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Methodologies for Conducting Market Studies - Summaries of Contributions

20 June 2017

This document contains summaries of contributions received for the roundtable on Methodologies for Conducting Market Studies (125th meeting of Working Party No. 3 on Co-operation and Enforcement on 20 June 2017).

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Methodologies for Conducting Market Studies

--Summaries of Contributions --

*This document contains summaries of the written contributions received for the discussion on Methodologies for Conducting Market Studies (125th meeting of Working Party No. 3, 20 June 2017). When the authors did not submit their own summary, the OECD Secretariat summarised the contribution. Summaries by the OECD Secretariat are indicated by an *.*

Table of Contents

Argentina	4
Australia*	5
Business and Industry Advisory Committee (BIAC)	6
Canada*	7
Chile*	9
Denmark	10
European Union*	11
Finland	12
Germany*	13
Hungary*	14
Indonesia*	15
Israel*	16
Italy*	17
Japan	18
Korea*	19
Latvia*	20
Lithuania	21
Mexico (COFECE)*	23
Netherlands*	24

Norway*	25
Peru (Indecopi)	26
Romania	27
Russian Federation	28
Singapore*	29
South Africa*	30
Spain*	31
Chinese Taipei*	32
Turkey*	33
Ukraine*	34
United Kingdom*	35
United States*	36

Argentina

Article 20 of Argentina's competition act (Law No. 25,156) states that the Competition Authority has the power to “[c]arry out market studies and market investigations...” (paragraph a) and to “[i]ssue general of sectorial recommendations regarding the form of competition in the markets” (paragraph d).

Within the CNDC, selection of markets depends mainly on three factors: a) economic and social impact; b) government priorities; and c) potential for anticompetitive practices. During 2016, the CNDC launched 12 market studies covering the following sectors in Argentina: aluminum, steel, petrochemicals, credit cards and electronic payment systems, dairy products, beef, edible oil, laundry detergent, pharmaceuticals, long-distance passenger transportation, mobile communications and supermarkets.

Market studies are coordinated by the Competition Advocacy Unit. The general practice so far has been to hire external consultants to carry out the market studies commended by the CNDC, in part, because of the internal human resource limitations.

Market studies are based on public information or information available to the CNDC. Broadly speaking, the most common data sources include statistical information from government agencies, third-party providers, business stakeholders and CNDC files. When publicly available information is not enough to rule out competition problems, a market study may derive in a market investigation, which involves a more detailed examination of anti-competitive practices and adverse competition issues. This has been the case of the credit cards and electronic payments systems, dairy products, aluminum and steel markets. Otherwise, the Advocacy Unit produces a report summary available to the general public through the CNDC's website. As of the date of this publication, the CNDC has produced public summaries in the edible oil, beef, and laundry detergent markets.

The electronic payment systems was the first market investigation concluded under this new framework. The market study showed high concentration in the acquiring and processing markets and Visa's licensee, Prisma holding a dominant position. As a result of this investigation, the CNDC issued a series of recommendations to the Central Bank and to the Secretary of Commerce. These recommendations triggered a number of changes in the market aimed at improving competition conditions.

In short, in 2016 the CNDC has started a new path in terms of market studies and market investigations. As part of this process, a methodology to develop market studies has been outlined and results on four markets have already been published, while the others are expected to be by the end of this year.

Australia*

The Australian Competition and Consumer Commission (ACCC) has the power to conduct market studies, be they self-initiated or at the request of the relevant Minister. The former set of studies have the objective of assessing “whether market characteristics are conducive to competition and benefiting consumers, or whether market imperfections require intervention by the ACCC or others. These reviews also assist the ACCC to identify competitive practices within an industry and to encourage these more broadly” (paragraph 12). As an example, the contribution describes the market study into the new car retailing industry.

The ACCC can also conduct formal price inquiries, when directed by a Minister. The East Coast Gas Inquiry and regional petrol market studies, described in the contribution, are recent examples.

The contribution provides many examples to illustrate the importance of market studies as a priority for the ACCC, as well as the benefits the process delivers. These include the following: (i) the transparency about market studies’ outcomes help inform businesses and consumers and can lead to better decisions (such as the Regional Petrol market study—Darwin); (ii) some market studies may lead to law reform and/or trigger change within an industry (such as the market study into the cattle and beef industry in Australia).

Business and Industry Advisory Committee (BIAC)

1. There are many different reasons why a competition authority might carry out a market study and that has an impact on the methodologies they will use to gather information. In most instances, they will need information from industry players; requests for information (either using formal powers or informally) are quite common.
2. A competition authority should always bear in mind that these requests can be quite burdensome for industry. It should be best practice to start a market study by reviewing initially what is already available within the authority or is in the public domain. Before sending information requests, competition authorities should meet with market players to discuss what data is available, in what format and how long it would take it to gather it.
3. Meetings or interviews of market participants can be extremely useful not only in the context of information requests. In general meetings allow business people to provide their views on the market and assist the authority. Meetings and interviews are also useful in complex matters or in gathering economic evidence. It should not be forgotten that gathering complete and accurate data is only part of the study: the data has to be analysed and that can be quite complex.
4. The analysis, especially economic analysis, should be robust and unsound methodologies should not be used. Finally, many of the information provided will be confidential and competition authority should have good internal process and safeguards to ensure confidentiality.

Canada*

Canada's Competition Bureau carries out market studies as part of its advocacy efforts. The lack of an explicit legal provision empowering the Bureau has occasionally led to some challenges, but the Bureau continues to regularly conduct market studies, both at its own initiative or following requests from the Government. The contribution outlines the general approach in market studies and provides two examples, showing how the approach is tailored to the requirements of the individual study. The Bureau lists the following steps it follows in its market studies: (i) project selection and scoping; (ii) information gathering; (iii) competition analysis; (iv) market testing with policy makers and other stakeholders; (v) report on findings and recommendations; and (vi) monitor/evaluate recommendations and markets ex post. For the purposes of the Roundtable, steps (i) – (iii) are summarised here.

When the Bureau's advocacy unit identifies a potential subject for a market study, it prepares a proposal covering among others the competition issues that could be addressed. It also considers a number of factors, such as the potential benefits for consumers and whether there is a high level of interest by policy makers. In this initial phase, the unit conducts background research on the sector and the issue potentially being investigated.

