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

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

**Assessing the Impact of Competition Authorities' Activities – Note by Kazakhstan**

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## *Kazakhstan*

### 1. Introduction

1. Demonstrating the benefits of these measures is essential for ensuring competition for the population, increasing trust in antitrust authorities, and justifying their use of resources (financial and human). This also aligns with one of the key principles of implementing state policy on competition development regarding the measurability of its results (as stipulated by the Decree of the President of the Republic of Kazakhstan dated December 31, 2020, No. 484, and the national concept for competition protection and development).
2. Conducting impact assessments allows the Kazakh antitrust authority (*hereinafter referred to as the Agency*) to substantiate and confirm its effectiveness based on quantitative and qualitative data, demonstrating the direct benefits of its work for the country's economy and consumers.
3. Additionally, impact assessment contributes to increased transparency and accountability of the agency. Publishing the results of the impact assessment as part of the Agency's annual reports strengthens business and consumer confidence, as well as encourages compliance with competition laws.
4. A systematic approach to impact assessment contributes to the improvement of the Agency's internal strategy. The analysis of past interventions makes it possible to identify the most effective areas of work, identify weaknesses and adjust priorities. Therefore, assessment becomes not only a reporting tool, but also an important component in quality planning and management.
5. Conducting an impact assessment helps to create a more mature competitive culture in society. Public demonstration of the benefits of competition helps to understand its importance for economic growth, innovation and the well-being of citizens. In this way, the Agency directly implements its functions of competition advocacy.
6. The public closely follows the Agency's annual reports. Information on the quantitative and qualitative results of the regulator is discussed by independent experts, representatives of business associations, and scientists.
7. At the moment, the public is not focusing on the specifics of the current methodology. Nevertheless, the Agency is working to continuously improve current approaches to assessing the effects of its activities. We are at the stage of developing a methodology for assessing indirect effects, including an assessment of price reductions due to antitrust intervention measures.

### 2. Current status of impact assessment in Kazakhstan

8. The Agency's current approaches involve the collection of direct information on changes in market prices and sales volumes of goods and services following antitrust intervention. The construction of demand functions and estimation of dead load losses are used in single case studies. In some studies, the Analytical Research Center for the Development of Competition evaluates changes in consumer and producer surpluses, as well as assesses public welfare in the event of an antitrust response or a forecast of potential interventions.

9. The Agency is considering the possibility of introducing a systematic impact assessment of its activities. We are aware of the importance of using such assessments as a tool to demonstrate the social and economic value of antitrust regulation, increase transparency, accountability, and better allocate resources. In this regard, we have carefully reviewed the 2014 OECD Guidelines and the 2025 OECD Secretariat's analytical note on its revision. We support the initiative to update the guidelines and consider it timely. Changes in the practice of agencies, the accumulation of empirical data, as well as an expanded understanding of the indirect benefits of competition (*for example, the deterrent effect, innovative and qualitative improvement of markets*) indicate the need to clarify the methodology.

10. Some current challenges that can be addressed with updated guidance include:

- Insufficient detail of the calculated parameters: current averages (*for example, 10% of the price effect for cartels*) may either overestimate or underestimate the impact, especially in non-standard cases. We welcome the proposal to clarify the ranges and include additional categories, such as vertical agreements and non-mergers. In addition, we expect to receive specific methodological tools to assess the price effect of identifying and suppressing horizontal agreements in order to form our own assumptions based on the results of 20-30 case studies in Kazakhstan.
- The issue of accounting for appeals and adjusting calculations in case of cancellation of decisions: currently, approaches vary in different jurisdictions. We are interested in clear, balanced recommendations on the inclusion of such cases in the final statistics, including in order to maintain comparability by year.
- The need to implement the procedure in conditions of limited resources: Given the resource intensity of collecting specific data, we are interested in recommending the use of standard conservative assumptions adapted to the agency's maturity level and available data.

