



# Competition Assessment

**Competition and Regulation**  
**Competition Assessment**

**Sean Ennis**

**February 12 2010**

**[sean.ennis@oecd.org](mailto:sean.ennis@oecd.org)**

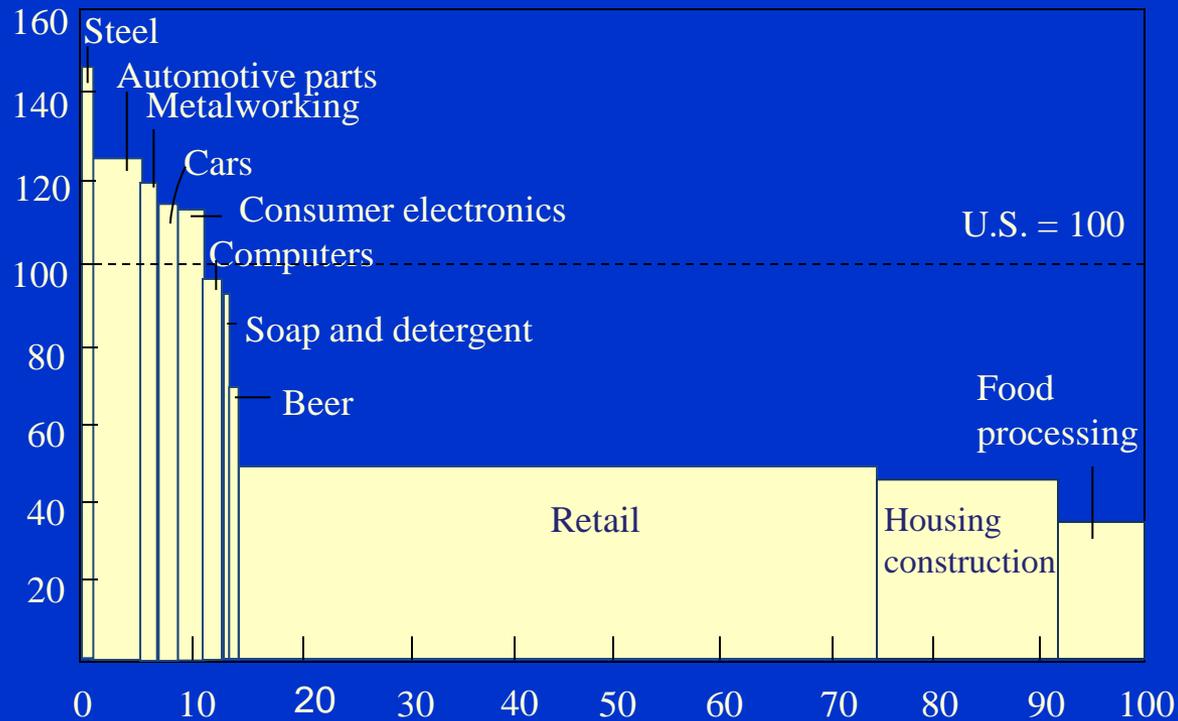
# McKinsey links regulatory restrictions to economic performance

- McKinsey and Company compared productivity levels in Japan and the United States.
- In the sectors of the Japanese economy that were exposed to competition – in steel, automotive parts, metal working, cars, consumer electronics and computers -- productivity levels were about the same or higher compared to productivity levels in the U.S.
- Where Japanese sectors were protected from competition – in the retail sector, housing construction and food processing -- the productivity levels were as much as 50% below those of the U.S.
- These differences can largely be explained by competition and regulation. In the underperforming sectors, competition is highly restricted, in large part because of regulation.

