



COMPETITION ASSESSMENT OF LAWS AND REGULATIONS RIA SEMINAR

SEMINAR ORGANISED BY THE PRIME MINISTER'S OFFICE, MINISTRY OF FINANCE AND
ECONOMY & MINISTRY OF INDUSTRIES AND INNOVATION IN COOPERATION WITH THE SCHOOL
OF CENTRAL GOVERNMENT

ANIA THIEMANN
COMPETITION EXPERT & MANAGER, COMPETITION ASSESSMENT
OECD COMPETITION DIVISION

REYKJAVIK 18 FEBRUARY 2020



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Why regulate?



- Markets do not always operate efficiently => market failure requires state intervention = regulation
- Correctly designed regulation has very important beneficial effects for society
 - Positive externalities (public goods and moral hazard)
 - Information asymmetries
 - Continuity and availability of service
 - Social objectives (redistribution, environmental protection)
- **BUT** badly designed regulation can distort incentives and lead to even worse market outcomes



How may regulation fail?

- Identifying regulatory failure: obtain results inefficiently, produce unwanted side-effects, lack transparency and accountability or exhibit bias and unfairness
- Under-regulation: lack of information-gathering on the risks and risk creators that have an impact on the achieving of objectives
- Over-regulation: over-stringent or over-prescriptive regulation that reduces the possibilities for innovations and research
- Creative compliance: ticking the boxes without thinking about the consequences



