

**WORKSHOP ON COMPETITION ASSESSMENT IN THE CONTEXT OF THE REGULATORY IMPACT
ASSESSMENT**

**CASE STUDY
RULES AND REGULATIONS THAT LIMIT THE COMPETITIVE CAPACITY OF SUPPLIERS**

The single price for books in Mexico

Amid a heated debate, in 2008 the Law for the Promotion of Reading and the Book was enacted in Mexico. The focus of this law, known as the book law, is the policy of establishing a single price for books, not intended to make all books cost the same but for a book or title to have the same retail price anywhere in the country, with the publisher (or importer) of the book setting the price. This implies that once the price is fixed by the publisher or importer, all libraries should sell it at the same price. At the time, the Federal Competition Commission expressed that the establishment of the single price for retail sale would be equivalent to an absolute monopolistic practice prohibited by Federal Law on Economic Competition, consisting of pricing, eliminating competition in prices in the retail book sales.

Responsible institution

- Ministry of Education and National Council for Culture and the Arts, among others.

Additional information

- One of the objectives of the Act is to encourage and support the establishment and development of bookshops, particularly small independent bookstores.
- In Mexico, the habit of reading is virtually nonexistent. According to UNESCO figures, our country is in this category in the penultimate place in a list of 108 nations.
- In the country there is only one library per 15,000 inhabitants and a bookshop for every 200,000 according to the 2012 National Reading Survey.

Reflection elements

- If bookshops cannot give discounts on books, how would the establishment of a single book price help the diffusion (availability) of the book and the promotion of reading?

Session_2.2 Case Study - Competitive Capacity of Suppliers

- In which other ways can the establishment and development of bookshops, particularly small independent bookstores be supported?
- Will establishing a single price allow bookstores compete in other dimensions such as service and range?
- By granting the ability to set the price, does the law grant a monopoly to the author of a book and the publisher?
- Does the single price protect only some links of the book production chain (publishers, importers) at the cost of removing the benefits that consumers get of the competitive process such as lower prices, better quality, and greater availability and variety of products?

Rules & Regulations that limit the ability of suppliers to compete

2nd Session, Topic 2

Declan Purcell
24 September 2013

Restrictions on Conduct

- Regulation can affect the ability of suppliers to compete in many ways, e.g through advertising and marketing restrictions, setting of standards for product or service quality, and controls over selling prices
- These limits can reduce the intensity and dimensions of rivalry, resulting in higher prices for consumers and less product variety.

Restrictions on Conduct - 1

- **Price Controls**

- Useful in monopoly sectors, eg Utilities, also for tobacco
- In other sectors, beware of –
 - minimum price regulation (examples – alcohol, Irish Groceries Order),
 - fixed price regulation (in Ireland – medicines, buses, taxis, lawyers - 2/3 fee for junior counsel)
 - regulation of selling methods (ban on internet medicine sales in Ireland until recently)

Restrictions on Conduct - 2

- **Advertising restrictions**

- Often useful to limit false or misleading advertising, or to reduce consumption of socially negative products / services, or products/services subject to excess consumption, or to protect children etc.
- But beware restrictions that are too broad and unduly restrict competition.
- Likely to be particularly onerous for potential entrants – restrict entrant's ability to advertise their existence, the nature and quality of their goods and services
- Regulations that restrict only false and misleading advertising often a proportionate alternative.

Advertising Restrictions – examples


- In Ireland, bans on broadcast advertising of tobacco, spirits, gambling etc.
- Bans on advertising by Dentists, Doctors, Barristers – but these now removed
- Pharmacists still not allowed to advertise prescription medicine prices

Restrictions on Conduct - 3

- **Grandfather Clauses**
 - Raise the costs of some suppliers compared to others, by applying tougher regulations to new applicants only
 - Liable to substantially distort competitive relations within an industry
 - by impeding entry, reducing innovation and lowering the intensity of competitive pressure
 - Anti-competitive impact can be minimised by making them time-limited, not permanent
 - A sceptical approach is appropriate for arguments in favour of grandfather clauses, as such clauses often protect vested interests from potential competition



Grandfather Clauses – examples

- Public Transport liberalised in Dublin, but State Company services / routes “grandfathered” for at least 5 years
- Dental Technicians – a special case



LIMITING THE ABILITY OF SUPPLIERS TO COMPETE

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24 September



Competition Assessment Checklist

Initial Screening: Checklist Question #2

- Does the rule or regulation **limit the ability of suppliers to compete?**
- This could arise, for example, if a regulation
 1. Controls or substantially influences the prices for goods or services
 2. Limits freedom of suppliers to advertise or market their goods or services
 3. Sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that many well-informed customers would choose
 4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)

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Competition Assessment Checklist

Initial Screening: Checklist Question #2 – 1

- **Controls or substantially influences the prices for goods or services**
- For example
 - Historically, many markets have been subject to regulations that influence prices of goods and services
 - Electricity, cable television, telecommunications, healthcare, airlines, taxicabs, rental housing units, among many others
- Restricts incentives for firms to innovate, differentiate their products, offer higher quality

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Competition Assessment Checklist

Initial Screening: Checklist Question #2 – 2

- **Limits freedom of suppliers to advertise or market their goods or services**
- For example
 - Many professions restrict comparative or any advertising
 - Pharmacists in Ireland, Portugal, Greece, Austria, France and Luxembourg
 - Auditing in France, Luxembourg, Portugal, Spain, Belgium and Germany
 - No direct comparison advertisements are permitted many countries
- Restricts ability to compete via enhanced promotion of goods and services

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Competition Assessment Checklist

Initial Screening: Checklist Question #2 – 3

- **Sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that many well-informed customers would choose**
- For example
 - Food products and beverages, where regulations can span both content and quality controls
 - Automobile safety mechanisms: it started with seatbelts, then crumple-zones, followed by front-airbags and more recently an elaborate and extended set of airbags
- Tends to weed out lower cost alternatives

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Competition Assessment Checklist

Initial Screening: Checklist Question #2 – 4

- **Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)**
- For example
 - New environmental standards that apply to all new investments and facilities but only partially to existing investments
 - Similarly, standards for safety, quality, among others

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