



Supplementary guidance: How to consider competition in impact analysis

July 2026

The purpose of this guidance note is to assist drafters of impact analysis (IA) and Regulation Impact Statements (RIS) to assess the competition aspects of a proposed policy.

This note describes how to apply 'competition tests' to identify:

- how regulation can impact on businesses' ability to compete
- how to consider less restrictive alternatives
- how to ensure that the analytical approach being taken accommodates impacts that are created through changes to competition (e.g. in regulatory burden and net benefit assessment)
- how the Office of Impact Analysis (OIA) can assist you to assess the impact of a policy proposal on competition.

The depth of competition analysis should be proportionate to the type of IA being prepared. Dashboard IAs should provide high-level competition analysis; Detailed IAs should provide comprehensive assessment.

This guidance note aims to support drafters to understand the impacts that changes to the competition environment can create, as the first step in understanding how those impacts on businesses, individuals or community organisations can be identified and estimated as part of an IA.

Why you should consider competition

Competition is key to a productive Australian economy, promoting benefits like economic efficiency, consumer welfare and innovation. It provides consumers with greater choice, higher quality and lower prices, while raising living standards.

Businesses in competitive markets need to offer better deals, or consumers will choose a competitor that does. This can encourage productivity improvement to reduce prices and innovation to develop newer and better products. But where competition is limited, including because of unnecessary regulation, poorer quality products can be offered at higher prices, and consumers may have limited choice.

Competition can also help ensure productivity gains are passed on to workers as higher wages and unpick economic rent so that the gains from economic growth are shared more quickly and widely across the community.

Careful analysis of the competition aspects of a policy proposal can contribute to better informed decision making and lead to better policy outcomes for Australians.

Both the [Australian Government's Impact Analysis Framework](#) and the [Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies](#) require IA to consider impacts on competition. This is consistent with the Commonwealth's commitments under the [2024 Intergovernmental Agreement on National Competition Policy](#) between Commonwealth, State and Territory governments.

Although this note generally uses the term 'businesses', not-for-profit organisations and governments can participate in the same markets. A proposal that does not directly impose requirements on businesses can still have important competition effects that need to be considered. Competitive forces also affect the activities of not-for-profit organisations, even if they may not respond in the same way as businesses.

If your proposal impacts competition, your IA or RIS should demonstrate that the change in competition is in the public interest, having regard to the following tests:

- the benefits of the change to competition to the community as a whole outweigh the costs; and
- the objectives of the policy, decision or action cannot be achieved by another approach that:
 - does not restrict competition or lessens the restriction on competition; and
 - has net community benefits that are at least as high.

These 'competition tests' will help to identify the potential trade-offs that should be considered in proposals that change competition. The following charts the steps involved in completing the competition tests in IA

Where required, the results of the competition tests will be covered under specific IA questions – see below.

How to complete the competition tests

Step 1: Does the proposal impact competition?

The types of policies that may have a material impact on competition include those that change the:

- barriers to entry, growth or exit for businesses, organisations or workers
- number or types of businesses or organisations that can operate
- ability or incentives for businesses or organisations to compete
- conditions that influence the prices a business can set or their market share
- choices, information, goods or services available to consumers.

Many regulatory policy proposals will restrict competition to some degree, if just by adding a new requirement that will be easier to comply with for a large, established company than a potential new entrant into the market.

Understanding the ways that regulation can affect competition will help you when analysing the impacts on business and consumers in IA.

It is possible for a regulatory proposal to change the way businesses compete in several different ways. The following categories are broadly based on the Organisation for Economic Co-operation and Development (OECD) [Competition Assessment Toolkit](#), which explores the ways in which regulation can impact on competition:

Changing the barriers to entry, growth or exit for businesses, organisations or workers

A regulation that potentially changes the number or types of businesses in a market will mean that some businesses will be incentivised or others may be unable to enter that market and compete. Such regulations include those that:

- award or remove exclusive rights for a business in a market (for example, changing the ability of businesses to supply goods or services in specific geographic locations)
- change the requirement for businesses to be licensed or authorised
- significantly lower or raise the costs to enter or exit a market
- change the geographical flow of goods, services, capital or labour.