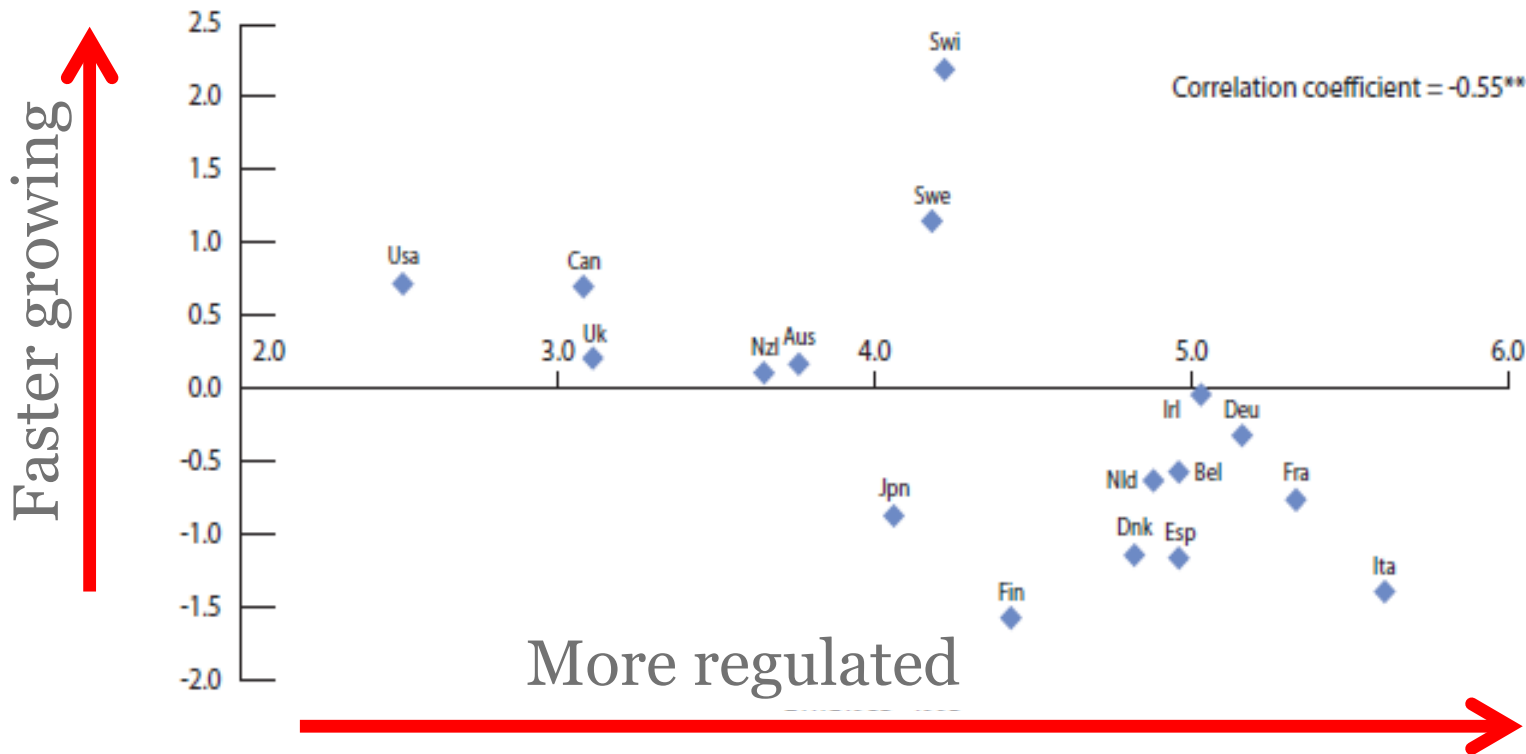
Regulations and their impact on markets

- Rules and regulations typically have desirable socio-economic objectives
- We do not question the socio-economic values
- **Our objective:** assess the effects of the regulations on
 - Extent of competition in the markets
 - Incentives for firms to engage in innovative activity
 - Potential for growth of the markets
 - The usefulness or purpose of the regulation itself



Regulation can stifle growth by hampering productivity

Increase in multi-factor productivity compared to regulatory stance



Source - Arnold, J., Nicoletti, G. and Scarpetta, S. (2011). "Does anti-competitive regulation matter for productivity? Evidence from European firms". IZA Discussion Paper No. 5511.



Why competition assessment?

- Changes in technology warrant re-evaluation of many types of regulations
- We want to avoid restricting competition when making policy
- Assessment process involves continuous revision and improvement and should lead to positive change
- Better to address concerns related to competition and innovation before a policy is enacted
- Improved quality of regulations may lead to national economies becoming more competitive and innovative, and domestic firms being in a better position to compete globally



Benefits of Competition – Consumer side

Competition leads to substantial reductions in consumer prices

Competition provides greater choice

Competition fosters investment that leads to better quality products



Benefits of Competition – Firm Side

Drives firms to improve their internal efficiency and reduce costs

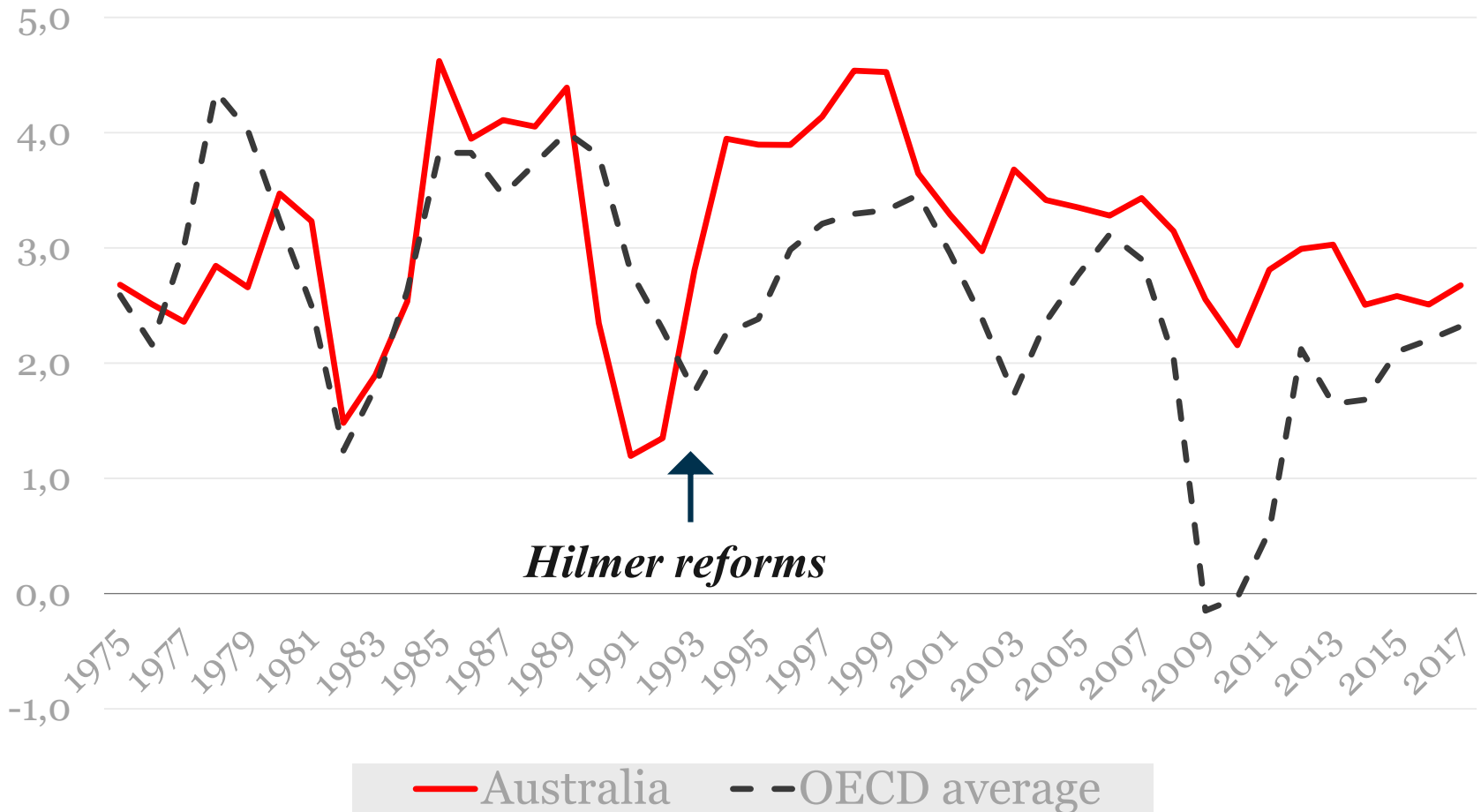
Provides incentives to firms to adopt new technology

