

Defining markets susceptible to ex ante regulation

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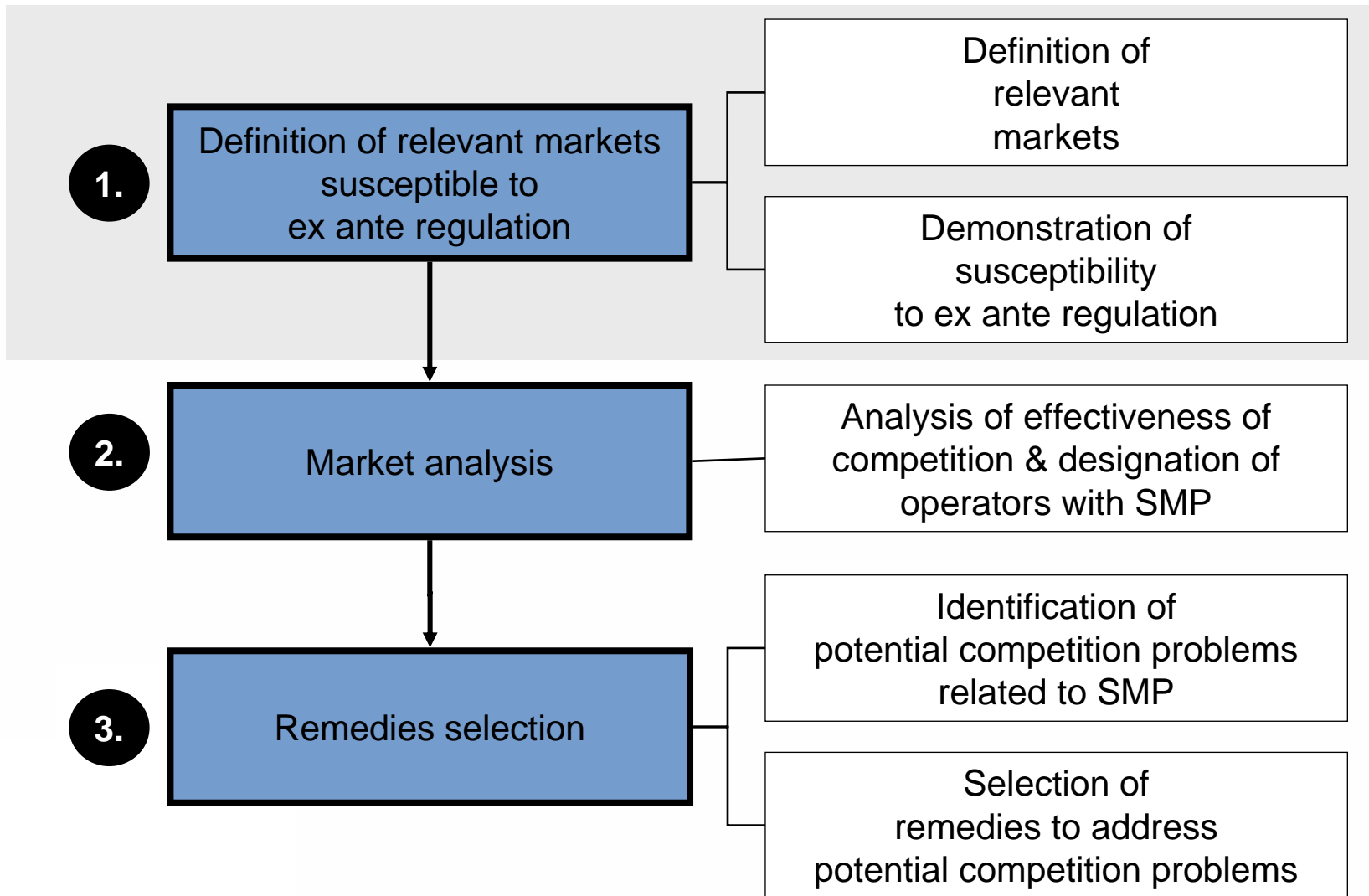
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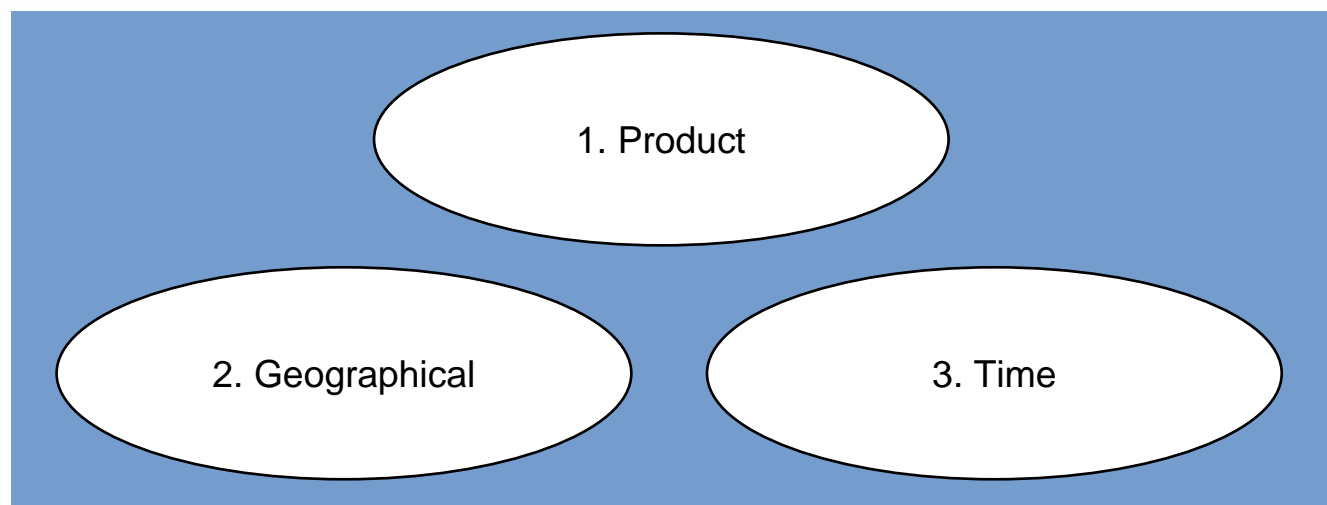