More generally, the compliance costs associated with regulation may affect the ability of businesses to enter the market, particularly when regulations are not proportional to the sizes of businesses in the market or do not adequately balance risk mitigation with efficiency, growth, and dynamism. Such

compliance costs can be estimated using the regulatory burden measurement framework, but the impacts that these compliance costs may create will likely be broader.

Changing the number or types of businesses or organisations that can operate

A regulation can change the ability of businesses to compete against each other by specifying aspects of the business' conduct, such as the quality of products, the location they can be sold, or how they can be promoted. Such regulations include those that:

- change the freedom of businesses to advertise or market their goods or services
- set standards for product quality that advantage or disadvantage some businesses over others
- change the ability of some types of businesses to provide a good or service
- significantly raise or lower costs of production for some businesses relative to others. For example, by creating a standard that is inconsistent with imported goods or treating existing businesses in the market differently to new entrants.

Changing the ability or incentives for businesses to compete

Regulations can affect the behaviour of businesses not only by changing their ability to compete, but also by altering their incentives to act as rivals.

For example, a regulation that impacts upon a business' capacity to expand its market share or grow profit may change the vigour with which that business competes against other businesses. Some regulations also have the effect of changing the willingness, ability or incentive of customers to switch between different suppliers, which may also impact upon the incentive for businesses to compete.

Regulations that may change incentives for vigorous competition between businesses may include those that:

- exempt or include the activity of a particular industry or group of suppliers from or in the operation of competition law
- create a self-regulatory or co-regulatory regime which includes rules that change incentives for businesses to compete
 - For example, a proposal might set industry standards that limit aggressive marketing or product differentiation, such as a voluntary food industry code restricting the use of cartoon characters on unhealthy food packaging. While the benefits of these actions may outweigh the costs, the competition impacts need to be considered to ensure this is the case.

Changing the conditions that influence business' ability to set prices or gain market share

Regulation may impact upon a business's ability to set their own prices that are normally influenced by a combination of:

- supply and demand
- market power
- barriers to entry
- degree of constraint imposed by existing competitors.

Government intervention can affect these forces positively or negatively where changes in regulation influence, for example:

- price controls
- licensing and permits
- mergers and acquisitions
- environmental and safety standards
- data sharing
- advertising and promotion
- exclusive dealing or contracting
- cost of compliance with regulation (barrier to entry).

The results of Step 1 should be reflected in the response to IA/RIS question 3: *'What Policy Options are being considered?'*

Changing the choices, information, goods or services available to consumers

Regulation that changes the choices and information available to consumers may dissuade or incentivise businesses to leave or enter a market and change competition in the market. Such regulations include those that:

- change consumers' ability to choose who to buy from
- change consumers' ability to move between suppliers by imposing or removing 'switching costs'
- change information available to consumers and thereby affect their ability to choose effectively between competing businesses.

Step 2: Are there feasible alternative options that encourage or are less restrictive on competition?

If your proposed regulation would restrict competition, you should demonstrate that doing so is the only way of achieving the government's policy objective. This means that you must first rule out

alternative solutions that do not restrict competition or are less restrictive on competition, including consideration of no regulation.

Regulation that is less restrictive on competition may:

- promote consumer choice
- allow imported goods
- impose compliance costs that are proportional to the size of the businesses involved
- balance risk mitigation with efficiency, growth and dynamism
- lift or relieve specific taxes or penalties
- allow new competitors to enter the market.

If your regulatory proposal restricts competition, you could consider alternative or complementary options to address a problem or achieve the government's objectives, such as:

- using government funding (for example, funding to clean up pollution, more funding for existing enforcement activities, or funding to help older people to pay for health care)
- imposing taxes and penalties (for example, placing a tax on polluters, increasing existing penalties, or having progressive taxation arrangements)
- strengthening existing arrangements (for example, by increasing resources for enforcement)
- using non-regulatory or light-handed regulatory options, for example:
 - lowering barriers for businesses to enter and/or expand
 - making it easier for consumers to make better decisions
 - creating incentives for desired behaviours
 - communicating / providing information or advice
 - industry policies like test beds, sandboxes, or leveraging government's buying power as a customer in the market
 - using convening powers to set cross-society objectives, create networks and facilitate productive linkages.
- applying a behavioural lens to unpack complex policy problems, identify the right tool or interlocking set of tools to address the problem (including behavioural and non-behavioural tools such as regulation), test solutions (where appropriate), and support implementation and evaluation.¹

¹ [Unlocking the full potential of behavioural insights for policy](#), European Commission, 2025

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- The [BETA Behaviour Discovery Tool](#) is available to assist you to consider your policy problem from a behavioural perspective.

