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Assessing the Impact of Competition Authorities' Activities – Note by Italy

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1. Introduction

1. Since 2011 the AGCM has carried out an impact assessment analysis of expected aggregate savings for consumers; starting in 2021, it began to regularly publish the results of the impact assessment in its annual report. Recognising impact analysis as an essential tool to support competition protection and promotion, the AGCM has progressively refined its methodology, with significant adjustments to the methodology developed by the OECD in 2014. This roundtable is an opportunity to share the AGCM's experience and the challenges it has faced in assessing and communicating the benefits of competition interventions.

2. The AGCM believes that quantifying the benefits of competition interventions offers several advantages aimed at: improving resource allocation by identifying which types of activities yield the best results; optimising priority setting for enforcement, allowing past experience to guide and refine future competition policies; increasing transparency and accountability to stakeholders; and, more in general, broadening public awareness on the authority's competences and on the benefits of competition policy for citizens as a whole.

3. This contribution outlines the key elements of the methodology used by the AGCM, which is essentially based on the methodology developed by the OECD in 2014 (for cartel and abuse cases closed with a finding of infringement and mergers – either prohibited or authorised subject to conditions). However, important corrective factors have been introduced to allow the AGCM to also assess cases closed with commitments, as well as others anticompetitive agreements (horizontal non-cartel violations and vertical restrictive agreements) which are not covered by the OECD methodology (section 2). Subsequently, the contribution dwells on the challenges faced in the assessment and potential future developments of impact analysis, by identifying possible new areas to be included in the quantification of the benefits of competition interventions, such as advocacy efforts and market investigations. As for advocacy, despite acknowledging the challenges posed by the absence of a standard methodology applicable to overall advocacy activities, in March 2025 the AGCM commissioned an external consultancy company to carry out an impact assessment of its advocacy activities concerning in-house assignments by local municipalities and their duration, in two specific sectors, waste management and local public transportation (section 3). The final section focuses on the AGCM's experience, which dates back to 2021, in communicating the results of its impact assessment analysis to its stakeholders (section 4)¹.

¹ Since 2016, the AGCM has also adopted a methodology to estimate the impact of its consumer protection enforcement activities. However, this aspect is beyond the scope of this roundtable and will therefore not be dealt with in this contribution. For this aspect and for a summary of the results obtained, see also “Assessing and Communicating the Benefits of Competition Interventions, Note by Italy”, [https://one.oecd.org/document/DAF/COMP/WP2/WD\(2023\)6/en/pdf](https://one.oecd.org/document/DAF/COMP/WP2/WD(2023)6/en/pdf).

2. The AGCM's experience in assessing the expected benefits from competition interventions

4. The AGCM has carried out an impact analysis of expected financial customer savings from antitrust interventions since 2011. Initially, the assessment was conducted for internal use and only covered cartels and abuses of dominance leading to infringement decisions (from 2008 to 2014). Starting from 2014, the analysis was extended to include antitrust proceedings closed with commitments and merger investigations resulting in a prohibition or clearance subject to remedies.

5. The methodology used by the AGCM is essentially the one outlined by the OECD in its 2014 “*Guide for helping competition authorities assess the expected impact of their activities*” (the OECD Guide)². The assessment is aimed at calculating the direct price impact only, using the minimum standard assumptions developed in the OECD Guide (regarding the assumed percentage of the avoided price increase and expected duration of the price effect). It is therefore merely quantitative and “static” in nature, as it does not consider non-price effects such as those on innovation, productivity and quality. When available, case specific information on the impact was used for the calculation.

6. Briefly, estimates are calculated as follows:

- for abuse and cartel cases, the calculation is based on the turnover achieved by the undertakings under investigation in the affected markets (specific *ex-ante* turnover), whereas for mergers the AGCM uses the turnover of all undertakings active in the market(s) where the restrictions on competition have been identified (market value);
- the turnover is then multiplied by a percentage coefficient which is assumed to correspond to the price increase that would likely have occurred without the intervention of the competition authority (price increase avoided). The AGCM sets the coefficient according to the OECD Guide (10% for cartels, 5% for abuses of dominance and 3% for mergers);
- this value is further multiplied by the expected duration of the hypothetical price effect in lack of an antitrust intervention (in line with the OECD Guide, the AGCM's default assumptions are as follows: 3 years in cartel and abuse cases and 2 years in merger cases).

