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**Assessing and Communicating the Benefits of Competition Interventions – Note by
Spain**

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This document reproduces a written contribution from Spain submitted for Item 6 of the 75th meeting of Working Party 2 on 12 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm>

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1. Introduction

1. The nationwide authority in charge of the application of competition law in Spain is the Spanish National Markets and Competition Commission (Comisión Nacional de los Mercados y la Competencia, CNMC). The CNMC is an integrated authority not only empowered to enforce competition policy (overseeing mergers and acquisitions and potentially anticompetitive practices) and to engage in advocacy (with the ability to prepare reports and studies evaluating the functioning of market forces in relation to particular activities and particular industries), but is also competent to enforce sector-specific regulation in telecommunications, media, energy and transport.

2. The investigative and enforcement powers of the CNMC in its role as competition authority aim to preserve, guarantee and promote the existence of effective competition for the benefit of consumers. As is usual in competition authorities, its enforcement activity focuses on the prosecution of anticompetitive infringements (with cases ending in prohibition decisions with fines or with commitments) and merger control (with the alternatives of unconditional clearance, clearance with remedies or prohibition). The qualitative benefits of competition enforcement for consumers and society as a whole are easily understood, but it is nonetheless advisable to quantify those benefits in order to assess the evolution of the competition authorities' performance over time, and also to strengthen their accountability to parliament – that usually controls their funding and resources – and to improve the effectiveness of its advocacy towards consumers and civil society.

3. Advocacy measures are another essential tool to promote better regulation across all markets and economic sectors and disseminate a culture of competition, in order to preserve and promote competition in all sectors to the benefit of consumers. Since its creation in 2013, the CNMC has been prolific in its advocacy activity, issuing general market reports and competition enhancing opinions on draft regulations and on cases arising from market unity claims filed by interested parties. It has also, on several occasions, used its most powerful instrument: the challenge in court of acts by public authorities subject to administrative law and general provisions of subordinate legislation which impede the maintenance of effective competition in the markets. However, the effectiveness of such a diverse advocacy activity is difficult to monitor and it is also hard to ascertain compliance with the large and heterogeneous set of recommendations issued by CNMC. Moreover, some regulatory recommendations, especially those that have a direct impact on specific economic groups, need to be well backed by impact data to ensure support. In this regard, CNMC carries out compliance assessments of its recommendations. However, these types of custom analyses are resource and time consuming and cannot be performed for every single advocacy act. To address these shortcomings, CNMC was interested in improving its advocacy tools. Firstly, by having a better and systematic knowledge of the effectiveness of its previous acts and understanding the extent to which the different authorities have followed its recommendations. Secondly, by applying a methodology and a set of indicators for assessing the impact of its recommendations, which may support CNMC in its advocacy efforts and prioritization of resources. As a result, in 2019, CNMC submitted a project to the European Commission's 2017-2020 Structural Reform Support Program to assess the degree of follow-up of its recommendations on competition advocacy and market unity, whose main conclusions are used to address this contribution.

2. The CNMC's experience in the impact assessment of competition enforcement interventions

4. In order to quantify the consumers' savings produced by the CNMC's competition enforcement actions, the methodology has been chosen based on OECD recommendations on impact analysis and is in line with those applied by the European Commission (EC), the Authority for Consumers and Markets of the Netherlands (ACM), the Competition and Markets Authority of the United Kingdom (CMA), as well as the Department of Justice (DoJ) and the Federal Trade Commission (FTC) of the US.
5. This methodology assumes that each intervention produces positive effects by preventing direct adverse effects on consumers in the form of higher prices resulting from anti-competitive infringements and problematic mergers. According to OECD terminology (2014), the term "consumers" includes both final consumers and consumers of intermediate products. The impact assessment is based on information contained in the case files, and therefore it is not necessary to wait for enough data to be collected after the intervention.
6. Savings are estimated by year without attributing savings to individual cases. Consumer savings are shown both annually and with 3-year moving averages, the latter to smooth out short-term fluctuations caused by annual variations in the number of cases or the size of the affected markets.

