

**General Secretariat
GROUP ON REGULATORY POLICY**

**SUPPORTING A STRATEGY FOR REFORM: THE ROLE FOR COMPETITION POLICY AND
CONSUMER ADVOCACY**

**3-4 December 2007
New Conference Center, Room 2**

This paper was prepared by the DAF-COMP Secretariat for discussion at the forthcoming meeting of the Group on Regulatory Policy.

For further information, please Michael Wise. Email: michael.wise@oecd.org. Tel: 33 1 45 24 89 78.

JT03236357

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format

TABLE OF CONTENTS

SUPPORTING A STRATEGY FOR REFORM: THE ROLE FOR COMPETITION POLICY AND CONSUMER ADVOCACY	3
Competition policy aspects of reform strategies	3
Competition advocacy and enforcement in support of reform.....	5
Competition advocacy and consumer interests	9
Advocacy as effective policy entrepreneurship: lessons for reform strategy.....	12
BIBLIOGRAPHY	13

Tables

Table 1. Recent Studies by Competition Agencies of Market Conditions and Impact of Reforms ...	11
--	----

Boxes

Box 1. Pro-competitive effects of product market reform	4
Box 2. Interest groups and reform strategies	5
Box 3. Types of advocacy activities	6
Box 4. Italy's <i>Bersani</i> reforms: the long-term payoff from advocacy.....	7
Box 5. Ireland's Groceries Order: demonstrating the consumer benefits.....	10

SUPPORTING A STRATEGY FOR REFORM: THE ROLE FOR COMPETITION POLICY AND CONSUMER ADVOCACY

1. What can competition policy motivated by the goal of consumer welfare do to help overcome obstacles to reform? This paper surveys common occasions and methods for competition policy advocacy and enforcement in support of reform. It examines the balance between the institutional independence and objectivity that are necessary for enforcement – and that make advocacy more credible – with the access and flexibility that are valuable in the reform process. It points out the key role of competition advocacy in enlisting broad consumer-level support for reform.

2. Reform changes the distribution of benefits and costs in the economy. Such changes imply political costs and political benefits to the key decision-makers who can advance or block reform. Implementing reform successfully thus requires adjusting the timing and magnitude of all of these costs and benefits, to the decision-makers as well as to their constituents, so that at the critical decision points the balance of expected benefits and costs supports change. Decision-makers who ultimately report to the electorate may be particularly sensitive to how changes affect consumers.

Competition policy aspects of reform strategies

3. Competition-related issues explain the common sequence of major reforms. This experience is described in the latest OECD stocktaking review of progress in structural reform (OECD, 2007), which also summarises important lessons about the political challenges of managing reform. The first step is usually lowering barriers in international trade, foreign investment and financial markets. These changes create opportunities and openings for stronger competition. The next stage is typically reform of product markets in order to improve efficiency in the new, more competitively challenging environment. Reform has gone farthest in sectors where the economic argument for controlling price and entry has been weakest, such as airlines, road freight and telecommunications. Reform has been slower in product markets such as electric power and railways where the economic argument is more complex.

4. Sequencing and synergies among policies are all-important. Macroeconomic policies to keep aggregate demand close to potential output may facilitate reform by reducing grounds for fear about the effects of structural change, while fiscal discipline can maintain confidence and room to manoeuvre, as well as make it possible to compensate losers. Outside expertise and international experience can bolster the case for reform. Liberalisation to stimulate competition could create conditions for the labour market reforms that are typically most difficult; however, reforms in the sectors that remain heavily regulated will be harder, and the difficulty is due mainly to labour market issues. (OECD, 2007)

Box 1. Pro-competitive effects of product market reform

Some of the dramatic changes that have followed from eliminating constraints on price and entry in key sectors were highlighted in the OECD's 1997 Report on Regulatory Reform:

Airlines: Permitting free entry and rate competition reduced airline fares by 25 percent in the United Kingdom, by 33 percent in the United States, and by 50 percent in Spain in the first year after licensed charter airlines were permitted to offer scheduled service.