7. With a view to widening the scope of its impact assessment, starting from 2014, the AGCM adapted the OECD methodology to also include the following cases:

- horizontal non-cartel violations and vertical restrictive agreements closed with an infringement decision, assessed using the same methodology applied to cartel cases (therefore, using the same assumptions on the seriousness and duration coefficients of cartels);
- antitrust proceedings closed with commitments (including vertical agreements), in order to also account for the positive effects on prices stemming from the termination of the infringement due to the Authority's intervention. To evaluate cases closed with commitments, the AGCM uses an even more conservative parameter: a price coefficient of 1% (where the duration is left at 3 years).

² <https://one.oecd.org/daf/competition/guide-competitor-impact-assessment.pdf>.

8. A comparison between the results of the impact assessment obtained in the 2022-24 three-year period by applying the methodology used by the AGCM (customer savings equal to €2,358 million) and those that would have been obtained by adopting the OECD methodology (customer savings equal to €1,422 million), results in a positive differential of €936 million for the three-year period.

9. Another important aspect of the AGCM's assessment is that the figures are estimates of likely future effects that, by definition, cannot be directly observed, as they represent avoided effects resulting from the AGCM's intervention. Secondly, calculations are not reviewed to account for the outcome of any judicial review of the AGCM's decisions (i.e., total or partial annulments of the decisions). This is due to the following reasons:

1. a continuous and retroactive revision of customer savings would undermine the core purpose of providing potential benefit estimates that are simple, transparent and consistent over time;
2. the OECD methodology assesses potential benefits immediately after the closing of the case, whereas the final outcome of administrative litigation often takes much longer (typically 2 to 3 years; in any case, the estimated benefits would have arisen in the time frame considered);
3. lastly, ensuring consistency of the figures over time, regardless of judicial reviews (which are rather an indication of the quality of the investigation and due process), allows for a focus on the economic relevance of the cases. This can provide valuable insight for improving resource allocation and optimising priority setting for enforcement.

10. Similarly, any subsequent non-compliance by the parties with the Authority's cease and desist orders or with binding commitments are not considered in the impact assessment.

11. Although the Authority closely monitors the judicial reviews of its decisions as well as compliance by the parties, these factors can lead to discrepancies between the estimated benefits from an *ex-ante* and an *ex-post* perspective. Therefore, in order to keep the analysis simple and consistent over time, the AGCM has decided not to retroactively review its calculations for past years following annulments or non-compliance.

12. Since annual data can vary considerably from year to year in terms of duration, number, complexity and size of cases, the data are also processed as three-year moving annual averages. This helps smooth out large differences, reduce the impact of high variability on data and obtain a more representative trend, in line with the OECD methodology.

13. Moreover, the parameters relating to the avoided price increase and its expected duration can be revised on the basis of case-specific information gathered during the investigation. Obviously, if a case-specific assessment of the effects of the anticompetitive conduct was also carried out, it is used in the impact assessment analysis.

3. Potential future developments of impact assessment analysis: possible new areas to be included in the analysis

14. In light of its experience and the challenges it has faced, the AGCM welcomes a discussion on the OECD impact assessment methodology to evaluate whether the assumptions of the 2014 Guide remain appropriate.

3.1. Strengthening empirical evidence

15. First of all, the AGCM would welcome a debate on any developments aimed at strengthening the empirical evidence justifying the current standard assumptions used for the quantification of the direct price impact of interventions. Although there is a well-established economic literature on cartel surcharges and the price effects of merger cases, it seems appropriate to further explore quantitative assumptions in order to better understand and quantify the price effect of other antitrust proceedings such as abuse of dominance cases, vertical agreements and horizontal non-cartel agreements. A renewed effort to collect and analyse *ex-post* studies carried out by independent economists and/or competition authorities would certainly be beneficial to the impact analysis of competition interventions.

