

Global Forum on Competition

5-6 December 2019

OECD Conference Centre, Paris

SUMMARY REPORT

About the OECD Global Forum on Competition

Established in 2001, the OECD Global Forum on Competition brings together each year high-level officials from more than 100 competition authorities and international organisations worldwide, from both OECD and non-OECD economies. Joining with representatives of international organisations and invited experts, participants debate and discuss key topics on the global competition agenda. With a broad focus on development, the Forum promotes a wider dialogue that encompasses the linkages between competition policy and other cornerstones of economic development.

The programme includes OECD-style roundtable discussions, presentations from notable experts as well as peer reviews. Discussion topics benefit from the input of the Competition Committee whose work is at the forefront of debate on competition policy and enforcement. The Committee promotes the regular exchange of views, analysis and best practices on key competition policy issues and is supported by the Competition Division within the OECD Directorate for Financial and Enterprise Affairs.

www.oecd.org/competition/globalforum
www.oecd.org/daf/competition

Contacts

Lynn ROBERTSON | Competition Expert - Manager GFC & LACCF
OECD Competition Division
Lynn.ROBERTSON@oecd.org | Tel. +33 (0)1 45 24 18 77

Angélique SERVIN | Event Co-ordinator
OECD Competition Division
Angelique.SERVIN@oecd.org | Tel. +33 (0)1 45 24 15 15

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2019 Meeting summary

The 18th OECD Global Forum on Competition brought together over 450 delegates from 119 delegations including 70 non-OECD members as well as 6 international organisations and 3 regional enforcers.

The OECD Secretary General, Angel Gurría's [opening speech](#) discussed how competition can play an important role in tackling challenges related to the world's current troubling economic and social context. He was followed by a video [keynote address](#) from Professor Jean Tirole, 2014 Nobel Prize winner. Professor Tirole's wide ranging talk started with an assessment of the recent *Siemens-Alstom* decision and emphasized, in particular, that the regulation and stewardship of competition must stay within the purview of competition authorities.

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Competition under fire

Session materials at oe.cd/cunf

The first panel addressed the current criticisms against competition and the effectiveness of competition authorities' law enforcement activities. There is no guarantee that competition delivers the expected benefits in economies that are beset by chronic unemployment and where the factors of production (capital and labour) are not as mobile as hypothesized by competition economists. In many countries, developed and underdeveloped, there is a perceived lack of the relevance of competition to societal goals.

Tembinkosi Bonakele, Commissioner, Competition Commission of South Africa, addressed the question whether public interest considerations should be integrated into competition enforcement. Elie Cohen, Economist, Research director at France's national scientific research centre (CNRS) and Professor at SciencesPo argued in favour of the co-ordination and integration of competition, trade and commercial policies while maintaining the independence of competition authorities. William Kovacic, Global Competition Professor of Law and Policy; Professor of Law and Director, Competition Law Center, George Washington University, discussed the existing tension between the role of the citizen as a consumer vs the role as an employee. Joshua D. Wright, University Professor of Law, Antonin Scalia Law School, George Mason University (GMU), summarised criticisms of competition in the United States. Lord Andrew Tyrie, UK CMA's chair) made a video address that examined the case of vulnerable consumers summarising the key points raised by both Mr. Bonakele and Mr. Kovacic.

READ THE SG'S SPEECH



WATCH J. TIROLE'S ADDRESS



WATCH LORD TYRIE'S ADDRESS



KEY FINDINGS

- ▶ Competition authorities need to maintain independence and retain their roles as the guardians of competition
- ▶ Competition authorities need to reconsider the time dimension in merger analysis and adjust to new realities
- ▶ Competition is indeed under fire but contradictions between the roles of the individual as an employee and as a consumer complicate solutions
- ▶ Consumer welfare goal may still be valid but could be adjusted to include other social objectives, including consideration of vulnerable populations, on a case by case basis
- ▶ Evidence may not support the thesis that rising concentrations and “big tech” are necessarily “bad”



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Competition provisions in trade agreements

Session materials at oe.cd/cpta

The afternoon of the first day was dedicated to a roundtable on **Competition Provisions in Trade Agreements**. The session discussed the participants' experiences and the role of competition authorities in their negotiation. The session covered the types of competition provisions included in trade agreements, such as the adoption or maintenance of competition laws, international co-operation on competition policy or the introduction of procedural safeguards, and their impact in practice.

In the last few years, bilateral and regional trade agreements have become important instruments for the reduction of (non-tariff) trade barriers. Trade agreements increasingly incorporate competition-related provisions and this trend concerns both developed and developing countries, even though lower-income countries tend not to be parties to these types of agreements. Delegates discussed how trade agreements led to changes in the competition framework in their countries.

KEY FINDINGS

- ▶ Trade agreements increasingly incorporate competition-related provisions and this trend concerns both developed and developing countries.
- ▶ The speakers described the type of provisions, their objectives and sectoral commitments, among other issues. Examples of frequent commitments include a requirement for the parties to prohibit anti-competitive agreements and abuses of dominance.
- ▶ In a number of countries, competition provisions in trade agreements have beneficial effects on its signatories. The examples covered in the session fall in two main groups: (i) changes in the competition framework and improvements in the institutional set-up; and (ii) increased technical assistance or co-operation between competition authorities.





