Highlights from the report on competition assessment of laws and regulations in two sectors of the Mexican economy

Laws and regulations are key instruments to achieving public-policy objectives, such as consumer protection and public health. When they restrict market forces more than necessary to achieve their objectives or when they impose unnecessary costs in light of their policy objectives, a comprehensive review can help identify restraints and develop alternative, less restrictive policies that still achieve government objectives.

The OECD has been working closely with Mexico to analyse competition levels in numerous sectors and provide support and training to judges specialised in competition. At the request of the Mexican government, the OECD conducted this assessment of regulatory constraints on competition in two key sectors of the Mexican economy: medicines (production, wholesale, retail) and meat products (animal feed, growing of animals, slaughterhouses, wholesale, retail).

The project has proceeded in five stages. Stage 1 defined the exact scope of the two sectors. A list of 228 pieces of sector-relevant federal legislation was collected. In Stage 2, this legislation was screened using the OECD’s Competition Assessment Toolkit to identify potential competition barriers: 176 prima facie restrictions of competition (100 in medicines and 76 in the meat sector) were identified. Additionally, an economic overview for each sector was prepared, which contained important economic indicators such as output, employment and price trends. In Stage 3, the policymaker’s objective for each provision was investigated. An in-depth analysis was carried out qualitatively and, whenever permitted by availability of data, quantitatively. A number of meetings were held with officials of the relevant authorities, as well as with representatives of private associations, to reach a better understanding of lawmakers’ motivations and objectives. In Stage 4, draft recommendations for those provisions that were found to restrict competition were developed, taking into account similar provisions in comparable countries, notably the EU and the US. In the final stage, recommendations were finalised. Additionally, during the project, the OECD team organised two workshops with officials from relevant authorities to build competition-assessment capabilities in the Mexican administration and to discuss preliminary recommendations.

1. Market regulation and competition

Industries where there is greater competition experience faster productivity growth. This has been confirmed in a wide variety of empirical studies, as summarised in OECD (2014). Other benefits from competition can also be important, including lower consumer prices, greater consumer choice and better quality of products and services, higher employment, greater investment in R&D, and faster adoption of innovation.

In addition to this evidence of competition promoting growth, there have been studies directly of the effects of product market deregulation, which is the most relevant area for this project. Arnold et al. (2011) studied firm-level data in 10 countries from 1998 to 2004, conducting the analysis using the OECD’s Product Market Regulation (PMR) index at industry-level. The authors found that more stringent product market regulation reduces the multifactor productivity (MFP) of firms. In a study of 15 countries and 20 sectors, from 1985 to 2007, Bourliès et al. (2013) estimate the effect of regulation of upstream service sectors on productivity growth downstream. They find that anti-competitive regulations have an impact that goes beyond the sector in which they are applied, and that this effect is more important for the sectors closer to the productivity frontier.
Innovation and investment in knowledge-based capital (KBC), such as computerised information, IPRs and economic competencies, are also negatively affected by stricter PMR, according to Andrews & Criscuolo (2013). The authors set out the channels through which this effect takes place. For instance, PMR affects innovative efforts, as higher firm entry rates can increase new ideas and put pressure on incumbents to innovate. In addition, it influences innovation because it enables innovative firms to combine the resources needed to market new ideas and products more efficiently. The paper notes that “a policy reform that would alleviate regulatory barriers in business services from the OECD average (i.e. France) to the low level in Sweden is associated with a 30% increase in investment in innovative firms” (Andrews & Criscuolo, 2013).

Another benefit from greater regulatory flexibility in PMR is higher employment. A recent OECD study (Criscuolo et al., 2014) finds that across 18 countries over a ten-year period, small firms that are five years old or under on average contribute to about 42% of job creation. As noted in OECD (2015), “such a disproportionally large role by young firms in job creation suggests that reducing barriers to entrepreneurship can contribute significantly to income equality via employment effects”.

2. Main recommendations

The main aim of the Competition Assessment of Laws and Regulations in the Mexican project is to improve competition in two sectors of the Mexican economy, medicines and meat products, through the removal of regulatory barriers. These two sectors had a combined manufacturing gross value added (GVA) of 1.43% (Medicine: 0.48%, and Meat: 0.95%) of GDP by output in 2015.

In 2013, according to the INEGI (National Institute of Statistics and Geography - Instituto Nacional de Estadística y Geografía) Census, these two sectors represented 711,905 jobs. This was composed of medicine with 367,056 jobs of which production, 83,336; wholesale, 38,198; and retail, 245,552 jobs; and meat with 344,849 jobs of which production, 104,396; wholesale, 27,309; and retail, 213,144 jobs. This represented 3.3% of total employment in Mexico in 2013 (the total number of employees reported in the 2014 Census in Mexico was 21,576,358). Lifting the restrictions to competition in these sectors is therefore likely to have a significant positive economic impact, both in the short and long term.

The work has led to the identification of 176 regulatory restrictions found in the 228 legal texts selected for assessment. In total, the report makes 107 specific recommendations to mitigate harm to competition.

