



Best practices in planning and conducting market studies

An OECD perspective

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Outline

What are market studies?

Challenges in conducting market studies

Market studies process and methodologies

Market study outcomes

OECD resources on market studies

“

Market studies are a versatile tool for competition authorities to analyse whether there are competition problems in a sector, outside the context of a merger review or antitrust investigation. ”

(OECD Market Studies Guide for Competition Authorities)

“

Market studies are research projects conducted to gain an in-depth understanding of how sectors, markets, or market practices are working. ”

(ICN Market Studies Handbook)



When are market studies used?

When there are potential competition problems in a sector but a formal investigation may not be appropriate, including when an agency wants to:

Improve its knowledge of a sector

Analyse a market-wide practice or behaviour that is causing concern

Clarify the application of certain competition law concepts in a sector

Address public concerns about conduct in a sector

Develop the link between consumer and competition policy

Develop analysis of current or proposed regulation

Prepare for potential enforcement action

Prepare for competition advocacy efforts

Enforcement actions



- Focus on specific firm(s) and either a specific transaction or behaviour
- Subject to mandatory deadlines (for mergers) or limitation periods (for anticompetitive conduct)
- Powers to require parties to produce information
- Need to define specific markets and reach definite outcome

Market studies



VS

- Broad focus on markets, sectors or a common type of behaviour
- Not always subject to mandatory deadlines (unless responding to government request)
- Information collection often voluntary (but not always)
- No need to define markets, may not involve definite action by the authority



Common challenges

Resources

- How to balance with investigative priorities?
- Is it better to have a dedicated team, or draw from case workers?

Selection and scoping

- How broad or narrow should you go?
- Which sectors are most pressing?

Market participation co-operation

- Balance between effective results and concerns of a “fishing expedition”
- Encourage proactive identification of remedies?

Lack of clear legal powers

- Powers to conduct studies
- Powers to obtain information
- Legal requirements to prepare studies at the request of government



Drivers for success

Well-defined purposes and goals

- Well-defined purposes and goals for market studies maximize the use of resources and
- Lower the costs for both the authorities and stakeholders

Active cooperation by stakeholders

- A high degree of involvement by stakeholders facilitate access to information and
- Increases chances of implementation of recommendations