3.2. Revising the quantification of direct price impact to include other enforcement cases

16. In exploring potential developments of impact assessment methodology, the first consideration is the selection of the cases to be included in the impact assessment, along with the elements that must be taken into account in making this choice. The AGCM's experience shows that it is not always easy to decide whether a certain type of case should be included or not.

17. While there is general consensus on including cartels and antitrust cases closed with the finding of an infringement³ in the assessment, as well as merger investigations closed with a prohibition or a clearance subject to remedies (as is the case in the OECD Guide), further debate is needed on how to deal with proceedings which end the conduct, even without a cease and desist order ascertaining an infringement. Indeed, it may be argued that there is a causal link between the intervention of a competition authority and the termination of the alleged anticompetitive conduct.

18. In general, it seems reasonable to assess the benefits of interventions when there is:

- some kind of publicity about the case/decision, so as to make the results less questionable and allow for external scrutiny;
- an identified theory of harm (detailed and made public, for example, in the published final decision);
- a causal link between the end of the (alleged) illegitimate conduct and the intervention by the competition authority.

19. The following categories of cases generally exhibit the above characteristics:

1. *cases closed by making binding commitments offered by the parties*: on the one hand, it can be argued that the termination/change of the conduct (due to the commitments), resulting in the removal of the competitive concerns, leads to positive effects for consumers; on the other hand, the decision to include such cases in the impact assessment analysis may invite criticism, for instance, regarding the possibility that, at least in some cases, no infringement would ultimately have been found. Commitments are a very powerful tool for competition agencies, not only because they can help to improve the efficiency of antitrust enforcement (for

³ Customer savings from settlements should also be included in the impact assessment analysis since there is a theory of harm that is made public and a causal link between the end of the conduct and the Authority's intervention.

instance, by reducing the time needed to address competition concerns or by helping competition authorities to allocate resources more effectively) but also because, in some situations, they represent the best method to address competition problems in a timely manner. For instance, when assessing cooperation agreements that could lead to efficiencies, commitments can be used to ensure that restrictions are indispensable and necessary to achieve the envisaged efficiencies; in markets with ex-monopolists, commitments can help to speed up the liberalisation process and remove structural barriers. In this respect, the AGCM has included cases closed with commitments in its impact assessment since 2014;

2. *phase II merger withdrawals*: the withdrawal of a potentially anticompetitive transaction may well be linked to the authority's merger review activity. In particular, the decision to open a phase II investigation and, at a later stage, the delineation of a clear theory of harm in the Statement of Objections could be interpreted as a clear sign of the reviewing authority's intention to prohibit the merger or to authorise it subject to remedies. The AGCM notes that – in some cases – withdrawals occur just a few days before the final decision, after the Statement of Objections and the final oral hearing⁴. This shows that in some cases there may be a clear link between the phase II merger withdrawal and the authority's intervention.
20. Similarly, for *phase I merger withdrawals* it could be argued that the withdrawal may be linked to the actions of the reviewing competition authority, such as extensive requests for information and/or interactions with merging or third parties on affected markets and merger effects. However, the inclusion of these types of cases could invite criticism, because a substantiated theory of harm has not yet been shaped and made public prior to the decision to open a phase II investigation. Moreover, at least in some cases, mergers are cleared without remedies.

3.3. Expanding the impact assessment analysis to advocacy activities and market investigations/sector inquires

21. Further considerations can be made as to whether the 2014 OECD Guide should be revised to include also an impact assessment of advocacy activities and market investigations.
22. Unlike enforcement interventions, conducting an impact assessment analysis on advocacy activities presents the challenge of identifying a standard impact analysis methodology suitable for a generalised application, in view of:
 - the extreme heterogeneity of advocacy interventions;
 - the difficulties in identifying a precise causal link between the Authority's intervention and the removal of the highlighted legislative/regulatory shortcomings, as well as any improvements in the competitive conditions of the markets and the resulting level of consumer welfare.

