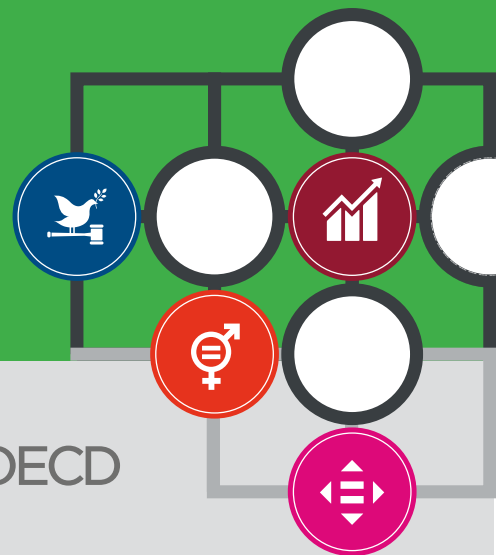


Fourth ARAB COMPETITION FORUM (ACF)

23-24 May 2023
Riyadh, Kingdom of Saudi Arabia



Shared Prosperity Dignified Life



الهيئة العامة للمنافسة
General Authority for Competition



E/ESCWA/ACF/2023/INF.2

Background note

A guide to market studies: insights and approaches

The present background note was produced by the United Nations Economic and Social Commission for Western Asia (ESCWA) for a session on the theme “Best practices in planning and conducting market studies” at the Fourth Arab Competition Forum 2023. The note gives an overview of best practices in planning and conducting market studies.



I. Background

A. Definition

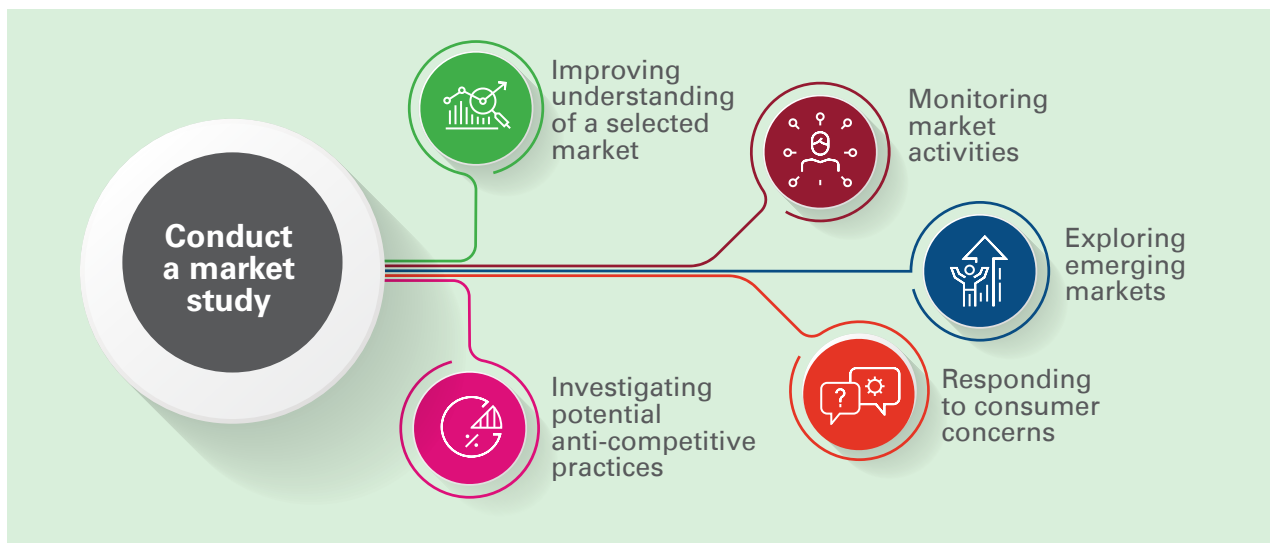
Competition authorities are always in search of effective tools to make markets more competitive and consumer-friendly. Powers to conduct market studies are usually an integral part of a jurisdiction’s competition law. However, some authorities may not have the power to conduct market studies. Competition concerns may result from several factors, raising the need for a forward-looking tool that allows competition authorities to examine broader competition issues. Market studies are a versatile tool that can be utilized in different markets and sectors either to enhance authorities’ understanding, or to identify possible concerns in the market or sector under examination. Such studies can also improve the outcomes of authorities’ decisions.

B. Purpose/objective

The importance of conducting market studies stems from their ability to guide competition authorities in understanding how a market works and how competition functions within it. Market studies should be distinguished from enforcement action against individual undertakings. Market studies give authorities insights into firms’ behaviour, market structure, information failures, consumer conduct, the impact of public sector interventions, and other factors that may negatively impact competition.

