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

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Methodologies for Conducting Market Studies - Note by Israel

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More documents related to this discussion can be found at www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm.

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1. In 2012, a specialized division was established within the Israel Antitrust Authority (IAA) for the purpose of conducting market studies.
2. When conducting a market study, the IAA can demand information held by private entities and impose sanctions on them in case of non-compliance. These legal powers are identical to the powers granted to the IAA when collecting information for other administrative enforcement purposes, though the IAA is somewhat more cautious when demanding information for performing market studies compared to when doing so for the purpose of enforcement actions. The IAA can also use data gathered through other administrative enforcement actions as a source of information for market studies. However, information held by other governmental bodies can be acquired only through voluntary cooperation.
3. Market studies provide the IAA with considerable benefits. First and foremost, they provide methodological tools for - and in-depth knowledge of - particular sectors, thus contributing to the capabilities of the IAA in assessing mergers and performing enforcement actions (e.g., the study mentioned below aimed at understanding spatial competition between gasoline stations facilitated merger decisions in this sector). Importantly, market studies also allow the IAA to study a sector not through a specific merger or enforcement action for the purpose of identifying market failures and formulating policies to increase competition (for example, an ongoing study to identify barriers to imports is used for designing policies to overcome these barriers). In addition, they facilitate greater co-operation with ministries and other governmental agencies and help improve staff's methodological proficiency that could be used across markets (e.g., a study conducted to identify geographic concentration in the quarry sector was used to consult land planning agencies regarding competition considerations in new quarry procurements).
4. There may be a number of reasons for the IAA to choose to initiate a certain market study. Some market studies arise following enforcement work, i.e., when an economic investigation carried out for a specific enforcement purpose raises a suspicion of a broader market failure. In other cases, market studies are initiated following a need to provide a methodological or empirical basis for economic investigations conducted for enforcement reasons. Some studies are aimed at analyzing the impact of past IAA decisions ("impact studies") (e.g., the infant formula study described below). Apart from market studies conducted as a result of the IAA's own initiative, some studies may stem from an external informal referral by other governmental entities (for example, studies regarding the optimal allocation of import quotas). In other cases, market studies are outcomes of a co-operation between the IAA and other governmental entities, typically in the framework of an inter-ministerial committee, where both the IAA and other governmental entities participate (for example, studies to assess competition between payment cards).
5. 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.

6. Market studies may lead to various outcomes, depending on the goal of the study, and depending on its findings. Market studies initiated for internal needs, such as providing a methodological or empirical basis for economic investigations, may reveal serious market failures, and lead to administrative enforcement actions, such as structural or behavioral remedies. Impact studies could lead to tweaking of past decisions and rethinking enforcement assumptions. Another common outcome of a market study is advocacy towards governmental entities, by means of recommendations to reform relevant regulations or legislation or making specific recommendations for how these entities should exercise particular instruments under their authority in order to improve competition in the market concerned. Finally, in some cases the outcome is simply the publication of a report to the public reviewing the findings from the study and its conclusions. Such a report can be published by the IAA or it can be integrated into a report by an inter-ministerial committee when it is applicable.

7. 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.

8. Examples of ongoing market studies:

- *Infant formula*: The Israeli infant formula industry was under review by the IAA in 2013. The review found that the industry is highly concentrated as two firms account for over 90% of the sales. The review also indicated that one of the major barriers to entry and expansion in the industry is the common practice of exclusivity agreements between the two major suppliers and most of the hospitals. These agreements prevented the mother from choosing her a-priori preferred formula in those hospitals, and due to the perceived lack of consumer willingness to switch brands these agreements were assumed to influence the eventual market share distribution in the retail sector. Consequently, in order to abolish all exclusivity agreements in the industry, the IAA achieved on February 2014 a consent decree with all hospitals and formula suppliers that allowed hospitals to continue and receive payments from formula suppliers only if they allow free access to all suppliers. These days, the IAA is conducting an impact analysis examining whether the consent decree was indeed implemented and what were its effects on prices and market shares distribution in both the hospitals and the retail sector.
- *Brokerage services for retail customers*: The market for securities brokerage services for retail customers in Israel is mainly controlled by the major retail banks: The five largest retail banks in Israel account for over 90% of this market (when measured by number of accounts), with the rest of the market divided between small banks and non-banks offering brokerage services. This is true despite evidence suggesting that non-bank brokers charge substantially lower fees than the large banks. The Israeli Antitrust Authority has launched an investigation into this market, following concerns that substantial expansion barriers prevent non-bank brokers from effectively competing with the banks. The Investigation will include an in-depth study of prices in this market, the services offered by the different competitors and the regulatory framework under which they operate in

an attempt to conclude whether or not switching or other barriers hinder the development of effective competition in this market.

- *Gasoline stations:* In 2015, fuel for vehicles constituted 4% of an average Israeli households' monthly spending. The maximum gasoline price for the final consumer at the gas station is regulated. Nevertheless, due to the great importance of the gas station sector, there have been many attempts at increasing its competitiveness since the late 1980s. In order to promote the internal government debate on the competitive aspects in the gas station sector and to formulate recommendations regarding possible ways to improve competition, the IAA conducted a market study on the subject. The study was focused on developing a methodology designed to assess the degree of local concentration, and examine the relationship between prices of gasoline (i.e. discounts off the maximum price) and the competitive environment around a given gas station.
- *Aggregate quarrying sector:* In August 2016 the IAA published a draft report for public hearing regarding a methodology for defining geographical concentration in the aggregate quarrying sector. The draft presents a methodology developed to evaluate the geographical concentration within this market from the perspective of the concrete plants. The draft offers several recommendations. The main recommendations stress the need to increase aggregate supply and to consider the implications of allocating a quarry in a tender (and more specifically the royalties offered by the participants) on the competition in that area. In addition, the draft suggests that in areas where concrete plants face high concentration levels, splitting cross ownerships of quarries should be considered. Since the publication of the draft the IAA has been in touch with relevant bodies in the government in order to promote the implementation of the recommendations. The IAA also conducted public hearings, where various stakeholders presented their comments.
- *Payment cards:* In 2014 The IAA published a study on the payment cards sector in Israel. After it identified that this sector exhibited significant differences relative to similar markets in other countries, namely the absence of debit transactions and the predominance of deferred debit transactions, the IAA launched an investigation to understand those differences. The investigation concluded that certain market features prevented the end users, card holders and retailers, from internalizing the true costs and benefits of the different transaction, and thus pushed them into using deferred debit rather than debit. The key features identified were a high interchange fee for debit transactions, the late transfer of funds from the issuer to the acquirer and retailer in debit transactions and the difficulty of inducing demand for a new product in a two-sided market. Since then, the IAA has been working with other regulators to remove these barriers, and was successful in setting a new, much lower interchange fee for debit transactions as well as putting in place regulation that forced the immediate transfer of funds from the issuer to the acquirer and retailer in debit transactions.