⁴ For instance, in case [C11987 - EI TOWERS/RAI WAY](#), decision no. 25452 of 30 April 2015, the merging parties withdrew the merger notification after the AGCM sent its statement of objections and held the final hearing. Due to the specific characteristics of the case and the timing of the withdrawal, the AGCM decided to include a summary of the findings of the investigation (and the specific competition concerns of the merger) in its final decision.

23. In this regard, the AGCM has conducted a systematic *ex-post* annual monitoring activity of its advocacy interventions since 2013⁵, over a two-year period. This on-going monitoring exercise provides an indication of the extent to which legislators and public administrations, both at central and local levels, heed the AGCM's recommendations. Specifically, data are segmented based on the type of advocacy tools used, the public administration involved (central versus local), the origin of the opinion (*ex-officio* or arising from a complaint or request) and the economic sector involved. This *ex-post* monitoring exercise enables the Authority to closely verify the effectiveness of its advocacy interventions/efforts and to gain better insights into the key factors behind successful competition advocacy, thereby facilitating a better targeting of advocacy efforts based on the legal instruments used and/or the specific profile addressed.

24. Building on the insights gained from this monitoring exercise and aware of the challenges involved – in particular of the absence of a universally applicable standard methodology for assessing advocacy activities – in March 2025 the AGCM decided to focus its impact assessment analysis initially limited to two sectors: waste management and local public transportation, i.e. two network services. Specifically, the impact analysis, commissioned to an external consultancy company (which will be selected through a competitive procedure), will be limited to advocacy activities concerning in-house assignments by local municipalities and their duration. The counterfactual for the comparison would be the situation that would have arisen by assigning the service through a competitive procedure.

25. The survey should therefore collect all relevant information needed to compare the quality levels and economic performance of the situation addressed by the advocacy intervention (in-house assignment or cases lacking adequate competitive comparison procedures, or the excessive extension of assignment or concession periods) with the outcomes that would have resulted by resorting to a competitive procedure. Should it be impossible to identify fully comparable factual situations (e.g., in neighbouring geographic markets and/or in markets with the same characteristics), indicative average parameters specific to each service under consideration should be estimated by resorting to *ad hoc* market surveys and/or existing databases. For example, databases on tenders that have actually taken place in the past represent a valuable source of information in estimating the average discount of the award price compared to the auction base.

26. The impact assessment of market investigations/New Competition Tool⁶ and general sector inquiries could also present, especially in the short term, several challenges

⁵ The outcomes of these interventions are published in the annual report (and in an enriched version also on the AGCM website, <https://en.agcm.it/en/publications/monitoring-advocacy>). The assessment of the effectiveness of advocacy activities is approached from a “legal perspective” rather than an economic one, focusing on the outcomes of AGCM opinions and recommendations in terms of compliance.

For instance, in cases of repeated negative outcomes, this monitoring exercise helps identify alternative solutions that may favour greater compliance by the addressee with competitive principles. Furthermore, this *ex-post* impact analysis can be used for other purposes, primarily for accountability and/or for assessing the openness of the national legal framework to competition principles, as well as the maturity of competition culture within the Italian system.

⁶ In August 2023, the AGCM was entrusted with a new power to impose structural or behavioural measures as a result of a market investigation. More specifically, if the Authority identifies competitive issues that hinder or distort the proper functioning of the market to the detriment of consumers, it may impose structural or behavioural measures on the undertakings concerned or recommend appropriate legislative/regulatory changes to improve the functioning of the markets.

due to the complexity of market dynamics, regulatory environments and long-term effects of interventions. In particular, the following difficulties may arise (even in an *ex-post* analysis context):

- causality links: it is difficult to isolate the impact of a market investigation/inquiry from other market factors such as economic trends, technological advancements or policy changes, making it extremely complex to attribute market changes to competition authority actions;
- delayed effects: market dynamics evolve gradually and competition interventions may take years to show tangible results, making short-term assessments challenging and/or unreliable;
- counterfactual scenarios: establishing what would have happened in the absence of the market study (the counterfactual) is challenging, especially if pre-intervention data is unavailable. Moreover, some interventions affect not only the targeted sector but also related industries, making it harder to assess their full impact.