# Competition and Productivity -- Japan's Dual Economy

## Relative productivity levels

Index U.S. = 100



Employment

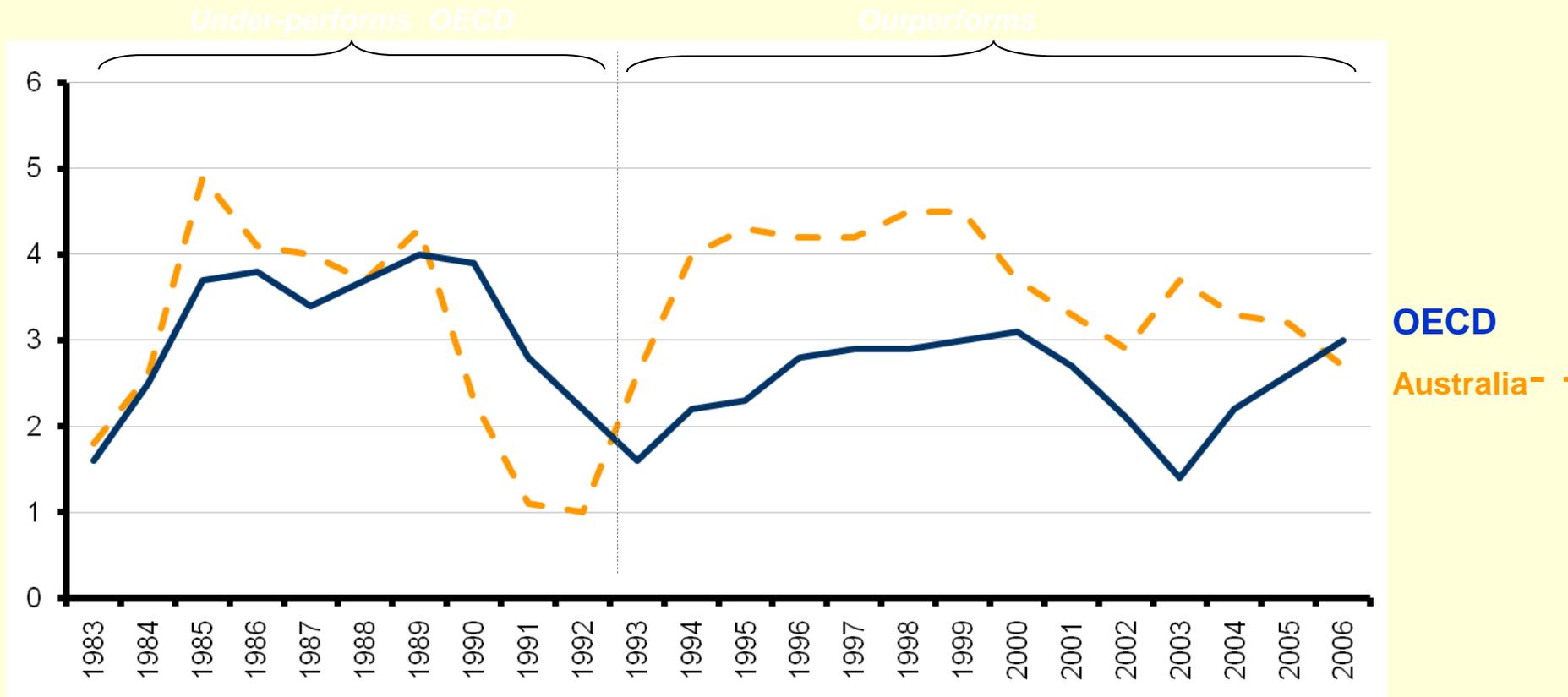
100% = 12.5 million employees

Source: McKinsey Global Institute

# Australia Benefited from Competition Reform

- Growth in real gross domestic income among the best of OECD countries
- Unemployment rate has fallen to around 5% -- lowest level since the 1970s
- Inflation within the target range
- A long stretch of fiscal surpluses, general government net debt eliminated.
- Living standards steadily improved since the beginning of the 1990s, now surpass all G7 countries except the United States.
- Wide-ranging reforms, particularly to promote competition, were instrumental -- OECD 2006.