Provides incentives to firms to invest in innovation

Reduces managerial inefficiency



Competition and growth after reform



Note: Gross domestic product (expenditure approach) – annual growth rate, three-year moving average.

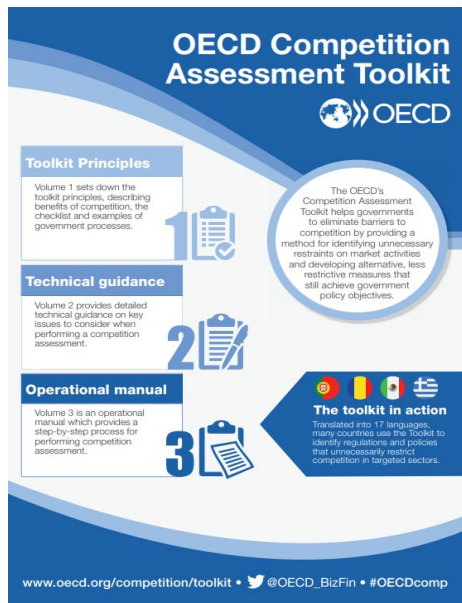
Source: OECD statistics, National accounts, 1. Gross domestic product (<https://stats.oecd.org/>)



OECD Competition Assessment Toolkit

- Competition Assessment Toolkit (CAT)

➤ <http://www.oecd.org/daf/competition/assessment-toolkit.htm>



- ✓ **2009 OECD Recommendation:** calls for governments to identify existing or proposed public policies that unduly restrict competition and to revise them by adopting more pro-competitive alternatives.
- ✓ <http://www.oecd.org/daf/competition/oecdrecommendationoncompetitionassessment.htm>