A well-executed market study that has identified failures in a market and provides actionable recommendations can result in various positive outcomes and improve the actions of authorities, thus enhancing their reputation and improving competition in markets. Competition authorities may conduct market studies for several reasons, notably competition advocacy, a better understanding of specific sectors, and as support for enforcement actions by providing evidence for investigation.

Figure 1. Purposes of conducting market studies



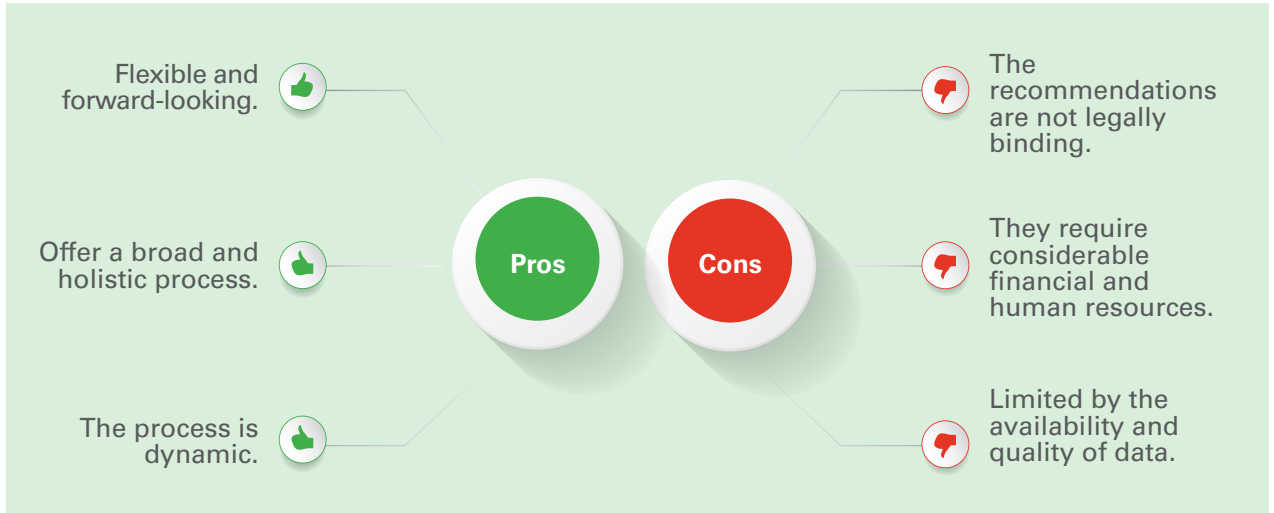
Source: Compiled by ESCWA based on ASEAN, Trainers' Guide to Market Studies, 2020; and OECD, Market Studies Guide for Competition Authorities, 2018.

C. Market studies: pros and cons

There are numerous merits to conducting market studies. Instead of analysing the conduct of individual firms in each market, a market study is a holistic process that covers a broad set of issues, allowing competition authorities to determine and analyse whether there is a problem in the whole sector. Moreover, since market studies are flexible and forward-looking, they can help reduce uncertainty about how a competition authority will apply competition principles for new and fast-changing markets. This is of particular importance since enforcement mechanisms are not suitable in this case, as they focus on potential harm caused by historical or ongoing anti-competitive practices. Market studies can also shape at an early stage the development of business practices in new markets in a way that is compatible with competition principles.

Nonetheless, market studies have their downsides. Despite their dynamic process, the outcome can be a set of recommended changes addressed to regulators, which is a static process that takes time to be implemented and may therefore become obsolete, particularly since recommendations are not legally binding in most jurisdictions. Another important aspect is that for market studies to be effective, they have to be performed according to the process described above, which requires considerable financial and human resources. Consequently, market studies can be costly and time-consuming.

Figure 2. Key pros and cons of conducting market studies



Source: Compiled by ESCWA.



Market study phases

While market studies vary according to their purpose or the sector being examined, other factors related to resources employed form a blend that makes each market study unique. Despite this, competition authorities should put in place a standard process to identify, conduct and implement market studies. Regardless of the different number of steps that can be applied in conducting a market study, a set of pillars exists that should be included in any market study process/approach. Integrating those pillars ensures that the whole process is conducted efficiently and effectively, thus minimizing burdens on stakeholders.

Figure 3. Market study process



Source: Compiled by ESCWA.