Road transport: Permitting rate competition and free entry into road freight service lowered average rate levels by about 20 percent while increasing flexibility and improving productivity, without impairing safety or service to rural areas: this experience is reported wherever these deregulatory steps have been taken, in Europe, Asia, and North America.

Financial services: After ending price-fixing and introducing competition in securities trading, average commissions in the United Kingdom dropped to one-third of the pre-reform level.

Telecommunications: Reform has led everywhere to new services and intense competition for them.

Taxicabs: Opening the taxi industry to free entry and price competition in Sweden led to a 30 percent increase in the number of taxis in two years, while prices for most customers stabilized at pre-reform levels and prices for passengers receiving subsidy assistance actually declined. And service to rural areas was maintained.

Professional services: Eliminating the lawyers' monopoly on conveyancing and the barristers' monopoly on courtroom appearances, while permitting lawyers to advertise, was estimated to produce a 12 percent drop in the cost of legal services in Australia.

Health care: Where eye care professionals are free from regulatory prohibitions against advertising and other normal commercial practices, average prices are 25 percent lower--and the quality of care is the same as in the more highly regulated, higher-priced jurisdictions.

Source: OECD (1997).

5. Reform often follows crisis. The connection between crisis and reform seems particularly strong with respect to the reform of product market regulation to eliminate obvious constraints on competition. Changed conditions destabilise coalitions that had blocked change. Product market reform, to which competition policy is most directly relevant, typically precedes labour market reform and probably facilitates it. In times of crisis, labour market reform becomes harder, because people who feel threatened cannot be persuaded to give up what they think are protections. Labour market reform may become easier after product market reform for reasons related to competition policy. If stronger competition reduces market power, there is less rent available to try to claim through protective arrangements. And if a more competitive market creates more opportunities for entry and expansion of efficient firms, that could translate into more employment opportunities, reducing the incentive to insist on strong protection for current jobs.

6. Opposition to reform is typically grounded on concerns, and often on misconceptions, about the costs and benefits and about the trade-offs among objectives. Overcoming opposition requires political leadership, transparency and effective pedagogy. Clear understanding among stakeholders of the problems and of the solutions – including their costs as well as their benefits – is necessary, both to launch reform and to maintain momentum through the phase when costs may loom larger than benefits. (OECD, 2007) Strategies for reform must deal with the familiar reasons, based on the balance of costs and benefits, why decision-makers might resist change:

- Uncertainty about outcomes: The costs of change may be clear, but the benefits, even if supposedly larger, are vague.
- Political risk from timing: The costs of change may come before the next election, but the benefits will come after.
- Interest group reactions: Interest groups can organise to lobby against changes that increase concentrated costs more easily than consumers can organise to capture diffused benefits. Similarly, a small group or an industry has stronger incentives to influence policy in order to capture rents from a large, disorganised group such as consumers.

Box 2. Interest groups and reform strategies

Different distributions of costs and benefits lead to different strategies for interest group organization, and hence to different roles for competition policy in reform.

- If both benefits and costs are spread widely, the net effect may be unclear and there is little incentive for groups to organise over them. Competition laws are the kinds of broad, general reforms that emerge from the long, open debate that is needed to develop a consensus in these settings.
- If both benefits and costs are concentrated on identifiable groups, these interest groups are likely to organise, to lobby the government and to negotiate with each other. Competition policy may object to deals that amount to anticompetitive exclusion or collusion.
- If benefits are concentrated, but costs are dispersed, the beneficiaries have a stronger incentive to influence the political process to be sure they obtain those benefits, but those who pay the costs may not even notice them individually. The benefit may be rent from market power, and thus laws and regulations that protect these rents are a common object of regulatory reform.
- If costs are concentrated, but benefits are dispersed, the groups who bear the costs will organise to avoid paying them or to shift them to the public. Change in this situation may require intervention by policy entrepreneurs promoting the benefit from reform and publicizing how the public is bearing the costs. Competition agencies have often taken this role, calling attention to the social costs of regulation and the potential benefits from reform.

Source: Wilson, 1980.