27. Moreover, the scope is broader, with interventions ranging from a general information gathering exercise targeting an economic sector/market displaying competition problems resulting in non-binding policy recommendations to market investigations/New Competition Tool (NCT) that, subject to certain conditions, may result in remedies imposed by the Authority or binding commitments.

28. Therefore, an impact assessment analysis of market investigations/sector inquiries can be challenging, complex and often inconclusive, especially over the short-term. While long-term monitoring and stakeholder cooperation are crucial for effective data collection, they are not always available or even possible.

3.4. Expanding the impact assessment analysis to deterrence and dynamic effects on efficiency and innovation

29. The AGCM has not yet carried out an *assessment of the deterrent effects or dynamic effects (on efficiency and innovation)* of its competition interventions. In this respect, while there is broad consensus on the existence of (even significant) deterrent effects, measuring these poses several challenges. Benefits from deterrence are difficult to estimate on a case by case basis and they do not appear to be necessarily related to the number (and impact) of enforcement interventions carried out in a specific year. Indeed, there might be fewer enforcement interventions because of high deterrence effects (due to the institutional regime in place and/or a strong reputation from past interventions) and vice versa⁷.

These measures can be imposed after consulting the market, in compliance with a specific procedural Regulation, which was adopted in May 2024 following a public consultation; indeed, the undertakings may also submit commitments aimed at eliminating the competition issues/concerns identified in the findings of the AGCM's market study. The Authority is granted the same investigative (except for home inspections), decision-making, and sanctioning powers as set forth in the Competition Act for antitrust proceedings. These include sanctions in case of non-compliance with the measures imposed by the Authority.

⁷ As noted “*higher direct customer savings (reflecting intense enforcement activity) do not necessarily imply a more effective competition enforcement overall as a very efficient authority (building on a strong reputation from past interventions) may be able to more effectively deter anticompetitive behaviour with fewer interventions*”, in European Commission: Directorate-General for Competition, Deisenhofer, T., Dierx, A., Ilzkovitz, F., Stevenson, A. et al., Customer savings

30. The measurement of the dynamic effects of competition interventions on efficiency and innovation is even more challenging. In this respect, a qualitative analysis on a case by case basis (when pertinent and depending on the evidence collected in the proceedings) might represent a viable solution to explain to the public how competition policy exerts a positive effect also on innovation and efficiency.

31. In other cases, the size of the market affected by the practice under investigation does not capture the real value of the interventions for society, due to their indirect non-economic effects, for example, on sustainability and environmental issues or on public health. For instance, in 2022, the AGCM concluded a case regarding excessive pricing in the pharma industry⁸. The conduct concerned a life-saving drug used for the treatment of a very rare disease. Due to its very nature, the number of consumers affected by the practice was very limited. Therefore, the total economic savings were modest overall, despite the far more valuable social impact of the intervention.

32. The AGCM believes that a more robust estimate of indirect economic effects (deterrence and innovation) is increasingly important, since competition authorities are focusing more intensively on innovative markets (such as digital markets) and practices that have a dynamic impact on competition (pre-emption of future markets, merger with nascent competitors etc.).

33. Broadening the definition of benefits from antitrust enforcement to include indirect economic and non-economic benefits could offer several advantages, such as:

1. it would allow for the consideration also of real and significant benefits for customers, beyond the strictly monetary value on prices of the affected market;
2. it would allow for an assessment that is in line with Article 101(3) TFEU, to account for efficiency gains;
3. it could help to evaluate enforcement results by considering significant social dimensions.

34. However, despite these advantages, quantifying indirect and non-economic effects presents substantial challenges, potentially resulting in inconsistent estimates and non-comparable results.