A. Pre-analysis phase

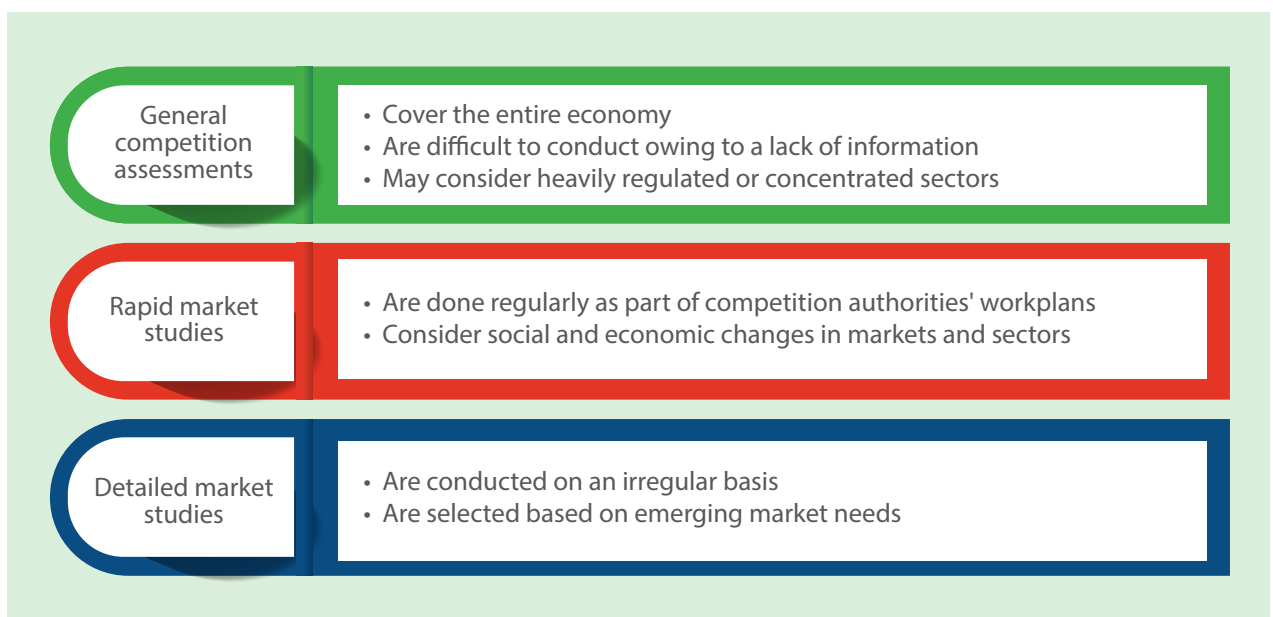
1. Selection and scoping

Identifying markets is a strategic step that a competition authority must focus on when conducting a market study. A well-grounded selection of markets ensures that efforts are invested where they are most needed, such as in dynamic markets or ones that raise concerns. Market studies contribute to determining if there are failures in a market that may require further investigation. However, competition authorities do not always have the autonomy to select markets to study; in certain cases, they are mandated or requested by an official entity to perform a market study in a pre-selected market.

When considering topics for market studies, competition authorities are advised to perform internal consultations within the authority, as well as consultations with stakeholders. Internal teams can suggest potential topics based on their experience, which is acquired through enforcement, research and market monitoring. This leads to the selection of markets based on consumer feedback, firm behaviour, regulatory changes, technological and structural changes, among other issues. Furthermore, seeking input from external stakeholders provides additional insights on pressing economic and social topics. Examples of such stakeholders include regulatory and government authorities, small and medium enterprises (SMEs), consumer associations, and academia, among others.

After selecting a market or sector to study, the following strategic factors may be considered to facilitate the selection of a single topic for analysis: sectors of interest to the Government, sectors where considerable changes are occurring, or sectors with increasing antitrust cases.

Figure 4. Types of market studies



Market studies are most effective when they consider certain factors related to a market, such as barriers to entry, market structure, regulatory status, and information availability.

Once a market or sector has been identified, competition authorities will dedicate a selected team to conduct the study. There are two ways of doing so: either an authority has a permanent team responsible for conducting market studies, or a team is formed based on the experience of staff members in the sector under consideration. Ideally, market study teams consist of economists, lawyers, and financial and data analysts. In addition, an approximate timeframe for the completion of the study will be set.

An important aspect is ensuring flexibility. Based on preliminary findings, minor revisions of the selected topics may be necessary. For instance, if the results negate a market study hypothesis, the market study team may consider modifying it. On the other hand, the market study can consider examining a wider scope if preliminary results appear promising. The competition authority must also ensure the quality of a market study in terms of presenting accurate and credible information, and meeting relevant standards.

2. Launching and publicizing

Publicly announcing a market study is an essential step in the market study process. This occurs by communicating essential information about the study to the public, including the topic of the market study, the motivation for conducting it, approximate completion time, and potential findings. Announcing the study will enhance the credibility of the competition authority and reflect its transparency.