Once the market study has been launched, the project team gathers as much information as possible from a variety of publicly available sources, including financial information and statistical data. In parallel, the team prepares a list of relevant stakeholders both in the private and the public sectors. The Bureau does not have the power to request information in market studies, therefore it relies on the voluntary participation of stakeholders. In this context, the contribution emphasises the importance to “differentiate its market studies from its enforcement activities” (paragraph 18). In the event of complex issues or sectors, the Bureau may work with external experts, who may have better knowledge of the subject or better access to information resources. Workshops may be organised, especially when issues are new and the Bureau would benefit from bringing together a range of different stakeholders in a debate. In the analysis phase, the market study team reviews the information to identify competition problems. The contribution notes that “[c]ompetition challenges often take the form of regulatory or structural barriers to entry, information asymmetries or other market failures” (paragraph 23).

Paragraph 29 identifies the factors that influence the choice of methodology, as follows: “(i) the purpose of the study; (ii) how the study was selected by the Bureau; (iii) the scope of the study; (iv) the complexity of the issues involved; (v) timing restrictions on conducting and publishing the study; (vi) the number and diversity of stakeholders that need to be consulted; and (vii) the availability of empirical industry data”. As an illustration of how the methodology can be adapted to the circumstances of the market study, the contribution provides two examples: (i) the propane market study, requested by the Government to explain the tight supply conditions and steep price increases in the winter of 2013/14, and carried out in co-operation with the National Energy Board; (ii)

the own-initiative study into the FinTech sector, to understand how innovation affects the use and development of financial products.

The propane market study was very focused and, although the sector is relatively complex, it is also well-understood and there is plenty of information and data available. Due to the narrow scope, the project team was able to identify and approach the relevant stakeholders quickly to obtain the necessary information, also in light of the tight time constraints for the study. The data collected from the industry, together with the significant industry data available through the National Energy Board, enabled the study team to perform quantitative analysis and modelling to reach its conclusions.

In contrast, the FinTech market study captured a broader set of issues and of economic activities. In order to reach all relevant stakeholders, the Bureau issued a public call for inputs. It also arranged interviews and meetings with some categories of stakeholders, it co-operated with financial regulators and it retained external experts familiar with the sector. To facilitate discussion among diverse stakeholders and to test some of the hypotheses emerging in the study, the Bureau organised a workshop. The contribution notes that this approach was especially useful for a study having a broad scope and emphasises the challenges in collecting quantitative evidence in a fledgling industry.

Chile*

Following a reform passed in August 2016, the Fiscalía Nacional Económica (“FNE”) has the explicit power to conduct market studies, including information gathering powers and the imposition of sanctions for non-compliance. These new powers have not been tested yet.

Prior to the reform, the market studies of more general nature were outsourced to academics. These concerned markets in which the FNE had an interest and wished to find out more. When market studies had a narrower focus, the FNE carried them out internally. As the FNE did not have the power to request information, these studies were mostly based on publicly available information. Moreover, they often concerned the legal and regulatory framework in a given market.

By way of example, the contribution describes three recent studies: (i) supplemental protection of patents; (ii) tender processes for prescription drugs in the public health sector; and (iii) competition in the wholesale energy market.

Denmark

This paper describes the commonly used data sources and applied methodologies by the Danish Competition and Consumer Authority (DCCA) when conducting market studies. The DCCA can carry out market studies on its own initiative or on behalf of the Minister of Industry, Business and Financial Affairs. When analyzing a specific market the DCCA uses several different data sources. E.g. The Danish Competition Act states that the DCCA can acquire all information deemed necessary, e.g. accounting, transcript of books, electronic data etc., for the execution of the tasks assigned through the Competition Act.

The Competition Act thus obligates the market participants to provide all data necessary for the DCCA to conduct the specific market study. This allows the DCCA to collect hard data from businesses and organizations connected to the specific market.

When conducting market studies the DCCA, on a general level, applies a problem-cause-solution-methodology. When identifying and analyzing problems the findings are usually categorized in:

1. Entry barriers
2. Expansion barriers
3. Problems linked to the demand side (e.g. inactive consumers)

Examples from an on-going market study on mortgages loan are used to illustrate both the use of data sources and the analytical methodology of the DCCA.

European Union*

The European Commission (the “Commission”) can conduct two types of studies into specific sectors of the economy: (i) market studies, which may be carried out by the Commission or external consultants on specific characteristics of an industry; and (ii) sector inquiries, carried out by the Commission using strong investigative powers when competition in a sector does not seem to be working well. The contribution focuses on sector inquiries. The contribution notes that “[a]lthough it is not a general rule, sector inquiries rely more on descriptive statistics of the collected data and qualitative assessments, while external studies may employ more sophisticated data analysis, like different econometric techniques” (paragraph 6).

The inquiries rely on the Commission’s information gathering powers, and questionnaires are often administered through a web-based system to simplify collection and subsequent analysis. Unannounced inspections are also possible, but rarely used by the Commission.

Any information gathering effort starts from desk-based research. Publicly available information, experience of other Commission services and information from case enforcement is gathered in preparation for more targeted research and requests. Third-party data is also collected prior to issuing information requests, with a view to reduce – to the extent possible – disruption to the industry.

The analysis includes extensive data description, as well as qualitative analysis of the additional information provided by respondents. More advanced data analysis is occasionally used, such as in the pharmaceutical sector inquiry and the energy sector inquiry (specifically the report prepared by external consultants).

The contribution provides details on the methodologies used in latest four sector inquiries conducted by the Commission: (i) the energy sector inquiry that ended in January 2017; (ii) the pharmaceutical sector inquiry that ended in July 2009 (with continued monitoring of patent settlements); (iii) the capacity mechanisms sector inquiry that finished in November 2016; and (iv) the e-commerce sector inquiry that was finalised in May 2017.

Finland

The Finnish Competition and Consumer Authority have no formal guidelines on how to perform a market study. Usually some kind of background research or otherwise formed impression on potential non-functioning of markets precedes a more thorough research. Besides our own market studies, we participate in joint research projects with other Nordic competition authorities. In those cases it is the gathering of respective Director Generals who decide what markets (or phenomenon) are to be studied.

According to the Competition Act, undertakings are obliged to give all necessary information for the purposes of investigating competition conditions. Telephone or internet based surveys are typical forms of information gathering. The usual methodologies for analyzing survey data include descriptive statistics and cross tabulations. Correlation analysis and regression analyses are also common methodologies, when survey questions allow using them in any meaningful way. So far the FCCA has not carried out simulations or other heavy structural econometric tools in market studies.

Germany*

The Bundeskartellamt has the power to conduct sector inquiries to analyse individual sectors, if there are indications that there is no effective competition in these markets.

The contribution notes that “[i]n the last four years (since 2012) the Bundeskartellamt concluded seven sector inquiries. The markets examined were: food retail, waste management, rolled asphalt, district heating, milk, gas concession fees and metering and billing of heating and water costs. A number of inquiries are ongoing in the markets for domestic waste, ready-mixed concrete and hospitals”.

