UNITED ARAB EMIRATES
MINISTRY OF ECONOMY & TOURISM

الإمارات العربية المتحدة
وزارة الاقتصاد والسياحة

Guidelines on Relevant Market Definition

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Preamble

This Guide has been prepared within the framework of implementing the provisions of Federal Decree-Law No. (36) of 2023 on the Regulation of Competition, its Executive Regulations, and all decisions issued in implementation thereof.

For the purposes of these guidelines, the present Guide aims to ensure the adoption of a sound and effective methodology for the proper application of such provisions.

Accordingly, it has been necessary to simplify the concepts and mechanisms applied in the enforcement of competition law, in a manner that assists beneficiary entities in fulfilling the legal and technical requirements relating to their dealings with the Administration, whether in connection with requests for investigation into practices suspected of violating the rules of free and fair competition, applications for exemption of certain agreements, requests for approval of economic concentration operations, or any other matters related to the competition sector, including the concept of the relevant market.

It should be noted that this Guide does not constitute a substitute for the currently applicable legal framework governing competition. Rather, it provides, in general terms, an explanation of the various key stages and fundamental procedures that must be followed when defining the relevant market, given its significant impact on the handling and outcome of all related applications.

Identification of the Target Groups of the Guide

For the purposes of these guidelines, the present Guide constitutes a practical and reference tool intended to assist economic operators in understanding the methodology for defining the relevant market and the means of further developing such methodology at subsequent stages.

The following entities are considered among the principal target groups benefiting from this Guide:

▪ Economic Undertakings Active in the Market:

The present Guide assists economic undertakings in independently defining the relevant market in relation to practices or conduct for which they intend to submit a complaint to the competent governmental or sectoral authorities.

It also supports such undertakings in connection with their applications for approval to be granted an exemption for restrictive practices which they consider to be beneficial to the economic interest or to consumer welfare, as well as their applications for approval of economic concentration operations they intend to carry out with other undertakings.

Accordingly, these guidelines constitute an important tool enabling such undertakings to identify the boundaries of the markets in which they operate and the methods for determining their market shares therein, in a manner that assists competition authorities and the relevant governmental or sectoral bodies in collecting the essential information required to examine and decide upon such applications in an efficient and timely manner.

▪ Legal Consultancy Firms and Market Research Offices:

Legal consultancy and law firms, as well as market research offices, are among the key actors, as they act as counterparts to competition authorities by representing their clients—economic undertakings—or any other interested parties in matters related to competition. Given the frequency of inquiries received from these offices concerning various competition concepts, particularly regarding issues related to the methodology for defining the relevant market and calculating market shares, this Guide will serve as a primary reference. It provides a foundation for these offices to study their clients' requests, represent them effectively before competition authorities and other competent governmental bodies, and submit their files in compliance with the legal and technical requirements set forth in the applicable national legislation, while also adhering to professional ethical standards.

▪ General Consumers:

Although the Competition Law primarily concerns economic undertakings active in sectors related to the production, distribution, provision of goods, or delivery of services within the State, the benefit to general consumers from this Guide is significant. It enables consumers to acquire knowledge and skills to understand the nature of the products they purchase, their sources, pricing, and the size of the markets in which suppliers operate, thereby providing them with evaluative tools.

Furthermore, the knowledge and awareness gained may allow consumers to provide important information or data to the competition authorities and competent governmental bodies regarding suspected or potential anti-competitive practices by these suppliers or market participants. Notably, the Federal Decree-Law No. 36 of 2023 on the Regulation of Competition empowers, under certain provisions, any interested party to submit data or documents concerning specific applications.

It is worth noting that the protection afforded by the Competition Law to the market is not an end in itself but rather a means to achieve overall market balance for all participants, serving the economic interest of the State while safeguarding consumer welfare.

▪ Pedagogical, Educational, and Awareness Objectives:

The present guidelines on the methodology and principles of defining the relevant market also have additional pedagogical, educational, and awareness-raising objectives. They aim primarily to introduce the importance of competition rules in the State and the mechanisms adopted to achieve the overarching objectives of the Competition Law, including the mechanisms for defining the relevant market.

This Guide can serve as a directive tool and an important information source for all the aforementioned groups, as well as for others, such as students and faculty members at UAE universities specializing in studies related to competition law and economic sciences.

Definitions

State:	The United Arab Emirates.
Ministry:	The Ministry of Economy.
Competent Authority:	The authority responsible for competition within the relevant federal or local governmental entity.
Relevant Economic Undertakings:	For the purposes of this Guide, these are economic undertakings subject to complaints regarding anti-competitive practices, or subject to applications for exemption of such practices, or applications for approval of economic concentration operations.
Relevant Sector:	For the purposes of this Guide, this refers to the economic sector in which the relevant economic undertakings operate or the sector related to the practices under review.
Relevant Applications:	For the purposes of this Guide, these are applications concerning the granting of exemptions for agreements or practices, or applications for approval of economic concentration operations.
Products under Review:	For the purposes of this Guide, these are the products that fall within the scope of the activities of the relevant undertakings.
Relevant Practices:	These are the practices referred to in Articles (5), (6), (7), and (8) of Federal Decree-Law No. (36) of 2023 on the Regulation of Competition, which may be the subject of complaints or exemption requests.
Practices and Applications under Review:	In this Guide, this term refers collectively to the relevant practices and relevant applications defined herein.
Client or Consumer:	According to this Guide, this constitutes a key element of the application and may refer either to a client or the final consumer in relation to the products and services of a specific economic undertaking.
Geographic Area under Review:	For the purposes of this Guide, this refers to the geographic area(s) in which the relevant economic undertakings operate, producing or supplying products under review for the benefit of clients and consumers located in or accessing that area to meet their needs. It also refers to the area relevant to the practices and applications under review.
Decree-Law:	Federal Decree-Law No. (36) of 2023 on the Regulation of Competition.

Introduction

The present guidelines provide an integrated theoretical and practical framework for explaining the methodology of defining the relevant market in the application of the Competition Law within the State by economic market participants.

One of the main objectives of these guidelines is to enhance transparency by promoting the alignment and harmonization of standards and methods among various stakeholders for defining the relevant market when conducting transactions with the Authority—whether in submitting complaints for the purpose of investigating anti-competitive practices, requesting exemptions for certain restrictive practices carried out within the scope of their economic activity, or seeking approval of economic concentration operations in accordance with the provisions of the Decree-Law, its Executive Regulations, and all decisions issued in implementation thereof.

In theory, the term "relevant market" differs from other terms such as "market," "international market," "domestic market," "local market," "common market," "Gulf market," or "sector." Similarly, various terms used in comparative practices, such as "related market" or "reference market," despite their differences, generally carry the same meaning as the relevant market.

In practice, a market generally consists of all buyers and sellers within a specific geographic area. However, the concept of the relevant market has specific implications and methodology under competition law, primarily concerning the identification of the relevant products supplied by specific economic undertakings to relevant customers within a defined geographic scope.

The determination of the relevant market varies in practice depending on several influencing factors, such as the nature of the transaction or request. Defining the relevant market in the context of disputes over anti-competitive practices differs from defining it in the context of analyzing economic concentration operations or exemption requests, due to the subject matter, facts, nature of the practices involved, their timing, and their effects across time and space.