For proposals giving effect to election commitments, the requirement to consider alternative options is modified — see *Special cases* in the **Australian Government Impact Analysis Framework**.

The results of Step 2 should be reflected in the response to IA/RIS question 3: *'What Policy Options are being considered?'*

Step 3: Does the proposal have a net benefit?

If your proposed regulation has a material impact upon competition, you should demonstrate in your IA that it will generate a net benefit to the community as a whole, and that there is no alternative measure with equal or higher net benefits.

Under the **Australian Government Impact Analysis Framework**, you are required to consider if a proposal will have a material impact on competition. Analysis should be undertaken to test if the IA Threshold 2 applies: annual expected impacts on economic and social outcomes are \$200 million or more for people, businesses, or community organisations.

Your IA needs to assess both the benefits and the costs of the change, including those resulting from changes in competition. If either benefits or costs are \$200 million or more for an in-scope policy, an IA is required.

The assessment of net benefit in an IA (or RIS) may be informed by a cost-benefit analysis (CBA), which will yield a quantitative net benefit estimate. However, there are some limitations to CBA that are relevant to competition impacts which need to be considered in the selection of an analytical method for the IA. For example, in a fully competitive market the benefits of a reduction in production costs will be likely passed onto consumers. However, where there is significant market power this 'pass through' of benefits may be more limited. A CBA will consider the level of this 'pass through' as a transfer and will be ignored in the overall net benefit. Additionally, a CBA does not typically consider impacts on secondary markets, which may be where the impacts of a change in competition are most acute. In such cases, a CBA may not be the best choice for the IA or may need to be complemented with other techniques to tell the full story of impacts.

Regulatory burden estimates may also help to 'tell the story' of changes to competition and the broader public impacts. For example, an industry certification scheme may improve the quality of service delivery but may create 'barriers to entry' for businesses. Regulatory burden can be used to estimate this barrier to entry.

What are the benefits?

The benefits from public policy are derived from addressing a problem or achieving a social objective. It is easier to quantify benefits when you know the type and size of the problem. This section identifies some common market problems and social policy objectives in which competition is important.

Is there a problem with the structure of a market?

Excessive market power due to an imbalance in the structure of a market can lead to *monopoly-type power*, which can create incentives for a supplier to increase prices and reduce the quantity and quality of goods or services to increase profits. The costs to the consumer from this practice will generally be greater than the benefits that the monopolist receives.

Even without a monopoly, a seller having excessive market power may exacerbate the *split incentives* that exist between a buyer and seller. For example, in a tight rental market, landlords seeking to maximise their profits will underinvest in energy-saving measures for their investment properties. While this practice will save the landlord some expenses, their savings may be less than the higher energy costs incurred by the tenant (a 'principal-agent problem').

Alternatively, where there are few buyers and many competing sellers, buyers may be able to exercise *monopsony-type power*. This may enable the buyer to ask for lower prices and demand higher quality goods. This can negatively harm suppliers, such as workers, farmers, or small businesses, which can reduce overall supply, quality, or investment.

The intensity at which businesses compete is not a function solely of the number of suppliers operating in the market. A market with two sellers, or even only one seller, can be competitive as long as there is a strong threat that a new competitor could enter the market ('contestability'). In such a case, a regulation that makes market entry harder will reduce competition.

Are there externalities?

When considering policy options and the impacts on competition, you should be mindful of the potential for externalities (positive or negative). A *negative externality* occurs when producing or consuming a good has a negative effect on a third party (for example, pollution from factories). The opposite is a *positive externality*, which occurs when a party not involved in a transaction benefits from it (for example, reduced congestion from the use of public transport).