11. At the moment, we use assumptions of 10% for cases of cartels, abuse of dominance and mergers in situations where there is no available data on the markets where the Agency intervened. At the same time, we are conducting case studies on some commodity markets, and some of the research has already been completed. As a result of the case study data, we will adjust the assumptions based on the OECD averages. We believe that in the final calculations, the specific weight of the OECD averages will prevail over our results: approximately 70% of the weight will be given in favor of the current OECD assumptions and 30% in favor of our results. Almost all measurements of the effects of Agency intervention are based on current assumptions of 10%, and only in a few cases is there sufficient data to assess more accurate effects. The problem in obtaining actual and relevant data to assess the exact effect is the lack of legal grounds for requesting the volume of sales of goods in the markets.

12. Based on the results of the case study (*corporate loans market, fuel and lubricants market, cellular communications market*), a strong relationship between HHI and commodity prices was revealed. The results will be used as an adjustment for the OECD assumptions in estimating the effects of mergers. The logic of the new assumptions will be a predicted change in HHI if the merger is approved. At the same time, preventing such a merger, if, according to the Agency's estimates, it may harm competition, can be interpreted as restraining the growth of HHI and, consequently, prices, since there is a direct correlation between these indicators, as revealed on the basis of empirical studies. Thus, we plan to use a new kind of assumptions (*suppositions*) when evaluating the deterrent effect (*deterrent effect*).

13. Currently, the Agency's impact assessment methodology is Functioning in a test mode. At the same time, we would like to share our basic principles here.

14. Our Methodology is a framework toolkit for assessing the impact of antitrust measures, formed on the basis of OECD recommendations, is implemented in two areas consisting of 4 indicators:

- A) removing barriers;
- B) abuse of dominant position;
- C) cartels;
- D) mergers.

15. **The removal of barriers** is assessed according to the following algorithm:

- *in the case of data availability:*

$$P_1 = A_1 - T_1$$

where,  $P_1$  – the effect of barrier removal in KZT (national currency – Kazakh tenge);

$A_1$  – the projected market state in KZT after barrier removal (forecasted market volume increase);

$T_1$  – the projected market state in KZT without barrier removal (forecasted market volume increase);

$A_1$  is recommended to be calculated using the following formula:

$$A_1 = Q_1 + V_1 + B_1$$

where,  $Q_1$  – market volume in the base year in KZT;

$V_1$  – forecasted increase in sales volumes for existing market participants after barrier removal in KZT;

$B_1$  – forecasted sales volume for potential (new) market participants intending to operate after barrier removal in KZT.

$T_1$  – is recommended to be calculated using the following formula:

$$T_1 = Q_1 + K_1$$

where,  $Q_1$  – market volume in the base year in KZT;

$K_1$  – average increase in sales volume in KZT over the last 3–5 years, recommended to be calculated using the following method:

$$K_1 = \frac{(Q_n - Q_{n-1}) + (Q_{n-1} - Q_{n-2}) + (Q_{n-2} - Q_{n-3}) + (Q_{n-3} - Q_{n-4}) + (Q_{n-4} - Q_{n-5})}{5}$$

where,  $Q_n$  – market volume in the base year in KZT;

$Q_{n-1}$  – market volume in the previous year in KZT;

$Q_{n-2}$  – market volume two years ago in KZT;

$Q_{n-3}$  – market volume three years ago in KZT;

$Q_{n-4}$  – market volume four years ago in KZT;

$Q_{n-5}$  – market volume five years ago in KZT.