The contribution sets out different types of market inquiries, based on their goals, as follows:

- A market study can lead to enforcement actions, such as in the inquiry into the rolled asphalt market and the inquiry into the district heating market.
- Other market inquiries can be motivated by an attempt to investigate specific issues which have arisen in enforcement cases, but could not be studied in detail due to time constraints. For instance, the Bundeskartellamt had reviewed a number of mergers in the retail sector and considered that it was important to investigate the question of market power in the relationship between retailers and food suppliers.
- Sector inquiries can confirm or refute the suspicion of anticompetitive practices in the market. This was the case in the sector inquiry on fuel, motivated by consumer complaints and by possible competition problems detected in merger control.
- Market studies can be used to advocate for competitive markets, as in the example of the milk sector. The Bundeskartellamt built on the results of the inquiry to provide input into the German and European legislative process.
- An ex-post assessment of changes in legislation or regulation can also be conducted, as was the case for example of the disposal of packaging.

The procedure usually followed in market inquiries is outlined in the contribution and includes the following stages: (i) preparation phase; (ii) substantiation phase; (iii) investigation phase (collection of information and evaluation/analysis); (iv) documentation phase; and (v) publication and consultation phase.

The contribution describes in greater detail some of the inquiries mentioned above.

Hungary*

The contribution from Hungary notes that the Hungarian competition authority (the “GVH”) conducts both market analyses (which analyse market operation based on publicly available information and voluntary information requests), and sectoral inquiries (where competition distortions are believed to exist, and for which the GVH can issue mandatory information requests).

In both cases, the GVH conducts background research using publicly available information and data available from previous proceedings and complaints. More intensive information gathering occurs after, including requests for information, surveys of market participants, consultations with public bodies and industry associations, consumer research (using market research firms), in-depth interviews with stakeholders and an information request to the European Competition Network to obtain an international perspective on a market.

Analytical techniques used by the GVH include descriptive statistics, ratios, distributions, correlations and cross tabulation analysis, illustrations using graphs and charts and time series data analysis. In some studies, profitability and cost analysis, or in-depth econometric analyses are also conducted, although this requires sufficient data availability.

The contribution describes the GVH’s sector inquiry with respect to online hotel booking platforms, which involved mandatory information request and the use of government statistics to examine the impact on competition of most favoured nation clauses.

In a study of the acceptance of payment cards, the GVH commissioned market research to determine the costs of accepting credit cards among merchants. This ongoing market investigation will examine competition conditions regarding the acceptance of payment cards, and the level of innovation and substitution in this area.

A study of the film distribution market in Hungary examined market concentration following recent mergers that did not reach the GVH’s merger notification threshold. The study proposed changes to the merger notification thresholds (which were accepted by the government) to capture mergers that significantly change market structure even if turnover thresholds are not met. The contribution notes that helpful comments from stakeholders were received after publishing the preliminary results of the study.

Indonesia*

The contribution from Indonesia indicates that the Indonesian Commission for the Supervision of Business Competition (“KPPU”) works to prevent competition problems stemming from legislation or anticompetitive conduct using its competition checklist.

The KPPU undertakes market studies to obtain a wholistic set of information to respond to business complaints, or to gather information for studies undertaken on its own initiative. Market studies can involve information gathering, data or information analysis and empirical research including case studies.

The KPPU gathers information from various sources depending on data availability and the purpose of the study. This usually begins with data from relevant government institutions and the Indonesian Bureau of Central Statistics. For example, the KPPU coordinates with the Ministry of Agriculture to obtain price and production data for market studies regarding rice. Focus groups, surveys and information requests are also used.

The analysis that the KPPU undertakes follows information gathering includes descriptive statistics, demand & supply analysis, trend analysis, mark-up analysis, industrial concentration analysis, impact evaluation, statistical approaches such as price correlation and econometric analysis, among others. With respect to the cartel detection, the KPPU applies recent methods such as Harrington (2008). The KPPU’s cartel detection efforts include structural screening and behavioral screening, using statistics and econometrics as investigative tools.

Israel*

The contribution from Israel explains that the Israel Antitrust Authority (IAA) has a specialised division for conducting market studies. The IAA has the powers to issue mandatory information requests and issue penalties for non-compliance in the context of market studies (although information held by other government bodies can only be acquired on a voluntary basis).

The IAA can initiate a market study on its own initiative (to expand internal knowledge, identify market failures, facilitate cooperation with other government bodies, investigate repeated enforcement cases within a sector), or on the basis of a referral by another government entity.

Market studies carried out by the IAA can be divided into two main categories: those of an empirical-quantitative nature, including often extensive methodological work, and others of a qualitative nature. There is no clear dichotomy between these categories. In practice, all market studies include both quantitative analysis and qualitative analysis, though the proportion of the effort that goes into each may vary substantially across studies.

The outcome of market studies conducted by the IAA can include enforcement actions (including structural or behavioural remedies), advocacy toward government entities (e.g. recommendations for regulatory reform) or simply the publication of a report to the public reviewing the findings from the study and its conclusions.

Publishing a report to the general public by the IAA includes, generally, a number of steps. First, an internal draft is written and confirmed within the IAA. Second, procedures aimed at protecting confidential information and data provided by stakeholders in the course of the market study take place. Third, the findings, the conclusions and the recommendations of the market study are discussed with the concerned ministries and governmental entities (if there are any) and their comments are taken into account. Fourth, a draft is published for public commentary, allowing market participants to comment in writing or in meetings with the IAA. Fifth, a final report is published.

Market studies completed or in progress by the IAA have involved examining barriers to entry and expansion (infant formula), analysing prices and regulation to determine whether switching barriers existed (retail bank brokerage services), reviewing sector concentration (gasoline stations, aggregate quarrying), and assessing the impact of regulations on price setting (payment cards).

Italy*

The contribution from Italy notes that the Italian competition authority (the “AGCM”) can request information from public and private entities for sector inquiries, but trade secrets can be used as a justification for failing to provide such information, and the AGCM is not able to fine parties for non-compliance with information requests.

The AGCM staff conducting sector inquiries are generally ad hoc teams comprised of employees with specific knowledge or experience of the relevant sectors, as well as input from other departments (e.g. Office of the Chief Economist, Legal Services).