A public good can involve a form of positive externality when others cannot be excluded from receiving benefits from it (non-excludable) and the use of it by one business does not reduce the benefits of it for others (non-rival). An example would be an unpatented invention that could be copied by everyone once it is announced. This can lead to a *free-rider problem*, which can diminish the incentives to invest, including in a public good.

Are there problems with the transaction of a good or service?

Information asymmetry may also be an important consideration in relation to policy options and competition. Information asymmetry occurs when one party in a transaction has more information than the other party. For example, the seller of a used car, but not the buyer, may be aware of a defect. A lack of information has the potential to lead to consumers making less than optimal purchasing decisions, including through:

- Higher transaction costs
 - This could be in the form of the time taken by consumers to research the background of sellers and the time taken in finding the best deal.
 - Other measures (for example, increasing the complexity of product offerings) can also lead to higher transactions costs. Higher transaction costs not only increase the overall costs of goods and services for consumers, but reduce consumer willingness to switch providers, often favouring incumbents.
- Principal-agent problem
 - Information asymmetry can lead to a problem in which the consumer is uncertain whether the seller/supplier of a product or service is acting in the consumer's best interests or their own. For example, when a medical specialist prescribes expensive treatment, a patient might be uncertain whether it is truly necessary for their health, or because it will generate income for the specialist.
- Moral hazard
 - This refers to where the unobserved actions of one party may mean that they take greater risks at the expense of another party. This problem is typical in the insurance industry, in which insured parties may take on more risk because the consequences of the risk to them have been reduced.

You are encouraged to consider consumer testing so that proposals (even pro-competitive/consumer proposals) reflect current knowledge from behavioural economics about the likely effectiveness of certain interventions. For example, while transparency requirements may reduce information asymmetries, they may also create information overload and reduce the extent to which consumers engage in a market.

Empowering consumers can support effective competition in markets and potentially reduce restrictions on competition.

While information asymmetries are important, the available information may not entirely explain buyers' and sellers' behaviour. A range of psychological, contextual, social and cultural factors inform buyers' and sellers' choices in the market, sometimes leading to decisions that appear to be against

their own long-term best interests. For example, people tend to be loss averse, meaning something framed as a 'cost' weighs more heavily on their decisions than an equivalent 'gain'. Social norms and dynamics can also shape market choices, for example, consumers may avoid purchases they perceive to be embarrassing or shameful.

Are there social objectives?

You may need to consider that regulations that try to achieve particular social objectives may also restrict businesses from competing against each other.

Governments may have a number of social policy objectives related to: utility services, health care, education, public safety, transport, the equitable distribution of wealth, or positive action to address discrimination.

What are the costs of restricting competition?

The primary cost of a restriction on competition is that it reduces the incentives for businesses to act in ways that benefit consumers and the broader community. A proposal's benefits in addressing market problems or achieving social objectives need to be weighed against its costs.

It may be hard for policy officers to quantify this cost because of the dynamic and unpredictable nature of competition between businesses. Consequently, many of the costs of restrictions on competition and benefits, if any, may need to be described in qualitative terms, such as the potential for higher prices, lower quality goods, longer waiting times and reduced services.

Can changes in competition have positive or adverse effects on businesses?

Business incentives

Vigorous competition will ordinarily benefit consumers by reducing prices, or by increasing the quality or quantity of the offer. It may also lead to increased production and innovation.

Changes to competition may *influence incentives for businesses to adjust their prices or quality*. With less competition, for example, businesses may raise their prices to increase profits, without the fear that competitors will undercut them and take their customers. This may mean that some consumers will buy less of a product or none at all. Even if they buy the same amount, they will have less money to buy other products. In this way, restrictions on competition may cause a misallocation of resources so that consumers are getting less even though they are paying more.

Changes to competition may *affect incentives for businesses to be more productive*. Strong competition usually forces them to cut costs and find new and improved methods of production over time, which increases productivity. Without those improvements, less of a product may be available for consumption or the price of the product may rise.

Changes to competition may *affect incentives for businesses to innovate and adapt to change*, influencing the level of capital expenditure or spending on research and development to attract customers. In the longer term, this may affect business sustainability, potentially impacting businesses depending on their ability to adapt to changes in economic conditions, technology, consumer tastes and government policy.

