

Unclassified

English - Or. English

10 June 2024

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Cancels & replaces the same document of 7 June 2024**

**Working Party No. 2 on Competition and Regulation**

**Competition and Regulation in Professional Services – Summaries of contributions**

10 June 2024

This document reproduces summaries of contributions submitted for Item 8 of the 77th meeting of Working Party 2 on 10 June 2024.

More documents related to this discussion can be found at  
[www.oecd.org/competition/competition-and-regulation-in-professional-services.htm](http://www.oecd.org/competition/competition-and-regulation-in-professional-services.htm)

Federica MAIORANO  
Federica.Maiorano@oecd.org

**JT03545734**

*Table of contents*

**Argentina** ..... 3

**Australia**..... 4

**BIAC**..... 5

**Brazil** ..... 7

**Bulgaria** ..... 8

**Croatia**..... 9

**Denmark**..... 10

**France**..... 11

**Greece**..... 12

**Ireland** ..... 14

**Italy**..... 15

**Kazakhstan** ..... 16

**Latvia**..... 17

**Lithuania** ..... 18

**Philippines**..... 19

**Portugal**..... 20

**Romania** ..... 21

**Slovenia** ..... 22

**Spain** ..... 23

**Chinese Taipei** ..... 24

## *Argentina*

The CNDC has been increasingly active in investigating anticompetitive practices in the segment of professional services linked to health markets. This includes medical practitioners of various specialties, pharmacists, opticians and biochemists, among others. The health services markets in Argentina encompass a significant portion of the country's economic activity, involving numerous providers and users. These markets possess distinctive features, including the complexity of the services offered and the structure of the sector itself. While competitive mechanisms can enhance efficiency and innovation in these markets, there often exists an asymmetry of information between service providers and buyers.

Provider associations, such as professional boards and circles, have emerged as intermediaries between healthcare professionals and patients. These associations play a pivotal role in contracting services with healthcare fund managers. Despite potential efficiency gains through such associations, they can also lead to competition issues, particularly when associations exploit their market position to impose anticompetitive conditions, such as exclusivity clauses, on their members.

The CNDC has been proactive in investigating anticompetitive practices within health-related professional associations. Many of the identified infractions involve exclusivity clauses and discriminatory membership conditions, which stifle competition and distort market access. In response, the CNDC has issued guidelines urging professional associations to refrain from imposing restrictions that hinder independent commercial decisions and to ensure fairness and non-discrimination in membership criteria.

While professional associations offer potential benefits, they also present challenges from a competition standpoint. Anticompetitive practices can significantly harm both consumers and providers. Given the lack of comprehensive regulation governing professional associations nationwide, the CNDC's enforcement actions and guidelines are crucial in safeguarding competition and promoting efficiency in health services markets, ultimately prioritizing the interests of users and the continual enhancement of service quality.

## *Australia*

The paper focuses on current and recent policy initiatives that have sought to promote a more competitive professional services sector in Australia. Professional services are a key sector of the Australian economy, contributing to economic growth both directly through its own final outputs and indirectly as a large provider and user of intermediate inputs across other industries in the economy. The performance of professional firms are therefore of crucial importance to the broader economy.<sup>1</sup>

The paper discusses reform recommendations related to professional services from two major competition reviews which laid the foundation of modern competition policy in Australia: the 1993 Hilmer review and the 2015 Harper review. It describes one of key regulations on professional services - occupational licensing, and the developments in mutual recognition across jurisdictions in Australia and across borders with other countries, focusing on the recent reform on using automatic mutual recognition (AMR) for occupational licencing to improve labour mobility. It discusses the current reform agenda as the Australian Government's Competition Taskforce is reviewing Australia's competition laws, policies, and institutions. In particular, the Taskforce focuses on recent efforts in Australia to promote competition by investigating restrictions employers impose on a worker's ability to move to competitors (known as non-competes clauses). The paper includes two case studies: improving competition among medical practitioners and in legal services.

In reflecting on the reforms in recent decades, it is clear that:

- Professional services have flow on effects on other sectors of the economy. Improving competition can lead to broader productivity gains.
- Regulators should continue to harmonise standards to reduce unnecessary market frictions and increase access to choices of high-quality professional services and drive innovation and more efficient prices in those markets.
- A priority is to limit the capacity of professionals working in a particular field to restrict the entry of new entrants to their specialisation, unless there are compelling countervailing reasons. As a principle, entry should not be solely determined by professionals who could gain commercially from restricting competition.

---

<sup>1</sup> This paper has been prepared by the Competition Taskforce Division in the Australian Treasury. The Taskforce has been asked to conduct a '[Competition Review](#)'. The Review was established in mid-2023 and will last two years. It will focus on the Government's priorities for modernising the Australian economy, including [worker non-compete clauses and other restraints](#) that prevent workers from switching jobs.