Using the toolkit all over the world





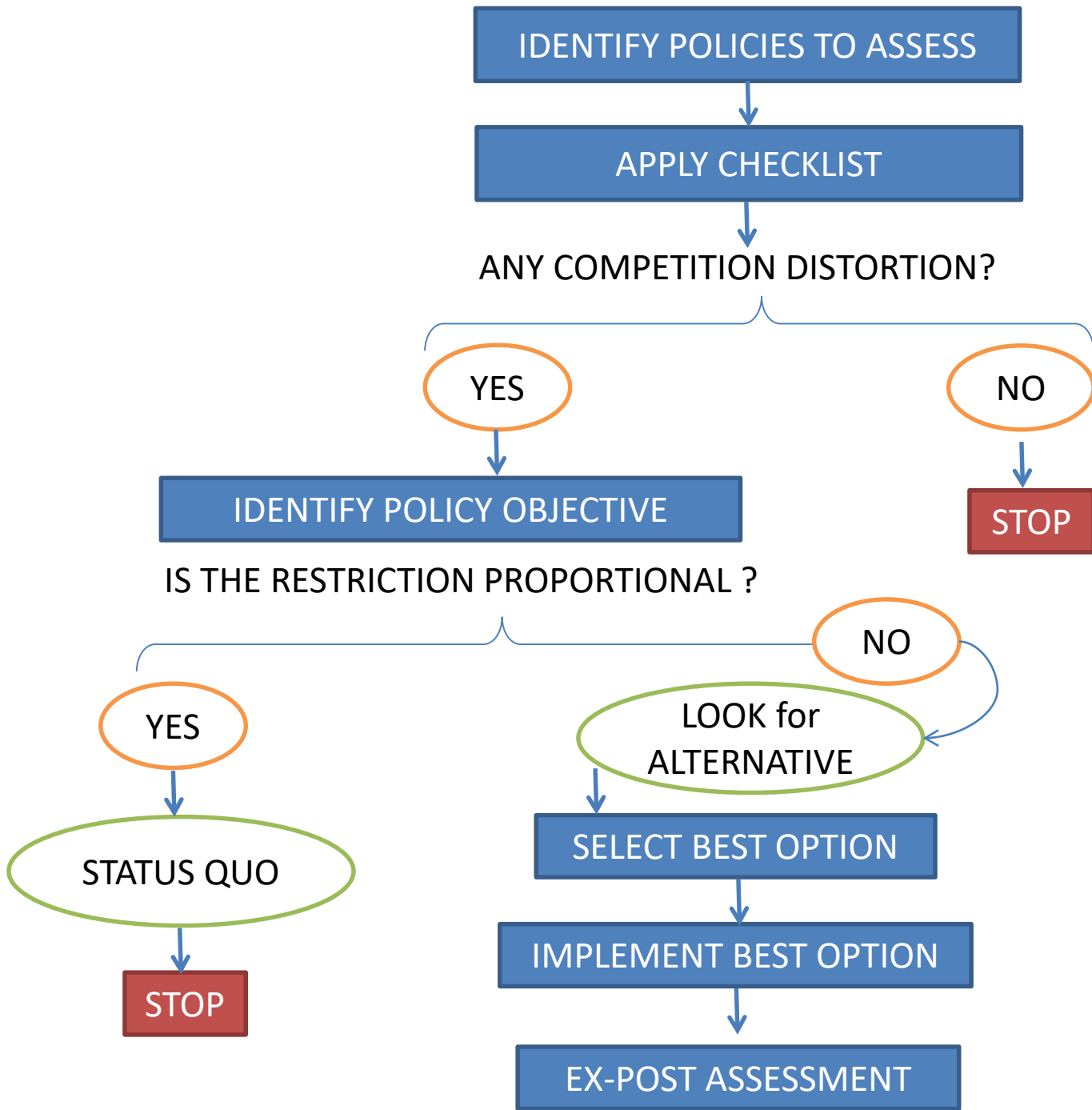
Getting results...from reduced regulatory barriers (Greece 2013)

| Issue | Annual Benefit | Number of provisions affected | Value, €m |
|----------------------------------|---|-------------------------------|-----------|
| “Fresh” milk | €33m (consumer benefit/year) | 2 | 33 |
| Levy on flour | €8m-11m (value of levy/year) | 1 | 8 |
| Sunday trading | €2.5bn (annual expenditure), plus 30,000 new jobs | 3 | 2 500 |
| Sales and discounts | €740m (annual turnover) | 9 | 740 |
| Over the Counter pharmaceuticals | €102m (consumer benefit/year) | 23 | 102 |
| Marinas | €2.3m (annual turnover) | 10 | 2 |
| Cruise business | €65m (annual turnover) | 4 | 65 |
| Advertising | €1.8b (consumer benefit/year) | 14 | 1 800 |
| <i>Everything else</i> | ??? | 263 | ??? |

OECD review of 4 sectors in Greece **Total: €5.2bn + ???**



Identifying and comparing alternative policy options





The Toolkit: Competition Assessment Checklist

Initial Screening Based on the Checklist

- Do the rules/regulations limit the number or range of suppliers?
- Do the rules/regulations limit the ability of the suppliers to compete?
- Do the rules/regulations limit the incentives for the suppliers to compete?
- Do the rules/regulations limit the choices and/or information available to the consumers?