16. We can also use the following assumptions based on the price effects obtained from the OECD research:

Standard indicator (p)	Number of results	95 % interval	Category / subcategory of regulatory measures
-0,20	111	-0,23 to -0,16	(A) Limitation of the number of suppliers
-0,19	28	-0,28 to -0,10	(1) Granting exclusive rights
-0,23	55	-0,27 to -0,19	(2) Requirement for licences, permits
-0,15	10	-0,24 to -0,06	(3) Limiting the ability of certain market entities to provide goods and/or services
-0,19	4	-0,24 to -0,13	(4) Increased costs of market entry/exit
-0,12	14	-0,17 to -0,07	(5) Establishment of geographical barriers preventing market entities from supplying goods and/or services and investing capital
-0,18	45	-0,23 to -0,14	(B) Impact on the ability of market entities to compete
-0,19	22	-0,24 to -0,14	(1) Affects the ability of market participants to set their prices for goods and/or services
-0,14	8	-0,24 to -0,053	(2) Restricts the ability of market participants to freely advertise their goods and/or services
-0,19	13	-0,24 to -0,081	(3) Sets standards for quality provided to a specific group of market participants
-0,28	2	-1,00 to 0,22	(4) Substantially increases production costs for some market participants compared to others
-0,20	29	-0,26 to -0,14	(C) Reduces the interest of market participants in competition
-0,28	5	-0,48 to -0,08	(1) Creating a self-regulation regime
-0,10	11	-0,13 to -0,064	(2) Increasing the amount of information required to be published on the release of goods/services provided, their prices, number of sales and costs
-0,25	13	-0,35 to -0,16	(3) Exemption of prices or market actors from national competition laws
-0,20	18	-0,30 to -0,10	(D) Limits consumer choice or information available to consumers
-0,29	9	-0,49 to -0,15	(1) Restricts the ability of buyers to choose from whom to purchase goods and/or services.
-0,23	9	-0,24 to -0,09	(2) Increases costs for consumers when switching between suppliers of goods and/or services
-0,074	2	-0,33 to 0,18	(3) Fundamentally changes the information required by customers to make purchases effectively

17. This price effect (p) is subsequently applied in the formula:

$$CB = (p + p^2) * R_r$$

Where:

CB – benefits of removing the barrier;

p – price effect (from the table above);

$R_r$  – the income of the industry.

- *In case of missing data:*

$$P_1 = T_1 \times C_1$$

where,  $P_1$  – the effect of barrier removal in KZT;

$T_1$  – Forecasted market condition in KZT without barrier removal (expected market volume growth);

$C_1$  – Barrier removal influence coefficient, recommended values:

-  $C_1=0,01$  in the case of exact statistical data matching (NCEA) and 0,001 in the case of exact statistical data matching (NCEA).

18. **Abuse of dominance** is calculated by the following algorithm:

- *If data is available:*

$$C_2 = (P_2 \times Q_2) - (P_{2n} \times Q_2)$$

where,  $C_2$  – consumer savings in KZT;

$P_2$  – unit price (works and services) in KZT;

$Q_2$  – annual volume of products sold in natural terms;

$P_{2n}$  – unit price of products (works and services) after the adoption of antimonopoly response measures in KZT (expected to be lower than  $P_2$ );

- *In case of missing data:*

$$C_2 = (P_2 \times Q_2) \times 0,01$$

19. **Cartel** is calculated using the following algorithm:

- *If data is available:*

$$C_3 = (P_3 \times Q_3) - (P_{3n} \times Q_3)$$

where,  $C_3$  – consumer savings;

$P_3$  – unit price of products (works and services)

$Q_3$  – annual volume of products sold in natural terms

$P_{3n}$  – unit price (works and services) after taking anti-trust measures in KZT (expected to be lower than  $P_3$ );

- *In case of missing data:*

$$C_3 = (P_3 \times Q_3) \times 0,1$$

20. **Mergers (economic concentration)** are calculated according to the following algorithm (*only if a merger is rejected*):

$$C_4 = (P_{4x} \times Q_{4x} + P_{4y} \times Q_{4y}) \times 0,01$$

where,  $C_4$  – consumer savings in KZT;

$P_{4x}$  – unit price of products (*works and services*) at the company X;

$Q_{4x}$  – annual sales volume of the company X;

$P_{4y}$  – unit price of products (*works and services*) at the company Y;

$Q_{4y}$  – annual volume of products sold by the company Y.