3. Data collection

When collecting and analysing data for market studies, competition authorities have the option to select from a variety of methods. While there is no one-size-fits-all approach to selecting appropriate methods, there are certain common methodologies. The choice of method depends greatly on the purpose of a market study, data availability, the legal functions of competition authorities, and the capacities and resources available to competition authorities and market study teams. It is advisable to use more than one method, so as to enrich the market study and ensure accurate results.

Collecting information

- **Background information:** Background information should be sought first from the competition authority itself. For example, previous cases related to the market in question and past complaints are key entry points that a competition authority can utilize. Research on legal and regulatory information relevant to the market can also be carried out. Moreover, performing a desk review to compile previous research on the market is a good practice. Previous research may include academic articles and previous market studies conducted by other competition authorities. This approach is the least resource-intensive method for collecting information.

- **Stakeholder interviews:** Conducting interviews with stakeholders is an effective way to collect insightful information about a market, and provides a better perspective of the tested hypothesis. While some stakeholder interviews are done individually, others incorporate several stakeholders, with some sessions grouping stakeholders according to their level of involvement in a certain sector or market, in the form of focus group discussions.
- **Information requests:** Competition authorities can demand specific information from key market players and stakeholders in a market by sending information requests. It is advisable to use a unified template and send it to relevant stakeholders. Such information requests can be voluntary or mandatory.
- **Surveys:** When a competition authority has a large number of diverse stakeholders or consumers to collect information from, it can launch a survey, which allows for the collection of robust information. However, surveys must adhere to the guidelines of sampling and avoiding consequent biases.

B. Analysis phase

Like the previous step, resorting to more than one method is a good practice when analysing collected information. Analysis methods are divided into two types that complement each other: quantitative and qualitative.

Analysing information

- **Identifying the market structure and key characteristics:** This includes studying the market structure and determining key supplier, consumer, and product/service characteristics. This allows for a better understanding of the market. It is beneficial to compare the gathered information with that of other jurisdictions.
- **Price analysis:** This type of analysis is used regularly by market study teams. It includes comparing prices of the same product by several firms and in different countries, and comparing the prices of competing products. Market study teams also examine pricing strategies and trends.
- **Profitability analysis:** Such an analysis provides fundamental information for the identification of potential market failures. It explores trends in profitability in a sector and looks into the reasons behind high profits.
- **Price concentration analysis:** Using price concentration analysis, market study teams investigate whether concentration and prices in a certain sector move in the same direction.
- **Supply-focused analysis:** Market study teams can analyse firm behaviour in a market to identify factors hindering competition, given that firms may apply a handful of anti-competitive practices. For example, they may abuse their market power to deter the entry of new firms.
- **Demand-focused analysis:** Analysing consumer behaviour allows market study teams to

mark malfunctions arising from such behaviour, with a focus on the underlying reasons that direct the consumers' behaviour and its implications.

- **Regulatory assessments:** Given that regulations play a major role in shaping markets and firm behaviour, it is essential to carefully examine the impact of current regulation on a market, highlight any problems, and propose potential adjustments to support competition.

Box 1. Methodology used by the General Authority for Competition of Saudi Arabia to conduct a market study

In 2021, the General Authority for Competition of Saudi Arabia published a study on fees and conditions for product display in the retail sector and the impact thereof on competition in the Saudi market. In the first section of the study, the market study team clearly presents the methodology adopted to conduct the analysis. This consisted of conducting interviews with major market players and suppliers in the sector. The market study team employed the following three stages when conducting the study:



Analysis of the retail sector in the country

During this stage, the market study team carefully examined the prices of products in the country's market and the factors affecting those prices. To that end, the team conducted online questionnaires, secondary research, individual interviews with key market participants, and workshops.



Benchmarking

The market study team applied the method of comparing practices, laws and legislation in the retail sector among different jurisdictions, so as to better understand interactions between suppliers and retailers. Specific criteria for the selection of the benchmarking countries were developed, including identifying competition authorities with similar roles and duties to the General Authority for Competition. The selected countries were Brazil, Türkiye, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.



Results and recommendations

On the basis of information gathered at the workshops and by examining international case studies in the same sector, the market study team performed a diagnosis of the current status of the retail sector. Based on this, specific recommendations were provided to achieve fair competition, while protecting the welfare of suppliers.

C. Post-analysis phase

After assessing competitiveness within a sector or market and uncovering underlying obstacles, market studies proceed to another stage which entails the effective documentation of results and findings. The presentation of these results by the competition authority may include a general overview of the market, identification of any areas of concern, supportive data and analysis, and an emphasis on the advantages of competition, innovation and economic development for consumers. The report concludes with a set of recommendations that address those issues.