2.1. Methodology for interventions against anticompetitive infringements

7. To estimate consumer savings we consider all decisions of the competition authority for infringements of articles 1, 2 and 3 of the Spanish Competition Act, including cases investigated by the regional competition services and decided by the national authority, irrespective of whether the cases ended with a prohibition with fines or with commitments.
8. To estimate the impact of decisions the following parameters are taken into account:
 1. The dimension of each undertaking's infringement, as measured by the size of the affected market. For each infringement the average annual turnover on the market concerned is calculated on the basis of the data available in the case files.
 2. The price effect, which is the price increase prevented by the intervention of the CNMC. When no specific data is available, an avoided price increase of 10% is assumed for cartels and other collusive arrangements. This is a conservative value, since several studies have estimated that price increases in these cases are usually higher. Instead, a 5% increase is assumed for abuse of dominance and Article 3 infringements when no case-specific information is available.
 3. Finally, we need a reference value of the future duration of the infringement – and therefore of the price effect – had the CNMC not intervened. For this parameter a default value of 3 years is selected, assuming that the infringements would have continued at least during that period of time. Besides, it seems appropriate to assign to the year in which decisions are published the discounted value of future savings, in our case using a discount rate of 3.0% according to the recommendations of the European Commission¹.

¹ European Commission (2015): Annex III, 2.3.1, n. 4.

9. Consumer savings produced by a decision are the result of multiplying the volume of sales on the affected market (as a proxy of the consumers affected by the infringement) by the price effect (in percentage) for the years of duration of the price effect, and to compute the present value of those savings at the social discount rate. Finally, the results for all cases in a year are added to obtain the impact of the decisions of the competition authority that year.

10. Table 1 shows the values of the parameters selected for the impact analysis of the CNMC's interventions against anti-competitive infringements, together with those recommended by the OECD and used by other competition authorities.

Table 1. Assumptions used for cases of anticompetitive infringements

Authority	Type of case	Sales on the affected market	Price effect (default)	Duration of price effect (years)	Discount rate
CNMC	Art. 1 LDC, 101 TFEU	Affected market turnover	10%	3	3,0%
	Art. 2 and 3 LDC, art. 102 TFEU	Affected market turnover	5%	3	3,0%
OECD	Cartels	Ex ante affected market turnover (companies involved)	10%	3	-
	Abuse	Ex ante affected market turnover (companies involved)	5%	3	-
CMA	Cartels, abuses and other infringements	Affected goods turnover	15%	6	3,5%
ACM	Cartels	Turnover in the affected market (companies involved)	10%	3	-
	Abuse	Turnover of the undertaking with a dominant position in the relevant market	5%	3	-
DG COMP	Cartels	Turnover of the undertakings involved in the cartel	10-15%	1/3/6	-
	Other anti-competitive practices	Turnover on the affected market of the undertakings investigated	5-10%	1/3/6	-
DoJ	Cartels	Trade volume in the relevant market	1%	1 year (or months when duration < 1 year)	-
	Abuse	Volume of trade of the undertaking on the affected market	1%	1	-

Note: The price effect column shows the default values used when information is not available in the case files. Source: OECD (2014), European Commission (2015), Ilzkovitz and Dierx (2020), CMA (2022), Deisenhofer et al. (2022), Dijkstra et al. (2022), Kemp et al. (2022).

11. As can be seen in the table above, the values selected for the CNMC are in line with those used by other competition authorities with more experience in impact assessment.

2.2. Methodology for interventions in merger control

12. We will only include in our analysis cases in which the Spanish competition authority has blocked the mergers or in which mergers have been approved with remedies, in either first or second phase. Withdrawn mergers in second phase are also included, unless there is evidence that it was for reasons other than the competition concerns of the authority.

13. Similarly to what was explained for anti-competitive infringements, information from all merger cases about the size of the market affected by the operation (relevant market), the price effect (the price increase avoided by the intervention of the CNMC) and the expected duration of the price effect (the time during which the price increase would have continued without the intervention) have been used to estimate the impact of merger control on consumers.

14. The values of the parameters used to evaluate the impact of the CNMC's interventions are:

1. The size of the relevant market is the turnover of the relevant market affected by the merger. We assume that, without intervention by the competition authority, both the prices of the products of the companies involved in the operation and those produced by their rivals could increase due to the umbrella effect of the merger. Unlike anti-competitive practices, it is not necessary to annualize the turnover figure of the relevant market because it always refers to a specific year.
2. According to most competition authorities, a price effect of 3% is used, i.e. it is assumed that the intervention has prevented a price increase of that magnitude in the market where the merger takes place, which is also a conservative assumption according to the literature.
3. Finally, it is necessary to have a reference value for the duration of the price increase due to the merger if the CNMC had not intervened. The duration of the price effect is assumed to be the value specified in the commitments accepted by the notifying undertaking. A default duration of 2 years is used when no information is available. As mentioned above, it seems appropriate to assign to the year in which decisions are published the discounted value of future savings with a discount rate of 3.0% (European Commission, 2015).