Competition law scholars and experts agree that, although the relevant market is defined using comparable methodologies, methods, and principles, it is always assessed on a case-by-case basis.

For the purposes of these guidelines, the present Guide sets out the minimum common procedures, methods, and stages that may be adopted when defining the relevant market.

Defining the relevant market constitutes a fundamental pillar in assessing various applications, as it helps establish the boundaries within which economic undertakings conduct their activities. It also aids in determining the extent of competitive constraints within the market and the pressures to which undertakings and other economic actors are subjected, thereby supporting competitive and legal assessments.

Moreover, defining the relevant market is a crucial stage because it reveals whether practices and agreements issued by economic undertakings constitute a breach of competition rules or reflect their market power, helping to monitor important indicators regarding potential abuse of dominance, exploitation of economic dependence, predatory pricing, or engagement in agreements that distort free competition and threaten overall market balance.

From this perspective, the relevant market definition also assists in identifying the concerned economic undertakings, their competitors, and their total sales within the market, enabling the subsequent calculation of market shares, evaluation of their impact on market competition, and derivation of all possible legal and technical conclusions.

Part One

Fundamental Principles for Defining the Relevant Market

For the purposes of these Guidelines, it is necessary to examine the key requirements that must be adopted and taken into consideration when defining the relevant market for the assessment of the conduct and practices under review.

In this regard, a set of fundamental principles must be adhered to, as they constitute the main theoretical and practical framework for the process of defining and determining the relevant market. These principles also lead to identifying and assessing the dimensions of each market and the extent of its competitiveness.

Section One

Principle of the Availability of Competitive Constraints and Pressures

A market cannot be deemed competitive unless there are competitive constraints and pressures to which all active economic undertakings operating within it are subject.

The principle concerning the extent to which such constraints and pressures are available constitutes the primary basis for defining the relevant market. The absence of such pressures gives rise to doubts regarding the identification of the market's dimensions under consideration, as well as concerns regarding the conduct and behavior of the market participants. This may serve as a preliminary indicator of the potential engagement in practices that are contrary to free and fair competition.

In general, economic undertakings active in a market are subject to three main sources of competitive constraints:

1. Principle of Demand-Side Substitutability

The ability and options available to consumers to substitute the products offered in the market constitute one of the most important factors that must be taken into account when defining the relevant market.

- **Conditions and Characteristics of Substitutability**

- Effectiveness
- Immediacy

The effectiveness and immediacy of substitution are among the most important characteristics of market pressures (effective and immediate competitive constraints). These two characteristics are of particular significance, as they have a substantial impact on the decisions taken by economic undertakings active in the market (supply side), especially with regard to setting the prices of their products or services.

Such undertakings are prevented from exercising influence over the terms of sale of their products where customers and consumers (demand side) are able, without difficulty or additional cost, to obtain alternative substitute products offered within the same market or in adjacent markets.

Substitution is considered immediate and effective where the decision by demand to shift towards actual or potential alternatives available in the market is direct and prompt.

In general, the more effective and immediate the substitutability of products available to demand, the greater the competitive constraints and pressures imposed on the economic undertakings operating in that market.

- **Advantages of Demand-Side Substitutability**

Demand-side substitutability provides important information about the market, including:

- The size of the market;
- The availability of substitute products;
- The identification of sources of supply (domestic market or imports).

This information assists in assessing the degree of substitutability between the products under consideration and their potential alternatives. It enables an understanding of current or future demand and supply trends, as well as the attainment of certainty regarding the actual and real dimensions of the relevant market in terms of products and geographic scope.

Such information constitutes direct and indirect evidence of the substitution process, which will be addressed analytically in Section Two of Part Three of this Guide.

- **Technical Methods Adopted in Assessing Demand Substitution**

The assessment of the extent of substitutability relies on a set of elements and tests, starting with the determination of the scope of the product or group of products that may be considered potential substitutes from the demand-side perspective.

In practice, the majority of demand substitution tests used to define the relevant market are primarily based on the price factor, which is considered decisive at this level. Consumer or customer reactions to a small but significant and non-transitory increase in the price of a product or service constitute one of the most important methods for identifying alternative demand.

However, developments in competition analysis relating to the practices and conduct under review have necessitated the adoption of additional methods beyond price-based assessments.

Small but Significant and Non-Transitory Increase in Prices (SSNIP) Test

The Small but Significant and Non-Transitory Increase in Prices test, also referred to as the Hypothetical Monopolist Test (SSNIP), is one of the common and widely used theoretical approaches adopted by competition authorities to assess the degree of demand-side substitutability. It also serves as a key verification tool for defining the relevant market. In general, the test assists in determining the scope of the products under consideration and their potential substitutes that may collectively constitute a relevant market.

This test is based on the assumption of the existence of a monopolist supplying a product or service within a specific geographic area. The starting point of the test lies in examining whether such a monopolist would have the ability to raise the prices of its products to a supra-competitive level.

Accordingly, the test is used to examine the extent to which demand (customers/consumers) would switch to potential substitute products available within the geographic area under consideration, or to products available in other geographic areas, in the event that the hypothetical monopolist were to impose a small but significant increase in prices—typically in the range of 5% to 10% above the prevailing competitive price levels in the market.

The test is designed to demonstrate, with sufficient clarity, whether a price increase above market levels for the products under consideration would be profitable for the relevant economic undertaking(s).

Based on the outcome of this test, preliminary indicators for defining the relevant market may be established as follows:

- If it is determined that the decision to increase the price of a product supplied by the hypothetical monopolist, within the group of products under consideration, would not be profitable due to the existence of competitive constraints and pressures arising from the availability of accessible and effective potential substitutes, then such products and their potential substitutes within the geographic area under consideration and in other geographic areas collectively constitute a relevant market.
- If the hypothetical monopolist is able to maintain prices for the products within the group under consideration at supra-competitive levels for a relatively extended period without losing a significant proportion of customers, then the group of products under consideration cannot be included in the process of defining the relevant market. In such a case, the product supplied by the hypothetical monopolist may itself constitute a separate and distinct relevant market, due to the absence of competitive pressures evidencing the existence of potential substitutes.
- The following diagram illustrates the practical methodology for the Hypothetical Monopolist Test (SSNIP):

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There may be practical difficulties in conducting this test, as it requires access to extensive information and statistical data in order to apply quantitative models or, in certain cases, to carry out field surveys. Therefore, when assessing demand-side substitutability, it is recommended to take into account the following observations:

- Identifying the product under consideration within the context of inquiries and investigations into the practices of a specific economic undertaking, or within the framework of examining applications relating to exemptions or approvals of economic concentration (merger control) operations.

- Assessing whether potential substitutes exist for the product under consideration that is produced or marketed by the relevant economic undertaking or group of undertakings, with the aim of determining the group of products to be included in the process of defining the relevant market.

 Deriving Preliminary Indicators and Results:

 The more the economic entity is unable to raise the prices of its products, or a portion of those offered in the market, the stronger the indication that it is subject to competitive pressures. Accordingly, potential substitutes that generate these competitive constraints should be included in defining the relevant market.