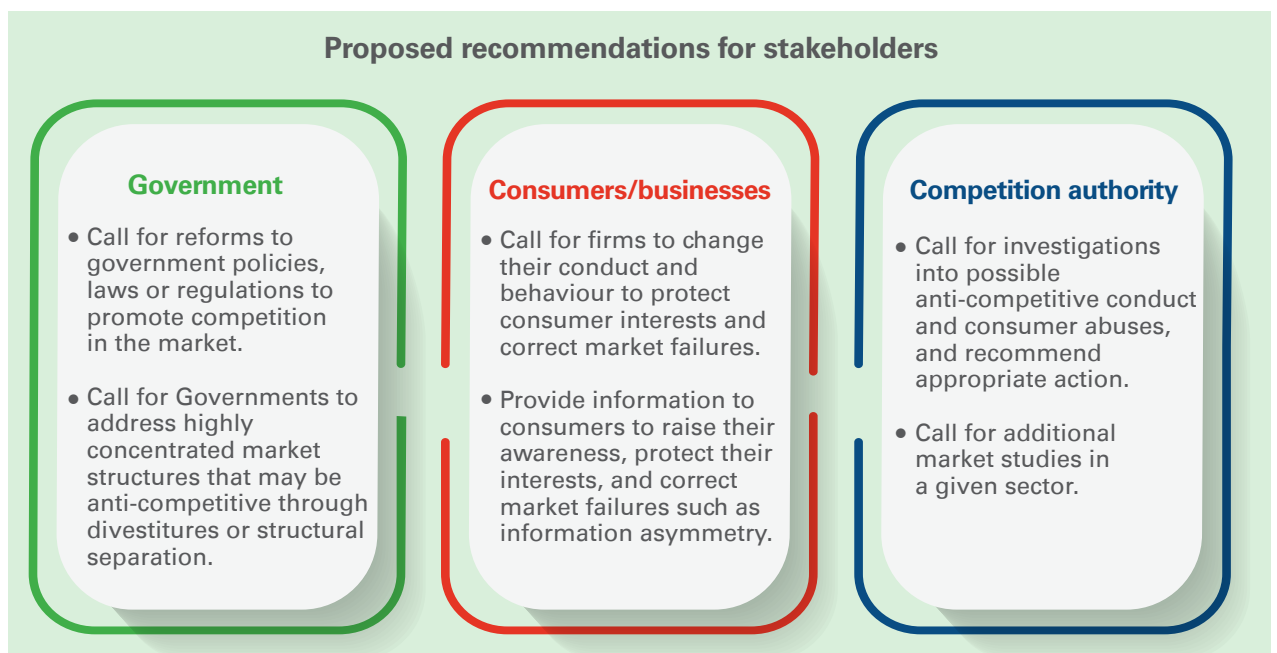
1. Reporting findings

Recommendations of a market study may be broad and are usually directed to the Government to reform or implement policies, to businesses or consumers to change practices and behaviour, or to the competition authority to take investigative or executive actions.

The recommendations in figure 5 are based on various types of detected competition problems, which can be broadly categorized as follows:

- **Market structure:** Market structure refers to the way a market is organized, including the number of companies, their size, the products they offer, and differences between them. In market studies, analysis of market structure can reveal various findings, including the dominance of a few firms, barriers to entry, a high or low market, and changes in a market over time. Based on such outcomes, the competition authority can make recommendations to improve market competition and address any anti-competitive practices.

Figure 5. Recommendations for different stakeholders



Source: Compiled by ESCWA based on ASEAN, Trainers' Guide to Market Studies, 2020.

These recommendations can include measures to reduce barriers to entry, address dominant firm behaviour, increase market transparency, and encourage healthy competition.