15. Table 2 shows the values of the parameters selected for the impact analysis of CNMC's interventions in merger control, together with those recommended by the OECD and used by other competition authorities.

Table 2. Assumptions used for merger control cases

	<i>Sales in the relevant market</i>	<i>Price effect</i>	<i>Duration (years)</i>	<i>Discount rate</i>
<i>CNMC</i>	Turnover in the relevant market	3%	Duration of accepted commitments; If no data available, 2	3,0%
<i>OECD</i>	Turnover of all undertakings in the affected markets	3%	2	-

CMA	Turnover of the goods affected (different % depending on decision)	Simulated for that case; if not, average of previous simulations	2	3,5%
ACM	Turnover of the affected markets (complete market)	Simulated for that case; otherwise, 3% default	3	-
DG COMP	Size of the relevant market (including competing companies)	3-5%	2, 3 or 5	-
Doj	Volume of trade in the relevant market	Simulated for that case; if not, 1%	1	-

Source: OECD (2014), European Commission (2015), Ilzkovitz and Dierx (2020), CMA (2022), Deisenhofer et al. (2022), Dijkstra et al. (2022), Kemp et al. (2022).

16. As with anticompetitive infringements, consumer savings produced by a merger control decision are the result of multiplying the volume of sales in the relevant market by the price increase avoided (in percentage) for the years of duration of the price effect, and to compute the present value of those savings at the social discount rate. The results for all merger decisions in a year are then added to obtain the impact of merger control interventions that year.

2.3. Estimated consumer savings for 2012-2022

2.3.1. Savings derived from the prosecution of anticompetitive infringements

17. Table 3 shows the number of cases and undertakings included to estimate consumer savings for the period 2012-2022

Table 3. Cases and undertakings included in the analysis

Year	Case files included	Undertakings considered	Undertakings excluded
2012	32	56	30
2013	32	142	50
2014	19	42	47
2015	22	267	37
2016	20	98	14
2017	10	62	8
2018	14	47	12
2019	11	101	18
2020	6	10	10
2021	12	100	9
2022	9	20	1
Total	187	945	236

18. A total of 1,181 undertakings involved in 187 cases were considered, of which 945 were finally included in the calculations to estimate consumer savings. The exclusion of the other 236 entities was mostly due to the lack of necessary data for the estimation (mainly the turnover of the affected market). Besides, some associations of undertakings

were excluded when their members were already being considered, as well as companies involved in cases where there was no clear direct effect on consumers.

19. Estimated consumer savings are presented in Table 4.

Table 4. Estimated consumer savings from interventions in cases of anticompetitive infringements (in millions of euros)

Years	Annual savings	3-year moving average
2012	344.5	-
2013	561.7	-
2014	262.4	389.5
2015	6,401.3	2,408.5
2016	823.1	2,495.6
2017	280.3	2,501.6
2018	262.1	455.2
2019	1,171.0	571.1
2020	13.7	482.3
2021	257.5	480.7
2022	1,942.2	737.8
Total	12,319.7	-
Average	1,120.0	1,1769.1

20. The interventions of the Spanish competition authority in cases of anti-competitive infringements between 2012 and 2022 generated average annual consumer savings that ranged between 13.7 million euros in 2020 and 6,401.3 million euros in 2015.

21. As can be seen in the table above, savings in 2015 were particularly high because several decisions that year concerned cases involving unusually high market turnover. Overall, the results of 2015, 2019 and 2022 significantly influence the average annual savings (1,120.0 million euros), which is higher than the annual savings of most years of the series.

2.3.2. Savings derived from merger control interventions

22. Merger cases included in the analysis are shown in Table 5. The Spanish competition authority intervened on average in 5% of the mergers notified each year, with the number of mergers interventions fairly stable over the analysed period.