 Conversely, if it is observed that the economic entity has maintained stable prices above market levels in recent years, or that it could raise prices in the future without customers switching to other products and losing a significant share, then the products of this entity should be considered as an independent group, constituting a separate relevant market in their own right.

Practical Example (1)

Market for the Distribution of Carbonated Soft Drinks

By way of example, consider a dispute relating to the market for the distribution of carbonated soft drinks: Company (1) distributes (A) beverages, Company (2) distributes (B) beverages, and Company (3) distributes (C) beverages.

The product in dispute concerns (A) beverages. In order to define the relevant market, it is necessary to examine whether the other carbonated soft drinks supplied by Company (2) and Company (3) constitute potential substitutes for the products of Company (1) and should therefore be included within the relevant product market.

Applying the hypothetical monopolist test requires an assessment of whether the undertaking distributing (A) beverages could raise—or has raised in the recent past—the prices of its products above the competitive price levels of the other beverages marketed in the market.

Practical Example (2)

Case of Buyer Power Concentration

Demand substitution tests may also be applied in markets that link purchasing economic undertakings—such as purchasing centers operating on behalf of large and medium-sized retail chains or wholesale distributors (A)—with supplier undertakings (B) (producers or manufacturers).

In this context, price-based analysis may be used to examine situations where demand is concentrated in the hands of a limited number of buyers. The supplier constitutes the starting point of the analysis by assessing whether it has alternative supply, marketing, or distribution channels for its products in the event of a relative change in prices in the form of a reduction in the selling price (i.e., the imposition of significant back margins).

If the facts establish that the distributor or purchasing center (A), acting as a hypothetical monopolist, has in the recent past been able to impose substantial back margins on the supplier's products, or has maintained such margins at levels above prevailing market prices without the customer (supplier) (B) having viable alternative solutions to market and sell its products through other distribution channels, then the distribution channel through the purchasing center or wholesale distributor constitutes a separate and distinct relevant market, due to the absence of competitive pressures that could be exercised by alternative channels.

Conversely, if the facts demonstrate that the purchasing center or distributor (A) deals with the supplier (B) on the basis of normal back margins reflecting prevailing market prices, without exploiting its buyer power over the supplier, due to the existence of market pressures exerted by alternative distribution channels, then such alternative channels should be included alongside the channel under consideration and treated as substitutes when defining the relevant market.

Price Elasticity of Demand Test

The price elasticity of demand test may be used to assess the degree of demand-side substitution.
From an economic perspective, price elasticity of demand reflects the inverse relationship between the price of a product and the quantity demanded. Variations in the quantities demanded are attributable to several factors, foremost among them the price factor. The price of a product affects the quantity demanded; accordingly, a change in price results in an inverse change in the quantity demanded.

This quantitative test may assist in examining the extent to which demand shifts towards potential substitutes in the event of a price increase for the products under consideration.
In this regard, significant conclusions may be drawn where a decrease in the quantities demanded of Product (A), as a result of an increase in its price, occurs in favor of Product (B), whose purchased quantities increase due to price stability, and the extent to which such outcomes are indicative of demand substitution.

Although the price factor is the most important element in defining the relevant market, it is not the only one, as consumer choices may also be based on other factors such as quality and consumer preferences. This has led to the emergence and development of new tests, particularly in innovative industries, such as the digital sectors.

Small but Significant and Non-Transitory Decrease in Quality (SSNDQ) Test

The Small but Significant and Non-Transitory Decrease in Quality test, also referred to as the Hypothetical Monopolist Test (SSNDQ), is a more recent approach that has been adopted by the European Commission in its assessment of disputes relating to the quality of digital services.

This test raises the question of whether a hypothetical monopolist would find it economically advantageous to implement a relative reduction in the quality of the products it offers.

The test may be applied in particular when examining disputes related to the abuse by certain economic undertakings of their dominant position in the market, where excessive price reductions aimed at excluding competitors are subsequently accompanied by a reduction in product quality due to a lack of investment in innovation. This, in turn, leads to the absence of viable alternatives for demand.

Despite its application, this test faces practical difficulties in assessing the degree of demand-side substitutability as a verification tool in the process of defining the relevant market, due to the lack of a definitive method for measuring product quality.

Moreover, the test may not fully reflect market realities. For example, in cases of abuse of dominance, the test may lead to the conclusion that the dominant undertaking's product constitutes a separate and distinct relevant market if demand remains stable despite reduced quality. In practice, however, the market may justify the existence of genuine alternatives, but exclusionary practices aimed at foreclosing existing or potential competition, or at imposing exclusive arrangements, may have prevented access to such alternatives.

2. Principle of Supply-Side Substitutability

The principle of supply-side substitutability is considered less significant than demand-side substitutability in the process of defining the relevant market.

This principle is included in these Guidelines for the sake of completeness and to highlight its scientific and practical relevance, and it is applied on a case-by-case basis when examining specific practices or applications.

Supply-side substitutability relates to the extent to which economic undertakings—such as producers—are willing and able to switch their productive capacity from manufacturing or supplying one product to another in response to a relative change in prices, without incurring significant additional costs or risks, provided that such a response to demand can be implemented within a short period of time.

This situation typically arises where economic undertakings market a wide range of varieties of a single product with differing levels of quality (for example, in the paper manufacturing sector: ordinary paper, cardboard, paper for technical uses, and paper for educational uses).

From the demand-side perspective, the product offered may constitute a separate and distinct market, given the absence of substitutes from that perspective. However, from the supply-side perspective, the competitive pressures to which the marketing of the product by the relevant economic undertaking is subject—namely the presence of other economic undertakings that operate and compete in the market and that also have the ability to shift their productive capacity towards manufacturing and supplying specific products to customers within a short period of time—render such products substitutable from the supply side. Consequently, these products are taken into account in defining the relevant market.

Practical Example
Paper Production Market In this market, the European Commission has considered in several of its decisions that differences in paper quality by type and differences in intended use, from the demand-side perspective, should not be treated as separate products from the supply-side perspective when defining the relevant market. Instead, the various classifications are regarded by the supplier as a single product, and their sales are treated as sales of that single product. The facts demonstrate that the supplier has the ability to provide all these different types simultaneously, without incurring significant additional production costs or bearing substantial investment risks, and can respond to customer demands for each type of product within a short period of time.

It follows that, when supply-side substitutability would require the economic undertaking to make new strategic decisions involving additional investments—potentially exposing it to economic and investment risks or delays in producing a product with multiple classifications—such products are not taken into account in defining the relevant market. However, they may be examined later within the framework of barriers to entry into the professional market during advanced stages of competition analysis, whether in the context of assessing anti-competitive practices or in applications for exemptions or approvals of economic concentration operations, after the relevant market has been defined.