## *BIAC*

*Business at OECD* (BIAC) is grateful for the opportunity to comment on the issue of competition and regulation in professions and occupations. In doing so, it builds on its previous contributions in respect of disruptive innovation in legal services<sup>1</sup> and competitive restrictions in legal professions.<sup>2</sup>

Business generally thrives in the context of a stable regulatory environment that promotes growth, innovation, and job creation, as well as free and fair competition on the merits.

BIAC therefore endorses the need for action on the issue of professional regulation and occupational licensing.<sup>3</sup> BIAC also believes the debate on this is timely. Empirical evidence<sup>4</sup> indicates that professional regulation and occupational licensing has greatly expanded, often going beyond the traditional “liberal professions” (such as law, health, finance and engineering) to cover a whole plethora of other occupations.<sup>5</sup> With the provision of services now accounting for over 70% of global GDP<sup>6</sup> and the perceived “servification” of the economy (that is, the rising indirect contribution of services into the production of goods, either as inputs and activities within firms, or as outputs bundled with goods) the time is ripe for a fundamental reassessment of the need and scope of regulation across services. The debate is also timely in light of technological developments, especially for those professions that are more prone to have elements of work transition from bespoke to increasingly routinised work.

At its best, regulation performs the fundamental role of addressing market failures and protecting consumers. At its worst, it can function as a protectionist measure, promoting “closed shops” and severely hindering competition. Distinguishing between the two<sup>7</sup> – and, crucially, striking the right balance between public interest objectives and open markets – is at the heart of this debate.

---

<sup>1</sup> OECD, *Disruptive Innovation in Legal Services – Note by BIAC*, DAF/COMP/WP2/WD(2016)6 (June 6, 2016), [https://one.oecd.org/document/DAF/COMP/WP2/WD\(2016\)6/En/pdf](https://one.oecd.org/document/DAF/COMP/WP2/WD(2016)6/En/pdf).

<sup>2</sup> OECD, *Competitive Restrictions in Legal Professions*, DAF/COMP(2007)39, at 349-350 (Apr. 27, 2009), <https://www.oecd.org/daf/competition/40080343.pdf> [hereinafter OECD Legal Professions].

<sup>3</sup> In line with the OECD Secretariat’s Background Note for this session, we use the terms professions and occupations interchangeably to refer to any job subject to licensing or regulation, although distinguish between the two where necessary.

<sup>4</sup> See, e.g., Indre Bambaite, Giuseppe Nicoletti & Christina von Rueden, *Occupational Entry Regulations and Their Effect on Productivity in Services. Firm-Level Evidence* (OECD Econ. Dep’t, Working Paper No. 1605, 2020), <https://doi.org/10.1787/c8b88d8b-en>. See also *Communication on Taking Stock Of and Updating the Reform Recommendations for Regulation in Professional Services of 2017*, COM(2021) 385 final (July 9, 2021), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0385>.

<sup>5</sup> Though often very jurisdiction-specific, these occupations can include, among others, tour guides, driving school instructors, hairdressers, etc.

<sup>6</sup> Rainer Lanz & Andreas Maurer, *Services and Global Value Chains – Some evidence on Servification of Manufacturing and Services Networks 2* (WTO Working Paper ERS2015-03, 2015), [https://www.wto.org/english/res\\_e/reser\\_e/ersd201503\\_e.pdf](https://www.wto.org/english/res_e/reser_e/ersd201503_e.pdf).

<sup>7</sup> See OECD Legal Professions – Background Paper by the Secretariat, *supra* note 1, at 20-26 (offering an interesting comparison between policy rationales, contrasting the “public interest approach” with the “private interest critique,” in which professionals can be “better explained by [their] rent-seeking behaviour, effective lobbying and regulatory capture,” ultimately observing that for competition policymakers, the “complexities of the current regulatory framework may only be fully understood by a combined use of both approaches”).

Competition authorities have a crucial role to play, both in terms of advocacy efforts as well as enforcement activity, in this debate. Yet this will not likely be an easy task. The sheer scale and breadth of regulation, the lack of consistency across countries (and sometimes within countries), and the highly specific nature of the objectives being pursued, taken in their legal, social, and cultural context, all make for a complex policy jigsaw.

At the end of the day, BIAC calls for a clear, consistent, well-articulated and visible analytical framework, in terms of both advocacy efforts and enforcement activity, that can be applied to the specificities of each context. At its most basic, the analytical framework should:<sup>1</sup>

- Identify and assess the regulatory measure that restricts competition;
- Identify in detail the objective being pursued, connected to public interest goals;
- Examine whether the restrictions are inherent in/needed for the pursuit of the public interest objectives (a necessity test); and
- Assess whether the proposed restrictions go beyond what is necessary to ensure the objective or whether there are less restrictive means of achieving the same ends (a proportionality test).

