

Undertaking Competition Assessments of Laws and Regulations

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The views expressed are personal and do not necessarily reflect those of the Authority

Summary



Competition
assessment
in Italy



Lessons learned



Competition assessment in Italy

Objective

- Address competition restrictions in the rule-making process
 - Evaluate the competitive effects of a proposed or existing policy
 - Prevent unnecessary, disproportionate adverse effects on competition
 - Suggest less restrictive alternatives would achieve the intended public policy goal

Tools

- i) Non-binding opinions to the Parliament, the government or local administrations**
 - Legislative or administrative acts or draft legislative and administrative acts that distort competition or the functioning of the market and are not justified by public goals of general interest
 - AGCM may indicate critical issues and suggest measures

ii) Market studies

- General fact-finding investigation
- In areas of business in which the development of trade, the evolution of prices or other circumstances suggest that competition may be impeded, restricted or distorted

Uber Pop (2015)

- In July 2015 a Tribunal banned Uber Pop services for not complying with the taxi regulation
- The Ministry of Internal Affairs asked the Authority (AGCM) for an opinion on the applicability of the taxi regulation
- AGCM advocated a separate legislative definition for non-scheduled mobility services offered by apps like Uber Pop (online platforms connecting passengers with “non-professional” drivers)

- Public policy goals: road safety and passenger security
- AGCM: a less invasive minimum regulation for the new type of service providers (a register for the platforms and a set of requirements and obligations for the private 'non-professional' drivers)

Market study on local public transport (2016)

- State of play
 - Poor performance, insufficient investments, old obsolete fleets, differences among Regions
- Competition analysis
 - Excessive supply, inconsistent with demand = > planning
 - Few tenders and frequent direct award

- Suggestions: legal provisions to
 - Improve planning (at a wider level)
 - Encourage tenders by increasing funding for virtuous administrations and ensuring transparency
 - Allow competition “in the market” besides competition “for the market”

How to identify opportunities for competition assessment

- Structured relationships with government agencies
- Monitoring of government and legislative agendas
- Cooperation with sector regulators (memoranda of understandings or informal procedures)
- Consultations with stakeholders (consumer organizations, business community)