Additional Observations

When applying the principle of supply-side substitutability to verify whether it constitutes a competitive constraint, it is important to distinguish between two situations:

- Case 1: Economic undertakings that are able to supply their products immediately and effectively, responding to demand within a short period of time without incurring additional costs. This case can be used in supply-side substitution studies to define the relevant market.
- Case 2: Economic undertakings that cannot meet supply substitution conditions immediately, but have the capacity to do so later after making certain investments. This case falls under the study of potential competition, which may be considered when evaluating barriers to entry in the relevant market—that is, within the competition analysis of the practices or applications under review, after the relevant market has been defined.

3. Principle of Potential Competition

Potential competition can constitute a source of competitive constraints and pressures. It primarily concerns potential competitors who could enter into competition within the relevant market.

While this principle is important in assessing and analyzing market competition, it is not taken into account when defining the relevant market unless the conditions of immediacy and effectiveness are met—conditions which create actual competitive pressures, as is the case for both demand- and supply-side substitutability.

As noted earlier, situations in which potential competition does not constitute an effective and direct competitive constraint on the relevant economic undertakings active in the market cannot be used to define the relevant market.

Potential competition may instead be analyzed when evaluating the conditions and factors related to market entry, a stage considered later, after identifying the active economic undertakings in the market, their competitors, and their respective market shares, and assessing whether potential competition could realistically exert pressure on the relevant market.

Practically, defining the relevant market assumes the identification of actual sales made by undertakings active in the market. Therefore, sales projections of expected or potential competitors cannot be relied upon, which makes it difficult to use potential competition as a basis for defining the relevant market.

Section Two

Principle of the Availability of Homogeneous or Similar Competitive Conditions

This principle is applied primarily when defining the geographic scope of a market. The inclusion of a geographic area, distinct from the area where the relevant undertakings and the products or services they supply operate, within the relevant geographic market requires that the area exhibits homogeneous competitive conditions similar to those prevailing in the geographic area under consideration.

In principle, the relevant market cannot be defined geographically unless the economic undertakings concerned, and their competitors, operate under homogeneous or similar competitive conditions.

The concept of homogeneous competitive conditions primarily means the absence of differences in administrative or technical requirements——or even differences related to infrastructure——that undertakings must comply with in order to conduct their economic activities, such as obtaining specific approvals or licenses, or meeting certain technical standards.

Example: If conducting an economic activity in geographic area (A) requires prior approval and licensing from a competent administrative authority (for instance, in pharmaceutical manufacturing or medical supplies), whereas another undertaking conducts the same activity in a different geographic area (B) without such restrictions or requirements, the two undertakings do not operate under homogeneous competitive conditions, and the two geographic areas should not be considered part of the same relevant geographic market.

The concept of homogeneous competitive conditions also entails the absence of differences in financial and economic regulatory frameworks applicable to the undertakings within their sectors. This includes, for example, whether product or service pricing is subject to the principles of free competition and economic freedom, or whether undertakings benefit from tax exemptions or state subsidies.

Example:

If the price of a product or service is determined freely under economic freedom principles in area (A), while the state or a local authority intervenes to set prices for the same or a similar product in area (B),such differences in pricing regimes prevent the two areas from being included in the same geographic market due to non-homogeneous competitive conditions.

Similarly, if an undertaking in area (A) enjoys a tax exemption on profits for providing a specific product, whereas no equivalent measure exists for a similar or substitute product in area (B), the two areas are considered distinct markets, as the competitive conditions are not comparable and differential treatment could be discriminatory.

Accordingly, competitive conditions are considered homogeneous if these conditions or requirements do not constitute obstacles that hinder the activities of undertakings in the relevant market or restrict their entry or exit.

Practically, this concept helps to determine the degree of geographic substitutability between markets. For instance, it can be used to assess whether local markets (e.g., vegetable markets or fish markets) should be considered a single geographic market.

In some cases, certain areas may form an integrated economic unit, making them a separate geographic market in their own right. For example:

- Shopping centers may be considered substitutable with other centers if they provide the same consumer needs (from a demand perspective). Here, competition is assessed between shopping centers as economic units, not between the individual undertakings or brands within the centers.
- Free zones may constitute independent geographic markets if they operate under competitive conditions different from those of companies outside the zones.
- A country may constitute a relevant geographic market if all undertakings operate across the country or significant parts of it under largely similar legal and technical competitive conditions.

In general, homogeneous competitive conditions may create competitive pressure on the undertakings concerned if they face all other active competitors in different geographic locations that supply substitute products, thereby placing them within the same relevant product market and the same geographic market scope.

Part Two

The Process of Defining the Relevant Market – Stages and Procedures

Section One

Collection of Basic Information and Data

The stage of collecting information and data regarding a particular economic sector or market is considered a preliminary phase in defining the relevant market. At this stage, it is essential to gather as much information and data as possible regarding practices or conduct that may be the subject of complaints submitted by economic undertakings, or the subject of applications for exemptions or approvals of economic concentration operations, as established under the relevant law.

Economic undertakings seeking to submit a complaint regarding anti-competitive practices in a market in which they operate, or to request an exemption for their practices, or to seek approval for an economic concentration in which they are a party, may rely on the following sources when defining the relevant market:

Source 1 – Self-Definition of the Relevant Market through Market Studies Prepared by the Undertakings:

Undertakings may rely on prior economic studies, if available, that are related to the sector in which they operate. Such studies can provide partial information useful for defining the relevant market.

Self-definition of the relevant market is an important step, as it helps undertakings identify all the requirements for their transaction (complaint, exemption request, or approval of economic concentration) to be processed by the competent authority or sectoral body as efficiently as possible.

Based on their knowledge of the market, the nature of the products or services offered, and the alternative products provided by competitors, undertakings may propose solutions that meet the minimum technical conditions required for defining the relevant market. This approach saves time and effort for both the undertaking and the competent authority or sectoral body when examining and processing applications under optimal conditions.

Source 2 – Consultation with the Competent Authority and Sectoral Regulatory Bodies:

In order to fulfill all requirements and conditions related to their transaction, particularly regarding proper management of relevant market definition, undertakings may request consultation or obtain information from the competent authority or sectoral body to assist them in defining the relevant market.

For the purposes of this guideline, the stage of collecting information and data that assists in understanding and defining the relevant market is divided into the following sources:

Source 5 – Public Consultations and Surveys:

Public consultations and surveys targeting the general public or specific groups are important sources that allow the collection of information about a market the authority aims to define, whether in the context of complaints or applications, or outside these procedures.

For example, in 2022, the French Competition Authority launched a public consultation regarding competition in the cloud computing sector, aiming to define the relevant market(s) for the purpose of identifying practices that could impede competition.

Source 6 – Sectoral Economic Studies:

Sectoral economic studies are important sources of information regarding a specific sector. These may include:

- Studies published by the competent authority or sectoral regulatory bodies at the government level.
- Studies conducted by specialized market research and consultancy firms.
- Comparative reference to sectoral studies prepared by foreign competition authorities.

Such studies generally provide economic information about the sector and its active participants, including details such as investment levels, price developments, the size and nature of undertakings, which assists later in analyzing market power and defining the mechanisms of the relevant market in terms of supply and demand.

Source 7 – International Comparative Experience:

Most competition authorities, whether national or foreign, follow a similar methodology for market analysis, such as substitution tests and market structure studies based on supply and demand mechanisms. These approaches form a common reference point in defining the relevant market.