Information for sector inquiries is generally gathered by the AGCM via requests for information, voluntary stakeholder surveys, hearings to permit interactive stakeholder engagement, inspections, publicly available datasets (from government statistics offices, trade associations, regulators, private data providers), financial statements and stock market data. Background data can be used to guide subsequent data collection activities. The decision to move to more intensive data gathering is usually driven by various factors, including the purpose of the study, the likelihood that this activity will be successful (e.g., responsiveness of target stakeholders to provide data), the likelihood that the analysis of the gathered information/data will yield useful outcomes (e.g., evidence-based recommendations), and the net benefits of such resource intensive activity are positive. The type of information gathered varies significantly based on the sector – for example, in sectors where distribution channels are an important competitive factor, information about networks is particularly relevant.

In terms of analysis, the contribution indicates that the starting point for sector inquiries is generally a description and an assessment of the regulatory and institutional framework – especially in sectors where regulation plays an important role.

Next, the AGCM will analyse descriptive statistics for the industry/sector (e.g. analysis of growth trends in prices, volumes, revenues, number of suppliers, distribution channels, business models). More in-depth data analysis used in past studies include: price variability (or price dispersion analysis, since persistent price dispersion has been considered a valid indirect indicator of frictions in the functioning of a market), ranking analysis, international comparisons (to help understand particularities in the local market), concentration analysis, profitability analysis (to examine overall industry inefficiency, which can be time, resource and data intensive), assessments of industry performance (e.g. ROI, EBITDA), identify price transmission mechanisms, qualitative analysis (e.g. to understand firm/supplier/distributor relationships), assessing consumer mobility (e.g. through switching rates) and the geographical dimension of competitive effects (especially when competition occurs at the local level).

Japan

The Japan Fair Trade Commission (hereinafter “JFTC”) has been conducting “Fact-finding Surveys” almost every year since 1947 when the Antimonopoly Act (hereinafter “AMA”) was enacted. Fact-finding Surveys are conducted to reveal actual situations and/or business practices of specific markets, industries and so on, in accordance with the needs for competition policies under the circumstances of the times. Therefore, these market studies differ from investigations in specific violation cases. The attached Annex lists Fact-finding Surveys carried out by the JFTC for the past ten years. The total number of Fact-finding Surveys amounts to 25 at the end of March in 2017.

Types of information collected in Fact-finding Surveys by the JFTC vary widely depending on the objective of each survey. However, main sources for information are (i) Publicly-available sources, (ii) Questionnaire survey, and (iii) Stakeholder interview. Fact-Finding Survey mainly consists of questionnaire surveys and stakeholder interviews, in which the JFTC actually gathers information by itself.

Publicly-available sources are typically used to conduct preliminary research (a study to determine whether main research is required or not) and to complement information collected by questionnaire survey and stakeholder interview as compiling a report on Fact-Finding Survey.

In a questionnaire survey, the JFTC makes a compilation of answers to the closed-ended questions such as calculating percentages of companies who chose each choice among all companies answering the question. Then, the JFTC analyzes the existence of any special tendency depending on business scales, contract forms and so on.

Among the past Fact-finding Surveys, the JFTC has seldom used economic analysis. Whether economic analysis is employed in a Fact-finding Survey may depend on the balance between the necessity of the analysis and the increase in the burden with the analysis.

Methodologies of the study and analysis are determined individually on the business, potential competition concerns, and so on. Therefore, it is difficult to say which specific methodologies of analysis are frequently used in market study compared with enforcement actions and which type of information and analysis are weighed.

Some conducts that might constitute the abuse of a superior bargaining position or violations of the Subcontract Act had been seen in bridal industry. Therefore, the JFTC conducted a Fact-finding Survey in bridal industry to grasp the actual situations of trade. The contribution paper introduces “Report on Fact-finding Survey on Transactions in the Bridal Industry (2017)” based on the Fact-finding Survey.

Korea*

The contribution from Korea describes the process that the Korea Fair Trade Commission (“KFTC”) follows when conducting a market study. First, a sector is selected where there are concerns about anticompetitive conduct or that a market is not functioning properly; where issues have been raised by the National Assembly, media, consumers or other stakeholders; where firms may deem a study to be necessary; where there have been repeat infringements of competition law; or where studies by other jurisdictions have uncovered major issues.

Second, the KFTC conducts a preliminary test, examining revenue, import/export flows and market structure using publicly available information and information already held by the KFTC. Profitability, using measures such as return on assets and cost to selling price ratios, is analysed. Regulations in the sector are also examined. Following this test, target industries are selected based on their size, concentration, profitability, entry barriers, import ratios, switching costs, consumer information availability, productivity, R&D investments and consumer complaints.

The KFTC collects information via written information requests to stakeholders, but does not have the power to require the production of this information. In addition, it uses data provided by market analysts, conducts field investigations and employs surveys to fill any information gaps.

In terms of analysis, the KFTC will first define the scope of the study, analyse market size (including supply and demand) and examine the structure of the market in terms of production and distribution. Profitability ratios will be constructed, pricing structures will be analysed and the presence of any entry/exit barriers will also be investigated. The impact of government regulations will also be considered. Other areas of analysis include the degree of vertical integration, market participant conduct, the basis of competition and consumer behaviour.

Once a study is completed, the KFTC will publish its results, implement follow-up measures and conduct ex-post analysis (as well as an assessment of the degree to which recommendations have been implemented).

Examples of past studies conducted by the KFTC include the school uniforms market, in which the sales process was analysed to identify competition problems, and cosmetics, where the impact of regulations on market competition was assessed.

Latvia*

The contribution from Latvia notes that the Latvian Competition Authority conducts market studies primarily with internal resources, although the Authority has also cooperated with other public bodies in the event that there are mutually complimentary objectives that would be served by a joint study.

In terms of information collection for market studies, the Authority will attempt to obtain any required information from the public domain before relying on a formal information request, which would be subject to the same procedures and powers as a standard investigation (i.e. firms can be fined for non-compliance). While the range of information requested varies across studies, the most common type requested by the Authority relates to net turnover for relevant suppliers, used to calculate market shares, the HHI and to conduct screening tests.

The Authority uses a standardised approach to conduct market study analysis, specifically using HHI and CR indicators, analyses of market trends and supply chain structure, as well as assessments of a market's evolution over time. The Authority will occasionally employ more sophisticated econometric methods, including value chain analysis, simulation modelling, external shock scenario analysis and stress testing. Because of a lack of resources to conduct such analysis internally, it is important for the Authority to cooperate with external institutions and experts in these cases. For example, in a study of the milk and dairy sector, the Authority collaborated with the Central Bank of Latvia. The contribution also notes that the Authority saved resources by basing the scope, objectives and methodologies of a waste management sector study on a similar study conducted by the Nordic Competition Authorities.