3

Merger control in dynamic markets

Session materials at oe.cd/mcdym

The second day of the Global Forum on Competition opened with a roundtable, which addressed the new challenges faced by competition authorities when assessing mergers in rapidly-evolving sectors. The purpose of this roundtable was to assess the relevant timeframe of merger control in these markets, as well as to adapt merger enforcement tools and the review process to account for the economic effects of mergers in the medium to long term. The roundtable included breakout sessions on the assessment of competitive effects of mergers in dynamic markets and the design of remedies.

KEY FINDINGS

- ▶ Merger analysis should focus on the substitutability of products and capabilities
- ▶ The evolution of market shares is a better indicator of competition than static market shares
- ▶ The assessment of barriers to entry and exit is crucial to determine long-term harm
- ▶ Dynamic efficiency effects deserve special consideration
- ▶ Dynamic markets may require flexible remedies

Competition for-the-market

Session materials at oe.cd/cmkt

The last session focused on natural monopolies and publicly-funded monopolies. The roundtable looked more specifically at the main challenges of enforcing and advocating in markets where concessions are used (or might be used).

- ▶ Competition for-the-market is often not effectively working at the tender stage of many concessions, one third of competitive tenders in the EU feature a single bidder. Tendering authorities should take a view to preserving competition in the long term. In this context, the effectiveness of agencies' advocacy initiatives depends, among other factors, on powers conferred (and legal tools available) to them. If consulted at an early stage (i.e. before concessions are assigned), agencies can contribute more effectively to a well-functioning competition for-the-market.
- ▶ In some jurisdictions, there may be limitations as to the application of competition law to public authorities and competition law enforcement may encounter further limits in other laws (and sector regulation) applicable to concessionary contracts. That said, abuses of dominance may arise a) by tendering authorities giving preference to a bidder (often the incumbent); b) by incumbents restricting access to potential new entrants; c) by concessionaires restricting competitors from providing services in vertically-related markets.

Next year's Global Forum on Competition will take place on 3-4 December 2020 and invitations will be sent out during the summer. For more information on the forum: oe.cd/gfc or follow us on LinkedIn: [OECD Competition Law and Policy](#).



OECD Competition & Global Relations

Using its vast storehouse of expertise accumulated over the past 50 years, the OECD has created a range of mechanisms to engage with authorities around the world to help reinforce their competition framework.

Two **annual fora** disseminate the work of the OECD Competition Committee and bring over 100 jurisdictions into the OECD family: Global Forum on Competition and the OECD-IBD Latin American and Caribbean Competition Forum.

www.oecd.org/competition/globalforum
www.oecd.org/competition/latinamerica

The three **regional centres** for competition provide regular training seminars for the countries and economies within their regions: the OECD/Korea Policy Centre Competition Programme in Seoul, Korea, the OECD-GVH Regional Centre for Competition in Budapest, Hungary and the Regional Centre for Competition in Latin America in Lima, Peru.

www.oecd.org/competition/seoulrcc
www.oecd.org/competition/budapestrcc
oe.cd/lima-rcc

Capacity building

Capacity building remains a cornerstone of the OECD's competition global relations activities.

Through bilateral or regional workshops, training, and advice, the OECD targets the specific needs of the participating authorities on topics ranging from cartel prosecution, merger analysis, competition economics for both specialists and non-specialists, abuse of dominance, legislative drafting, studies in sector specific regulation.

Fighting bid rigging in public procurement and competition assessment of laws and regulations are the OECD's flagship training programmes.



Competition Assessment

Laws, regulations or other government-imposed barriers can unduly restrain market activities. One important step to eliminate these restraints is “competition assessment”, that is, the evaluation of policies to find those unnecessarily restricting competition in order to develop alternative policies which still achieve governments objectives.

The OECD has developed a Competition Assessment Toolkit which can be used by competition specialists and non-specialists alike. The OECD has led projects on competition assessment of specific sectors in Greece, Mexico, Portugal, Romania, Tunisia and is currently working with Iceland and 10 ASEAN member countries.

The toolkit is available for download in several languages at oe.cd/cat.

Fighting Bid Rigging in Public Procurement

Bid rigging happens when groups of firms conspire to raise prices or lower the quality of goods, works or services offered in public tenders. OECD countries spend approximately 12% of their GDP in public procurement and this percentage can be higher in developing countries. Efficient and competitive procurement processes are thus key to obtaining goods and services at the best value for money.

The OECD Guidelines for Fighting Bid Rigging in Public Procurement help public officials reduce the risks of bid rigging, through the careful design of public procurement tenders, and to detect bid rigging conspiracies during procurement processes. The OECD can help governments assess their procurement process and provide policy recommendations for improvement. After working with several institutions in Mexico and Argentina, the OECD is now working with Brazil, Peru, and Ukraine.

The Guidelines are available for download in several languages at oe.cd/gfbr.



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