Competition advocacy and enforcement in support of reform

7. Promoting reform is a key mission for competition policy officials and enforcement agencies. Competition policy bodies in nearly all Members are active in advocacy to remove or prevent unnecessary legal and regulatory constraints on competition, in order to make markets work better and thus improve economic performance. Many are consulted about designing or reforming laws and regulations where effectiveness could depend on recognising market incentives and responses. Some competition enforcement agencies devote 10% or more of their resources to policy analysis and advocacy. Competition law can be a reform tool, particularly in the process of controlling and restructuring infrastructure monopolies, and enforcement sometimes must grapple with purported reform devices such as self-regulation. Doing all of these tasks effectively requires dealing with interest groups seeking to promote and protect their positions, that is, with the process that defines the problem of the “political economy of reform”. For reform to succeed, demonstrating benefit to consumers is critical, and forming alliances of interest groups who would benefit is often necessary. Competition agency participation in this process can encourage broader support for reform, when the agency is clearly representing policies that are founded on consumer interests.

8. In virtually every Member country where significant reform efforts have been undertaken, the competition agencies have been active participants. Many agencies report that the degree of their participation is limited only by the lack of sufficient resources. This advocacy need not amount to direct confrontation in public with other agencies. It can include persuasion offered behind the scenes, as well as publicity outside of formal proceedings. Some competition agencies have the power, at least in theory, to bring formal challenges against anticompetitive actions by other agencies or official or quasi-official bodies. More indirect, but still visible, is formal participation in another agency's public hearings and deliberations. What is appropriate and effective depends on the particular institutional setting.

Box 3. Types of advocacy activities

The range and the similarity of ways that Member country agencies have participated in regulatory processes show that much of their normal work constitutes "advocacy" about regulatory reform. Even where there are separate offices for enforcement and for policy, the enforcement sections have contributed, sometimes more informally, to regulatory reform decisions:

- The Australian Competition and Consumer Commission makes formal reports and submissions to other Commissions and departments, makes appearances before Parliamentary committees, maintains informal contacts and discussions with other parts of the government and has seconded staff to other offices (and brought their staff to the ACCC as well).
- In Canada, the Competition Bureau offers policy and legislative advice within its own Department, gives advice to other Departments on request, does research into emerging problems, participates formally in regulatory proceedings (with commentary, advice, and evidentiary presentations), makes submissions to committees and tribunals, holds seminars with other Departments, submits informal comments and analysis in early stages of policy development and makes speeches and sponsors studies for publication.
- The German Bundeskartellamt concentrates on enforcement, but it also has prepared formal statements on legislation at Ministry request. In particularly important situations, such as energy sector reform and telecommunications, Bundeskartellamt staff have testified to Bundestag committees and hearings.
- In Mexico, the Federal Competition Commission is a member of the interministerial privatization commission. In addition, it submits official statements to other bodies, and uses informal contacts, speeches, and seminars to advance competition and consumer interests in reform issues.
- In Japan, the Fair Trade Commission has used its right of consultation to ensure that bills presented to the Diet do not contain elements contrary to the Anti-monopoly Act or to competition-related policy objectives of regulatory reform.
- In Norway, the Competition Authority presents research reports on regulatory issues at formal hearings and submits other presentations through its Ministry. The agency may intervene in regulatory proceedings on its own initiative, typically when it learns of situations through complaints from market participants about regulatory barriers to entry. In addition, the Norwegian Consumer Council also participates in Parliamentary hearings, submits formal presentations to ministries, meets formally and informally with officials, and participates in the public debate to advance consumer interests in regulatory issues.
- The Polish Antimonopoly Office offers views on all draft normative acts, and its president participates in meetings of the Cabinet and the Government Economic Committee. The AMO is sometimes approached formally by the Parliament for its advice and opinion. Informally, the AMO is often approached by enterprises with complaints about anticompetitive regulations, and the AMO may take up the problems with the relevant ministry, along with suggestions for reforms.

Source: OECD (1997).