Accordingly, decisions and opinions issued by national and foreign competition authorities——whether regarding anti-competitive practices, economic concentration, or other competition-related matters——constitute an important reference that can be consulted, particularly for drawing lessons and applying best practices in market definition and analysis.

Source 8 – Legal Texts Regulating the Relevant Sector:

National legal texts (federal or local), as well as regional and international texts in some cases, serve as a primary reference for understanding and analyzing a specific economic sector. They provide insight into the procedures related to the sector and the economic activities conducted within it.

Such legal texts also indicate whether the sector is subject to principles of economic freedom, including free competition, freedom to invest and establish undertakings, and freedom of movement for goods and human resources.

Additionally, reviewing relevant legal texts allows undertakings and authorities to identify:

Entry barriers to the market, such as quantitative or qualitative requirements, or prerequisites such as prior administrative approvals to conduct specific economic activities.

Regulations on product or service pricing, including whether pricing is subject to free market principles or requires administrative approval (e.g., pre-approval of increases in prices of essential goods).

Section Two

Defining the Relevant Market

Defining the relevant market is considered one of the most critical stages when addressing the practices referred to earlier.

The definition of the relevant market has a significant impact on the course and outcome of investigations related to complaints, exemption requests, or approval of economic concentration operations. It helps structure the legal and economic competition analysis applied in the study of these transactions.

For the purposes of these guidelines and to ensure a comprehensive understanding of the relevant market concept, it is necessary to define the relevant market, determine its dimensions, and identify its various categories.

For these guidelines, and for the purpose of fully understanding the details related to the concept of the relevant market, the term "relevant market" refers to the market defined in Article 1 of Federal Decree-Law No. (36) of 2023 on Competition Regulation as follows:

Relevant Market: A market based on two elements:

1. Relevant Products:
   These consist of all goods or services—or groups of goods or services—that, based on their price, characteristics, and intended uses, are substitutable with one another to satisfy a particular consumer need.

2. Relevant Geographic Scope:
   This refers to the physical or digital location where supply and demand for a product or service meet and where competition is similar or homogeneous.

This definition highlights that the relevant market has two dimensions:

A product dimension, which requires identifying the market of goods and services.

A geographic dimension, which requires determining the geographic scope in which the products are offered, within the market mechanisms of supply and demand.

Chapter One

Defining the Relevant Product Market

First: Concept of Relevant Products

The relevant market is generally considered the place where supply and demand meet regarding all goods or services that buyers or users perceive as substitutable or interchangeable based on their characteristics, prices, or intended use.

In competition law, substitutability refers to the ability of a consumer or user to replace a particular product with another that satisfies the same need, or at least a substantial part of it.

While the concept of product substitutability is fundamental for defining the relevant products and market, it is also practically challenging. It is a relative and subjective matter that varies depending on the position of each consumer or user, as well as the nature of the products and their suppliers. For example:

Two different products may belong to the same market if consumers consider them substitutable.

Conversely, two similar or identical products may not belong to the same market if they do not satisfy the same need or satisfy it only partially.

Thus, defining the relevant product market requires identifying products that could potentially be substitutes from both a demand (consumer) and supply perspective, based on a set of verification elements and methods to be studied later.

As a result of the substitutability test, all products found to be strong substitutes for the product(s) under consideration are included in the same relevant product market, as they reflect the extent of competitive constraints and pressures affecting the products related to the activities of the undertakings under review.

Secund; Verification Elements Used in Defining Relevant Products

Defining the relevant market from a product perspective requires evaluating a wide range of elements and evidence, based on all available or obtainable information, data, and indicators.

Typically, information and supporting evidence collected by the concerned undertakings and stakeholders serve as a starting point in this evaluation, helping to identify the products that primarily define the relevant market.

Verification elements or evidence refer to the factors that influence the market pressures acting on the activities of the concerned undertakings. These elements help determine whether the market under consideration is truly competitive, which in turn informs the analysis of all potential effects and outcomes.

- For the purposes of these guidelines, the main verification elements for defining relevant products are identified from both demand and supply perspectives.

- Substitutability from the demand side is considered essential, if not decisive, in defining the relevant market, as it is directly linked to consumer needs. Often, the main question is whether Product A and Product B belong to the same relevant market.

- In practice, after verification, including Product B may be sufficient to address competition concerns. It is not necessary to examine additional products unless they also meet the criteria of immediacy and effectiveness outlined in Section One of Part One of this guide.

- The application of the substitutability test at this level begins with the products produced or marketed by the concerned undertakings as the smallest available market. Usually, one or several products are selected for detailed study, after which the product dimension is expanded to include all potential substitutes based on the following factors and evidence:

1 Product Characteristics

According to the decree-law, products or services that satisfy the same consumer need or a particular need may be substitutable.

Analyzing the characteristics and features of a product helps identify the range of potential substitutes.

Product characteristics refer to technical, physical, or functional features of the product under the activity of the concerned undertakings. This involves assessing the similarity of potential substitutes compared to the product under review.

- Methodology for analyzing product characteristics:
- Collect all technical information regarding the products of the concerned undertakings.
- Identify and study the technical and functional characteristics of these products.
- Gather all technical information regarding potential substitute products.
- Identify and study the technical and functional characteristics of potential substitutes.
- Compare the technical and functional characteristics of the relevant products and their substitutes, noting similarities and differences.
- Consult a sector-specific technical expert if needed (e.g., a medical expert to assess the functional and therapeutic characteristics of a pharmaceutical product to determine its substitutability with another product in the market).
- Analyzing technical characteristics allows for determining whether all products belong to the same relevant product market or whether they constitute distinct products (e.g., differentiated products) that could form independent markets.

Practical Example (1)

Pharmaceutical Industry Sector: Product Substitutability Analysis

Analyzing the technical characteristics of two pharmaceutical products allows determining whether they belong to the same relevant market.

Example:

- Product A: Originator (reference) drug for the treatment of hypertension and cardiovascular insufficiency.
- Product B: Generic drug for the treatment of hypertension and cardiovascular insufficiency.

Two pharmaceutical products may belong to the same relevant market even if they differ in nature (originator vs. generic), provided they share the same pharmaceutical and chemical characteristics, including formulation, dosage form, and active ingredient.

Conversely, it is possible that each of these products constitutes a separate relevant market even if they aim to treat the same medical condition (hypertension and cardiovascular insufficiency), based on an analysis of their chemical and pharmaceutical properties.

Illustrative Case:

- Product A contains the active pharmaceutical ingredient (API) (P).
- Product B contains the API (R).

In this scenario, the substitutability between the two products is limited both pharmaceutically and medically, due to the difference in active ingredients, despite both targeting the same therapeutic outcome.

This type of analysis emphasizes that therapeutic purpose alone is not sufficient to define the relevant market; rather, the chemical composition and pharmacological characteristics of the products are decisive in determining market boundaries within the pharmaceutical sector.

2 – Intended Uses of the Product

The intended uses of the product must be identified. Several questions should also be raised to help determine whether the various alternative products provide a solution for the customer or end consumer and satisfy their needs despite differences in their uses.