### 3. Case studies from Kazakhstan's impact assessment practice

#### 3.1. Abuse of dominant position (price parity)

21. The Agency's Analytical Research Centre for Competition Development conducted a case study of the market of consumer loans and BNPL products on marketplaces. According to the assessments, abuse of dominant position in the form of the (most-favoured-nation clause) led to overpricing by between 5 and 17%, depending on the product category.

22. Consumers purchasing goods at full price were unable to receive discounts equivalent to BNPL fees charged by fintech platforms, which were factored into the final cost of the product and represented the portion of the price that buyers unfairly paid if they did not use a BNPL loan.

23. The average price effect of the subsequent independent removal of price parity by a company holding a dominant position was approximately 5.5% (*minimum estimate*) for those customers who later requested personal discounts from merchants on the marketplace for full payment of goods. Considering the total marketplace turnover for full payment (*excluding BNPL loans*) exceeding 980 million euros, consumer benefits amounted to approximately 53 million euros during the assessed period.

#### 3.2. Removing barriers (deregulation of prices for medical masks and PCR tests)

24. The price cap on medical masks set in 2020 by the joint order of the Minister of Health of the Republic of Kazakhstan dated April 6, 2020, No. ҚР ДСМ-29/2020, the Minister of Trade and Integration of the Republic of Kazakhstan dated April 6, 2020, No. 68-ҢК, and the Minister of National Economy of the Republic of Kazakhstan dated April 7, 2020, No. 26, «On the Approval of the Price Cap for Medical Masks» at 118 KZT contributed to the accumulation of a significant surplus for producers in this market.

25. To prepare for the second wave of the coronavirus infection, the Agency was tasked with analyzing price adequacy and ensuring the monitoring of pricing policies for laboratory services and personal protective equipment. The antitrust compliance control agreements concluded with 36 market entities enabled a reduction in PCR test prices from 18,000 to 9,000 KZT. (*LLP «KDL Olimp» and LLP «Invivo» set prices at no more than 9,000 KZT, while individual laboratories of LLP «Sunkar» and LLP «Aigerim» lowered prices to 6,000 and 7,000 KZT, respectively*). Additionally, the prices of medical masks were reduced by manufacturers to an average of 21 KZT per unit. Distributor and retail markups were lowered from 20 to 3 KZT per unit, with the overall average price dropping from 60 to 26 KZT per unit.

26. As a result, price deregulation and the conclusion of antitrust compliance control agreements in the aforementioned markets had a positive economic impact on consumers, leading to an average price reduction of 55%. Considering that, according to the Social Health Insurance Fund, by the end of 2020, an additional 0.5 million masks and approximately 2 million PCR tests were sold, the total impact of the Agency's intervention amounted to approximately 31 million euros (*masks + PCR tests*).

#### 4. Conclusion

27. Impact assessment is a strategic asset of the Agency. The positive effect on public welfare has already been quantitatively confirmed, while current evaluation approaches continue to be refined.

28. averaged assumptions are suitable for rapid assessments but introduce inaccuracies in atypical cases. We hope that the updated OECD Guidelines will provide narrower ranges for different types of violations (*vertical restraints, merger refusals, etc.*) and algorithms for considering appeals. For merger forecasts (or their cancellation), we propose linking to HHI, supported by national case studies. Using the prevented HHI increase model will allow us to account for the benefits of avoided violations, not just those already identified.

29. The lack of a legal mechanism for requesting sales volumes severely limits the accuracy of estimates.

30. Integrating assessment into the management cycle will enhance operational efficiency. Measurement results should be incorporated into the strategy for case prioritization and resource allocation, the public annual report (*standardized format, ensuring comparability over time*), and communications within the framework of competition advocacy.

31. The agency has already proven that even with limited data its interventions provide tens of billions KZT savings for citizens within the framework of small cases. The development of methodology, access to data, and the introduction of evaluation into the management circuit will significantly enhance this effect and convincingly demonstrate the value of competition policy to society.