The Australian Competition and Consumer Commission's (ACCC) [Guidelines for Authorisation of Conduct \(non-merger\) 2024](#) use these concepts (referred to as allocative, productive and dynamic inefficiency) when describing the detriment from a reduction in competition. The different types of efficiency should each be considered as they can each be associated with different competition impacts:

- Allocative efficiency: Resources are used where they create most value for consumers and prices reflect costs.
- Productive efficiency: Goods and services are produced at lowest cost.
- Dynamic efficiency: Markets can adapt and innovate to change over time.

The ACCC publishes a [public register](#)² of authorisations in relation to proposals that have structural implications for a particular market. The published decisions may provide useful case studies for policy officers when considering the potential effects on competition of their policy proposal.

Regulations that impose compliance costs on businesses can disincentivise businesses from taking up opportunities, reducing competition in the market.

Consumer impacts

Another way to think about regulatory costs is from the consumer's perspective and how consumers can be impacted by changes to competition, for example prices, range, innovation, quality of products. Market researchers have found that consumers value goods and services according to 'the four P's': product, price, place and promotion.

Product. Consumers value a good or service that satisfies their own unique desires. They might value a product highly for its size, quality, colour or content, or a service because it is reliable and professional. Consider whether your proposed regulation would reduce the range of goods and services in the market by reducing competition.

Price. Consumers prefer to pay less for a good or service. Consider whether your proposed regulation will lead to higher prices by restricting competition (for example, by making it harder to import and sell goods produced outside Australia).

² [Authorisations Public Register, ACCC](#)

Place. Consumers value convenience. They want quick access to goods and services close to where they live or work. Will your proposed regulation, by reducing competition, force them to wait longer or travel further?

Promotion. Consumers want to know what is available in the market, what it costs, and what the seller will do about it if the product is faulty or the service is substandard. This is why businesses advertise and run customer service departments. Will your proposed regulation reduce their ability to advertise and service their customers, which will also reduce their competitiveness?

It is likely that any regulation restricting competition will make consumers worse off in at least one of the four 'P's.

What else can a change in competition do?

Other factors that should be considered are:

- In the event of a restriction of competition, would similar goods and services still be available? If the availability of substitute goods and services is affected, the impact of reduced competition on consumers may be moderated.
- Would imported goods still be available? If so, this may change the price for consumers.
- Are barriers for new businesses entering the market low or high? Low barriers can increase competition and reduce prices.
- Is the market new or highly innovative? If it is, it may be more sensitive to regulation given greater risks associated with investing in new or innovative markets.
- What does the proposal mean for productivity? Effective competition is a core means through which the Government can achieve its goal of improving the productivity of the Australian economy.
 - Consider whether the proposal is likely to improve productivity in the relevant market or sector, and identify the direction and channels of impact, such as resource allocation, innovation or efficiency. Where aggregate (economy-wide) effects are claimed, these should be presented only if they are material and supported by robust evidence.
- Has the ACCC's designated complaints function been considered? This empowers consumer and small business advocates to raise significant and systemic issues with the ACCC for investigation.

The results of Step 3 should be reflected in the response to IA/RIS question 4: *'What is the likely net benefit of the option?'*

Assistance

If you suspect your proposed policy change might have an impact on competition – or if you are unsure – please consult the OIA as early as possible during policy development. The OIA can help you consider the impacts of competition within your IA, including through training and/or workshops.

Some policy changes may impose minor restrictions on competition and not require an IA Dashboard. For example, a change that increases compliance costs may restrict competition by increasing the barriers to market entry, but the impact might not be significant enough to meet the IA thresholds.

Importantly, you should consider the significance of the costs and benefits by reference to a specific market or markets, not just by reference to the whole economy. This can include niche markets with just a few small businesses operating. While such markets and costs are not a major part of the economy, they are still important to affected consumers.

The [Australian Centre for Evaluation](#) provides expert guidance on monitoring and evaluating competition impacts post-implementation.

If you have any questions about this guidance note, email OIA at helpdesk-OIA@pmc.gov.au or call (02) 6271 6270.

Further information on the IA process is in the [Australian Government Impact Analysis Framework](#).