Lithuania

The Competition Council (the CC) uses market studies for the purpose of market analysis and subsequent advocacy. The CC has conducted market studies into a great variety of sectors (such as pharmaceuticals (drugs), raw milk and dairy products, waste management, fuel, retail trade) in order to find out whether effective competition is ensured in a particular market. Most of these studies targeted markets which were regulated or related to activities of public bodies. Moreover, market studies are not implemented in order to identify possible infringements. Such findings concerning anticompetitive actions are more of a possible effect, but not really the goal of the market studies.

Consequently, problems analysed in a particular market studies tend to be very specific and while the information gathering techniques are rather similar, the information analysis carried out is of very wide range and it is hard to generalise it.

At the outset of almost every market study, before sending questionnaires or engaging in any other extensive information gathering activities, background research is performed.

When the knowledge of the market is sufficient to determine the information needed to carry out the market study, who is best placed to provide it and how to obtain such information, questionnaires are reviewed and finalised. Only once these steps have been taken, the CC engages in intensive information gathering from market participants.

The CC has the powers to issue compulsory orders during the information gathering process, which eases the information gathering.

Information gathering methodologies depend on the nature of the relevant market and object of the investigation, and do not differ much from the ones used during the enforcement action. However, during a market study the need for a very detailed data is not as necessary as during the enforcement actions or merger investigations, where precise market definition or effects have to be established.

The analytical methodologies applied in market studies primarily depend on the objective of the study and the market in question and are very specific to the matter at hand, for example assessment of the impact on competition of specific regulation.

The methodologies applied in market studies mainly consist of descriptive analysis and simplistic statistical methods (e.g. correlation analysis).

Information sources that can be subjective are treated with caution, therefore qualitative data provided during interviews or by answering questionnaires are always weighted against quantitative data.

Regarding the consumer surveys and information provided by companies during interviews and by answering to questionnaires, the more reliable is considered to be the results of consumer surveys.

In general, the experience of the CC shows that companies tend to be very subjective, in particular when the object of the market study is directly related to them and the findings of the study can affect them.

The most recent examples of CC market studies were concerned with parallel import of drugs, raw milk and dairy products, municipal waste treatment, and reimbursed pharmaceuticals.

Mexico (COFECE)*

The Federal Economic Competition Commission (COFECE) has the power, at its own initiative or when requested, to conduct market studies. The process is usually structured along the following stages (as outlined in paragraph 5 of the contribution): i) pre-launch; ii) launch of the market study; iii) information collection; iv) analysis and preliminary findings; v) development of recommendations; vi) publishing of market study findings and report; vii) follow-up; and viii) ex-post evaluation.

The most relevant stages for this roundtable are the planning, collection and analysis of information. Before the formal launch of the market study, COFECE defines the scope of the study, drawing on a variety of sources, such as complaints, government recommendations or COFECE's own research. By way of example, in the 2014 market study of the financial sector analysed in parallel the products / services offered by economic agents and the sectoral regulation. This enabled COFECE to understand the cross-cutting issues in the sector and to classify the main financial products / services. In addition to cross-cutting matters, the scope of the market study included also credit, savings, stock-market financing and insurance.

In the information gathering phase, COFECE has the power to issue mandatory information requests. The sources used in this stage of the study include desk research, data generated by several government entities, interviews with sector experts, market data purchased from market research companies and international experience.

COFECE uses a number of analytical techniques, depending on the "issues, available information and theories that characterise each case" (paragraph 16). For instance, in the ongoing study on the drugs market, "econometric techniques were employed to analyze whether laboratories price discriminate between consumers loyal to brand drugs and those who buy in the generics market" (paragraph 18).

Netherlands*

The Netherlands Authority for Consumers and Markets (ACM) uses a flexible definition of market study, broadly referring to a research project in which a market, a sector or an industry is fully or partially analysed.

The contribution lists the various objectives of a market study and provides an example for each, as follows:

- To contribute to setting the priorities for specific investigations in a sector (e.g. competition overboard in the port of Rotterdam).
- To increase awareness of competition law the importance of compliance (e.g. commercial practices of debt collection agencies).
- To identify market failures (e.g. online real estate listings).
- To provide guidance and recommendations to policymakers (e.g. entry barriers in the retail banking market).
- To indicate where there may be a need for regulatory and legislative reform (e.g. the study on EU-wide account number portability).
- To select relevant subjects for the ACM Agenda, which is determined every two years (e.g. a joint study a study concluded that there is more competition and there are more options for consumers in the online hotel-booking sector).
- To consider and weigh trade-offs, for instance an industry-wide agreement on animal welfare possibly increased prices and the ACM conducted a study into the value placed by consumers on animal welfare. The study revealed that consumers placed a value on animal welfare, but were not prepared to pay more for the specific measures in the proposed agreement.

While there is no one-size-fits-all approach to market studies, the contribution outlines the steps usually taken, from the identification of the research question and scope to the drafting and publication of the study.

A number of important elements in a market study are also discussed in the contribution: (i) use of formal powers; (ii) internal or external study; (iii) quantitative and qualitative data.

Finally, the contribution comments on the involvement of stakeholders to achieve the desired results. In the interaction with market participants, whether or not their involvement is important depends on the goal of the study. The ACM reports positive experiences in the interaction with other authorities and with the relevant ministries, and notes that when the results of the study may have policy repercussions it is important to communicate with the relevant ministries in a timely manner.

Norway*

The contribution from Norway notes that the Norwegian Competition Authority (“NCA”) conducts market studies when it has concern about market structure, firm behaviour, information failure, consumer conduct, public sector intervention in markets and other sources of consumer harm. Nordic competition authorities have prepared joint market studies on markets including waste management, electric power, retail banking and the pharmaceutical sector.

The NCA benefits from formal powers to require parties to provide information, and ensures that any such requests are reasonable and well-founded. Additional information can be obtained to fill in any gaps, often through sector regulators, stakeholder meetings and internet research.

Norway’s contribution describes three examples of past market studies conducted by the NCA with respect to road fuels, mortgages and motor vehicle warranties.

In the road fuels study, the NCA examined price cycles (including the timing of price increases in relation to fuel cost increases), the geographic variation of prices, and gross margins (comparing their growth in Norway relative to Sweden, although this involved data comparability challenges), mainly using descriptive statistics. The study identified structural characteristics in the Norwegian market that facilitated coordinated behaviour, and was an opportunity to inform both consumers (to help them make informed buying decisions) and market participants (regarding conduct that could raise concerns).