In this paper, BIAC (i) provides observations on some of the complexities that can arise when considering regulation; (ii) considers the pros and cons of regulation in more detail and provides thoughts on the need for a careful balancing act; (iv) offers views on the role of competition authorities in this complex jigsaw; before (v) offering some concluding remarks.

---

<sup>1</sup> The OECD has previously identified principles for regulation, which are relevant to this analysis See John M. Taladay & Paul Lugard, *The Ten Principles of Ex Ante Competition Regulation*, COMPETITION POL'Y INT'L (Nov. 2022), <https://www.pymnts.com/cpi-posts/the-ten-principles-of-ex-ante-competition-regulation/>.

## *Brazil*

This article aims to present CADE's performance on cases regarding organisations that defend professional categories, either for its repressive control or as a competition advocacy that encourages and supports improvements in the regulatory framework.

To address the cases, there was an analysis of the legal framework and the types of organisations that defend professional categories in Brazil, as well as the acknowledgment that the distortion of the statutory purpose can encourage anticompetitive practices. There was also a report of recent precedents that resulted in anticompetitive practices involving regulated professional services: imposing fee schedules for real estate brokerage services and exclusivity agreements for clients by the federal council of real estate brokers, 22 state councils, and 10 unions; imposing price fixing agreements in medical fee-for-services, resulting in 81 convictions; charging excessive and discriminatory fees by the Pool of Port Workers (OGMOs), a practice that led to market foreclosure; and cases that created artificial entry barriers to veterinarians, dentists, architects, and pharmacists who have a professional degree from distance learning courses.

Since the article involves competition advocacy, it also deals with CADE's promotion of a competitive environment. For this purpose, two studies were analysed: one on the regulation of port labour and piloting, in partnership with the OECD, and another one on auctioneers. In the three cases there was a suggestion of a legislative and regulatory framework to promote competition in the markets studied.

## *Bulgaria*

The Bulgarian Commission on Protection of Competition (CPC) has adopted more than 20 competition advocacy opinions, making numerous recommendations to improve competition in a number of professional services in Bulgaria, such as architects, engineers, notaries, attorneys, auditors, pharmacists, industrial property agents, veterinarians, valuers, surveyors, translators and those exercising creative activity as a liberal profession. The recommendations of the CPC concern possibility of setting minimum prices; compulsory membership in a professional organisation; requirements for practicing the profession, which are higher than necessary; other unjustified barriers to entering the market; restrictions on advertising; regulations that lead to placing some market participants in a privileged position over others; regulations that limit the possibilities of those practicing professional services to decide how to organize their activities.

Probably the biggest success of the competition advocacy in the field of professional services is that as a result of the decision of the CPC the requirement the owner of a pharmacy to be only master-pharmacist was abolished. However, generally it is very difficult to convince the competent state authorities to remove regulations that restrict competition. Probably the reason for that is that professional associations, while unable to deny the benefits of competition, continue to insist that the anticompetitive regulations are necessary for the quality of the professional services and the protection of consumers. In addition, there is a growing trend to introduce more anticompetitive regulations, including in professions that were not regulated before.

In April 2024 the CPC adopted a competition advocacy opinion that the Draft Law on Intermediary Services in Real Estate Transactions contains numerous restrictions on competition. The identified restrictions on competition directly or indirectly lead to the same overall effect, namely reserving the activity of intermediary services in real estate transactions only for real estate brokers and excluding from the market those participants for whom this is not a main activity. These unjustified restrictions are the activity as an intermediary in real estate transactions to be reserved only for real estate agencies; statement to exercise as a main activity “real estate intermediation/operations”; requirement for legal capacity; creating a register; requirements increasing the costs of entering the market such as indemnity insurance, periodic trainings, fee for entering into the register and a requirement to operate from a specific address; establishment of a Chamber determining the entry into the market.

In May 2024 the CPC adopted a competition advocacy opinion that the regulations of the activities of tourist guides contain restrictions on competition. The unjustified restrictions of competition are the requirement of legal capacity, including education, practical training and exam; registration regime; placing new entrants in an unprivileged position compared to the existing market participants at the moment of the introduction of regulation; the ban on foreign guides to perform their functions outside the vehicle.

## *Croatia*

The contribution provides an insight into the practice by the Croatian Competition Agency (CCA) regarding competition and regulation in professional services in Croatia. Key points include:

- CCA's role: The agency is committed to ensuring compliance with competition laws and raising awareness about competition policy.
- Focus on Professional Services: The CCA has examined the impact of registration fees on lawyers and the practice of Chamber of Architects.
- Lawyer registration fees: In 2022, the CCA analysed fees set by the Croatian Bar Association (HOK). A registration fee of HRK 37,500 (EUR 5,000) was charged for initial entry into the lawyers' directory, and was deemed by the CCA to represent a barrier to entry.
- Chamber of Architects: A case is still pending, regarding alleged prohibited agreement.

The CCA underlines the importance of balancing competition regulations while acknowledging the unique nature of professional services.