First step in market reviews



Definition of relevant markets

- According to competition law principles
- SMP Guidelines and Relevant Market Recommendation
- 3 dimensions:



Definition of relevant product market

- All products that impose a short-run competitive constraint on the price-setting behaviour of suppliers
 - Demand-side substitutes
 - Supply-side substitutes
 - (On wholesale markets) possibly self-supply
- Tools
 - SSNIP test: Would customers/suppliers switch in case of a **small**, but **significant non-transitory increase in price** (5-10 %)?
 - Hypothetical monopolist test: Would a 5-10 % price increase be unprofitable for a hypothetical monopolist?

Definition of relevant geographical market

- Demand- and supply-side substitutability
 - Leads to narrow geographic markets due to limited substitution
- Uniformity of competitive conditions
 - Is coverage and pricing national or sub-national?
- Common pricing constraint
 - Would an increase in competitive pressure in area A lead to prices falling in *both* area A and area B?

Susceptibility of markets to ex ante regulation

3-criteria test (described in Relevant Markets Recommendation)

1. High & non-transitory barrier to entry

- Structural barriers to entry
 - Economies of scale, scope & density / sunk costs
 - Termination monopoly under CPP
- Legal & regulatory barriers
 - Limited number of spectrum licenses
 - Price controls (e.g., access deficit)

2. No tendency to effect. comp. behind barriers

- No competition induced by divergent cost structures, price elastic demand, and excess capacity
- No innovative threats from disruptive technological developments

3. Insufficiency of competition law alone

- Remedy cannot be imposed
- Frequent, timely, or anticipatory intervention required
- Extensive compliance requirements
- Long-term legal certainty of major importance

- Emerging markets should not in principle be subject to ex ante regulation even if there is a first mover advantage

Relevant Markets Recommendation

- Policy recommendation regarding product markets susceptible to ex ante regulation
- Forward looking, with 3 years time horizon, covers at least one round of market reviews
- „to be taken utmost account of“
- NRAs may deviate if justified by 3-criteria test

Markets listed in new Recommendation

- Retail markets
 1. Access to the public telephone network at a fixed location
- Wholesale markets
 1. Call origination on the public telephone network provided at a fixed location
 2. Call termination on individual public telephone networks provided at a fixed location
 3. Wholesale local access (physical network infrastructure access, including shared or fully unbundled access, and access to ducts, for the purpose of providing broadband and/or voice services at a fixed location)
 4. Wholesale broadband access
 5. Wholesale terminating segments of leased lines
 6. Voice call termination on individual mobile networks

Markets listed in new Recommendation

Previously analysed by ANRCTI

- Access to the public telephone network at a fixed location
- Call origination on the public telephone network provided at a fixed location
- Call termination on the public telephone network provided at a fixed location
(Call origination and termination analysed as part of a broad interconnect market)
- Wholesale local access *(previously ULL)*
- Terminating segments of whs. leased lines
- Voice call termination on individual mobile networks

Not previously analysed by ANRCTI

- Wholesale broadband access
(under monitoring, previously considered to be an emerging market)

Markets *not* listed in new Recommendation

Previously analysed by ANRCTI

- Public national telephone services provided at a fixed location
- Public international telephone services provided at a fixed location
- Transit in the public fixed telephone network
(Transit analysed as part of a broad interconnect market)
- Trunk segments of wholesale leased lines

Not previously analysed by ANRCTI

- Retail leased lines
- Access and call origination on public mobile networks
- Broadcasting transmission markets

3-criteria test under specific Romanian circumstances fulfilled or not ?