- The checklist consists of four core questions
- A **YES** answer to any of the questions would signal a competition concern and warrant a detailed review of the rule or regulation under consideration



Next steps: Identification

- Is the provision a simple translation of EEA / international legislation or standard?
- What does the proposed regulation actually say?
- Will it have an impact on the market? Is it binding?
 - Can industry associations provide estimates, e.g. costs incurred?
 - Are there examples of new products / investments / etc. that were discouraged by the regulation?
- Will it achieve the desired policy objective?
 - How easy will it be to implement?
- ✓ Important to understand the policy rationale completely
- ✓ There are important and valid policy objectives other than competition (e.g. environment, safety, health, consumer protection)



In-depth assessment

Qualitative methods

- Assessment based on economic theory, experience and common sense
- Studies and reports analysing regulations, e.g. market studies by competition authorities or academic studies of ex-post impact of similar regulations in other jurisdictions
- Regulation in comparable countries – are there similar regulations? Is there another way to achieve the same objective?
- Meta-retrospectives



In-depth assessment

Quantitative methods

- Estimate benefits from reform (e.g. compared to status quo that restricts competition)
 - Important for policy makers and legislators
 - Simple methods fine
 - International comparisons helpful



Techniques to assess different options

Qualitative

| Pros | Cons |
|------------------------------|-------------------------------------|
| Rapid and intuitive | May be challenged as “unscientific” |
| Limited information required | |
| Results easily explained | |

Quantitative

| Pros | Cons |
|--|------------------------------|
| Provides range of impacts | Data requirements |
| Establishes substantive hurdle for challengers | Potentially slow to complete |
| Politically persuasive | |



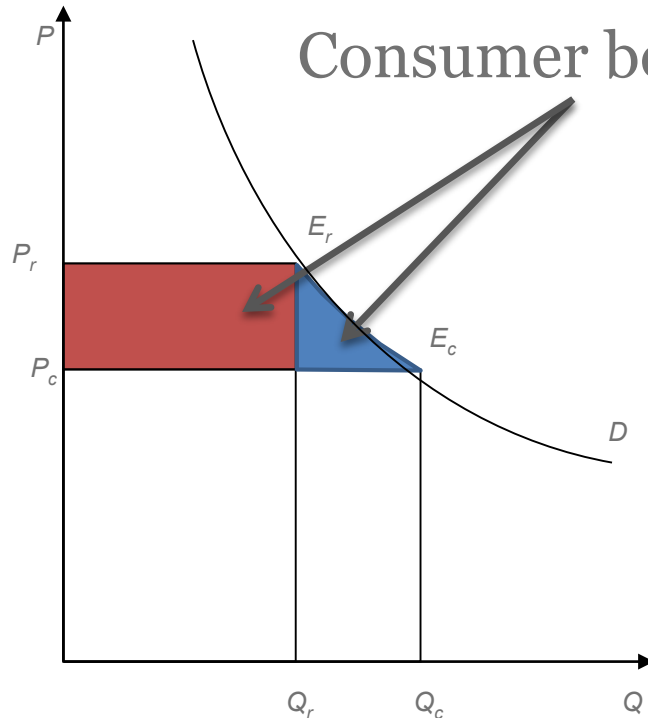
Meta-retrospective on price impacts from reform

| Mean price change | Price effect | Number of studies | Category and sub-category of regulatory restriction |
|-------------------|------------------|-------------------|---|
| 0.17 | -0.416 to -0.040 | 15 | 3 Limits the ability of some types of suppliers to provide a good or service |
| 0.24 | -0.75 to -0.002 | 41 | 4 Significantly raises cost of entry or exit by a supplier |
| 0.13 | -0.36 to -0.04 | 10 | 5 Creates a geographical barrier to the ability of companies to supply goods services or labor, or invest capital |
| 0.18 | | 68 | (B) Limits the ability of suppliers to compete |
| 0.20 | -0.80 to -0.10 | 29 | 1 Limits sellers' ability to set the prices for goods or services |
| 0.21 | -0.65 to -0.01 | 12 | 2 Limits freedom of suppliers to advertise or market their goods or services |
| 0.11 | -0.308 to -0.001 | 13 | 3 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 |

See Ennis, S (2014) "Fact sheet on ex post evaluations of pro-competitive regulatory reforms"
OECD DAF/COMP/WP2(2014)7, 12 February.



Consumer welfare



Consumer benefits from reform

Default value for price change may come from range of published estimates of price impacts of that type of checklist restriction

If no elasticity estimate, reasonable default value representing an average sector might be 2

With percent price change ρ , elasticity ε and sector revenue R , can approximate consumer benefits (CB) of change

$$CB = \left(\rho + \frac{1}{2} |\varepsilon| \rho^2 \right) R_r$$



OECD Competition Assessment:
Checking-up on Policies and Regulations



Thank you

OECD team in Reykjavik
Project Leader:
Ania.Thiemann@oecd.org
OECD
Competition Division