## *Denmark*

The industry of legal services is an important part of the liberal professions. The Danish Competition Council published a comprehensive analysis of competition within the legal profession in Denmark in 2021. The findings revealed that the competition within the profession is challenged. Several indicators support this conclusion, the most profound being an increase in earnings, especially among the biggest law firms. Based on the analysis, 16 policy recommendations were made to strengthen the competition within the legal profession.

Four of these recommendations have been fully or partially implemented.

In 2023, the Danish Competition Council presented updated competition indicators showing no improvement in competition within the legal profession from 2018 to 2021 – rather the contrary. Earnings have continued to rise from an already high level, and there are no notable signs of improvement in the market dynamics.

The profession's overall profit margin reached 24 pct. in 2021 corresponding to an increase of more than five percentage points since 2018. This surpasses profit margins of other professions such as knowledge services and private urban professions.

The high profits are also apparent in high returns on equity, which reached approximately 75 pct. in 2021 for the entire legal profession and 156 pct. for the five largest law firms. The return on equity has grown considerably since 2018 and continues to exceed a (highly set) estimate of a normal return.

The total return on the partners' ownership was approximately 2 million DKK annually per partner in 2021. In the five largest law firms, the average compensation per partner for ownership was over 8 million DKK in 2021 compared to just over 5 million DKK in 2018.

The persistent and high earnings in the legal profession reflect, among other things, the competitive conditions in the market, which are influenced by regulations as well as specific market characteristics. For example, regulations regarding ownership and management, which hamper the possibilities of bringing other competence profiles into the firm's management and also limit market entry opportunities for new players and existing players' growth opportunities. Additionally, legal services are often complex products that may be challenging for customers to evaluate in terms of quality even after purchase, and partners possess skills that are difficult to replicate in the short term, creating large value for clients.

## France

The 2015 Law for Growth and Activity marks France's determination to unleash growth potential by lifting identified regulatory restrictions in major sectors of the service economy, particularly the regulated professions sector. As part of an overall drive for structural reform of the French economy, the Law calls into question various legal regulations, on the grounds of economic inefficiency, with the aim to combat professional rents and boost growth and employment by liberalising and opening up to competition.

Almost ten years after its adoption, the indicators show that the Law for Growth and Activity has effectively helped to create jobs, stimulate growth and lower prices. Sustaining and deepening the achievements of the reform requires finding a balance between the necessary regulation of certain professions linked to the exercise of public interest missions and the strengthening of competition.

In order to carry out this mission, the Law for Growth and Activity has entrusted the *Autorité de la concurrence* with new powers to regulate the regulated legal professions (notaries, commissioners of justice, commercial court registrars, court-appointed administrators, court-appointed liquidators, lawyers at the Councils). The *Autorité de la concurrence* is therefore using its advisory powers to make establishment conditions more flexible and to ensure that regulated fees are cost-oriented. This policy has had remarkable effects, particularly in the case of notaries, where it has led to an increase in the number of private practitioners of more than 40% in nine years, as well as a significant increase in the number of women and young people in the profession.

Lastly, the *Autorité de la concurrence* does not hesitate to intervene on the basis of its contentious jurisdiction to sanction anti-competitive practices, as it did recently in the notarial and court bailiff sectors in relation to agreements implemented to thwart the reform.

## *Greece*

The first years of the First Economic Adjustment Program in Greece included, among other, an overview of the legislation regulating the access to professions and their practice in Greece. The review led to the conclusion that the legislation was characterized by a big production of protective and permissive provisions, scattered in different pieces of legislation, which constituted a clear restriction to the, constitutionally guaranteed, right to professional freedom. Within this context of Greece's economic adjustment, the Greek Parliament voted the Law 3919/2011 for the abolishment of certain restrictions on liberal professions. According to the recitals of Law 3919/2011, from an overview of the legislative provisions on the access and practice of liberal professions, their impact could be categorized in three basic categories; the typical bureaucratic provisions, such as administrative licensing requirements, which, regardless to the restriction or not to competition, they issued an unjustified procedure which imposed administrative costs to the exercise of the profession. To those provisions, which resulted in a substantial restriction of competition and may lead to an increase in the prices of goods and services compared to a more competitive market, but did not impose a substantial burden on the economy because they concerned professions exercised by a small number of people and to those which have a serious impact on competition, because they substantially restricted competition and concerned professions exercised a big number of people, i.e. engineers, architects, lawyers, notaries etc. Law 3919/2011 foresaw the abolishment of certain restrictions on liberal professions, such as fixed fees, minimum fees, geographic restrictions which prevented the professionals from exercising their activity outside the specified geographical area, restrictions on advertising and abolishment of the prior-authorization licensing system with a prior-notification system. The licensing system and further restrictions could only be foreseen for some professions, following a prior legal opinion issued by the Hellenic Competition Commission, under its competence.