With respect to the Norwegian mortgage sector, the NCA conducted a study in response to discussions regarding bank profitability in the media and among the industry itself (particularly on the subject of capital requirements). The NCA used its information collection powers to obtain quantitative and qualitative information via a questionnaire sent to eleven banks. The NCA conducted descriptive statistics of bank margins and mortgage rate variance to assess the likelihood of coordination and the impact of capital requirements on competition. The study concluded with recommendations for the government and industry to improve competition in the sector.

In response to complaints from consumers, the NCA also conducted a study of motor vehicle warranties. It analysed warranty contractual conditions based on information received from requests for information as well as voluntary input from industry bodies. The outcome of this study was a report with clear indications of the types of conduct that would be unacceptable, and pamphlet to inform consumers.

The Norwegian contribution concludes by noting that market studies require specialized competencies, for instance to conduct sophisticated econometric analyses or leverage depth knowledge of the problem area in focus. The NCA also noted that market studies are resource intensive: once a decision to conduct a market study is taken, this will require approximately 6000 hours of the NCA's resources on average, and this use of resources should be weighed against the alternatives, e.g. more targeted approaches or enforcement action in other areas.

Peru (Indecopi)

Market studies have become an important tool to enhance a better understanding and knowledge of a specific market or industry as a whole. The common aim of all studies is twofold, identify obstacles that impede strong competition and promote more transparent consumer relationships.

In recent years, Indecopi has developed different types of studies on different sectors, dealing with problems related to competition, bureaucratic barriers or consumer protection. The information and analysis applied in each case are highly dependent on the purpose and objectives of the study. For instance, market studies can be developed to promote changes or remove regulations, or to provide information that helps final consumers make informed consumption decisions.

In our experience, the information that has been gathered from interviews, workshops, primary price data collection, background research, consultancies, and stakeholder information requests have been very useful, for instance, to apply quantitative methods such as the Standard Cost Model, or to calculate convincing and relevant measures of concentration, barriers to entry and practice consistent estimations of causal effects. Certainly, applying quantitative analysis is always desirable to have a better understanding and knowledge of the effects or outcomes that are expected to be achieved with the recommendations to be delivered by the market study. Moreover, quantitative estimations have proven to be very useful to better communicate and persuade the general public, and the authorities, about the relevance and impact of our recommendations.

Romania

Romanian Competition Council (hereinafter referred as RCC), in its proceedings, often faces the need to conduct market studies. These market studies are done in regard to infringement investigations or are a part of other type of analyses, like sector inquiries, ex post studies, relevant market definition, etc. To fulfil this need, RCC has two options to conduct market studies: either in-house or by contracting it from a third party.

The most recent market studies conducted by RCC were a market study at the pharmacy level (in-house study) and a market study on retail market (third party study).

Russian Federation

Market research is carried out by the FAS Russia in all cases of violations of the antimonopoly legislation and in a number of other cases specified by law. Market studies are conducted in accordance with the Procedure for Analysing the State of Competition in Commodity Markets approved by the Order of the FAS Russia No. 220 of April 28, 2010 which regulates a wide range of issues, including the collection of information, its analysis and applied methodology.

A wide range of sources of information are available to the FAS Russia, including among others data of associations of consumers and associations of producers; media reports; data of foreign competition authorities; data of sociological studies and sample surveys. Provision of information upon the FAS Russia's requests to any persons is mandatory, and administrative liability is imposed for failure to fulfil this obligation. It is worth noting that for certain categories of cases the abridged procedure for analysing markets is established.

In the majority of market studies, the FAS Russia applies a variety of methods and different sources of information in order to get a full, objective and comprehensive review of the state of competition in the market and effective decision-making in cases of antitrust violations. Examples of such studies can be:

- The study of the market of international linear container transportations where a complex application of open data, standards, information requests, surveys and scientific research was used;
- The study of the market of carton materials for packaging liquid food products where the FAS Russia's own analysis of product features, surveys, information and documentation were used integrally;
- The market study for new civil gas masks and their modifications where a shortened analysis was conducted with the use of a set of materials, including state standards, acts, procurement requirements and the information received.

Singapore*

The contribution from Singapore indicates that the Competition Commission of Singapore (“CCS”) has the power to issue mandatory information requests and sanction firms or individuals for non-compliance. The CCS initiates market studies either based on external factors (consumer complaints, requests from government agencies) or on its own initiative (based on indicators such as frequency of complaints, high concentration or unexplained price movements).

Market studies are generally conducted by the CCS’ staff, although it may consider outsourcing part or all of a study when there is a need for specific industry expertise and independence. Studies are comprised of three main phases: scoping, information gathering and information analysis/recommendations.

During the scoping phase of a market study, the CCS will identify the relevant issues and competition concerns to be addressed, initially using public or internal information. Selected stakeholders or complainants may also be consulted, and relevant foreign studies reviewed. Products or services and markets of concern will also be determined and, if necessary, prioritised during this phase.

Next, the CCS will proceed to information gathering, which can include information from firms or business associations, end users, industry or academic experts, government agencies (e.g. sector regulators) and foreign competition authorities. Information gathering can include desktop research, purchasing data from external vendors, informal meetings with firms or business associations, mystery shopping, surveys, focus groups, meetings with government agencies or industry experts, calls with foreign competition authorities and formal information requests.

Finally, the CCS will analyse the information collected and formulate recommendations. Both quantitative and qualitative analysis can be conducted. Recommendations can include follow-up investigations for misconduct, measures to mitigate competition concerns not related to misconduct (e.g. market failure due to information gaps), and proposals for regulatory changes.

The contribution from Singapore describes the example of a formula milk market study, which involved stakeholder consultation, desktop research and information gathering using formal powers (cost of goods sold, R&D spending, wholesale/retail prices, sales revenue and volume, profit) to determine the reasons for price increases in the sector. The CCS examined the basis of competition, the basis of consumer purchase decisions, pricing and cost trends, as well as costs associated with each step in the supply chain.

In a petrol market study, the CCS collected price data, met with stakeholders and government entities, and commissioned a consumer survey to understand consumer choices as well as switching behaviour. The study includes an econometric analysis of petrol cost pass-through, which found that there was no difference in pass-through for price increases relative to price decreases (including the time taken to raise or lower prices).

South Africa*

The contribution from South Africa notes that there are two types of studies conducted by the Competition Commission: scoping studies, which provide preliminary evidence of competition problems and cannot be used to compel information from market participants, and market inquiries, which can involve orders to provide information.