It is also necessary to consider whether a particular product will be used as an input in the manufacture or marketing of a final product, or whether it is used as a final product itself. This process helps identify and define the different markets (upstream markets and downstream markets) and the various participants operating within them, which ultimately assists in determining the relevant market.

The uses of products may also be classified according to whether the product satisfies a daily need — referred to as Fast-Moving Consumer Goods (FMCG) — or whether it fulfills a sustainable or long-term need (such as purchasing a house, for example).

The uses of products vary depending on the nature of the product, its components and composition, and the field in which it is used.

Practical Example (2)
Pharmaceutical Industry Sector: Product Uses and Substitutability Two pharmaceutical products, Product A and Product B, from different brands and manufacturers, may fulfill the same need for the end consumer (patient) by treating the same medical condition, even if their modes of administration differ. For example: • Product A: Liquid formulation, administered orally. • Product B: Solid formulation (granules) or administered by injection. Despite the differences in formulation or administration, these products can be considered substitutable, as they achieve the same therapeutic outcome for the patient. Consequently, they may belong to the same relevant market. This example illustrates that substitutability in pharmaceutical markets is determined not only by the product's form or method of use but primarily by its ability to satisfy the same medical need, which is a key factor in defining the relevant market from a demand-side perspective.

The verification evidence mentioned above can help narrow down the range of potential substitute products as much as possible, which may define the boundaries and scope of the relevant product market.

However, determining the degree of substitutability may show that similarity in technical characteristics and uses alone may not be sufficient to confirm that these products belong to the same market. Conversely, differences between products do not necessarily imply that they belong to different markets.

Factors such as price and consumer preferences can influence the extent to which products are substitutable.

3 – Price

Price is often one of the main and decisive factors in determining the substitutability of products from the demand side and plays a significant role in influencing consumer or client choices.

Some products may constitute potential substitutes for the products produced or marketed by the economic entities under review, based on their listed prices. In this regard, a comparative study can be conducted as follows:

- Comparing the prices of the products under consideration with the prices of products that could potentially serve as substitutes, taking into account their ability to meet the same consumer or client needs.
- Comparing the prices of the potential substitutes themselves.

This initial comparison can help reveal:

- The significance of price differences within the same group of products or a group of products with similar characteristics and uses.
- Whether any price increases in the products under consideration reflect a natural increase in prices or constitute an artificial increase above competitive levels (prices above competitive levels), which do not reflect market reality or the natural operation of supply and demand.

At a more advanced stage, after obtaining sufficient information, the pricing structure of the various elements that make up the sales price can be analyzed, including:

- Fixed or operating costs.
- Variable costs.
- Profit margins applied to the price.

A comparison can then be made between the pricing structure of the products under consideration and the other potential substitute products. This process allows for the identification of the main sources and reasons behind price increases for these products.

Additionally, in order to deepen the evaluation based on product prices, economic formulas such as Price Elasticity of Demand can be applied, incorporating the quantity element into the study. Price elasticity economically explains the inverse relationship between the product price and the quantity demanded. Price changes affect the quantity demanded; thus, a price increase leads to a decrease in the quantity demanded, and vice versa.

Generally, the more stable or lower the product prices, the higher the demand. Conversely, an increase in the price of a product can lead to a decline in the quantities purchased as part of the demand shifts to alternative products.

Price elasticity formulas can help measure the current degree of substitutability.

From this study, the following conclusions can be drawn:

- The main reason behind demand substitution can often be explained as a reaction to increases in the prices of the products under consideration.
- Price convergence among some products under review for potential substitutes can serve as strong evidence that these products are genuine substitutes for the products under consideration and should be included in defining the relevant market.
- A significant price difference between potential substitutes and the products under consideration, without actual substitution occurring over a long period (exceeding one year), indicates that these products should not be included when defining the relevant market.

4 – Consumer Preferences

Several sources can be used to study consumer behavior:

- Marketing studies conducted by the economic operators.
- Consumer surveys and questionnaires conducted by specialized market research firms.
- Feedback from wholesalers and retailers.

These sources help determine whether substitution is primarily based on price or influenced by other factors, such as:

- Quality.
- Brand importance.
- Differences between domestic and imported products.

5 – Past Substitution Evidence

Past market events can be analyzed to determine substitution:

- Introduction of a new product may immediately shift demand away from the existing product.
- Exit of a product or supplier from the market may redirect consumers to alternative products.

These studies rely on quantitative tests and monitoring of price and quantity trends over time.

6 – Barriers and Costs Associated with Switching Demand

The obstacles and costs associated with demand-side decisions to switch to potential substitutes represent one of the limits of the substitutability principle and one of the constraints imposed on it. However, this evidence is used for its practical value in defining the relevant market.

These obstacles and barriers primarily relate to the costs that a customer or consumer may incur as a result of deciding to switch to another product.

Although it may be difficult to enumerate all the barriers that can hinder the substitution and switching process, the following examples can be highlighted:

- The existence of contractual obligations that may prevent the customer from switching to an alternative product.
- High search costs for identifying an alternative product (particularly in cases where the product is used as an input in the production of a final product).
- Uncertainty regarding the quality or reputation of an alternative product, or the reputation of suppliers in the market.
- High investment costs associated with using alternative products or adapting them to fit the production process.
- Legal and regulatory barriers.
- Network effects, where customers—especially end consumers—may find it difficult to switch to another network due to the loss of benefits provided by the current network.

Practical Example (1)
<u>Existence of Contractual Obligations</u> Contractual obligations may hinder a client's ability to switch to products offered by another economic operator, particularly when such obligations are exclusive in nature. Practical experience has shown that exclusive dealing clauses with certain operators or digital platforms can be a direct reason preventing clients from choosing available market alternatives, thereby obstructing the substitution process.

Practical Example (2)

Legal and Regulatory Barriers

At times, clients may find it difficult to switch to alternative products due to the fact that these products are subject to various administrative requirements and approvals, such as licenses or prior authorizations, which may not apply to the current product. Consequently, such requirements can impede effective and direct substitution, potentially leading to the exclusion of these products when defining the relevant market.

Example:

Some vitamin-based preparations are classified as medicinal products, requiring prior approvals and licenses from multiple authorities, most importantly the Ministry of Health. These requirements may not apply to similar pharmaceutical formulations that are not classified as medicines but as dietary supplements.

Practical Example (3)

Network Effects

Being part of a specific network may hinder the substitutability between the services it provides and those offered by other networks.

Example:

A client subscribed to a particular telecommunications network (A) may find it difficult to switch to another network (B) if network (A) provides economic or digital advantages that are hard to give up.

It is well known in telecommunications and digital services that customers benefit directly from network growth, as the entry of new clients positively affects the pricing of the services offered. Economically, this is referred to as network effects, which make the decision to leave such a network particularly difficult.

As a result of these obstacles, in some cases it becomes difficult to include products that would otherwise be considered substitutable from the demand side when determining the relevant product market.

7 – Price Differentiation Among Different Customer Segments

A particular customer segment or group for the relevant product may constitute a separate market if it is found that an economic entity is able to apply discriminatory pricing to that specific group of customers.