Clear & concise recommendations

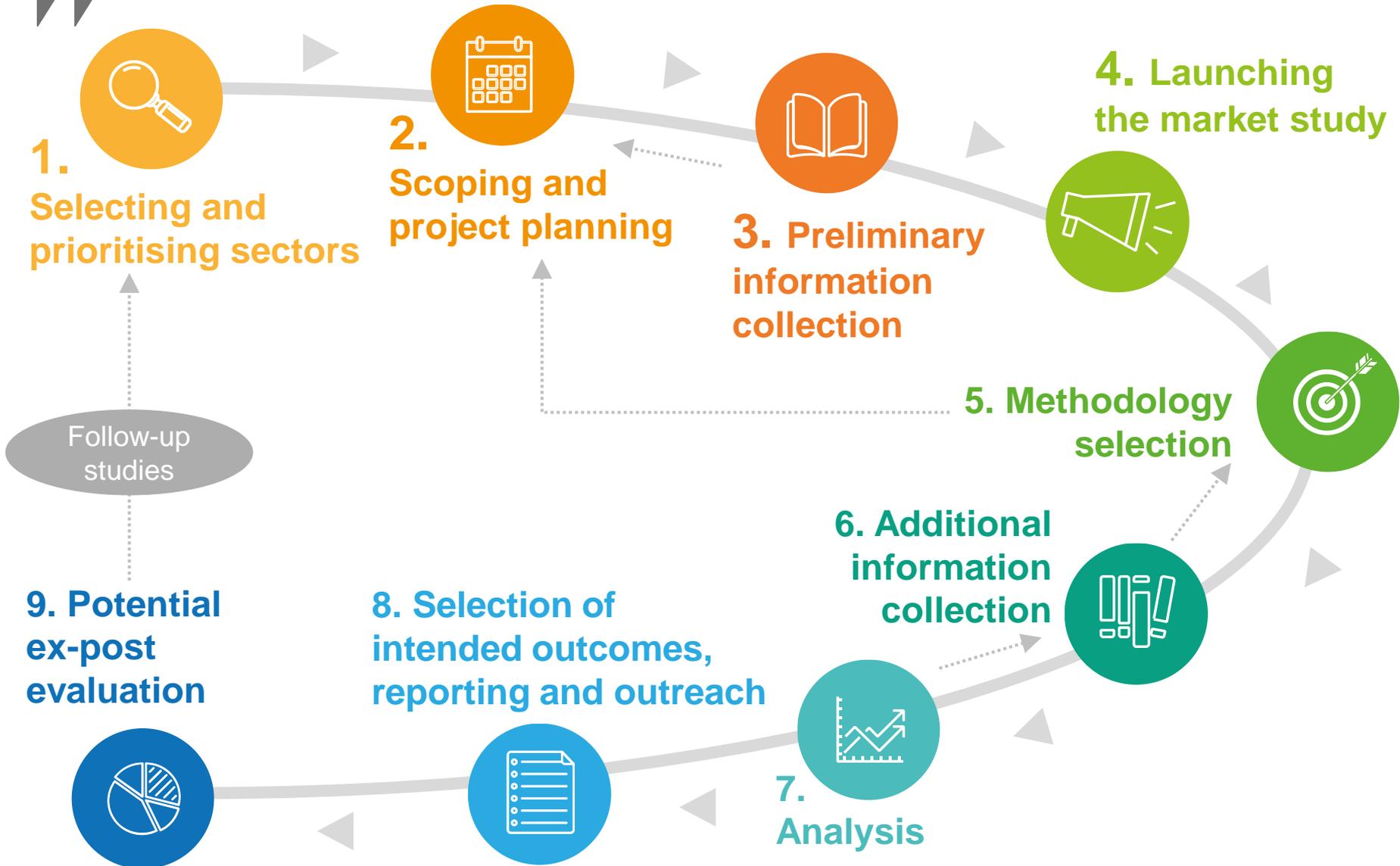
- Clear and concise recommendations increase the probability of their implementation