# Australia versus OECD Real GDP Growth\*



\* 3-year moving average

Source: Fred Hilmer, University of New South Wales, OECD Stat Gross Domestic Product (output approach), Volume Index

# OECD Competition Assessment Toolkit

- Competition Assessment Toolkit (**CAT**), March 2007
  - [http://www.oecd.org/document/48/0,3343,en\\_2649\\_40381664\\_42454576\\_1\\_1\\_1\\_37463,00.html](http://www.oecd.org/document/48/0,3343,en_2649_40381664_42454576_1_1_1_37463,00.html)
- Designed for government officials in decision-making roles and staff who will conduct the assessments
- The “Guidance” chapter details the framework and the steps needed to implement competition assessments
- CAT includes writings on
  - Institutional options for competition assessments
  - Integrating competition assessments into regulatory impact analysis
- The CAT has a **two-step assessment process**

# OECD Competition Assessment Toolkit

- **Step One:** A competition assessment **checklist**
  - Designed as an initial screen to “**qualitatively**” assess market interventions that may be relatively problematic
  - Structured to be conducted in short time frame
  - Framework is based on concepts from Industrial Organization theories, and competition policy and law enforcement
- **IF** potential harm to competition and innovation is identified, then a more detailed review is recommended
- **Step Two:** Detailed competition assessment
  - Designed to fully and “**quantitatively**” evaluate those interventions that have the potential to cause significant harm
  - Restructure rules & regulations to minimize harm to competition

# Competition Assessment Checklist

## Initial Screening Based on the Checklist

- The checklist consists of three core questions
- A **YES** answer to any of the three questions would signal a competition concern and warrant a detailed review of the rule or regulation under consideration

# Competition Assessment Checklist

## Initial Screening: Checklist Question #1

- Does the rule or regulation **limit the number or range of suppliers?**
- This could arise, for example, if a regulation
  1. Grants exclusive rights for a company to supply goods or services
  2. Establishes a license, permit or authorization process as a requirement for operation
  3. Limits the ability of some suppliers to provide a good or service
  4. Significantly raises cost of entry or exit by a supplier
  5. Creates a geographic barrier to the ability of companies to supply goods or services, invest capital or supply labor

# 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)

# Competition Assessment Checklist

## Initial Screening: Checklist Question #3

- Does the rule or regulation **reduce the incentive of suppliers to compete?**
- This could arise, for example, if a regulation
  1. Creates a self-regulatory or co-regulatory regime
  2. Requires or encourages information on supplier outputs, prices, sales or costs to be published
  3. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
  4. Exempts the activity of a particular industry or group of suppliers from the operation of general competition law

# Competition Assessments

## Detailed Review

- The detailed evaluation would focus on the specific intervention and potential **quantification** of whether the rule or regulation might
  - Impose barriers to entry of new businesses
  - Force certain types of businesses to exit
  - Increase the prices of goods and services
  - Reduce product or process innovation
  - Significantly increase concentration in the relevant market
- Are any upstream or downstream markets affected?
  - If YES
  - Evaluate effects on the related markets
  - Initial review
  - Detailed review

# Competition Assessment

## Setting Standards in Medical Practice

- Dental Association sets rules and regulations related to
  - Certification of dental colleges
  - Capacity of the dental colleges (number of students)
  - Occupational licensing policies
    - Rigor of the examinations to practice in a State or region
    - Statutory provisions such as waiting periods
  - Limiting the ability of dentists to advertise and compete
- Stated objective: ensure quality – e.g., safety, consistency, reliability – of the service provided
- Competition assessment:
  - Assess impact of standards on market outcomes related to competition
  - Revise to stop unnecessary restrictions on competition

# Competition Assessment

## Setting Standards in Medical Practice

- Results from running the checklist screen?
- We get a clear “**yes**” answer to two checklist questions
  - It does “limit the number or range of suppliers”
    - Due to licensing and statutory provisions
  - It does “limit the ability of suppliers to compete”
    - Due to implicit or explicit restrictions on advertising, marketing and price competition
      - Limits to advertising reduces the **cross-price elasticity** between the competing service providers
- Checklist can be implemented in an expedited manner
- Key issues
  - How high do the standards need to be to ensure quality?
  - Are the existing standards unduly high?