The contribution describes three case studies of past market inquiries:

- The liquid petroleum gas inquiry, which involved the collection of data via stakeholder meetings, written information from stakeholders (in response to calls for submissions, information requests and draft recommendations), pricing and volume data, supply contracts, financial information and information regarding the regulatory environment. Analytical techniques included analyses of pricing (benchmarking, analysis of revenue sources, correlation, cross-subsidisation), profitability and sales volumes.
- The private healthcare inquiry, which involved stakeholder consultations, information requests and consumer surveys. The analysis conducted included assessments of market power, profitability analysis and formal market definition.
- The grocery retailing inquiry, which has involved stakeholder consultations, data and information requests, site visits and surveys. The analytical phase is pending.

The contribution then identifies several “lessons learnt” from market study experience:

- Background research and initial consultations are important and useful. For example, they served a particularly important role in its grocery retailing inquiry to identify gaps in available information and inform future information gathering.
- Information gathering methodologies depend on the types and profiles of stakeholders involved. For example, surveys are important where data is not readily available, and site visits may be helpful when stakeholders are not familiar with the Competition Commission’s mandate or do not have the capacity to provide written responses.
- Handling large datasets with sensitive and confidential information should be carefully planned, and procedures to grant access to this information clarified.
- Information gathering is often less adversarial and more focused on voluntary stakeholder cooperation with respect to market inquiries compared to enforcement cases. The power to compel information has nonetheless been helpful when stakeholders must provide information relating to third parties (e.g. consumers) or where there is insufficient cooperation.
- Stakeholder consultations can be important for finalising study conclusions.
- Over-reliance on external experts can lead to challenges, particularly when they do not have competition expertise, and could lead to industry capture.

Spain*

The contribution from Spain notes that the CNMC has developed a methodology for market studies, adopted in June 2016, to provide transparency and guidance to stakeholders. The methodology document sets out: i) how the CNMC identifies and select the markets to study; (ii) The procedures to both gather the information and to treat confidential information; (iii) The relationship with stakeholders; (iv) The overall structure of a market study; and (v) Diffusion and ex-post analysis of the market study.

In terms of information gathering, the CNMC will conduct preliminary research using information it has already obtained (or is easily accessible) to determine whether a market should be further analysed. Sources for this exercise include statistics, studies from other institutions (both in Spain and internationally), information gathered from the CNMC's enforcement activities and academic articles as well as other public information (books, documentaries, podcasts, etc.).

After the launch of the study, the CNMC uses meetings with stakeholders (including trade associations, regulators, firms and other stakeholders), public consultations and formal requests for information to gather information. Stakeholder meetings are always held individually, without exchanges of information between competitors, and their content is not made available to other stakeholders. Meetings can be initiated either by the CNMC or at the request of the stakeholder. Public consultations are used by the CNMC when conventional information gathering may be challenging, including highly innovative markets exhibiting significant change (for which there is little available information). The CNMC will also in some cases release preliminary results to obtain stakeholder feedback. Finally, the CNMC is able to formally request information, with a fine for non-compliance. Parties may request confidential treatment of the information they provide when it contains trade secrets or information that may damage the stakeholder in question.

Spain's contribution then describes a study in the pharmacy sector conducted by the CNMC. This study involved a quantitative analysis of the impact of regulatory reforms using difference-in-difference analysis, based on data acquired through formal information requests.

Chinese Taipei*

Chinese Taipei's contribution notes that the Chinese Taipei Fair Trade Commission ("FTC") conducts market studies using survey data (including sales and production data as well as observations about market structure), field research (including in-depth interviews with stakeholders), data from government statistical agencies or firm financial statements, third-party data and information from past investigations.

The contribution describes studies conducted by the FTC in 2010 and 2016 to identify industries where effective competition may be lacking, and to determine the causes for this poor market performance. Industry census, government statistics and internal data were used to construct three indicators of market competition: concentration, profit margins and barriers to entry. Additional qualitative indicators considered included contribution to GDP and linkage with other industries, importance for consumer spending and strategic importance for economic development, among others. At the completion of these studies, the FTC selected industries that merited further observation, and will continue to coordinate with regulatory agencies to promote market competition.

In a study of convenience store chains in Chinese Taipei, the FTC used questionnaires of stores and information requests to examine the distribution of convenience stores and industry practices. The FTC issued guidance on potentially illegal charges on convenience store suppliers, and relied on the information it collected for enforcement proceedings against two convenience stores after the conclusion of the study.

Turkey*

As a part of its advocacy efforts, the Turkish Competition Authority (TCA) conducts market studies/sectoral inquiries and has legal powers to request information and to rely on external consultants during market studies. Since its inception, TCA has conducted a total of 12 market studies in the “Television Broadcasting - 2017”, “Cement - 2016”, “Cinema Services - 2016”, “Electricity (Wholesale and Retail) Sector - 2015”, “Motor Vehicles - 2014”, “Pharmaceutical - 2013”, “Natural Gas - 2012”, “Fast Moving Consumer Goods - 2012”, “Meat - 2011”, “Driving Schools - 2010”, “Bank Cards - 2009”, and “Road Fuel - 2008” markets .

The contribution describes its reports on the broadcasting sector and the cinema sector, its inquiries into the wholesale and retail electricity sector and the motor vehicle sector.

The cement sector inquiry is described at length in the contribution. The reasons that led to opening this inquiry include the following: cement is a major input in infrastructure and the sector is important for the Turkish economy; there have been many investigations in this sector since the TCA’s inception in 1997; the oligopolistic nature of the sector.

The TCA analysed a dataset of transactions covering 20 cement producers for more than five years. Cost data was also assembled, in co-operation with the industry. The analysis included the following components:

- Econometric analysis of price, as a function of lagged prices and costs. The finding was that price changes depended mostly on changes in previous periods’ prices and not cost changes.
- Econometric analysis of the relationship between the price of cement in a given city, over time, as a function of lagged prices and lagged demand (proxied by construction permits). The authority did not find any short-term effects of demand on price in most cities, nor did they find a long-term impact.
- Simulation to calculate prices under the alternative assumptions of collusion and of Bertrand competition. Actual prices were then compared to the simulated prices. The authority found that collusive behaviour could approximate observed prices better than competitive behaviour.
- Efficiency of cement producers. The finding was that on average producers were operating at 70% efficiency and therefore had scope to improve their efficiency.

Ukraine*

The contribution from Ukraine indicates that the Antimonopoly Committee of Ukraine (AMCU) uses a wide range of information sources for conducting market studies, including statistical data, information provided by other government entities, surveys, consumer interviews, firm production data (including data regarding firm plans), consultations with experts, information previously collected by the AMCU and additional information. There is no standard set of information that the AMCU collects with respect to all market studies, and there is significant variation based on the type of market being reviewed.

