

Market studies – an international success story?

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Overview

- ✦ Background
- ✦ Different uses of market studies
- ✦ The role of the ICN in the uptake of market studies
- ✦ Proliferation of market studies
- ✦ Popularity versus success of market studies
- ✦ Reflections

Background to market study tool

- ✦ ICN definition: “*Research projects conducted to gain an in-depth understanding of how sectors, markets, or market practices are working*”
- ✦ Not new – but has become an increasingly widespread component of NCAs’ portfolios
- ✦ Varied processes across different jurisdictions . . .
- ✦ . . . But common theme across jurisdictions: tool to build capacity & reputation

The functions of market studies

Two primary functions:

1. Competition advocacy
2. Precursor for enforcement

Other objectives include:

- ✦ Preparation for intervention in legislative process
- ✦ Build technical expertise about a market
- ✦ Investigate suspected market failure that can't be assigned to a specific actor
- ✦ Address public / political concerns
- ✦ Assess state of competition in the market

Market studies: a variety of uses

- ✦ New / young agencies, e.g.:
 - ✦ Morocco: studied domestic markets to build up enforcement record
 - ✦ Philippines: identify state of competition in key sectors
 - ✦ Pakistan: sector studies to promote understanding of competition issues in Pakistan
- = Initial emphasis on building capacity and reputation

- ✦ Mature/established agencies, e.g.:
 - ✦ EU and ECN: basis for a future enforcement investigation into relevant sector
 - ✦ UK: effects-based tool; structural / behavioural focus
 - ✦ France: provide guidance to market players
 - ✦ Japan: insight into new markets
- = More focused and outcome-oriented approach

Operationalising market studies

- ✦ Variety of practices and institutional environments
- ✦ Legal basis:
 - ✦ Statutory or general function
- ✦ Power to initiate studies:
 - ✦ Discretionary or requested
- ✦ Selecting studies
- ✦ Information gathering:
 - ✦ Formal powers to compel information or voluntary
- ✦ Consulting with stakeholders
- ✦ In-house or out-sourced
- ✦ Implementation of recommendations:
 - ✦ Advisory or supervisory

The “internationalisation” of market studies

OECD

- ✦ 2008 roundtable discussion

ICN

- ✦ 2009 Market Studies Project report
- ✦ 2010 Draft Good Practices Handbook and market studies info store
- ✦ 2011 road-testing Good Practices
- ✦ 2012 Good Practices revised and adopted

“World leaders” provide training to young agencies

- ✦ UK – OFT/CC
- ✦ US – FTC
- ✦ Ireland
- ✦ Japan

ICN Market Studies Good Practices vs. other ICN work products

Mergers Recommended Practices (RPs)

- ✦ Original and most well-known ICN output
- ✦ Developed 2002-2005 and 2008-2010
- ✦ Aims to provide procedural convergence
- ✦ Regular assessments of regimes against the RPs
- ✦ Active business engagement in their development

Anti-Cartel Enforcement Manual

- ✦ Compilation of investigative approaches
- ✦ Practical manual
- ✦ On-going since 2008: 9 chapters to date
- ✦ Common interest by ICN members in developing effective enforcement techniques

Proliferation of market studies

Agencies – examples of recent market studies

- ✦ Turkey: FMCG, cement
- ✦ Germany: electricity, milk
- ✦ Italy: motor vehicles
- ✦ France: inter-regional transport services
- ✦ Malta: banks
- ✦ South Africa: private healthcare
- ✦ Kenya: seeds and dairy
- ✦ Singapore: airline industry

Regional studies:

- ✦ African Competition Forum
- ✦ Regional Centre Latin America

International organisation and donor agencies

- ✦ ODI cross-country study
- ✦ World Bank studies for client countries
- ✦ UK FCO project building market studies capacity in Latin America

A popular tool in an agency's toolbox

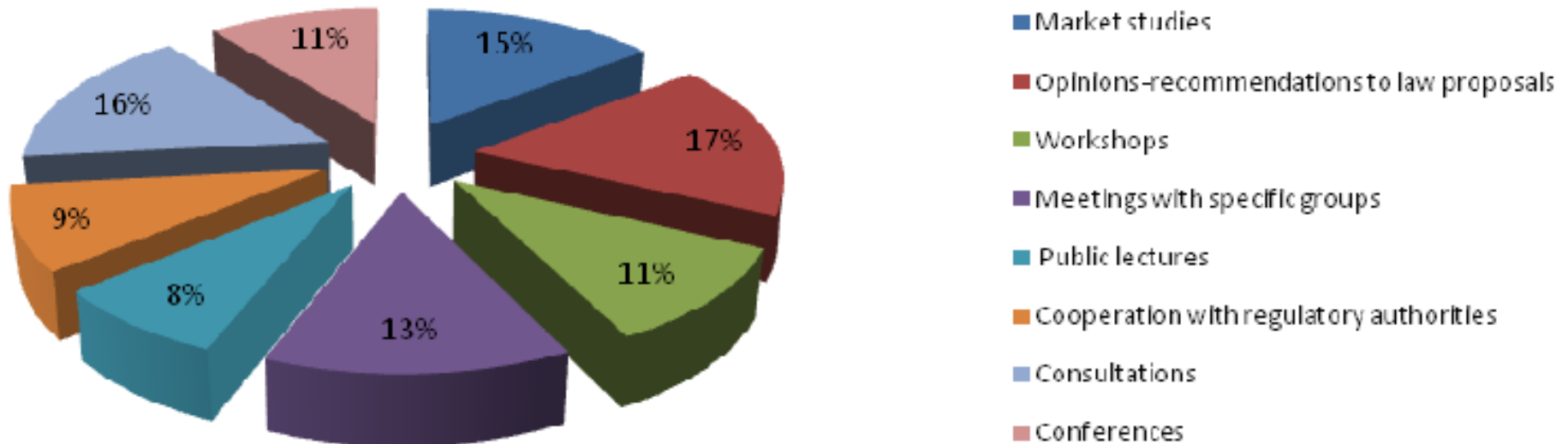
✦ Business Industry Advisory Committee statement at OECD (2008):

“BIAC does not consider market studies to be an essential component of an effective competition enforcement regime”

✦ Evidence suggests agencies think otherwise! One of the most common advocacy tools

ICN data on most common advocacy tools to promote competition

Most common advocacy tools to promote competition



Success of market studies

- ✦ Limited *ex post* evaluation
- ✦ Focus on prospects for change not just importance of problem
- ✦ Importance of promoting results and recommendations
- ✦ Long follow-through process

Success for ICN – more by coincidence than design?

David Lewis (former Chairman South African Competition Tribunal and ICN Chair) speech to annual ICN conference (2009)

“... we are entering into areas that do not easily lend themselves to textual consensus and harmonised implementation. For example, our expanding work on ... market studies will be difficult to measure by adherence to recommended practices or degree of convergence.”

Other constraints:

- ✦ Limited interest from private sector compared to other ICN products
- ✦ Out-of-date market information web store
- ✦ No on-going work by ICN or follow-up
- ✦ Better suited to sharing of experiences?

Final thoughts

- ✦ Diversity of market studies practices no barrier to their success internationally
- ✦ More important - convergence on usefulness of market studies tool
- ✦ ICN played some role in dissemination of market studies . . .
- ✦ . . . though influence here not as great as in other areas
- ✦ Some evidence of UK attempt to disseminate tool through ICN