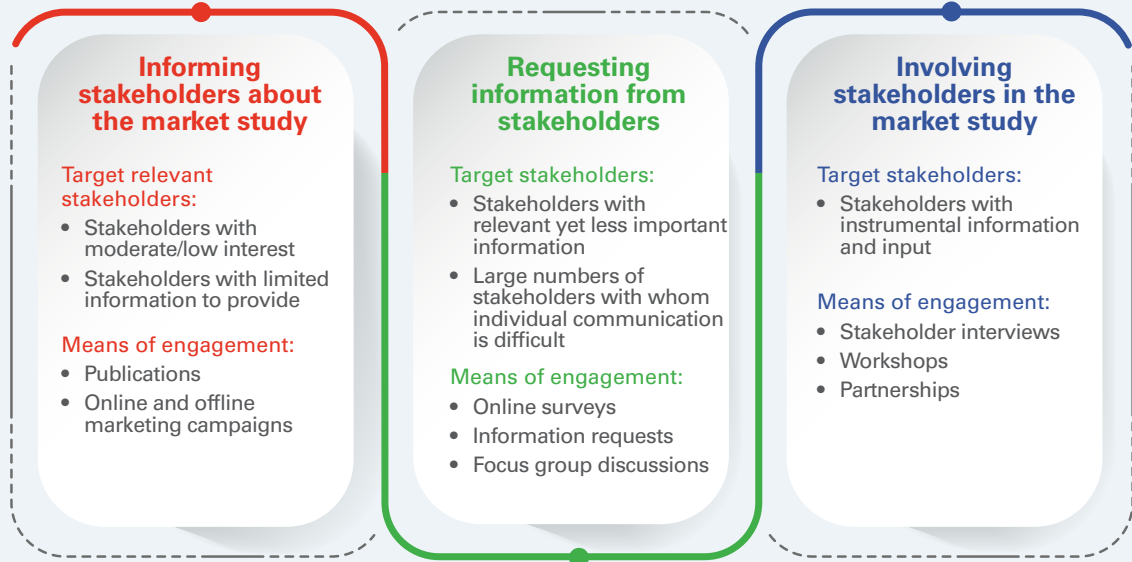
- **Enforcement:** A market study can uncover various competition problems related to enforcement, including anti-competitive practices, market dominance, barriers to entry, mergers and acquisitions, and consumer harm. These issues can require enforcement action to improve market competition and protect consumers. Enforcement recommendations in a market study can include changes to regulations, fines and penalties for anti-competitive practices, increased market oversight, stricter reviews and controls of mergers, and consumer protection measures, which can all promote fair competition and consumer welfare.
- **Consumer protection:** Competition issues related to consumer protection involve monopolistic practices, price fixing, deceptive marketing, unfair pricing, product safety concerns, and privacy issues. Recommendations for consumer protection following a market study may include strengthening protection laws, addressing deceptive marketing, improving product safety, protecting consumer data privacy, providing clear product information, and monitoring for price discrimination.
- **Legislative regulatory matters:** Numerous legislative and regulatory issues may be detected by market studies, notably violations of competition laws, a lack of transparency and fair market access, market concentration and abuse of dominant position, anti-competitive behaviour by dominant firms, consumer exploitation and protection concerns, and inadequacies in existing competition laws and regulations. Recommendations for legislative and regulatory issues involve amending competition laws, easing regulations for SMEs, improving market transparency and fair access, addressing market dominance, prohibiting anti-competitive behaviour, enforcing competition laws, and promoting fair competition.

Based on the recommendations from the market study team, competition agencies must determine their desired outcomes. Each outcome represents an option that should undergo a cost-benefit analysis or impact assessment to support moving forward with the recommendation. Such analysis will serve a dual purpose as it will also address objections from those who benefit from the current situation.

Box 2. Stakeholder engagement throughout the market study process

Stakeholder involvement throughout the various phases of a market study is essential, as it provides varied perspectives and contributes to building ownership and endorsement of the market study. Therefore, market study teams are advised to engage stakeholders in the pre-analysis, analysis and post-analysis phases.

Level and means of stakeholder engagement



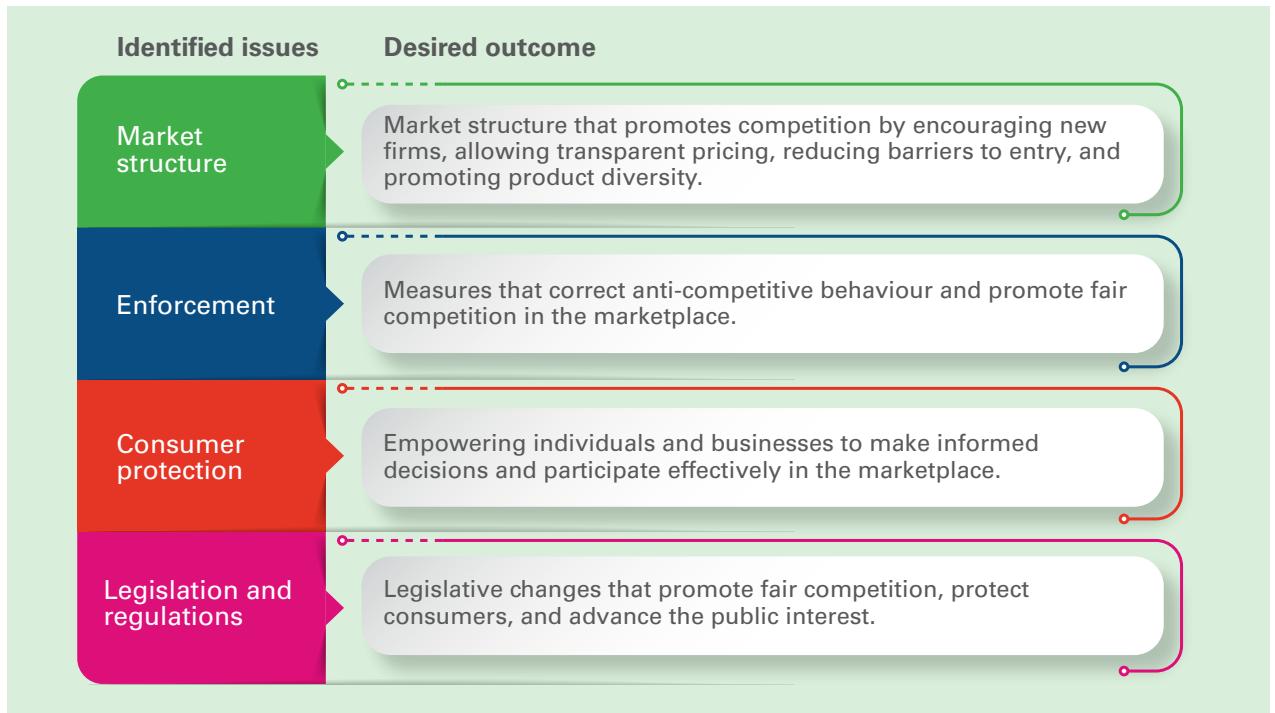
Source: International Competition Network, Market Studies Good Practice Handbook, 2016.

