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Competition policy and gender

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ABSTRACT

This paper calls attention to the opportunity for competition authorities to contribute to the fight for gender equality. We also argue that adopting a gender lens can be helpful in achieving the efficiency-based objectives of competition authorities. We conclude by providing a menu of options regarding how competition authorities may integrate a gender perspective into competition policy practice.

Cet article attire l'attention sur l'opportunité qu'ont les autorités de la concurrence de contribuer à la lutte pour l'égalité des genres. Nous soutenons également qu'adopter une perspective de genre peut être utile pour atteindre les objectifs d'efficience des autorités de la concurrence. Nous concluons en proposant un éventail d'options sur la manière d'intégrer une perspective de genre dans la pratique de la politique de la concurrence.

I. Introduction

1. Compared to men, women exhibit lower labour force participation rates, earn lower wages per hour and are twice as likely to work in the informal sector (OECD, 2018 and ILO, 2017). Recent estimates suggest that these disparities result in an aggregate loss of 16% of global income and on an individual level result in women losing USD 24,000 over the course of their lifetime (Wodon and de la Brière, 2018). As a result, women have less purchasing power in the marketplace, and this is aggravated by the fact that they often pay higher prices for products structured around gender identity, a phenomenon known as the "pink tax" (De Blasio and Menin 2015).

2. Recently, the competition policy community has started paying attention to gender. Hubbard (2017) argues that the gender glass ceiling "*is just another cartel.*" Pike (2018) suggests that gender restrictions potentially constitute anticompetitive regulations and that competition agencies might make a difference by prioritising investigation of those markets on which women rely. Competition policy may, therefore, have a natural role to play in addressing those issues and in levelling the playing field for women and men alike. This paper builds on this premise to explore ways to integrate gender considerations into competition policy. We argue that competition policy has an opportunity to contribute to the fight against gender inequality even when pursuing a primary goal of minimizing anticompetitive rents and their effects on consumers and workers welfare.

II. Conceptual framework

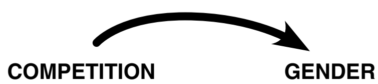
3. We build a conceptual framework in which the relation between gender and competition is bi-directional. That is, we argue that competition policy may influence gender inequality and, at the same time, gender differences may have an impact on the competitive process and therefore, on the work of competition authorities. Figure 1 illustrates this framework.

1. The impact of competition on gender

4. We start by considering how reducing anticompetitive distortions in markets can affect gender inequality.

Figure 1. The bi-directional relation between gender and competition

Panel A. Competition may influence gender inequality



Panel B. Gender inequality may influence competition

* This article is a revised version of the Background paper written by the authors for the Global Forum on Competition 2018 and available here: https://one.oecd.org/document/DAF/COMP/GF(2018)4/en/pdf.

5. By making markets more competitive, competition agencies can reduce gender inequality. This follows from Becker's (1957) theory of discrimination, according to which, owners of firms that wish to discriminate forego profits to satisfy their preferences (or similarly, pay a premium for interacting with their preferred social groups). This implies that discrimination in the way a firm treats its workers, its suppliers and its customers is not sustainable in a competitive market, and that prejudiced firms are outcompeted by more efficient non-prejudiced ones.[1] We note, however, that an exception arises if consumers themselves are willing to pay a premium for discriminatory services. Such prejudice has been documented in settings such as art markets (Adams et al., 2017) or financial markets (Longin and Santacreu-Vasut, 2018). As a result, firms might compete to cater to this prejudice. In that case, increasing competition could lead to more, not less, gender inequality (Holzer and Ihlanfeldt, 1998). Apart from such exceptions, in most cases, Becker's (1957) implies that competition authorities' traditional "gender-blind" application of competitive principles may therefore already help towards reducing gender inequality.

6. Pro-competitive interventions in certain markets will be particularly helpful in reducing gender inequality. This is because some markets are more important for women than others. For instance, female labour force participation is determined by the relative value of market participation versus non-market participation. That is, by the difference between the market wage and the reservation wage (Winkler, 2016). The reservation wage is the wage at which women are willing to enter the market. The availability and affordability of market substitutes for the services that women produce in the household may be an important factor influencing the reservation wage, especially in countries where such services are not publicly subsidised. Therefore ensuring that such markets deliver high quality and affordable services is key to creating the right incentives for women's labour market participation.

7. For example, markets supplying food and cleaning services and those supplying care services for children, the elderly, the disabled and the ill may be particularly relevant for women. This is the case because these are services that have been (and still are) provided by women as unpaid work in the household. On average, women do almost twice as many hours of unpaid work per day than men, and this provision of unpaid services limits women's opportunity to provide paid formal work (Miranda, 2011). By protecting and increasing competition in those types of markets, competition authorities can therefore help to increase the availability and affordability of market substitutes for the unpaid services that women produce, thereby creating more efficient incentives for women to participate in labour markets.