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<tr>
<th>Legal provisions analysed by sector</th>
<th>Medicines</th>
<th>Meat products</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislation scanned</td>
<td>107</td>
<td>121</td>
<td>228</td>
</tr>
<tr>
<td>Prima facie restrictions found</td>
<td>100</td>
<td>76</td>
<td>176</td>
</tr>
<tr>
<td>Recommendations made</td>
<td>50</td>
<td>57</td>
<td>107</td>
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It is never possible to quantify entirely the benefits arising from enhanced competition. However, OECD calculations estimate that the annual effect of a selected number of quantifiable recommendations in this report, if implemented, could be of the order of MXN 10 billion to MXN 44 billion (equivalent to 0.06-0.24% of GDP), depending on the scenarios and methodologies used. A number of the recommendations in this report, such as remodelling the system for maximum prices for patented medicine or avoiding double controls in the meat sector were not quantified. However, these are likely to bring significant benefits, in the form of lower prices for consumers and increased turnover and competitiveness for the Mexican economy.

The Competition Assessment project focuses on laws and regulations relevant for the sectors under analysis. Its focus is on legislation and not its enforcement. This matters because changes in regulation can only have an impact if regulation is enforced. Business environment is also important. Complementary to this analysis, there are measures of administrative burden and ease to make business which capture these broader issues, such as the OECD’s Product Market Regulation index and the World Bank’s Ease of Doing Business index.
Medicines sector

The medicines sector has enormous economic and social implications for Mexico. It is an important source of employment (367,056 people, as of 2013) and contributor of GVA (from 2005 until 2015, the GVA for medicine manufacturing was, on average, 0.67% of total GDP).

Key Recommendations

**Medicines sector**

1. **Issue a binding regulation** determining the exact conditions under which pecuniary advantages or benefits of significant value to doctors can be granted.

2. With respect to the current *sale of branded drugs* and the ban on substitution by a pharmacist if a brand name was part of the doctor's prescription, the OECD provides two optional recommendations.

   **Option 1)** Oblige pharmacists to inform patients about the cheapest available generic and allow prescribed medicines to be substituted with a cheaper generic when the patient agrees, unless the doctor has specified "substitution not allowed".

   **Option 2)** Introduce a provision that requires doctors to prescribe only International Nonproprietary Name (INN) medicines.

3. **Rebuild the basket used to calculate maximum prices for patented drugs** in Mexico, taking into account not only prices in six countries with the highest sales volumes (as currently), but also other factors, such as income level of reference countries and out-of-pocket expenses.

4. **Make public the amendment to the price-regulation agreement** between CANIFARMA and the Ministry of Economy.

5. **Require that entries into the sanitary registry, necessary for marketing drugs, must be renewed only once, after five years, and then become perpetual.** This recommendation will first require increasing the quality and frequency of in-situ controls; introducing large fines if pharmaceutical companies do not report changes in a medicine in time to COFEPRIS; and granting adequate resources to COFEPRIS to fulfil this task.

6. **Abolish the requirement to rely on an incumbent registry holder's permission** (usually the official importer) to import medicines into Mexico.

7. **Continue with an ongoing project to make the Mexican Pharmacopoeia available online** as soon as possible.

8. **Harmonise NOMs** (Mexican Official Standards - Normas Oficiales Mexicanas) that state that they are not in line with international norms with current international standards.

**Meat sector**

The meat sector is important in Mexico, both as a source of employment (344,849 people, as of 2013) and as a contributor of GVA (animal slaughtering and processing accounted for 0.95% of Mexican GDP in 2015). Regulatory reforms could bring efficiency gains that would benefit Mexican households, particularly the poorest.

1. **Issue NOMs for the national classification of beef, pork and chicken carcasses**, to foster interstate trade and exports.

2. **Abolish the requirement of various Mexican states for transport documents** (guías de tránsito), which impose additional zoosanitary controls to those established by the national authority SENASICA.

3. **Abolish the requirement to acquire certification from a local livestock association** to transport livestock across Mexican territory.
Competition Assessment Reviews and the OECD Competition Assessment Toolkit

OECD Competition Assessment Reviews present an analysis of regulatory restrictions on competition in the countries reviewed and make specific policy recommendations for reform.

These reviews help governments eliminate barriers to competition while identifying less restrictive measures that still achieve government policy objectives.

Using the OECD Competition Assessment Toolkit to structure the analysis, the regulations in sectors identified as targets for reform - such as construction, gas, media, liberal professions, pharmaceuticals, retailing, tourism and transport – are systematically reviewed one by one for any restriction to competition.

The resulting recommendations allow governments to introduce more competition into the economy and foster long-lasting growth.

Greece (2013, 2017) and Romania (2016) have already undergone similar reviews.

Access all reviews and the toolkit at oe.cd/cat.

References
OECD indicators for Product market regulation www.oecd.org/eco/growth/indicatorsofproductmarketregulation homepage.htm
World Bank’s Ease of Doing Business index http://www.doingbusiness.org/