The presentation of market studies should be transparent, unbiased and supported by evidence to ensure that the recommendations are credible and can be implemented effectively. To that end, before the report is officially published, the findings and recommendations should be reviewed and discussed with relevant stakeholders to ensure their accuracy and assess their potential impact. Proactively engaging stakeholders throughout the process is key to successful implementation. The following are related best practices:

- Involving stakeholders in the market study process by sharing draft reports and seeking their feedback.
- Allowing enough time for stakeholders to review and provide input on the study's findings and recommendations.
- Keeping stakeholders informed of how their feedback is being incorporated into the study.
- Testing/validating proposed measures through a mix of public consultation, focus groups, expert panels, and individual meetings.

Such practices enhance the validity of the study's results and proposals. By obtaining feedback from relevant parties on the proposed measures, including their effectiveness, practicality and any unintended effects, the study team can further refine its recommendations and produce a more robust and actionable report.

Source: Compiled by ESCWA.

Figure 6. Desired outcomes in relation to identified issues

Source: Compiled by ESCWA based on the International Competition Network, Market Studies Good Practice Handbook, 2016.

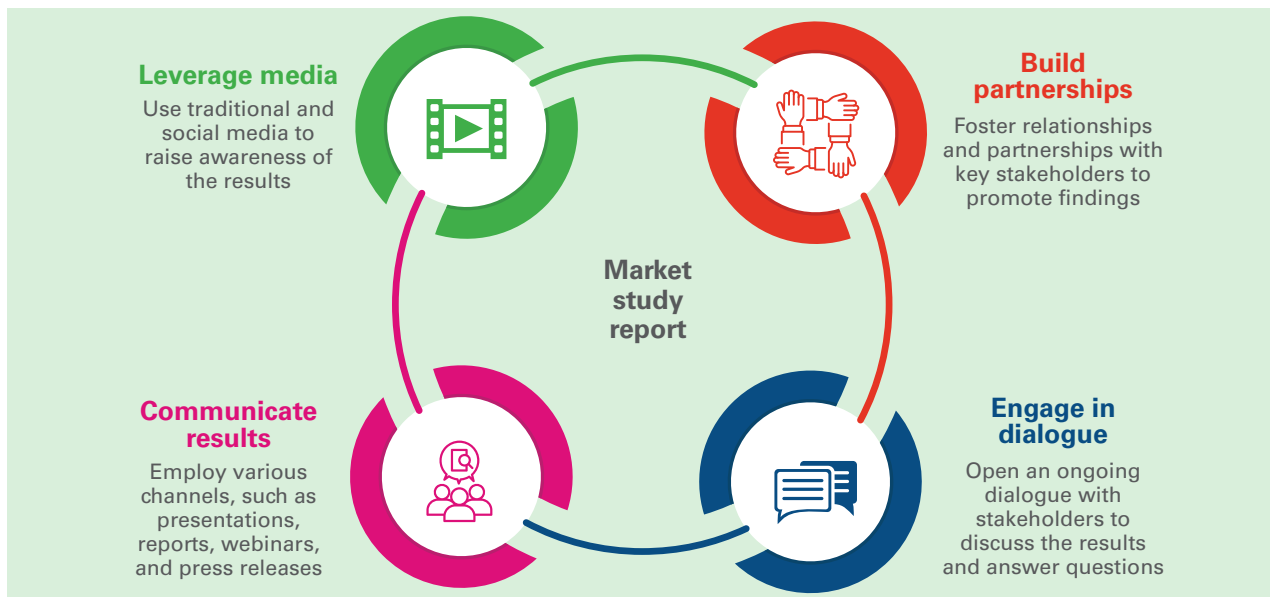
2. Outreach

Communicating the results of market studies can be an effective advocacy initiative to demonstrate the efficiency and value of a competition authority, particularly in jurisdictions where an authority is new or has less than optimal support from the Government and stakeholders.

