

Competition Checklist

Competition Checklist: Competition Checklist (prepared after merging and incorporating OECD Competition Impact Assessment Checklist and DFID, UK Competition Assessment framework)

Check if a statute, regulation, policy statement and practice have any of the following effects:

(A) Limits the number or range of suppliers

This is likely to be the case if a clause:

1. Grants exclusive rights for a supplier to provide goods or services
2. Establishes a license, permit or authorisation process as a requirement of operation. Creates natural barriers affecting prospective entrants or significantly raises cost of entry or exit by a supplier. Do they affect different categories of prospective entrants differently (e.g. established vs. new firms, or domestic vs. foreign firms)?
3. Are there limits to the number of firms permitted to enter the market? (There could also be indirect limits to entry, through measures that reserve entry to particular groups, including through affirmative action policies.)
4. Limits the ability of some types of suppliers to provide a good or service
5. Are there any barriers, based on either regulations or custom, that prevent women from commencing business in the relevant market/s and/or expanding an existing business, or that make it difficult for them to do so?
6. Creates a geographical barrier to the ability of companies to supply goods services or labour, or invest capital

(B) Limits the ability of suppliers to compete

This is likely to be the case if a clause:

1. Limits sellers' ability to set the prices for goods or services
2. Limits freedom of suppliers to advertise or market their goods or services
3. Do any state-owned enterprise/s operate in the market/s being assessed? If so, do the enterprise/s receive any benefit/s or preferential treatment not available to other firms which appear to have the effect of limiting competition in the relevant market/s?
4. Sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that some well-informed customers would choose
5. Does the under-development of transport or other infrastructure in some districts appear to give incumbent firms monopoly status?
6. If the government is a major buyer of the product/s, does it appear that government procurement policies have adequate safeguards for competitive bidding, for transparency and for fairness? If government is a significant purchaser, and its procurement policies lack transparency or fairness, how significant are the effects on competition in the relevant markets?
7. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)

(C) Reduces the incentive of suppliers to compete

This is likely to be the case if a clause:

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. Exempts the activity of a particular industry or group of suppliers from the operation of the general competition law

(D) Regulatory and policy barriers

1. Is the sector subject to any policies or regulations that are onerous, costly or time-consuming, or that frequently change, thereby creating 'policy uncertainty'? (Firms in the sector might be hindered by factors such as licensing restrictions, FDI restrictions or trade barriers. The possibility of achieving the stated objectives of the regulations in ways that are less onerous, costly or time-consuming should be considered.) Only proceed to the following questions in this section if there appear to be any inappropriate policies or regulations.
2. Do any firms in the market suffer from the unequal application of laws or regulations? (Examples of where this might occur include the unequal enforcement of taxes, labour regulations, health and safety regulations, access to land, access to key infrastructure, standards and intellectual property rights.)
3. Are there any trade or industrial policies that appreciably restrict competition in the market/s? If so, do these policies appear to have adequate justification, taking account of their effects on competition?

(E) Limits the choices and information available to customers

This is likely to be the case if a clause:

1. Limits the ability of consumers to decide from whom they purchase
2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
3. Fundamentally changes information required by buyers to shop effectively

Conclusions required:

1. Are there any significant barriers to entry in the relevant markets? If so, what are their effects on competition? Do any law/policy-based reasons for these barriers appear justified?
2. Does the operation of state-owned enterprises, or the conduct of public procurement, or sector regulation, or the existence of trade and industrial policies, or the unequal enforcement of laws and regulations appear to limit the scope for competition? If so, how significant are the effects on the welfare of consumers or on the input costs of producers?
3. How does the extent of the impact on consumers and producers compare with any public benefits likely to result from the operation of any of these government policies?