9. Every one of the sectors most commonly taken as an object of reform – telecommunications, electric power, other public services and network industries, professional services, agriculture and food, financial services, product standards – has been the subject of substantial advocacy or enforcement attention by Member country competition and consumer agencies. According to a survey taken in the 1990s, of the approximately 20 Member countries whose agencies had the most active advocacy programs, all had been involved already in telecommunications issues, all but two in professional services, all but two in financial services, and well over half in the electric power and agri-food sectors. Most had also been involved in reform in airline and other transport sectors and in issues about retail trade and distribution. (OECD, 1997)

10. Assessing the impact of this advocacy requires making judgements. The first difficulty is identifying what, in the relevant context, would count as success or effectiveness. If the outcome is less competitive than the agency would have preferred, it still might be more competitive than it would have been without the agency's participation. In addition, the complexity and time-consuming nature of the reform process makes it difficult to assign responsibilities for the results. Not only are there usually many issues at stake other than competitive and consumer effects, but there are usually many other participants. It may thus be practically impossible to isolate the effect of the agency's participation on the regulatory outcome. And because of the extended period over which regulatory reform issues are typically debated and decided, it is even difficult to determine when the most important contributions were made. A presentation that may seem unsuccessful in the short run may prove to have contributed to a long-term paradigm change of thinking within the industry or regulatory body. Advocacy that builds foundations and coalitions for reform is cost-effective, even if it does not show immediate payoff in the enactment or rejection of a particular proposal.

Box 4. Italy's *Bersani* reforms: the long-term payoff from advocacy

Nearly 400 sector studies and advocacy filings by the Italian Competition Authority, over a period of 15 years, laid the foundation for the wide-ranging *Bersani* reforms of 2006 and 2007. The reforms mirror recommendations from the Authority's repeated findings about competition issues arising from sector regulation.

Professional services: Rules setting minimum fees and banning advertising are repealed, and controls on multi-disciplinary practices are relaxed. In 1997, a sector inquiry by the Competition Authority called attention to these constraints, and in 2005 the latest in a series of advocacy reports on liberalisation of professional services analysed potential measures in detail.

Retail distribution: Limits on promotional sales are dropped, and approval of new store locations should not impose requirements about minimum distance from others or range of products supplied. These steps bolster a 1998 reform that made it easier for small shops to open up. In 1993, one of the Competition Authority's first reports, in response to a specific instruction in the then-new Competition Act, was about issues in retail distribution. Later advocacy reports backed up the 1998 reforms and called attention to how regional governments were implementing those reforms.

Bakeries: Bakeries no longer need special authorisation to relocate, and they may sell other food products for immediate consumption. In 2002, an advocacy filing by the Authority called for such reforms.

Pharmaceutical products: Pharmacies no longer have a monopoly on selling "over the counter" products, retailers may discount the prices of those products, and a wholesale distributor may now run a pharmacy. In 1997, a sector inquiry by the Competition Authority questioned restraints on pricing and on entry by wholesalers, and more recent advocacy filings dealt with other aspects of these regulations.

Taxicabs: Limits on the number of taxi licences are lifted, and other aspects of regulation by municipalities are made more flexible, to promote new entry. In 1995, the Competition Authority issued an advocacy filing about competition problems in this sector, and it returned to the topic with a filing in 2004.

Insurance: Exclusive distribution arrangements and mandatory minimum prices are prohibited. In 2003, a sector inquiry by the Competition Authority showed that exclusive contracts raised entry barriers.

11. Formal authority to participate in reform processes improves the competition agency's strategic effectiveness in advocacy. Where market competition is strongly established as the basic principle of economic policy, there may be less need for formal authority in order to promote that goal. But the lack of clear authority can prevent action. Even where pro-competitive reform has some support, opponents of reform can invoke an agency's lack of formal authority to silence it.

12. Basic laws in some Members explicitly authorise the competition agency to participate directly in proceedings at other government agencies or regulators or to publicise recommendations about their decisions or about reforming their laws and regulations. Other Member competition agencies have the power, under law, to study and report on competitive issues and problems. Where this power is interpreted to extend to the effect of government action as well, it has supported significant programs of participation. Sometimes this general authority is supplemented by power to do such studies in response to particular requests.