Table 5. Number of mergers included in the analysis

Years	Number of cases
2012	3
2013	5
2014	3
2015	3
2016	5
2017	3
2018	4
2019	5

2020	4
2021	8
2022	4
Total	47

23. As indicated in section 4, the savings generated for consumers were estimated with the conservative assumption that merger control interventions avoided a 3% price increase over the number of years for which the commitments were binding, or else for two years. The results of the estimates for each year are shown in Table 6.

Table 6. Estimated consumer savings from merger control cases (in millions of euros)

Year	Annual savings	3-year moving average
2012	395.6	-
2013	605.5	-
2014	662.1	554.4
2015	868.9	712.2
2016	297.4	609.5
2017	40.8	402.4
2018	52.7	130.3
2019	1,783.1	625.5
2020	189.5	675.1
2021	4,571.3	2,181.3
2022	1,888.3	2,216.3
Total	11,355.2	-
Average	1,032.3	900.8

24. Since 2012 the Spanish competition authority has intervened in 47 merger cases. These decisions have produced annual savings for consumers ranging from 40.8 million in 2017 to 4,571.3 million euros in 2021.

25. As seen in Table 6, consumer savings can vary significantly from year to year. This can be explained by the number of cases analysed and the turnover of the relevant market in each case, and also by different durations of the price effect when it can be deduced from the information available in the case file. For example, both in 2020 and in 2022 the authority intervened in four merger operations, but the savings were greater in 2022 because they involved very large companies with higher turnovers in the relevant market. Similarly, savings generated in 2021 were particularly high due both to the number of decisions adopted that year (eight operations with commitments were approved in first or second phase, the highest figure in the years considered) and the size of relevant markets.

2.3.3. Total consumer savings

26. This last section presents total consumer savings produced by the enforcement interventions of the Spanish competition authority. The figures in Table 7 are obtained by adding the estimates presented in Tables 4 and 6, which correspond to savings produced by prohibition decisions with fines and merger control, respectively.

Table 7. Savings for consumers produced by enforcement interventions of the CNMC (in millions of euros)

Year	Annual savings	3-year moving average
2012	740.1	-
2013	1,167.2.	-
2014	924.5	943.9
2015	7,270.2.	3,120.7.
2016	1,120.5.	3,105.1.
2017	321.1	2,903.9.
2018	314.7	585.4
2019	2,954.1.	1,196.6.
2020	203.2	1,157.3.
2021	4,828.8.	2,662.0.
2022	3,830.4.	2,954.1.
Total	23,674.9	-
Average	2,152.3	2,069.9

27. Annual consumer savings due to the interventions of the CNMC from 2012 to 2022 range between 203.2 million euros in 2020 and 7,270.2 million euros in 2015, with an annual average of 2,152.3 million euros.

28. Even without taking into account the extraordinary savings of 2015, average annual savings between 2012 and 2022 would still amount to more than 1,640.5 million euros.

3. The CNMC's experience in the impact assessment of competition advocacy interventions

29. As previously introduced, the CNMC has set evaluation and transparency as one of its strategic priorities. For this purpose, given the prolific and broad activity of the Advocacy Department since the CNMC creation, the CNMC submitted a project to the European Commission's 2017-2020 Structural Reform Support Program to assess, via two external consultancy firms, the degree of follow-up of its recommendations on competition advocacy and market unity.

30. Inspired by a holistic perspective, the project, entitled "Impact of Competition Advocacy and Market Unity Reforms in Spain", was organized in several phases:

- Phase 1: Initial organization and team experts' mobilization
- Phase 2: Database on the regulatory and administrative acts
- Phase 3: Compliance Report
- Phase 4: Design of an impact assessment methodology: application to selected cases.
- Phase 5: Manual and training on impact assessment methodology
- Phase 6: Summary and conclusions of the study

