visits to the pharmacy** (69.7 million hours in aggregate terms, which monetized accounts for 369 million euros). These calculations took into account the number of visits that pharmacies receive every year, the likelihood of patients buying medicines on the internet and the estimated time spent on each visit.
- The quality and quantity of services provided by pharmacies would improve if their remuneration was linked to them and there would also be better access if opening hours were liberalised.
- Pharmacists could compete in better conditions if certain requirements for granting administrative authorisations for the opening of pharmacies were eliminated and if compulsory professional association membership was abolished — the aggregate annual cost of which is estimated at around 16 million euros per year for Spain.

5. Conclusions

37. A methodology for assessing the impact of advocacy actions was developed in the CNMC between 2020 and 2021 and has been applied to concrete activities ever since.

38. The methodology provides a flexible approach to accommodate to the different types of advocacy actions of the CNMC: market studies, reports of draft regulations or assessments on public subsidies, among others.

[7] Foral Law 12/2000 of November 16, on Pharmaceutical Care.

39. It provides a common ground of analysis both for evaluating the relevance of the activity and for determining whether it has been effective in promoting discussion among policy makers and stakeholders. It also foresees the analysis of the degree of compliance with the recommendations and the impact that they have had, or would have had, also from a quantitative perspective, where feasible.

40. The experience gained from having applied this methodology to different actions allows some conclusions to be drawn when selecting the advocacy activities subject to ex-post assessment.

- First, enough time should have passed between the publication of the advocacy action and the ex-post assessment to allow policy makers to consider the competition authority's recommendations and to implement them, so that their effects on the markets can materialise.
- Second, access to sufficiently granular data is desirable. Should that not be the case, other sources can be used, such as the experience in other relevant countries or regions.
- Third, although the methodology provided in the general framework offers a set of quantitative indicators to estimate the potential (or actual) welfare impact, a more flexible approach could be used if data is available for the sector under analysis.

41. Most importantly, assessing the impact of advocacy actions can provide useful information to guide future activities of the competition authorities. These exercises can help not only to identify the economic sectors in which public barriers are still preventing the correct functioning of the markets and reducing the consumers' welfare, but also to quantify these effects. Although such assessments are carried out by the competition authority that issued the recommendations, their results could also be useful to other competition authorities, which can draw on them when designing their own advocacy strategies, **particularly where the sector and its regulatory starting point are comparable.**

6. References

CNMC (2022). Impact of Competition Advocacy and Market Unity Reforms in Spain, here.

CNMC (2024). Ex-post evaluation of the impact of its market study on intercity bus passenger transport, here.

CNMC (2024). Impact assessment of the recommendations issued in the studies on the wholesale and retail distribution markets for medicines, here.

García-Goñi, M. (2022). Rationalizing Pharmaceutical Spending, IMF Working Papers 2022/190 (Washington: International Monetary Fund), here.

Moura A., Pita Barros P. (2020). Entry and price competition in the over-the-counter drug market after deregulation: evidence from Portugal. Health Econ, here.

OECD (2025). Assessing the Impact of Competition Authorities' Activities, OECD Roundtables on Competition Policy Papers, No. 320, OECD Publishing, Paris, here.

OECD (2025). Market Studies and Other Market Analysis Tools for Competition Authorities, OECD Roundtables on Competition Policy Papers, No. 327, OECD Publishing, Paris, here.

OECD (2018). Market Studies Guide for Competition Authorities, OECD Publishing, Paris, here.

OECD (2016). Reference Guide on Ex-post Evaluation of Competition Agencies' Enforcement Decisions, OECD Publishing, Paris, here.

OECD (2014). Guide for Assessing the Impact of Competition Authorities' Activities, OECD Publishing, Paris, here.