In this framework, the HCC advocated for a broad and extensive pro-competitive reform of professional services based on the principle of proportionality. The basic principles that can be found in the legal opinions can be summarized as following:

- Abolition of prior administrative authorization where this is not justified on grounds of public interest (for example actuaries, accountants and tax consultants, teachers of private schools, and private schools, language school teachers, tourist guides). The system of prior authorization has been maintained for other professional sectors (in sectors related to security matters).
- Simplification of regular certification requirements (for example accountants and tax consultants) and of the examinations for professional licenses (for example actuaries, chartered surveyors).
- Reorganisation of certain professions and abolition of exclusive rights so that professionals and legal persons with similar professional qualifications may also exercise the profession.
- Removal of additional restrictions on access and exercise of professions, such as (i) numerus clausus, (for example chartered surveyors, educational services), (ii) geographical restrictions (for example, trader of objects of archaeological value), (iii) fixed fees (for example, certified appraisers), (iv) restrictions on nationality and freedom of establishment (for example, educational services), (v) incompatibility

between different activities (for instance, trader of objects of archaeological value and art collectors).

The above highlighted the established role of the Hellenic Competition Commission in promoting the examination of effects on competition from the adoption of laws and regulations, especially within the framework of the economic adjustment programs applied in Greece during the economic crisis. Most of the proposals were adopted by the public administration and were interpreted into national legislation with the aim to improving the conditions of competition to an extensive number of legal professions and to achieving higher quality of public goods/services to the most competitive prices. Finally, it should be noted that the HCC enhanced its advisory role vis-à-vis the public administration, also, by contributing significantly to three OECD Competition Assessment Reviews (2013) (2014) (2017), using OECD Competition Assessment Toolkit and analyzing Greek legislation in a number of various sectors. It also issued a guide on promoting and enhancing competition in public policy making in order to provide information to central government bodies and other public bodies about the need to ensure the protection of competition in the context of public policy making<sup>1</sup>. Such initiatives confirm the HCC's capabilities and its commitment to further strengthen its advisory role.

---

<sup>1</sup> See further <https://www.epant.gr/en/enimerosi/publications/guides/item/2688-odigos-gia-dimosies-politikes-en.html>

## *Ireland*

The CCPC's submission focuses on pro-competitive regulatory reform in Irish legal services.

A well-functioning legal sector is essential to underpin the rule of law and a thriving economy. Promoting appropriate pro-competitive regulatory reform of the legal sector can improve access to justice for people and firms while reducing the cost of doing business and improving the consumer experience. Despite calls for reform over many decades, it is only in more recent years that we have seen meaningful progress, while several important pro-competitive reforms remain pending.

Since the early 1980s, a succession of reports emphasised restrictions on competition in legal professional services in Ireland. Following an OECD report in 2001 which suggested that competition in professional services in Ireland could be stronger, the CCPC's predecessor organisation, the Competition Authority, published a number of market studies of selected professions, including in relation to solicitors and barristers in 2006.

In 2015 the Government adopted a law, the Legal Services Regulation Act, which addressed many of the Competition Authority's 2006 recommendations and established an independent regulator of legal services, the Legal Services Regulation Authority ("LSRA"). Since then, the LSRA has undertaken several consultations on potential reforms of the legal professions and is implementing change in the legal services sector. The CCPC continues to advocate for regulatory change to improve competition and consumer welfare in legal services by contributing to the LSRA's consultations.

The submission describes Ireland's legal reform journey and identifies lessons that can be drawn from it. Perhaps the most valuable lesson learned from Ireland's legal sector reform journey are in political economy. In particular, high-level political support and ownership is essential to overcome the coordination problem whereby a well-organised interest group can use its influence to stymie reform that would unequivocally improve societal welfare.

The submission provides an overview of the main policy developments and challenges to reforming the legal professions in Ireland that the CCPC has encountered. It examines the key recommendations the CCPC has made to improve competition in the profession and examine some of the concerns at the time to reform, and the advocacy challenges the CCPC faced. The submission also looks to the future and on-going challenges within the legal profession in Ireland.

## *Italy*

Since its establishment, the Authority (hereinafter also “the Authority” or “the AGCM”) has been granted significant advocacy powers aimed at injecting pro-competitive considerations into public policies with reference to both current and future legislative or regulatory measures. In 2011, the Authority's advocacy powers were significantly increased, granting it the ability to challenge any administrative act contrasting with competition principles before the administrative court. In 2020, the AGCM was entrusted with a new consultative power regarding the assessment of the principle of proportionality on any new legislative or administrative provisions/measures concerning regulated professions.

The Authority endeavours to foster a culture of competition through various advocacy interventions, of a consultative and propositional nature, which are addressed to legislators and regulators, both at national and local levels, to ensure compliance to competition principles. Indeed, in a multi-level governance system such as Italy's, regulatory barriers that unnecessarily and disproportionately hinder, limit or restrict competition can be introduced at different government levels (national, regional or local).