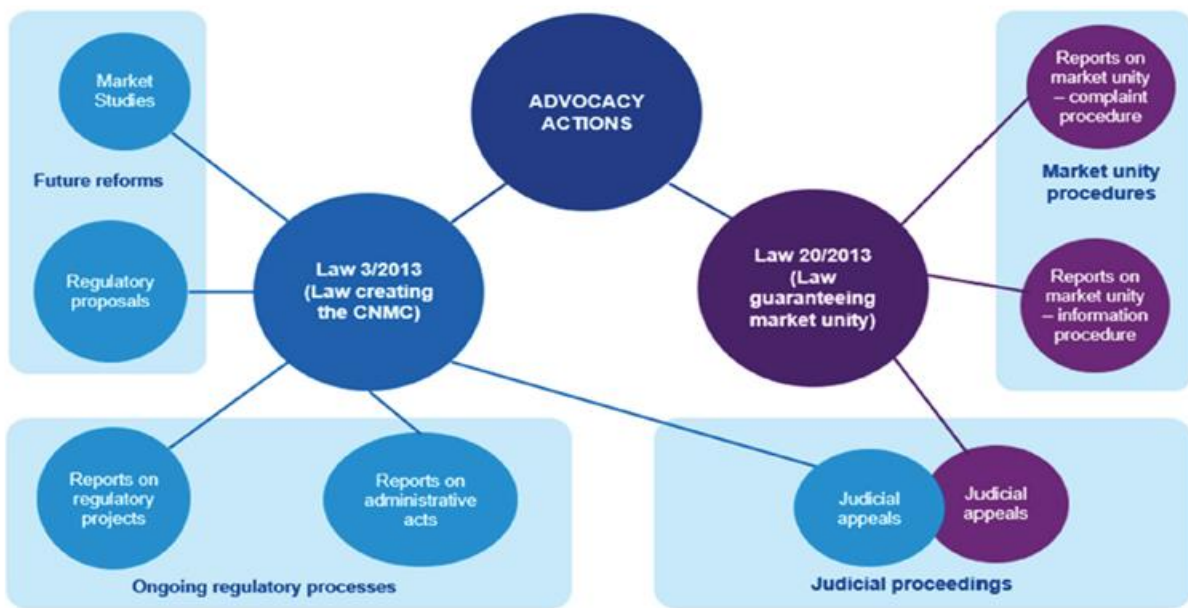
31. Each phase included a deliverable, which collected all the information resulting from the work that has been carried out.

32. The milestones of the project, developed as a guide for this contribution are the creation of the database of the advocacy acts, the compliance report and the application of an impact assessment methodology to 12 selected cases.

3.1. Database of the advocacy acts

33. The first deliverable of the analysis consisted of the compilation of a large database, based mainly on the OECD Competition Assessment Toolkit, of all the CNMC’s advocacy actions during the analysis period, which covered Market Studies, Regulatory proposals, Reports on Regulatory and Administrative process, Reports on Market Unity and Judicial Appeals, as shown in Chart 1. This toolkit is a very useful guidance to evaluate draft laws and regulations in order to know which situations or market failures might require a competition assessment. It also set a reference point to further update using the methodology proposed in the project.

Figure 1. CNMC’s Advocacy Actions



Source: own elaboration based on the work provided by the consultants.

34. The database revealed, as displayed in Table 1, a prolific advocacy and market unity activity during the period under study, with more than 500 actions (including court challenges) and the issuance of more than 2,500 recommendations. The project also showed that the largest number of CNMC recommendations fell into category A of the OECD Assessment Toolkit (“limits the number or range of supplier”), followed by B (“limits the ability of suppliers to compete”) and C (“reduces the incentives of suppliers to compete”).

Table 8. Distribution of CNMC Advocacy Acts by number of reports and number of recommendations

	Type of report	Number of reports	Number of recommendations / claims ²
Law 3/2013	Market Studies	11	122
	Regulatory Proposals	11	38
	IPN Reports	113	1,412
	INF Reports	54	442
	Article 5.4 Appeals	19	70
Law 20/2013	Article 26 Reports	127	279
	Article 28 Reports	121	121
	Article 27 Appeals	58	84
TOTAL		514	2,568

Note: A recommendation is reported only once, even if there are different addressees (such as the case where a single recommendation is addressed to all Spanish regions)

Source: compliance report elaborated by the consultants.

35. Regarding **publication of the advocacy acts**, they are individually and timely published in the [Advocacy Section](#) and [Market Unity Section](#) of the CNMC website², as prescribed by the article 37 of the CNMC Creation Law³, which also includes the obligation, every three years, of assessing the results and compliance of the CNMC actions that have to be submitted to the Ministry of Economy and the Spanish Parliament (Congreso de los Diputados).