Explicit Legal powers

- Clear legal powers increase certainty and predictability

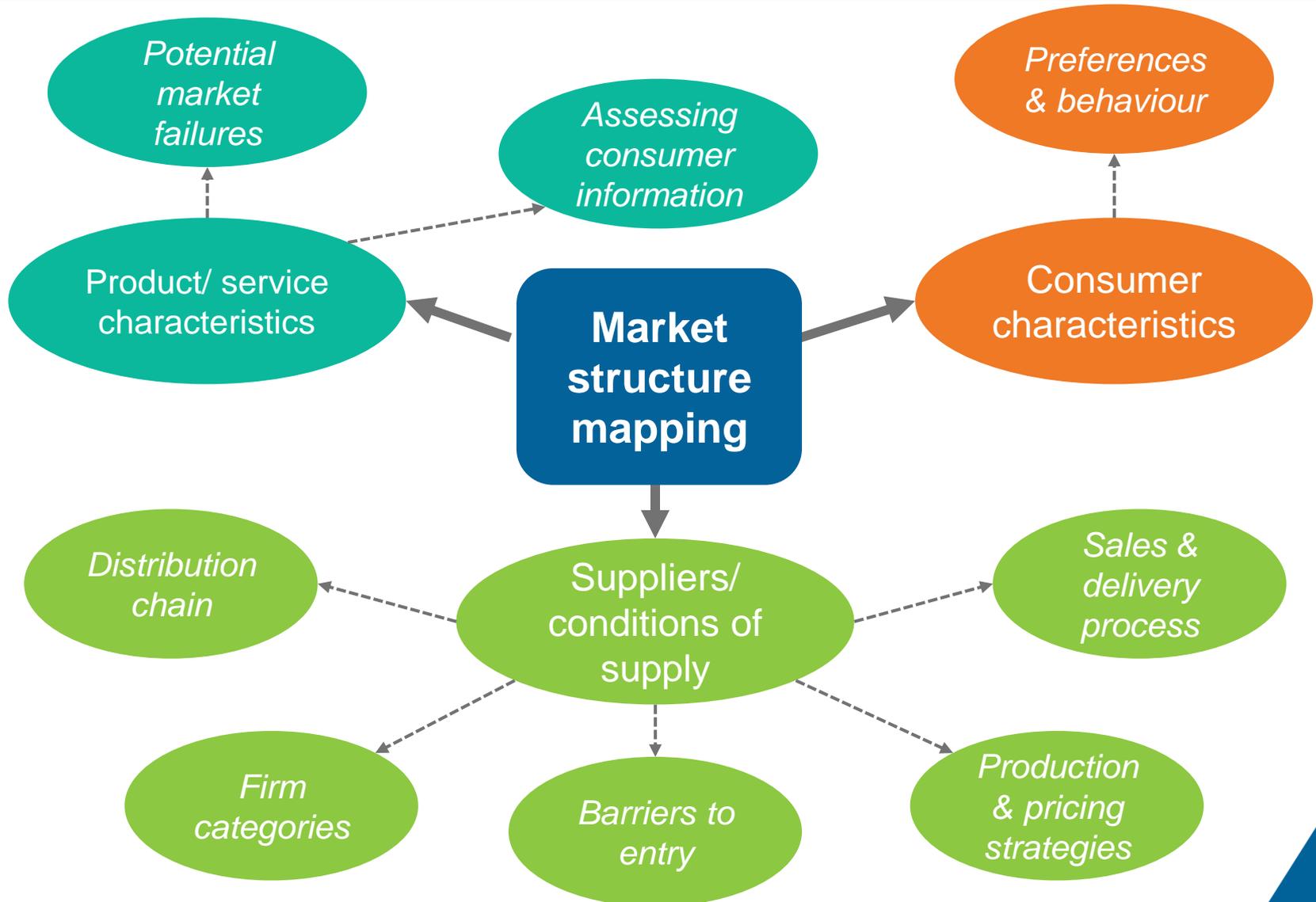


The market study process





Analytical methodologies





Analytical methodologies (continued)

Price analysis

- Price comparisons and trends
- Profitability analysis
- Price concentration analysis

Supply-focused

- Barriers to entry and expansion
- Practices observed in the sector

Demand-focused

- Searching and switching behaviour
- Evaluating consumer information and its impact on competition

Regulatory assessment

- Regulation affecting barriers to entry and expansion
- Regulation affecting market behaviour



Market study outcomes

Enforcement actions

Legislative, regulatory or policy recommendations

Consumer protection actions

No problems detected



Market studies vs market investigations

Market studies

No Remedies

Common tool

Lower due process rights than in enforcement cases

VS

Market investigations

Enforceable remedies

Rare tool
(UK, Mexico, Iceland)

Similar due process rights than in enforcement cases



What if a market study finds no competition problems?

- Market studies can be used to explain the functioning of a market and dispel misconceptions
- These studies are more rare (often authorities have an idea of problems before embarking on studies), but can be important when:
 - Responding to public/political concerns
 - Meeting obligations under legislation
- Need to balance resource expenditure with benefits of competition promotion



OECD Resources



Access it at
oe.cd/ms4

- 2008 OECD holds a policy **Roundtable** on Market studies and concludes on the need for future work.
- 2014 OECD and UK launch **project** to provide support to Chile, Colombia, Costa Rica, Mexico, Panama and Peru in their use of market studies as a competition tool.
- 2015 **Results** of the OECD-UK Latin American project are published.
A **survey** carried out by the OECD reveals a variety of approaches in dealing with market studies and identifies the need to better understand their differences, advantages and disadvantages.
- 2016 Market studies become a **priority topic** for future work by the OECD Competition Committee.
The 2016 Global Forum on Competition holds a **discussion** on the topic and calls jurisdictions to reply to the 2015 survey. **Results** received gather data from 59 jurisdictions worldwide.
- 2017 A **workshop** held in Paris explored the selections and prioritisation of sectors when carrying out a market study.
In June a roundtable discussion on **Market studies methodologies** was held by the Working Party No. 3 on Co-operation and Enforcement.
- 2018 Release of the **OECD Market Studies Guide for Competition Authorities**
- 2020 The topic continued triggering interest. Two discussions are held on **Competition in digital advertising markets** and **Using market studies to tackle emerging competition issues**.
- 2021 Two discussions were held on **Books and E-Books** and on **Methodologies to Measure Market Studies**.

Also available in Arabic



Thank you!

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