Advocacy interventions are aimed not only at removing restrictions, but also at suggesting to legislators how to balance competition with other public policies objectives. Such balancing exercise is carried out via the proportionality test. By means of the proportionality test, in particular, it is possible to curtail the introduction of anti-competitive restrictions and to limit their scope to what is strictly necessary to achieve the overriding public interest objectives pursued by the legislator.

This contribution outlines the AGCM's experience in dealing with the interaction between competition and professional services regulation and its efforts to foster a competition perspective in this sector, which is essential for economic growth. Section 2 describes the main recent legislative developments; section 3 illustrates the most common restrictions on the access to and on the exercise of professional activities; section 4 examines the main outcome of the impact assessment of AGCM advocacy activities in this sector; section 5 draws some conclusions.

## *Kazakhstan*

The contribution discusses the growing importance of professional services in Kazakhstan and the need for effective regulation, focusing on the audit sector. It highlights recent changes to auditing laws and the establishment of the Professional Council on Auditing Activities (PCAA). There's debate within the audit community about the necessity of the PCAA, with some advocating for self-regulation.

Antitrust regulations are also considered in relation to the PCAA's exclusive position. The conclusion emphasizes the importance of balancing government intervention and self-regulation to foster industry development while ensuring market competition and consumer protection.

## *Latvia*

The contribution describes the Competition Council of Latvia (the CC) latest efforts in promoting competition within professional services. The latest examples include advocacy activities in relation to healthcare sector and notarial services. The CC analysed a restriction in the Code of Medical Ethics, which restricts doctors and dentists from enticing patients from the colleagues. This contribution describes factors contributing to a successful advocacy process, which among many others include clarity in communication and persistence. It also highlights the challenges faced by the CC during the advocacy procedure, including initial resistance from professionals, lack of understanding of competition benefits, and resource constraints. Although professional services are subject to extensive regulation aimed at ensuring quality, ethics, and public safety, these regulations can also create barriers to entry and limit competition. The CC therefore emphasised the importance to strike a balance among competition objectives, consumer welfare, and safety, especially in the healthcare sector. The described CC's advocacy efforts therefore serve as an example of how to navigate these challenges.

## *Lithuania*

The Lithuanian Competition Council has used a broad range of its statutory powers vis-à-vis some of the professional services. In this Note, both enforcement and advocacy activities of the Lithuanian competition agency are discussed. Most of the agency's efforts so far have been focused on the regulatory barriers to competition in notarial services. However, some of the activity also pertain to the profession of architects, judicial officers and dentists. From the Lithuanian experience, a competition agency can affect outcomes of the regulatory environment in professional services, at least in its capacity as an advocate of competition. Furthermore, in those jurisdictions where competition authorities are empowered to enforce competition law against public authorities, the possibility to remove restrictions by enforcing against anti-competitive regulation exists. The Lithuanian Competition Council completed several investigations concerning regulated professions which also brought positive changes in the competitive landscape. Last but not least, the Covid-19 pandemic brought notable changes within liberal professions by integrating electronic services into daily operations of notaries and judicial officers. This transition brought favourable changes for customers and fostered competition within the sector.

## *Philippines*

The admission to and practice of professions in the Philippines is primarily regulated through the Professional Regulation Commission (PRC), with one exception. The practice of law, including all its attributes, remains under the direct supervision and control of the Philippine Supreme Court.

Under the 12<sup>th</sup> Regular Foreign Investment Negative List (2022), foreign nationals may be allowed to practice their profession in the Philippines provided their home countries extend the same privilege to Filipinos and comply with the requirements set by the PRC. The practice of law, however, remains reserved exclusively for Filipino citizens.

The PCC did not shy away from the opportunity to shape the current landscape of professional services regulation. The PCC intervened as *amicus curiae* in *PCAB v. Manila Water*,<sup>1</sup> a case involving the accreditation of foreign construction contractors. Agreeing with the PCC, the Supreme Court struck down the nationality requirement and held that lifting said restriction would encourage healthy competition among local and foreign construction contractors.

The intersection of regulation and competition in professional services has been particularly observed in the case of private professional associations or organizations that are self-regulating. In its investigation against the Philippine Academy of Ophthalmology (PAO) and the Philippine Association of Legitimate Service Contractors, Inc. (PALSCON), the PCC had the occasion to look into self-imposed guidelines or regulations and their possible anti-competitive effects.

PAO's Mission Guidelines required visiting mission groups to seek permission from PAO or from local ophthalmologists in the area prior to conducting medical missions. PALSCON's Code of Ethics, on the other hand, prohibited member-contractors from encroaching upon the existing business relationship of another member and the latter's clients. The Mission Guidelines and Code of Ethics had provisions that may be construed as barrier to entry and effectively limited competition by facilitating the division of practice by territory.

After much discussion, both organizations deleted the objectionable provisions and committed to comply with the provisions of the PCA.