36. Apart from **the communication** on the website through traditional press notes, the CNMC is constantly improving and updating its tools to the new media and potential audiences. This includes the publication of blogs and infographics in the CNMC website and the use of social media such as Twitter or YouTube, where more accessible language and audiovisual content is used to bring CNMC Advocacy acts closer to the general public. Also, the content is usually published in the CNMC LinkedIn account, easing the diffusion and debate across relevant stakeholders. Finally, it is also frequent to publish articles in specialized magazines and newsletters, and to organize launch events of the Studies at the CNMC premises, where the general public, journalists and relevant stakeholders are invited, including expert roundtables.

37. Regarding the planning of the **content published**, the Communication Department of the CNMC carries out an assessment in order to ensure a proper balance between accessibility and technical rigor, pondered depending on the audience targeted.

² The launch of every action, the public consultations and the final outcome (including Court decisions) are usually published.

³ *Ley 3/2013, de 4 de junio, de creación de la Comisión Nacional de los Mercados y la Competencia.*

3.2. Compliance report of the Advocacy Actions

38. Secondly, the project contained a report, [available on the CNMC website](#)⁴, on the degree of compliance with all the recommendations issued by the CNMC in the aforementioned actions. The final outcome of the advocacy actions, specially of those binding related to the legal claims filled, are made public on the website of the CNMC, specifying which concrete claim have been granted by the judicial decision.

39. In order to prepare this report, several meetings with relevant stakeholders (academia, public administrations and consumers, business and citizens associations) were held.

40. At this respect, it is important to highlight that the success of these advocacy activities cannot be merely assessed by the degree of compliance with its recommendations and pleadings. As different stakeholders pointed out, the CNMC is in a unique position to make an independent assessment of different sectors and activities and its opinion is necessary for contributing to the public debate, especially in sensitive or innovative sectors.

41. Also, these actions are an essential part of the CNMC's obligation to promote competition beyond particular elements. Thus, in several cases the CNMC reports go beyond the particularities of the case at stake and include broader analyses.

42. None of the advocacy roles of the CNMC involve binding opinions precisely because its role it is not legislate or regulate, but to inform the legislator and regulators about the competition implications of a particular option. As such, the success of the CNMC must be assessed by the number of its reports and, eventually, the presence of its arguments on the public debate.

43. The diverse nature of the advocacy actions of the CNMC clearly appears in the results of assessment of the degree of compliance displayed in Table 2, which varies in relation to the different instruments used and their purpose.

44. Overall, the analysis yields a significant level of compliance, exceeding 60% on average for the different instruments. This is a very positive figure, taking into account that CNMC recommendations are not binding, the legislative process is complex, and the addressees of the recommendations are very varied (national, regional, and local policymakers, public administrations and the judiciary).

⁴ The "File 1. Informe de Seguimiento" of this link contains the English version of the Compliance report.

Table 9. Degree of compliance with the CNMC's Advocacy Actions

Type of action		Degree of compliance with recommendations
Law 3/2013	Market study	53%
	Reports on regulatory proposals	60%
	Reports on draft regulations	36%
	Reports on administrative acts	28%
	Legal Appeals	69%
Law 20/2013	Market unity reports	96%
	Legal Appeals	84%
TOTAL		61%

Source: own elaboration based on the work provided by the consultants.

45. **Regarding the lessons learned of this exercise**, considering the heterogeneity of these instruments, of the issues assessed by the authority, of the nature of the acts subject to assessment and the origin of the cases, it is difficult to identify meaningful patterns directly from the degree of the compliance. Nevertheless, the project also included interviews carried out by the consultants without the presence of CNMC with the main stakeholders (academia, administrations, associations). In the view of the stakeholders, the impact of the CNMC is a useful input which is pondered in the decision-making process with other interests at stake, particularly in the legislative processes.

46. Additionally, several recommendations were made in order to increase the degree of compliance:

- Consider the context of the report: the nature and competences of the addressee of the recommendations and the situation of the legislative / regulatory process.
- Maintain the recommendation clearly within the scope of the report or any ongoing normative process. In the event that the CNMC considers necessary to exceed this scope in order to include recommendations for other normative changes, it should clearly identify in the report the specific recommendations at stake from general indications.
- In the reports, clearly identify the restrictions to competition addressed as competition concerns, and the associated recommendations.
- Clearly identify the competition advocacy recommendations from the purely regulatory ones or other based on formal regulatory efficiency.
- In each case, try to prioritize the recommendations that are more relevant from those that are mere non-essential improvements.
- Make the recommendations as clear and specific as possible, identifying the concerning issue and, when possible, providing a suitable wording or alternatives.