This situation leads to a narrowing of the product market under consideration, focusing only on the products relevant to that group.

The ability of a company to apply discriminatory pricing may depend on several factors, including:

- If it is difficult for demand to switch to potential substitutes due to high associated switching costs.
- If the demand for an input differs based on the purpose for which it is used.

Practically, in such cases, it is necessary to analyze the situation of the customer to determine the relevant market and assess whether it is feasible to include the customer within a specific group or segment, which could be considered a separate market based on the prices applied to them.

Practical Example (1)
Travel Agency Services Market – Air Travel and Tours It is customary for travel agencies specializing in air travel and tours to differentiate between travelers during peak seasons (e.g., school or holiday breaks) and travelers who travel outside peak periods (e.g., during school terms). Based on this distinction, travel agencies apply two different pricing structures that vary according to the season. This results in the services provided to each group of customers effectively constituting a separate market from the other.

Practical Example (2)
<u>Hotel Services Market</u> This example is similar to the previous one. Many hotels apply two different pricing structures that vary according to the seasonal periods during which customers book their stays. Typically, room rates increase during peak seasons, such as holidays, at varying percentages compared to bookings made during regular periods of the year. Each type of accommodation service thus constitutes a separate market from the other due to differences in the nature of customers, booking periods, and the pricing system applied.

8 – Evidence of Ease of Substitution

From the demand side, ease of substitution refers to the ability of the customer or consumer to make a direct and immediate decision to replace one product with another without incurring certain costs (such as transportation or entering into prior contracts to access a market, as in the case of access via websites or mobile applications).

From the supply side, ease of substitution refers to the ability of the economic operator or supplier to switch production capacity from one product to another and offer it within a short period without incurring additional costs or risks, in response to changes in prices or shifts in demand toward a particular product.

It is therefore necessary to examine whether such a switch is technically and financially feasible. The main element for verification under this evidence is whether it would be economically beneficial to shift production in the event of a price increase of a certain percentage (typically 5% to 10%) above the competitive market price.

9 – Evidence Related to the Economic Operator's Physical and Financial Capabilities

This evidence concerns the level of supply capacity of economic operators in the market. Some operators may face difficulties related to a lack of physical resources or efficient human resources necessary to switch production to meet customer demand.

Additionally, these operators may face challenges in procuring the necessary inputs for production conversion, which could entail unforeseen financial costs or new investments.

When such difficulties exist, the substitutability from the supply side becomes highly limited, and it should not be considered when determining the relevant market.

10 – Evidence Regarding Legal, Regulatory, or Technical Barriers

Shifting production to offer a product that meets demand may require administrative approvals, licenses, and compliance with a range of conditions and procedures, which may hinder effective and immediate supply substitution.

The more numerous the preconditions, approvals, and regulatory requirements, the more likely it is that the supply product will be excluded from the scope of the relevant market.

Special Notes on Verification Elements of Substitutability from the Demand and Supply Sides

General Note on Verification Evidence Regarding Demand-Side Substitutability

The assessment of market constraints and competitive pressures that a given economic operator may face varies depending on the nature of the market, the type of economic activity, and the specific practices or requests under review.

In some cases, determining the relevant market may be sufficient based on a single strong piece of evidence, while in other cases, it may require collecting as much evidence as possible.

In general, the more evidence there is regarding the existence of potential substitutes for the products under consideration, the greater the options available to demand. This, in turn, makes it more difficult for the relevant economic operator—or an operator with significant market power—to raise product prices, which supports including these substitutes when defining the relevant market.

Note on Supply-Side Substitutability

If there are strong doubts as to whether the gathered evidence constitutes actual competitive constraints and pressures that should be included in the process of defining the relevant market, or whether they instead represent barriers and obstacles related to potential competition for market entry—which should be considered only when assessing the competitive effects of the practices or requests under review—then the relevant market should be defined solely based on demand-side substitutability.

Chapter Two

Geographic Scope of the Relevant Market

First – Concept of Geographic Scope

In general, the geographic scope of the relevant market can be national, local, or even smaller, while in some cases it may extend beyond these dimensions to become regional or global.

The geographic scope includes the area or areas where the economic operators concerned are active and compete with others in supply and demand, provided that these areas are subject to homogeneous or similar competitive conditions, distinguishing them from areas where such conditions differ.

In this context, the new Federal Decree-Law on Competition has introduced new concepts relevant to defining the geographic scope. The spatial dimension may be physical, digital, or virtual. For example, digital platforms and online marketplaces can constitute a relevant geographic scope.

- **The decree-law explicitly provides:**

The competent authority considers anti-competitive practices, related exemption requests, and requests for approval of economic concentration operations affecting the competition and overall balance of the relevant market at the emirate level if the following conditions are met:

1. The concerned economic operators are present only within the same emirate.
2. The effects of these practices do not exceed the boundaries of the emirate.

From these provisions, it follows that the geographic scope is national if the concerned economic operators operate across multiple emirates and the effect of their practices extends beyond a single emirate (e.g., supplying products to clients or consumers in several emirates).

- Regional or International Geographic Scope

In addition to the criteria discussed later in this guide, when defining the relevant geographic scope, it is necessary to consider Article 3 of Federal Decree-Law No. (36) of 2023 on Competition, which states that the provisions apply to all economic operators in relation to their activities within and outside the country, including the exploitation of intellectual property rights abroad, and also to economic activities conducted outside the country that affect competition inside it.

Thus, it is essential to analyze the source of the economic operators' practices and their impact on the normal functioning of the market within the country. This analysis helps determine whether the market is national (federal or local) or regional/global if it meets the above conditions, particularly regarding whether the economic operators are subject to similar competitive conditions.

Second – Verification Elements for Determining the Relevant Geographic Market

In line with the methodology applied for defining the relevant product market, the process of determining the geographic scope of the relevant market also requires an assessment of the extent to which competitive conditions exist within it.

Generally, defining the relevant geographic scope involves examining the geographic area or areas within which product substitution occurs. Therefore, all geographic areas that are mutually substitutable and where such substitution can occur within their boundaries under certain conditions must be considered.

In this context, if consumers or clients have the ability to travel to purchase products in neighboring or other geographic areas due to higher prices in their local area where these products are offered, then these neighboring or other areas are considered alternative areas and are therefore included in defining the relevant geographic market.

Conversely, if it is observed that economic entities operating in other areas offer their products in the geographic area under consideration due to higher local prices, the areas of activity of these entities should also be included in determining the relevant geographic market.

These elements must be evaluated based on the extent to which homogeneous or similar competitive conditions exist within these areas.

It is likely that if customers in different geographic areas can access alternative or similar products offered by economic entities whose market shares do not vary significantly, this serves as a strong indicator of the presence of homogeneous competitive conditions. Consequently, these areas should be included in the process to form the relevant geographic market.

Similarly, the convergence of prices for alternative products across these areas can also indicate the presence of homogeneous or similar competitive conditions.

Practically, it is necessary to examine whether there are neighboring or other geographic areas where potential substitutes for the products offered in the area where the supplier and the client or consumer are located exist. In other words, the assessment should determine if other suppliers of potential substitutes operate in geographic areas outside the area under consideration.