In the area of advocacy, government agencies (including the PRC) are enjoined under the National Competition Policy to review their existing policies, rules and regulations, and determine whether they have adverse effects on competition. The PCC also constantly nurtures its good relations with the private sector by conducting fora and roundtable discussions, and forging partnerships through the execution of memorandum of agreement.

In recognition of the importance of regulation in ensuring the quality of professional services in the country, the PCC continuously works toward balancing competition with regulation in the professional services sector.

---

<sup>1</sup> G.R. No. 217590, March 10, 2020.

## Portugal

Self-regulated liberal professions play a central role in the Portuguese economy. Their professionals provide services across 21 professions - legal, economical-financial, technical-scientific, health and social security - for companies and individuals. Many of these services are used as inputs in other economic sectors and therefore have an impact across the economy.

The Portuguese Competition Authority (Autoridade da Concorrência – AdC) has been actively contributing to a pro-competitive legislative and regulatory reform of self-regulated liberal professions and multidisciplinary activity in Portugal, namely for the removal of unnecessary or disproportionate legal or regulatory barriers to access to and the exercise of self-regulated liberal professional activities.

Recent legislative and regulatory reforms were implemented in Portugal concerning framework-laws and the By-Laws of all public professional associations. These are in line with key proposals advocated by the AdC, the OECD and the European Commission.

In fact, the AdC/OECD Cooperation Project (2016-2018)<sup>1</sup> assessed the legislation and regulation of a set of 13 self-regulated liberal professions<sup>2</sup>, resulting in OECD recommendations (2018)<sup>3</sup> and an *AdC's Action Plan* (2018)<sup>4</sup>, including specific legislative and regulatory proposals.

By removing unnecessary or disproportionate legal barriers to access to and exercise self-regulated liberal professions, these reforms foster increased supply, competition, strengthens the conditions for innovation and the emergence of new business models. It also contributes to a better adjustment of supply to the needs of demand and more competitive prices for consumers. And it is crucial so that individuals are not restricted in their ability to redirect their professional careers and, if necessary, re-enter the labour market. Consumers of these services also include businesses, generating a multiplier effect on the economy.

The AdC remains committed to advocating for the adoption of the proposals that have not yet been implemented, highlighting the benefits for consumers and the economy.

---

<sup>1</sup> See AdC's webpage on the [AdC's Impact 2020 Project](#) (2016-2018).

<sup>2</sup> List of the 13 self-regulated professions: legal (lawyers, solicitors, notaries, bailiffs); technical and scientific (engineers, technical engineers, architects); economic and financial (auditors, certified accountants, customs brokers, economists); and health (pharmacists and nutritionists).

<sup>3</sup> See OECD, [Competition Assessment Project: Portugal](#) (2018), [Vol. II – Self-regulated professions](#).

<sup>4</sup> See [AdC's Action Plan](#) (2018) and [AdC's key-proposals](#) for the self-regulated liberal professions.

## *Romania*

In Romania, the liberal professions are regulated by laws on the organization and exercise of the profession adopted by Parliament and, in the alternative, by the Government, by the relevant ministries, such as the Ministry of Justice in the case of notaries and judicial officers, or by their representative professional associations, when they have regulatory powers.

In this context, the liberal professions have evolved as closed systems, conferring privileges on members, so that modern attempts to increase competition in these sectors have met serious resistance. Recent studies at EU level and the practice of other Member States have shown that the gradual elimination of competition restrictions in these markets has led to lower prices and has not in any way affected the quality of services offered to consumers.

Over time, the Romanian Competition Council (RCC) adopted a proactive stance, engaging in the process of amending the normative acts that regulate the various liberal professions, constantly and firmly arguing for the elimination of the provisions that raise issues from the competition point of view.

## Slovenia

Professional services or so-called *regulated professions* are governed by a large body of Slovenian national legislation, as well as EU legislation, in particular Directive 2005/36/EC. Regulated professions are extremely diverse, since they encompass over 200 professions, such as for instance medical doctors and lawyers, as well as piston engine operators and hairdressers. Overseeing bodies include competent ministries and in certain fields various associations.

In the past ten years, there was no systemic changes in regulation of professions; there might have been changes in requirements or standards within certain profession. These type of changes were met with various degree of public scrutiny, as well as with various degree of review from Slovenian Competition Protection Agency (CPA). While the CPA regularly participates in interdepartmental coordination stages of legislative process, it is not required to review specific changes in regulation of professional services from a competition law perspective on a regular basis.

There is no legal requirement to conduct regulation review from competition law standpoint, as well as no requirement to conduct an ex-post competition law analysis of any regulation, which includes the regulation of regulated professions. The CPA might conduct ex-post evaluations in the context of competition law enforcement. One of the more comprehensive reviews of regulated professions, though not from competition law standpoint, was done in the context of EU-wide review of Directive 2005/36/EC. This resulted in recommendations in 2016 and updated recommendations in 2021, however it was noted that none of the member states made significant progress in re-evaluating and removing unjustified or disproportionate professional regulation.