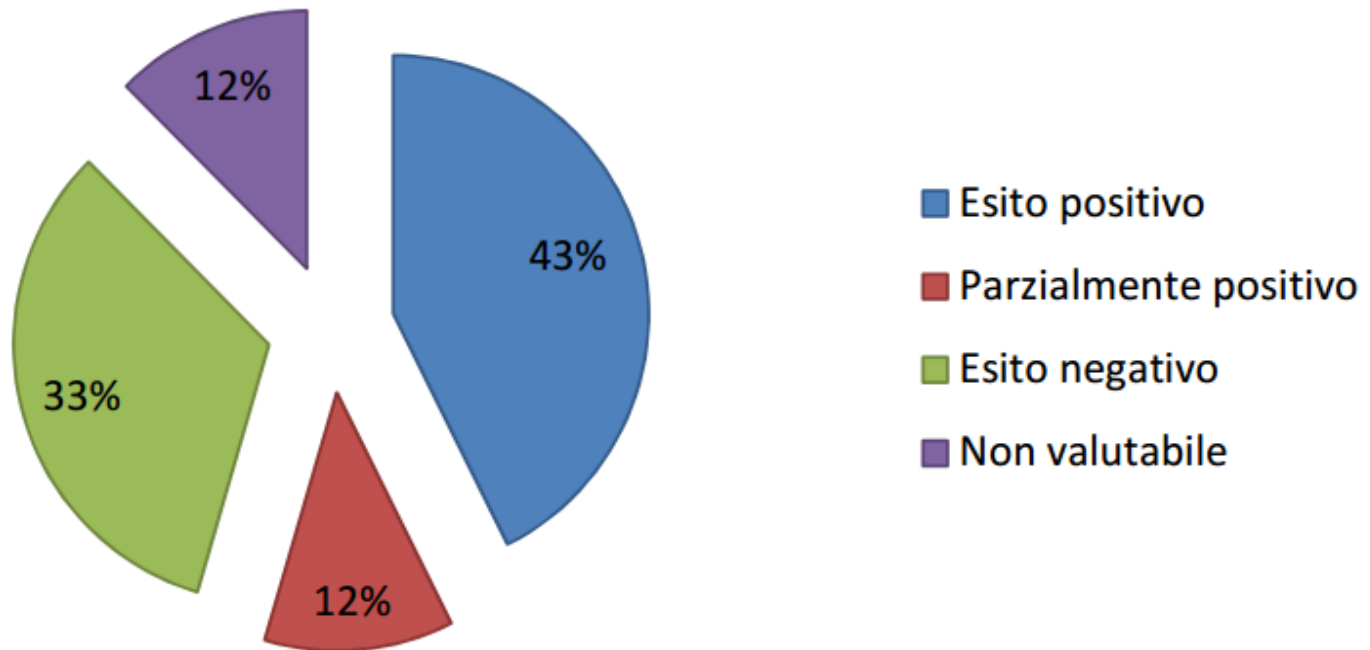
How to prioritize

- Focus on the greatest threat to competition
 - Likelihood that the policy will be adopted
 - Potential or actual competitive impact (extent and nature of the restriction, importance of the sector)
 - Degree of liberalization of the market
 - Success of pro-competitive reforms or competition assessment in other jurisdictions

Monitoring

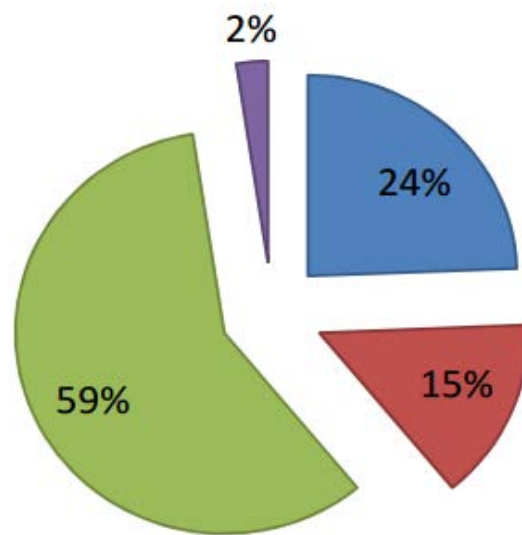
- AGCM systematically monitors degree of compliance to its recommendations
- Data 2014-2015

Total score



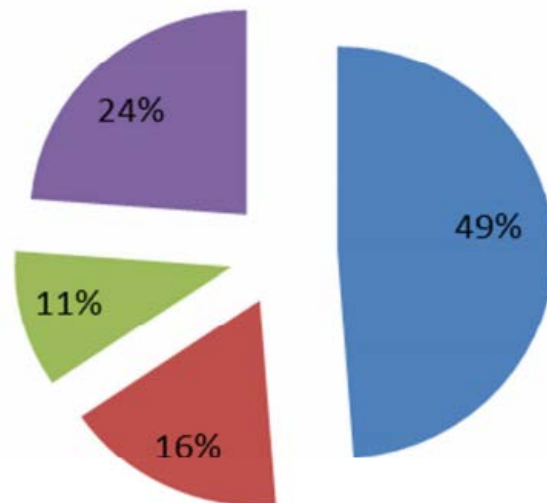
All instruments, 176 interventions

Opinions on legislation already into force



- Esito positivo
- Parzialmente positivo
- Esito negativo
- Non valutabile

Opinions on draft legislation





Lessons
learned

Opinions

- Encouraging outcomes
- Be timely!
- Prevention: systematic cooperation with the Central Public Acquirer CONSIP and tendering bodies to foster design of transparent and competitive tendering procedures

Market studies

- Allow a comprehensive understanding of the key competition issues
- Several positive examples
- End 2014, development of ultra-broadband networks in Italy, in cooperation with the sectoral regulator
- The Italian government incorporated many suggestions in the national strategic plan for the development of new generation networks

Never desist!

Public services

- Recent laws introduced several pro-competitive measures urged by the Authority, (public companies, local public services, governance and transparency of banks)
- Market studies in the critical sector of telecommunications, waste management, local public transport improve the implementation of reforms
- Interventions at regional or local level avoid re-introduction of competitive restrictions