# Competition Assessment

## Setting Standards in Medical Practice

- As a general comment, it might be fair to conclude
  - Implicit or explicit restrictions on advertising, marketing and price competition causes harm without clear justifiable benefits
    - One could argue that the primary purpose of these is to diminish competition between dentists
      - The DA and its members (dentists) effectively collude
    - Arguments like “more competition would lower dentists’ incomes” are not adequate to justify erecting barriers to competition
      - Cartels use this argument to erect barriers and increase profits
    - In many differentiated products and services markets, providers differentiate themselves based on quality and variety to compete
      - Their profits/incomes are determined by market outcomes
  - **The restrictions appear unjustified and should be eliminated**

# Competition Assessment

## Setting Standards in Medical Practice

- In general, it also seems fair to conclude that
  - Standards in dental colleges, certification standards and statutory requirements to practice are required to ensure quality
    - Setting minimum necessary standards is prudent to ensure safety and quality
  - But **setting unduly high standards** can lessen competition without compensating gains in safety and quality
  - In our assessment, we need to explore what might be some quantitative indicators of whether the standards are reasonable or too high

# Competition Assessment

## Setting Standards in Medical Practice

- A practical solution to **quantifying supply problems** is to examine data on the following per 100,000 population
  1. Number of active (practicing) dentists
  2. Number of dental colleges and seats in colleges
  3. Enrollment in dental colleges
  4. Dental graduates
- Data items 1-4 provide a barometer to gauge if the DA's actions are causing shortages
  - Rule of thumb: the numbers should be non-decreasing as a long-term trend
  - If they are decreasing, it may signal supply-constraints
    - This would require careful assessment of the “standards” being set and potential need to alter the standards

# Examples of Initiatives in Reviews of Existing Rules and Regulations

- United Kingdom
- Australia Hilmer process
- Sweden

# Initiatives in Reviews

## United Kingdom – Broad Initiative

- RIA overseen by unit close to center of industry oversight
- RIA includes “competition checklist”
- If any answers are yes, then a detailed competition assessment is required
  - Guidelines for competition assessment have been prepared by the UK competition authority Office of Fair Trading (OFT)
  - OFT has personnel available to discuss performing RIA with other parts of government

# Initiatives in Reviews

## United Kingdom – Sector Example: Telecommunications

- UK Telecom regulatory review started in January 2004, had two consultations with public, and explored
  - Extent competition and/or regulation has delivered the goals of lower prices, higher quality of service and wider choice for service providers and consumers
  - UK consumers' perspectives on those markets, including the value they place on different products and services
  - Innovation and significance of emerging technologies as a driver of new opportunities for service providers and consumers
  - Scope for effective competition at all levels in the telecommunications markets and the extent to which that competition is likely to be sustainable in the foreseeable future

# Initiatives in Reviews

## United Kingdom – Sector Example: Telecommunications

- Result of review
  - Undertakings agreed with British Telecom to create a new wholesale arm with functional separation, not ownership separation
  - Strategic Review of Telecommunications
    - o [http://www.ofcom.org.uk/static/telecoms\\_review/index.htm](http://www.ofcom.org.uk/static/telecoms_review/index.htm)

# Initiatives in Reviews

## Australia: National Competition Policy

- Hilmer Report (1995)
  - <http://ncp.ncc.gov.au/docs/Hilmer-001.pdf>
- National Competition Policy (NCP) reform program
  - Thoroughly review existing legislation and where possible, revise to promote competition
    - Identify those laws that have an impact on competition
    - Over 50% of 1700 laws identified have been (or are being) reviewed
    - Instills culture of rigorous justification for new business regulation
    - Federal government pays states for quality of effort in revising regulations (0.1-0.2% of GDP used for incentive payments)
  - Impact
    - Growth rate increased by 1-1.75%

# Initiatives in Reviews

## Sweden: Review of Competitive Restraints

- Ministry of Economy asked competition authority to perform broad review of competitive restraints in economy in August 2008
  - Undertake broad review of competitive situation in Sweden
  - Propose ways of strengthening competition
  - Rank the proposals
  - Evaluate potential effects, economic implications and feasibility
- Competition authority
  - Took task seriously, seeking outside comment
  - Produced report & recommendations in April 2009  
[http://www.konkurrensverket.se/upload/Filer/ENG/Publications/rap\\_2009-4\\_english\\_version.pdf](http://www.konkurrensverket.se/upload/Filer/ENG/Publications/rap_2009-4_english_version.pdf)
  - 60 proposals