13. Often, other bodies or ministries are required by law to consult with the competition agency about particular matters, or even about all actions that might affect competition. Where the laws are not so explicit, a similar right or power of consultation typically inheres in the agency's position in the government structure. Or, it may be the usual or expected practice. Nearly all Member agencies offer advice and opinions on particular matters when requested by other parts of the government or the legislature. A few agencies have limited their formal advocacy work to such responses, perhaps because their legal authority for other kinds of participation in regulatory issues is not clear.

14. Competition agency independence is an institutional factor whose significance in advocacy is ambiguous. Independence from ministries is necessary to the agency's position as an impartial law enforcer, and in their enforcement roles Member competition agencies all enjoy some degree of independence of action, regardless of their formal position. A reputation for independent impartiality might also make their advocacy arguments more effective. On the other hand, a position outside the government may isolate the agency from the process. Certainly participation is hampered if regulators and other agencies are reluctant to make their own processes transparent. In practice, the degree of institutional independence does not determine the intensity of advocacy activity. Some of the most institutionally independent agencies have done substantial work on regulatory issues, while others in similar circumstances have not.

15. Effective participation depends on access to the process. Regardless of its organisational position inside or outside the government structure, the agency must have enough access to the process to ensure that the important decisions are not already made before there is a real opportunity to participate. A good working relationship between the agency's staff and the staffs at the various regulatory bodies will broaden the perspectives of all parties and enable the competition agency to keep abreast of technological and political developments that might affect the regulator's outlook on critical issues. Advocacy that takes a diplomatic approach, by respecting the complexity of the issues and the potential legitimacy of other policy goals, helps establish that relationship.

16. Enforcement power can make advocacy more effective. Some competition agencies find their efforts in regulatory settings are more successful if they also have a "fist" in the process, even counselling against undertaking an advocacy project if they lack enforcement power to reinforce it. Enforcement action can shift the burden of persuasion in the policy debate, by putting rent-seeking industries on the defensive. But direct enforcement is not always an option. Where an anticompetitive restraint follows directly from government action, advocacy may be the only way to contribute to removing it.

17. Enforcement experience and agency expertise help set the strategic agenda for reform, in the choice of topics and the timing of action about them to help construct a public and government consensus supporting action. Regulated industries, exempted from competition law enforcement, may reach non-competitive outcomes just like ones that the competition agencies can successfully prevent or remedy in other, closely related situations. Competition law enforcement can identify and publicise these regulatory problems. Enforcement action against anticompetitive conduct that happens to fall just outside the scope of formal exemptions can publicise the need to address conduct that remains exempted. Enforcement action that fails because a court finds that the anti-competitive conduct falls on the “regulated” side of an unclear boundary can build support for reforming that regulation.

18. Enforcement follow-through can reduce uncertainty about whether reform will actually deliver promised benefits. As firms adapt to the new, more competitive reality, competition agencies and regulators must keep the reform goals in mind and adapt their actions accordingly. Enforcement should resist industry efforts to reverse or ignore the reform process and persist in familiar, non-competitive behaviour. Anticipating greater competition, industry players may take steps to reduce its impact on them, through alliances or mergers. Where these are likely to be anticompetitive in the post-reform environment, the competition agency must either take preventive action during the transition period (where that is permitted), or prepare for the possibility that enforcement and restructuring action will be needed after the parties no longer have regulatory immunity from competition law enforcement. Such enforcement actions complement and reinforce reform outcomes.

19. Participation in debate about regulation and reform involves costs, in resources and in political capital, that must be weighed against the benefits of the reform outcome. Demonstrable consumer benefit is obviously a critical element in setting priorities. To emphasise the legitimate policy foundation of their actions and the link between regulatory issues and their usual enforcement work, agencies should concentrate their advocacy resources on settings where consumer benefits and effects are strongest and most clearly demonstrable.