4. The AGCM's experience in communicating the results of its impact assessment analysis

35. Since 2021, the Authority has started to regularly publish the results of its impact assessment in its annual report⁹, which is presented to Parliament and published online on its website. In particular, the Authority published the results of its impact assessment using

generated by the Commission's antitrust and merger enforcement: a 10-year perspective, European Commission, 2022, <https://data.europa.eu/doi/10.2763/80601>.

⁸ See the [AGCM Case A524 - LEADIANT BIOSCIENCES](#), decision no. 30156 of 17 May 2022.

⁹ The annual competition report is a wide-ranging document on the activity of the Authority the aim of which is to regularly deliver an accurate and comprehensive coverage of the AGCM initiatives in its different areas of competence. It contains an analysis of the national and international economic context from a competition standpoint, a review of the competition policy enforcement, consumer protection and advocacy activities performed by the AGCM in the year, an overview of the main regulatory and policy developments with an impact on the competition enforcement activity and a reflection on the main case-law developments in antitrust. The annual report is presented to Parliament and published online.

data from 2020 and quantifying expected consumer benefits as of 2015. A similar exercise was consistently carried out in subsequent years¹⁰.

36. Moreover, based on the 2014 OECD Guide, the AGCM presents the results both as an annual figure and as an annual moving average over a three year period, to reduce the variability in estimates resulting from cases in particularly large or small markets that could occur in a single year. Moreover, to ensure greater transparency, the results of the assessment are presented separately, depending on the type of decision.

37. The publication of the results is always accompanied by an explanation of the applied methodology and of its limitations/caveats: the conservative nature of the results in terms of estimated “static effects” due to lower prices, which likely underestimates the impact by not considering “deterrent effects” or positive non-price effects, such as those on innovation, productivity and quality, all of which are undoubtedly relevant but more difficult to calculate.

38. The decision to begin publishing the impact analysis was triggered, among other things, by the availability of a reliable and representative historical dataset and by the growing recognition of the importance of explaining the benefits of competition to public and private stakeholders and, more in general, of increasing awareness of competition policy among citizens.

39. In order to improve transparency and accountability in the AGCM’s activities and measure its contribution to social welfare, the annual report contains, in addition to an impact analysis of consumer benefits from competition interventions, also the outcome of the *ex-post* annual monitoring activity of its advocacy interventions (an enriched version of this monitoring exercise is also published on the AGCM website).

5. Conclusions

40. The AGCM strongly supports the updating of the 2014 OECD methodology to better reflect new developments in authorities’ current practices. In this regard, to ensure the relevance and the reliability of the whole exercise, the AGCM would welcome a more inclusive methodology that adequately reflects the impact of the Authorities’ interventions and effectively accounts for the overall enforcement activity and its contribution to collective well-being.

41. Therefore, the impact assessment analysis should include, at the very least, cases closed with commitments and non-cartel infringements. In a broader perspective and with due caution, it might be worth considering whether to also include interventions related to advocacy activities and market investigations/NCT. In this respect, the selection of simple and easily available quantitative criteria should be guided by insights from economic literature and the experience of other competition authorities.

42. At the same time, although the characteristics of competition interventions may vary across jurisdictions and different authorities may use different assumptions, having a shared methodology, such as that of the OECD, is extremely beneficial. It promotes a focus on common aspects, concretely conveys the expected benefits for consumers and enables comparisons across jurisdictions.

¹⁰ See also the following contribution for a summary of the results obtained “Assessing and Communicating the Benefits of Competition Interventions, Note by Italy”, [https://one.oecd.org/document/DAF/COMP/WP2/WD\(2023\)6/en/pdf](https://one.oecd.org/document/DAF/COMP/WP2/WD(2023)6/en/pdf).

43. Finally, it is important to develop an appropriate communication strategy. This would make the results of the Authority's activities tangible: a well-informed public is more supportive of the role of competition policy and effective antitrust enforcement.