It must also be established whether the assessment relies on the location of the supplier or the location of the client or consumer. The prevailing approach is to define the relevant geographic market from the demand side based on the location of the concerned economic entity or entities. However, in some cases, it may be necessary to define the market based on the location of the client or consumer.

In general, the methodology for determining the relevant geographic scope involves the following steps:

- Identify the geographic area under consideration, where competitive effects are likely to occur.
- The starting point is usually the location or activity of the concerned economic entity or entities, or the location of the client or consumer.
- Examine the extent to which competitive conditions exist in this area by evaluating compliance with competition rules based on supply and demand mechanisms.
- Examine the extent to which homogeneous or similar competitive conditions exist in neighboring or other geographic areas compared to the area under consideration.

The relevant geographic market can be defined using the same methodology applied to defining the relevant product market, taking into account certain specific considerations and relying on the following verification elements and indicators:

1. Verification Indicator Regarding the Shift of Demand or Supply to Substitutes in Neighboring Areas Due to Price Increases

The starting point is from the perspective of the narrowest possible market, often referred to as the focal area. The assessment here examines whether a price increase for the products offered within this area, even if minor, would lead to a shift in demand toward potential substitutes in neighboring or alternative geographic areas.

If this indicator shows that a significant number of customers or consumers have turned to purchase their needs in other geographic areas, this serves as evidence of competitive constraints and pressures on the suppliers and economic entities in question, limiting their ability to raise or lower prices within the area.

The geographic pattern of customer purchases helps in defining the relevant geographic market and in deciding whether to include other neighboring areas.

Practically, the following elements can be used to assess this indicator:

- Monitoring and tracking price movements of the products in general, and of similar or substitute products across different geographic areas. This tracking helps determine whether such developments are confined to specific areas (e.g., within a single emirate or between multiple emirates) or extend across the entire national (federal) geographic scope.
- Comparing the quantities of the products under consideration with the quantities of potential substitutes across the geographic areas mentioned above. Quantitative economic calculations can indicate whether products offered in neighboring areas constitute effective and direct substitutes, which helps assess the existence of competitive constraints and the presence of homogeneous competitive conditions.

The ability of demand to shift toward potential substitutes in other geographic areas corresponds to the ability of suppliers operating in those areas to redirect their product supply toward the geographic areas where customers are located to meet their needs and provide potential alternatives.

The presence of such suppliers serves as evidence of one of the most prominent forms of potential competition and is a source of competitive constraints and pressures on the activity of the concerned economic entities.

When estimating whether to include geographic areas, the location of these suppliers must be considered, along with their responsiveness to customer requests within a short timeframe and without incurring high costs.

If meeting customer needs requires suppliers to make substantial investments to redirect their supply to these areas, and the conditions of immediacy and effectiveness are not met, such investments are regarded as barriers and obstacles that do not justify including these geographic areas in the relevant geographic market.

2. Verification Indicators Related to Transportation Costs, Distance, and Travel Time:

The assessment for determining the relevant geographic scope involves examining the competitive position of suppliers or the economic entities in question based on factors such as the distance between the supplier and the customer, the time required for transportation, and the associated costs.

These factors are extremely important in estimating competitive constraints and pressures within a given geographic area or areas under consideration. Therefore, suppliers located close to customers enjoy a competitive advantage.

Typically, factors related to transportation costs are studied when determining specific geographic market cases, such as catchment areas, in the context of evaluating economic concentration operations or requests for exemptions from the practices of economic entities, especially in trade sectors in general, or in distribution through large and medium retail spaces and sales outlets in particular.

From a competition perspective, a catchment area refers to the maximum distance beyond which consumers are unlikely to complete their purchases due to transportation costs or the significant time required to travel to a point of sale or outlet.

In some cases, catchment areas themselves may constitute relevant geographic markets, through which suppliers within the area, competitors, their market shares, the nature of the customers present, and their consumption habits and behaviors in meeting their needs can be identified.

Consequently, the more customers are able to travel to neighboring geographic areas or other catchment areas to fulfill their needs, the greater the competitive constraints imposed on the economic entities operating within their area. This also indicates the presence of homogeneous competitive conditions, which warrants including these areas in the relevant geographic market or scope.

3. Verification Indicators Related to Customer Preferences and Purchasing or Consumption Behavior:

Consumption patterns and purchasing behavior can be inferred by studying customer preferences. Based on various factors, preferences may arise with a geographic or affiliation-based nature, such as national or local preferences, depending on the product type (local or national product), its origin (national or local production – imported product), or its brand (e.g., preference for domestic products over imported ones).

This factor may lead different economic entities to differentiate their products according to these preferences, which could pose an obstacle for some of them in operating across different geographic areas—except for entities capable, after making certain investments that do not affect their core activities, of establishing distribution channels to market their products effectively and immediately (supply-side substitutability).

In general, if customers are able to meet their needs across all their preferences through products provided by the concerned economic entities or their competitors at the national level, the relevant geographic market is considered the national market. It is considered local if it does not exceed the boundaries of a single emirate or a cluster of emirates.

4. Verification Indicators Regarding Barriers and Obstacles to Shifting Supply to the Geographic Areas Under Consideration:

The key question for assessing these indicators is the extent to which the concerned economic entities and suppliers from other geographic areas can meet demand and consumption needs under the same competitive conditions, or whether there are obstacles and barriers that could impede this process.

The following indicators should therefore be considered to assess the presence of barriers or obstacles to shifting supply:

- Advertising costs for products in other areas.
- Marketing costs for products in other areas.
- Transportation costs (the higher the costs for supply and demand, the more limited the relevant geographic market).
- Lack of fast and efficient distribution channels in other areas.
- Inability to respond immediately to customer preferences.
- Legal and regulatory barriers (e.g., specific requirements imposed on a product or its marketing in other geographic areas, imposition of quota regimes for supplying products to other areas, or the need to obtain prior administrative approvals for supply and distribution activities in these areas).
- Existence of specific technical standards or controls imposed on a product or activity.

These obstacles are quantitative and qualitative constraints that may create competitive pressures on the concerned economic entities against potential suppliers capable of shifting their products to other geographic areas.

However, these constraints are not considered competitive pressures on the market if they prevent the concerned entities or suppliers in other geographic areas from offering their products as potential substitutes in a timely and effective manner. In such cases, each geographic area may constitute a separate and independent market.

5. Verification Indicators Regarding Imports:

The importance of imported products can serve as an indicator that the geographic scope may extend beyond the boundaries of an emirate or the country.

Imports of products marketed in the domestic market are carried out by local suppliers through international trade or by international suppliers operating outside the country. These suppliers cannot constitute a competitive constraint on domestic sales or economic entities unless all the previously mentioned barriers and obstacles are removed.

To supply their products on a wider scale, international suppliers typically need to make significant investments in:

- Establishing supply and distribution networks or channels.
- Investing in marketing and promotion activities.

In the presence of such obstacles, the export country markets cannot be considered alternative geographic areas for inclusion in defining the relevant geographic market.

The issue of imports remains important for analyzing economic activities conducted outside the country that affect competition within the domestic market.