20. Effectiveness may depend on support from other participants. Because the cost to the agency in political capital can be great, it should consider carefully whether to participate in settings where no support from other parties can be expected. To increase effectiveness and help prevent damaging political counterattacks, the agency should make use of support from those with other policy interests. That is, it should be aware of, and capitalise on, linkages with other policies and institutions. Where possible, it should consider working with media, interest groups, and advocates in other forums to achieve regulatory reform goals.

21. This process entails a risk, because appearing to form alliances to achieve reform outcomes could compromise the independent stance necessary for law enforcement. And identifying allies is not always straightforward. Industry parties may change their positions, as those who oppose reform may reverse themselves later when it appears they may benefit from it. Allies on some issues may become adversaries on others. Where reform is progressing one industry at a time, allies for further reform may be found in the previously-reformed sectors. Ultimately, though, it is probably most important for the agency to find allies elsewhere in the government decision-making process.

Competition advocacy and consumer interests

22. An agency that embraces both consumer protection and competition responsibilities has a unique advantage in promoting regulatory reform. It can be its own ally, because it can credibly contend that its advice to promote competition is consistent with protecting consumers. Increasing competition should benefit consumers directly; thus, the ultimate goal of much economic regulatory reform is fundamentally a consumer protection goal. Where a single agency has both consumer protection and competition

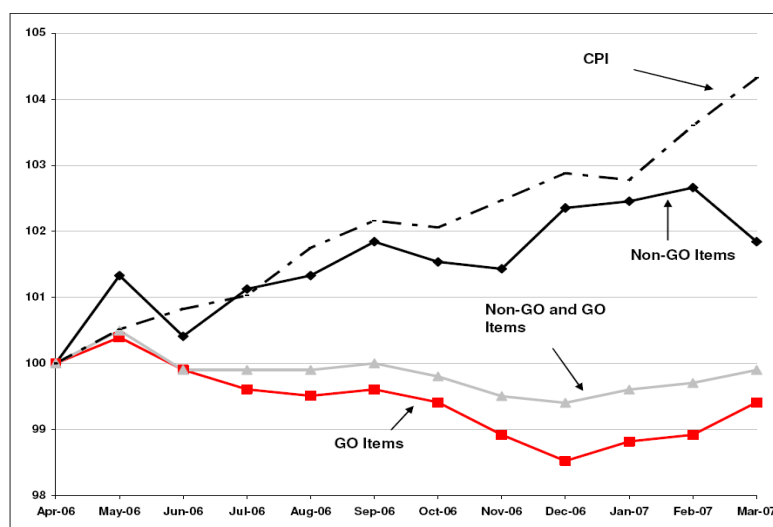
responsibilities, this point may be easier to make convincingly. Experience confirms the value of this connection. An IMF study of conditions affecting the success of broad-based reforms found that reforms began sooner and proceeded farther in Australia, Canada, New Zealand, the United Kingdom and the United States (IMF, 2004). In each of these countries, there is an agency that combines responsibilities for competition with enforcement of rules to protect consumers against unfair practices in the marketplace.

23. Persuasion may be necessary to overcome doubt among members of the public whether advocacy of less or different regulation is consistent with advocacy of consumer interests and protections. For example, groups representing consumers have sometimes objected to changes that would lead to lower prices or more open entry on the grounds that product or service quality would decline.

Box 5. Ireland's Groceries Order: demonstrating the consumer benefits

In 2006, the government of Ireland terminated the Groceries Order, a regulation that had prevented retail price-cutting and controlled other marketing practices. The Irish Competition Authority had been calling for this reform for years, pointing out how the Groceries Order harmed consumers by keeping prices too high. Industry had resisted, claiming that it protected small business. After it was repealed, industry representatives claimed that rising prices showed that it was necessary to keep prices in check. The Competition Authority examined the marketplace in more detail, comparing changes in prices for products that had previously been subject to the Groceries Order to changes in other products. The Competition Authority produced a chart to show the public clearly how ending the Groceries Order led to lower prices for the consumer products that had been subject to it:

Grocery price inflation since April 2006 (April 2006=100)



Source: Irish Competition Authority.