Market studies conducted by the AMCU follow two phases. The first phase involves the collection of information already available and background research using publicly available sources. If there are indications of potential competition problems, the AMCU proceeds to a second phase. The second stage begins with a preparatory process (including project planning, preparing information requests, identifying questions which the study should answer), followed by information gathering, analysis and report preparation.

For the purposes of market studies, the AMCU has powers to require firms, government entities and other parties to provide information.

Analytical methodologies employed by the AMCU in the context of market studies include correlation analysis, factorial analysis (identifying key variables with respect to certain outcome variables), cluster analysis (for market segmentation), discriminant analysis (to determine key distinguishing features of two or more object categories), population analysis and comparative analysis.

The contribution describes the AMCU's study of the electricity and thermal coal markets. This study involved mapping market participants, examining market power, analysing the degree of competition between electricity generators and reviewing the price-setting process, among other assessments.

United Kingdom*

The contribution from the United Kingdom notes that the Competition and Markets Authority (“CMA”) conducts both market studies and market investigations – the latter are initiated at the conclusion of the former (if there is sufficient basis to do so), and are more detailed examinations involving a broader range of remedies.

With respect to market studies, the contribution notes that a wide range of information can be consulted to develop preliminary theories of harm and to select markets for further in-depth study. This includes complaints (from consumers, business associations, consumer bodies), information from other areas of CMA work, market research, media and social media monitoring and stakeholder engagement (including with government departments). The CMA obtains additional information through information requests, surveys, mystery shopping exercises, stakeholder meetings or roundtables, site visits, information from government entities, literature reviews and international comparisons.

Market investigations supplement the information collected during a market study with additional surveys or site visits, stakeholder responses to draft Issues Statements, formal private hearings and informal meetings.

The contribution describes several recent market studies and market investigations conducted by the CMA with respect to legal services, digital comparison tools, care homes, energy and retail banking.

In its legal services market study, the CMA selected a small number of case study areas to allow for a detailed examination of three potential theories of harm (with respect to the availability of consumer information, the existence of information failures and whether the regulatory framework is unnecessarily broad). The CMA commissioned quantitative and qualitative surveys regarding consumer experiences in the market, and in-depth qualitative research on small business consumers. A decision was taken not to undertake wide-scale information requests from the highly fragmented legal services providers’ base, but instead to seek focussed information through trade bodies and existing structures. Three roundtables and workshops were also held involving key legal services providers, which helped to test ideas for remedies and appetite for reform.

The CMA’s energy market investigation involved a similarly wide range of information collection activities. The analysis conducted included a quantitative assessment of the potential for electricity generators to exploit market power; modelling the impacts of introducing locational pricing for transition losses; an analysis of the extent to which changes in prices reflected changes in wholesale, network and policy costs; a quantitative assessment of the gains available to customers from switching supplier, tariff and / or payment method; an analysis of the profitability of generation and retail supply, including assessments of the cost of capital; and an analysis of efficient benchmark tariffs, used to construct the prepayment price cap.

United States*

The U.S. Federal Trade Commission (“FTC”) and the Department of Justice Antitrust Division (“Department”) (collectively, the “Antitrust Agencies”) conduct market studies to support their activities in promoting competition.

As explained in the contribution, most market studies begin with a literature review covering academic, industry and other publications. The design of the study takes account of factors such as the issues to address and the timeline. The Agencies often organise workshops to gather information from experts and stakeholders. In addition, interested parties submit their written comments. The workshops and the written contributions usually form the basis of a report summarising the findings. For instance, this was the case of the FTC’s November 2016 report on the “Sharing Economy” and the Department’s May 2012 report on competition and agriculture. In some cases, these reports include also other evidence, such as the findings of empirical research by the Agencies. In other market studies, workshops helped identify issues where the Agencies will conduct further research.

The US contribution notes that many of the FTC’s market studies include original empirical research and this often involves compulsory data information requests. The FTC has the power to issue such requests. It ensures that stakeholders are consulted, whether as part of the procedure envisaged by law for requests to more than ten recipients or voluntarily. In addition to stakeholders’ feedback, other research is often necessary. The contribution mentions the example of the FTC’s study of pharmacy benefits managers, where the FTC used a two-stage process: first, it collected “high-level business documents and aggregate data from a group of firms”; second, it requested “transactions-level data from a smaller group of firms” (paragraph 13). The FTC sometimes asks recipients to organise their responses into a document containing the narrative part and a spreadsheet providing quantitative information, based on a uniform format across respondents. The contribution notes that a uniform format facilitates comparisons, but there may be situations in which record-keeping practices differ significantly from this format. If possible, these practices should be investigated before issuing an information request. Qualitative and quantitative information are complementary. Qualitative questions can help uncover issues that the FTC may not have anticipated when sending out the information request, as was the case in the study on Patent Assertion Entities (PAEs).

In the analysis phase, the Agencies use a variety of tools. The contribution notes that they “frequently employ a case study approach, focusing on understanding the business practices of the specific firms under study” (paragraph 22). In some cases, the Agencies investigate the impact of regulation on the market. In addition to gathering stakeholders’ views, this analysis may include empirical analysis comparing market subject to regulation to control markets (e.g. FTC’s 2003 report on barriers to Internet commerce in wine; FTC’s 2005 report on barriers to Internet commerce in contact lenses).

The contribution describes in detail some recent market studies, namely those on Patent Assertion Entities (PAEs), the annual report to Congress on concentration in the ethanol market, the workshops on healthcare competition and the study on authorised generic drugs.

The 2016 FTC study on PAEs started with a workshop organised by the Agencies. Following the workshop, which suggested very limited information was publicly available, the FTC launched a formal study. In order to understand the behaviour of different types of entities, it identified a group of different sizes of PAEs which were representative of the wider population. This investigation allowed defining the main business models followed by PAEs, based on the volume of patent licences that they granted and their licensing revenues. Relying on mandatory information requests, the FTC also compared the behaviour of PAEs with the behaviour of manufacturers and of non-practising entities. Finally, the FTC studied PAEs' patent holdings, by sector, age and citation frequency.

In the 2011 study on authorised generic drugs (i.e. a generic drug marketed under the same regulatory approval used by the branded drug and by the same company, AGs), the FTC investigated the report focused on two effects: (i) whether AGs offer consumers a short-term benefit by lowering prices; and (ii) whether AGs deter future generic patent challenges, having the long-term harm of reducing the availability of lower-priced generic products. In order to provide estimates of the impacts, The FTC identified all AGs sold during the period under study, based on Food and Drugs Administration (FD) data and additional information obtained through information requests. The FTC purchased sales and quantity data for these drugs, and performed empirical analysis to estimate short-term and long-term effects.