47. Finally, there are outside and accessory considerations that could also improve the effectiveness of the CNMC's assessment:

- Legally state a clear consequence for any infringement of the obligation for the administration to regulate in line with principles of efficient regulation and only allow the introduction of competition restraints through a specifically motivated decision that takes into account these principles (beyond general statements based on convenience or opportunity). This would help not only to increase the importance of the CNMC's position in the normative process, but also the chances of success in the judicial appeals.
- Legally strengthen the CNMC's position in some reports. If the authority had the obligation to consider the CNMC's position and provide reasons to depart from it ("comply or explain"), it would greatly help to increase the degree of compliance.
- Increase the visibility and the dissemination of the conclusions of the reports, especially in relation to Market Studies and Regulatory proposals. The broader the CNMC's position is known, the easier it would be for the different stakeholders involved in the normative processes to understand it and apply it.

3.3. Impact Assessment of the Advocacy Actions

48. In addition to the compliance report, the consultants also evaluated the impact of the CNMC's actions on the Spanish economy as a whole, which included in "Deliverable 4. Report on the design of a methodology for ex-post impact assessment of CNMC acts and analysis of selected cases".

49. In this regard, it is important to consider two main challenges that, to a large extent, are common to any assessment of the effects of policy interventions. The first challenge is to solve the attribution or causality problem. Any effects observed in the market and/or in the regulatory framework can only be attributed to the act if a likely link to its output (typically policy recommendations) can be made. Otherwise, any observed change in legislation could be the consequence of simultaneous events (i.e., regulatory changes not in line with the act recommendations, wider legislative reforms, regulatory changes brought by other institutions, etc.). Similarly, any observed effects in the market could be induced by third economic events and conditions.

50. The second challenge concerns the balance between the accuracy and reliability of the estimations and the time and resources needed to obtain them. The approach taken is to rely on easily applicable estimations. This general rule does not preclude carrying out an in-depth analysis for selected cases in the future.

51. Against this background, an ad hoc methodology, also based on the OECD Competition Assessment Toolkit, was designed with the objective to be sufficiently reliable, homogeneous, flexible, and consistent to adapt to the particularities of the different advocacy actions, sectors, and regulations of the Spanish economy.

52. The consultants applied this methodology, [available on the CNMC website](#)⁵, which includes both quantitative and qualitative indicators, to 12 specific cases of CNMC actions, in the following sectors: public procurement, fuels, fintech, driving schools, technical inspection of vehicles, private hire vehicles (PHV), freight transport, activity reserve and shopping centers.

⁵ The "File 2. Análisis 12 casos prácticos" of this link contains the English version of the Impact Assessment for the 12 selected cases.

53. The evaluation methodology proposed by the consulting firms ([accessible here](#)⁶) divides the evaluation of each action into two distinct parts:

1. The evaluation of compliance. The degree of compliance with the recommendations contained in each action is analyzed, thus providing useful information for a better allocation and prioritization of available resources.
2. Evaluation of effects. An analysis is made of whether the action has been successful in influencing regulation and what are the real or potential benefits associated with the recommendations issued.

54. The main results of the potential effects of the recommendations contained in the 12 specific cases (both for having followed the recommendations and for the loss of welfare in those cases in which the recommendations have not been complied with) are the following:

- A direct monetary impact of between 2,000 and 2,300 million euros, by way of lower prices for consumers, shorter waiting times, savings for public administrations and higher turnover for companies.
- A non-monetary impact through the creation of 490 jobs, the entry of 54 new operators and 67 new service stations, the granting of 1,575 new PHV licenses, between 330,000 and 750,000 new customers and 69,400 additional bids in public sector tenders.

55. Even though all the evaluations are available on our [website](#), we will briefly explain the results in the sectors of public procurement, fuel sector and Fintech.

- **Public Procurement**

56. The [CNMC report](#) on the Draft Bill of the Public Sector Contracts Law (2015) has 145 recommendations, most of which were not followed. The evaluation considered that the main consequence of not following the recommendations was the lower number of bids in tenders (4.6 instead of 5.1) and the higher award price (the total cost would amount to about 1 billion euros, given the great weight of public procurement in the Spanish economy).