24. Costs of information and organisation explain some consumer apathy about reform. The *per capita* benefits from better regulation could be so small that it would be irrational for any individual consumer to pay attention to them. To improve consumer welfare where consumers themselves are thus rationally unaware of their own interests, competition enforcement can take action on consumers' behalf, promoting changes that will produce large-scale, though diffused, benefits to them, for which supporters of reform can later claim some political credit. Enforcement can demonstrate likely benefits while stigmatizing rent-seeking interests, challenging them to justify resistance to change. Competition advocacy, in an entrepreneurial role, can educate consumers about the effects and motivate them to support change, providing an alternative to formal organisation as an avenue of political influence. Advocacy and enforcement can call attention to issues and motivate coalition-building and public support in the conditions where theory predicts that opponents of reform would successfully organise to defeat reform.

25. A key fact, presented clearly when the public is ready for the message it conveys, can be decisive. The early experience of reform in the United States illustrates how a pro-reform consensus can form around basic concepts. In the economic conditions of the mid-1970s, with low growth and high inflation, the public was ready to be persuaded to change. Arguments about economic regulation could be reduced, convincingly, to the simple point that prices were too high, and restrictive regulation was one of the reasons. (Noll, 1989) An illustration from the airline industry made the point irrefutable: rates for service within a state were a fraction of the rates for comparable interstate service subject to federal control of rates and entry. Thus the first major reform project was liberalization of airline service and abolition of the sector's economic regulatory agency.

26. Uncertainty about the nature and magnitude of benefits and costs would contribute to reluctance to change. Advocacy that demonstrates the effects of similar changes in other markets or jurisdictions can reduce those uncertainties. Sector-level case studies about industry conditions and the effects of reforms are produced regularly by many competition agencies, which use them in this kind of educational advocacy.

Table 1. Recent Studies by Competition Agencies of Market Conditions and Impact of Reforms

Country	Market
Australia	Payment card interchange
Australia	Postal services
France	Retail consumer products
Ireland	Grocery retailing and wholesaling
Japan	Civil engineering
Japan	Procurement
Netherlands	Debit card network
Norway	Airlines
Norway	Book retailing
Norway	Cement
Norway	Electric power
Norway	Grocery retailing
Norway	Pharmaceutical wholesaling and retailing
Norway	Radio broadcasting
Norway	Telecoms
United Kingdom	New car warranties and repairs
United Kingdom	Real estate
United Kingdom	Pharmaceutical price regulation
United Kingdom	Pharmacy market
United Kingdom,	Taxi market
United States	Rent-to-own (consumer protection)
United States	Tobacco products
United States	Trucking

27. Reluctance to back reform may also contain elements of sceptical conservatism. Consumers may accept the public-interest justification for regulation and suspect that arguments to reform it are driven by other agendas, such as private rent-seeking influence, that are inconsistent with the public interest. Individuals' views about reform may be affected by differences in willingness to take risks and in concern about how change would affect them in comparison to others. Some who might do better under reform, but not as much better as others with whom they compare themselves, might not think the change is worth making. An element of "status quo bias" could be explained by an insight of behavioural economics, that people often prefer to keep what they already have unless the net benefit of change is large and clear. (Kahneman, 1991) In the face of these sceptical tendencies, achieving reform requires sustained, effective persuasion.

28. Individuals may resist reforms that would benefit them as consumers because the changes could impose costs on them as employees or investors. A majority of a public whose individual members do not know for sure where they would stand post-reform might rationally reject a change that would improve welfare overall. (Fernandez, 1991) This obstacle might be overcome by identifying clearly those who will gain from the change, to encourage them to support it. Phasing changes, so at least some of the benefits are clearly in place before the costs fall, could also facilitate the process. The conflict created by this individual-level combination of costs and benefits may be one reason why reform of product markets typically precedes reform of labour markets.