After the desired outcomes of a market study are revealed and the final report is launched, various scenarios may unfold. In some cases, the results are immediately accepted by the Government but, in other cases, it takes time to persuade stakeholders of the value of the recommendations. In such situations, the outreach process should not be neglected since market studies can be successful in contributing to debates, improving understanding of a market, or providing authorities with an enhanced understanding of a sector.

Therefore, the competition authority should not rely solely on the report and should seek additional methods for disseminating its findings to a wider audience. This might include creating press releases, briefings, policy papers, and other materials that can be shared with stakeholders and the general public. The results of a market study can also be presented at conferences, workshops and seminars, and shared on relevant websites, social media pages, podcasts and other platforms.

By implementing these steps, outreach after a market study can help increase understanding of the results, build support for recommendations, and ultimately drive positive change in the market. It is also important for authorities to keep advocating for change and allocate resources to engage in necessary follow-up.

Figure 7. Steps for effective outreach

Source: Compiled by ESCWA based on International Competition Network, Market Studies Good Practice Handbook, 2016.

Figure 8. Advocacy approach

Source: Compiled by ESCWA.

3. Evaluation

The final step in the market study process is to assess the results and impacts of the market study. When resources are available, evaluating market studies is a useful way for authorities to prove their accountability, and show that they have achieved their goals efficiently. The evaluation can showcase the worth of a market study and the overall market research process. It also enables authorities to make informed decisions about future market study subjects and ways to enhance their market research methods.

The ex-post evaluation process usually employs the following steps: collecting data on the outcomes and impacts of the study, including changes in market structure, firm behaviour, and the effects on consumers; analysing the data to determine the success of the study in meeting its objectives and improving the market; and assessing the outcome, including the degree to which the study's recommendations have been implemented and the impact they have had on the market. Based on the results of the ex-post evaluation, the final step for the competition authority is to provide feedback and recommendations for future market studies, including potential improvements to the study design or implementation process.

It is also worth mentioning that the impact of market studies can be evaluated before the results have been obtained (ex-ante). The choice between ex-post and ex-ante evaluation will determine what aspects will be evaluated. A comprehensive evaluation programme can incorporate both ex-post evaluation and ex-ante impact estimation, and aims to assess the broader benefits from market studies and other related work.

Figure 9. Ex-post evaluation process



Source: Compiled by ESCWA.

Examples of market studies conducted by Arab competition authorities

Market study	Competition authority	Year
Improving the performance of fish auction markets	Kuwaiti Competition Protection Agency	2015
Evaluating competition in the telecommunications sector	Kuwaiti Competition Protection Agency	2016
Enhancing competition in vegetable and fruit auctions	Kuwaiti Competition Protection Agency	2021
Enhancing competition in the insurance sector	Kuwaiti Competition Protection Agency	2021
Sector study on the competition situation in the medications market in Morocco	Competition Council of Morocco	2020
Sector study on the competition situation in e-payment by credit card markets	Competition Council of Morocco	2020
Sector study on the competition status at the level of private clinics and similar establishments	Competition Council of Morocco	2020
Study on the pharmaceutical sector and the impact of operating firms' practices on competition	General Authority for Competition of Saudi Arabia	2019
Study on health insurance and the impact of enterprises in that sector	General Authority for Competition of Saudi Arabia	2021
Study on enhancing competition in land and housing markets in Riyadh	General Authority for Competition of Saudi Arabia	2020

Source: Compiled by ESCWA.



Conclusion

Market studies are a distinctive type of competition policy tool that complements other instruments available to competition authorities; they serve numerous purposes and yield various outcomes. It is therefore crucial for all stakeholders to have a solid understanding of the objectives and potential results of market studies. This will ultimately encourage better engagement among stakeholders during the study, and will promote information sharing and feedback. Knowledge of the non-binding nature of a study's recommendations helps stakeholders develop reasonable expectations of the outcome, and leads to increased involvement from consumer groups, businesses and the media, which in turn strengthens the implementation of recommendations. Authorities who do not have market study powers may wish to consult with peers to gather evidence and develop a rationale to advocate for the inclusion of market studies within their mandates.