- **Fuel sector**

57. In this sector, two CNMC actions have been evaluated: the [study](#) on the wholesale market for motor fuels in Spain (2015) and the [regulatory proposal](#) of the fuel distribution market through automatic service stations (2016). While the impact of having followed all the recommendations of the first study is estimated in a range of between €75 million and €300 million, the second would have generated a benefit of €607 million due to the potential reduction in prices and the opening of at least 67 new automatic service stations.

- **Fintech**

58. The [study](#) on the impact on competition of new technologies in the financial sector (2018) put forward a series of recommendations to improve competition and efficiency in financial services. The consultancy firms' report considered that compliance with all the recommendations made would have resulted in an impact of €20.5 million in terms of turnover of companies in the sector, 48 new operators and 135 new employees.

⁶ The “File 3. Manual metodología evaluación de impacto” of this link contains the English version of the Impact Assessment Methodology.

59. Regarding **communication**, the Advocacy Department hosted a presentation event of the project at the CNMC premises open to relevant stakeholders and has also recently created an specific sub-section on [Impact Assessment](#), integrated into the Advocacy Section on the CNMC website. In this sub-section, all the material related to this project is published together with other specific evaluations such as the Quantitative Analysis on the broadband deployment subsidies in Spain. In addition to the complete text of the impact assessment actions, there are other resources such as infographics of blogs posts intended to ease the diffusion across different audiences.

4. Main conclusions

60. Impact assessments are a necessity for competition authorities, who increasingly need to quantify the benefits to consumers produced by their interventions. This contribution presents the experience of the CNMC in assessing the impact of its interventions both in antitrust enforcement and competition advocacy.

61. Regarding competition enforcement, CNMC staff conducts annual assessments to quantify direct savings generated by the prosecution of anti-competitive infringements and merger control interventions. The methodology, based on the OECD recommendations on impact assessment, assumes that each intervention prevents direct adverse effects on consumers in the form of higher prices resulting from anti-competitive infringements and problematic mergers. Estimates of consumer savings are based on information contained in the case files and on reference values selected according to the economic literature and the choices of more experienced competition authorities.

62. This methodology was used to evaluate the benefits to society of the CNMC's enforcement actions from 2012 to 2022: 187 infringement cases (involving 945 undertakings) and 47 merger operations were considered. Total annual consumer savings produced by the CNMC's enforcement interventions range from 203.2 million euros in 2020 to 7,270.2 million euros in 2015, with an annual average of 2,152.3 million euros (1,120.0 million euros related to infringement prosecution and 1,032.3 million euros related to merger control). In 2022, the last year of the series, total savings amounted to 3,830.4 million euros (1,942.2 million euros related to infringement prosecution and 1,888.3 million euros related to merger control). The estimated savings vary from year to year but confirm that the CNMC's antitrust activity is clearly beneficial for consumers.

63. As far as advocacy is concerned, the CNMC, has recently assessed the effects of its activity through the project "Impact of Competition Advocacy and Market Unity Reforms in Spain" implemented by two external consultancy firms and supported with European Union funds (Structural Reform Support Program). This project is part of an exercise of transparency, impact assessment and accountability of the CNMC that will allow the dissemination of the agency's actions (i.e., increased awareness of our activity and support from policymakers, public administrations and the general public).

64. In this line, the CNMC has published on its website an [executive summary](#) and the main [deliverables of the project](#): compliance report, handbook with the methodology for evaluating CNMC's advocacy acts and the 12 impact assessment cases. Furthermore this project has been awarded as the [winner of the Antitrust Writing Awards 2023 \(Soft Laws – General Antitrust category\)](#) and has been presented at the ICN and as part of the OECD Regional Centre for Competition in Latin America [newsletter](#). In order to reach a non-specialized audience, the main features of the project have been summarized in two blog posts ([here](#) and [here](#)).

65. The project highlighted the intense activity of the CNMC in promoting competition and market unity, as well as the significant degree of compliance of CNMC's recommendations and the positive impact that efficient economic regulation can have on the welfare of consumers and users.

66. Thanks to the project, the CNMC has a coherent and consistent impact assessment methodology, which will be very useful to know the effectiveness of its actions and will allow the institution to incorporate good practices and lessons learned to increase the degree of compliance with future recommendations.

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