Advocacy as effective policy entrepreneurship: lessons for reform strategy

29. A practical way to frame the “political economy” problem is to ask how a government can reform and still win an election. Leaders can promote reform over the resistance of better-organised beneficiaries of rents and privileges if the voting public believes strongly enough that they will benefit. Showing how reform benefits citizens as consumers, not just in theory but in fact, can thus be critical to success, for the class of citizen-consumers, which includes everyone, is larger than any other. The consumer perspective can also be a useful check: if it is hard to show how a proposed reform benefits citizens as consumers, the supposed reform may be ill-advised. The competition policy community is familiar with this perspective on the political economy problem, since the goal of competition policy is to promote the interest of the public as consumers rather than to protect the positions of producers and competitors.

30. Demonstrations and arguments that credibly reduce uncertainty about the magnitude, timing and assignment of the benefits and of the costs of reform are vital to success. Obtaining broad support for reform depends on assuring the public that “reform” is not a euphemism for eliminating protection against injury and monopoly. The conception of consumer welfare resulting from open, competitive markets supplies a clear, coherent principle motivating reform. Concentrated interests can always hire lobbyists and experts to explain why their industry should be exempt from market discipline. A competition authority, expert in market matters generally and acting as lobbyist for the public interest, can counter unfounded claims for industry-favouring regulation, alerting consumers to their interests in opposing measures that lead to higher prices and less choice.

31. Vigorous advocacy can make a major contribution to getting reform started and to completing it successfully. The frequent topics of competition and consumer advocacy, namely lowering barriers to trade and removing constraints in product markets, are typically the ones that launch the reform process and facilitate further, more difficult reforms. To overcome objections from special interests and scepticism from likely beneficiaries, effective advocacy should combine a clear message, based on facts as well as theories, with honest acknowledgement of the costs as well as the benefits. Key, compelling facts illustrating the likely effects of reform may be developed from the records compiled in cases applying competition law to similar problems, or they may be taken from reports of experience with similar reforms in other sectors or jurisdictions. Round-table programs of the Competition Committee and its Working Party on Regulation have become a medium for Members to compare experiences and share reports about reform impact.

BIBLIOGRAPHY

- Cooper, James C., Paul A. Pautler and Todd J. Zywicki (2005), “Theory and Practice of Competition Advocacy at the FTC”, *Antitrust Law Journal*, vol. 72, pp. 1091-1112.
- Fernandez, R. and D. Rodrik (1991), “Resistance to Reform: Status-Quo Bias in the Presence of Individual-Specific Uncertainty”, *American Economic Review*, No. 81, pp. 1 146-1 155.
- Høj, Jens, V. Galasso, G. Nicoletti and T. Dang (2006), *The Political Economy of Structural Reform: Empirical Evidence from OECD Countries*, Economics Department Working Papers No. 501, OECD, Paris.
- IMF (2004), Fostering Structural Reforms in Industrial Countries, *World Economic Outlook*.
- Kahneman, Daniel, Jack L. Knetsch, Richard H. Thaler (1991), “The Endowment Effect, Loss Aversion, and Status Quo Bias”, *Journal of Economic Perspectives*, vol. 5, no. 1, pp. 193-206.
- Landy, Mark, M. Levin and M. Shapiro (2006), *Creating Competitive Markets: The Politics of Regulatory Reform*, Brookings, Washington D.C.
- Noll, Roger (1989), comment on Peltzman (1989), *Brookings Papers on Economic Activity. Microeconomics*, vol. 1989, pp. 48-58.
- OECD (2007), *Economic Policy Reforms: Going for Growth 2007*, OECD, Paris.
- OECD (1997), *OECD Report on Regulatory Reform*, Vol. II: Thematic Studies, OECD, Paris.
- Olson, M. (1965), *The Logic of Collective Action*, Harvard University Press, Cambridge, MA.
- Peltzman, Sam (1989), “The Economic Theory of Regulation after a Decade of Deregulation”, *Brookings Papers on Economic Activity. Microeconomics*, vol. 1989, pp. 1-41.
- Wilson, James Q. (1980), “The Politics of Regulation”, in Wilson, J., ed., *The Politics of Regulation*.