Some of the more notable interventions from the CPA include activities in the proposed attempt at fee hike for new attorneys of the Slovene Bar Association in 2016 that was also met with a rather substantial public criticism. While no official investigation was opened, the CPA undertook some of the more informal measures to intervene in the matter. There was no issued decision, however, the proposed fee hike did eventually not take place.

Currently the CPA is looking into the changes made to the regulation of administrators/liquidators in insolvency proceedings. The applicable legislation was recently amended in a way that sets up a new barrier to entry for prospective new professionals. Before the amendment, the examination to qualify for the profession was set regularly, few times a year. According to the amendment however, the examination is only organised on the proposal of either competent courts or Chamber of Insolvency Administrators of Slovenia. It may also be organised if the competent ministry (Ministry of Justice) concludes that that is necessary for ensuring the proper execution of the insolvency procedures. This arbitrary manner of organising professional examination sets a very high barrier to entry to the profession, as there is no criteria on when any of the competent bodies should propose new examinations. At this moment the CPA is looking into the steps it may take in this situation.

## *Spain*

In Spain, despite some general regulations passed on market unity or the proportionality test, there is still a lack of a general law on professional services. Since its creation in 2013, the CNMC has considered professional services one of the key elements of its advocacy activity.

Competition Advocacy plays a subtler yet strategic role in shaping the regulatory environment. According to the Law 3/2013, of 4 June, on the creation of the CNMC, the Commission plays a consultative role in all new regulation that may have restrictive effects on competition. Even though it is not a mandatory provision, the CNMC does his best to convince public administrations to make use of this option. Besides, also has the power to challenge before courts any regulation with a lower rank than law that entail a restriction on competition.

The CNMC has been defending an approach to the professional services regulation on the following grounds: starting from a general principle of free access to services and professions, to limit possible restrictions to exceptional cases, duly justified in a rule of legal rank, in accordance with the principles of necessity, proportionality and non-discrimination. And to reconsider, in the light of these principles, the reserves of activity, the existing catalogue of qualified professions and the regulation of their curricula.

The main barriers identifies are: a lack of clarity to determine what professions are subject to a mandatory membership in a professional association; an excessive aggregation to describe the tasks reserved to specific professionals; in some sectorial regulations, as for account auditors, the existence of a very high number of legal requirements to provide some services; a certain risk of over-reaching by professional associations when adopting specific regulatory instruments. These barriers have economic consequences on numerous variables, such as prices or savings in public spending (for example, in the case of driving schools).

## *Chinese Taipei*

This report presents the recent competition advocacy activities of the Chinese Taipei Fair Trade Commission (hereinafter referred to as the CTFTC) in the field of professional services, and illustrates the enforcement stance of the CTFTC on competitive practices within these services using specific cases.

Historically, professional service regulations allowed associations of professionals to set remuneration standards in their bylaws. After years of negotiations between the CTFTC and relevant industry authorities, the Professional Engineers Act, the Certified Public Accountant Act, and the Attorney Regulation Act have successively eliminated provisions that authorized these associations to set remuneration standards. The Attorney Regulation Act, amended in 2020, has also lifted restrictions on attorneys practicing across different regions.

Whether professional services should be exempted from competition law has always been contentious in enforcement. This report describes differing judicial opinions through the cases of the Taipei Certified Public Accountant Association (Section 4.1.1) and the Taipei Certified Public Bookkeepers Association (Section 4.1.2). Besides the price restrictions such as setting member remuneration standards and requiring minimum fees by the trade associations, non-price restrictions imposed by the associations on their members also concerned the CTFTC, whose enforcement stance is elaborated through the cases of Lifelaw Company (Section 4.2.1) and the Taichung City Certified Public Bookkeepers Association (Section 4.2.2).

Although the outcomes of court judgments vary for cases concerning CTFTC decisions on professional associations, it does not alter the determination of CTFTC on whether a concerted action by professional associations is established. Concerted actions by professional associations have always remained a focus of enforcement for the CTFTC. Recently, in a legal interpretation requested by the Taiwan Bar Association, the CTFTC once again expressed concerns that trade associations suggesting reference prices may constrain market competition.

Even though laws on professional services have gradually incorporated the concept of competition, to date, there are still professional groups that, arguing that low-price competition leads to a decline in service quality, actively lobby regulatory authorities or legislators to restore the provisions authorizing professional associations to set remuneration standards. Persistent competition advocacy and communication remain challenges for the CTFTC. Additionally, in the face of professional services integrated into new types of business models in the platform economy, it is crucial that competition law functions to ensure that pro-competitive innovative services can enter the market. The CTFTC will continue to monitor policies related to professional services and the state of market competition, and will collaborate with industry regulators as appropriate.