8. In addition, the competitive functioning of financial markets may be particularly vital for women, since access to finance complements educational investments, female labour force participation and the development of entrepreneurial potential. Within start-up financing a gender-gap has been documented in various settings (Greenberg and Mollick, 2016; Breschi et al. 2018), and more generally women's financial inclusion lags behind in many countries (World Bank, 2018), particularly in developing ones. Several factors explain why women may be at a relative disadvantage when accessing finance. First, in some countries they face legal restrictions related to property rights or inheritance rules that impede them from accumulating capital. Lack of collateral reduces their access to credit. Second, when they do access credit, they obtain worse conditions (Bellucci et al. 2010, Alesina et al. 2013) making it harder to develop their businesses. Third, women may anticipate worse credit conditions or outright discrimination and, as a consequence, they may be less likely to apply for a loan (Moro et al., 2017). Action or advocacy by competition agencies to remove such distortions of competition and level the playing field in access to finance would therefore potentially help increase investment in education and skills for women, reduce costs and barriers to entry for women-owned firms in a wide range of downstream markets, and help women to build wealth.

9. Infrastructure markets are also particularly important for women. Existing evidence reveals that infrastructure is used differently across genders (Braeden et al. 2018). Women tend to combine income-generating activities with caring and unpaid activities in the household, as previously discussed. Consequently, they tend to make more local and repeated trips using more public transport, cycling and walking and more off-peak time usage (EIGE, 2016). Infrastructure safety is also important to encourage women to work out of the household at night (World Bank, 2018). For example, lighting and safe public transport infrastructure may be essential to ensure women can travel at night. Water infrastructure development may also be particularly relevant in developing countries where women tend to be responsible for water collection. Beyond physical infrastructure, recent data documents the persistence of a gender gap in the use of digital infrastructures (ITU, 2017) particularly in low-income countries. Overall, lack of affordable and suitable transportation options for women may prevent them from participating in the labour market.

10. In addition to reducing labour market participation, the ineffective functioning of these markets that are fundamental for a gender-inclusive economy (substitute services for unpaid labour, access to finance, and infrastructure markets) may also decrease women's labour market mobility (Del Bono and Vuri, 2011, Loprest, 1992). For example, if women have less geographic mobility, fewer options to switch firms, or their type of job, less ability to start their own business, or to work flexibly, then their labour will be more inelastic and employers will have a corresponding greater degree of monopsony market power. This can be expected to

1 Research in trade (Black and Brainerd, 2004; Chinhui et al., 2014; Yahmed, 2017), in competition economics and in labour economics (Baert et al., 2015; Hirsch et al., 2014; Cooke, Fernandes and Ferreira, 2018) each provide empirical support for Becker's prediction.

result in downward pressure on their wages and working conditions (including for example underinvestment in measures to identify and address sexual harassment in the workplace), see Hirsch, 2016 and Royalty, 1998. Indeed, on average, women in OECD countries earned 39% less than their male counterparts in 2015. As competition agencies increasingly re-evaluate the lack of attention that they have in the past given to behaviour that builds or protects monopsony market power in labour markets (OECD, 2019), it may therefore be the case that women are particularly vulnerable to the exercise of such power (see Black, 1995). If so, women might be expected to benefit disproportionately from a more vigorous enforcement approach towards monopsony market power.

11. Last, it is important to recognize that unpaid household and care work is in itself part of the informal economy. As such, achieving allocative efficiency, that is, each person specializing in a role that reflects their comparative advantage, would require that households do not face a tax advantage from self-supplying the service. This suggests that these services should, where there is no public service option, be tax-exempt. This would allow households to decide whether or not self-supplying such services is in fact efficient or not. Furthermore, this work can require both flexibility and uncertain hours which can increase the cost of services. In other such markets, we have in recent years seen the emergence of digital platforms that reduce the cost by more efficiently matching supply and demand and thereby reducing the informal market (e.g., for illegal taxis). It may be worthwhile for competition authorities to be proactive in exploring why similar market solutions have not emerged in household and care services, and whether there are particular features that are inhibiting the development of these markets. It may even be the case that following a market study, competition agencies find there is a need to facilitate the emergence of such markets. For instance, through the introduction of certification of standards or the sponsoring of entry as has been in the case in the package of Open Banking remedies prescribed by the UK's CMA after its banking market investigation.

12. In short, markets that a) supply substitute services to those traditionally supplied by women within the household, b) supply complementary services to women's labour force participation, such as financial markets and infrastructure markets, and that c) exhibit high degrees of informality may be particularly relevant for women's participation in labour markets and the terms they obtain. Promoting competition in those specific markets, competition authorities may, therefore, contribute to reducing gender inequality. Doing so, they may be able to obtain a double dividend: the efficiency increase from the reduction of market distortions in a particular market (first dividend) and the reduction of gender inequality (second dividend). Importantly, this can be achieved by competition authorities without changing their focus on preventing the growth of (or reducing) anticompetitive rents.

2. The impact of gender on competition

13. We now turn to the discussion of how gender impacts market competition, and hence how it may become relevant to the work of competition agencies (Panel B of Figure 1). In such cases, we argue that failure to recognise this relevance may in turn increase gender inequality.

14. Gender can influence market entry where it constitutes a legal barrier to entrepreneurship. For example in some countries women are prevented from working in specific industries such as construction, transportation, or manufacturing, and face legal obstacles to acquiring property (World Bank, 2018). In a minority of cases, married women cannot register a business[2] and in 18 countries, husbands are legally entitled to restrict their wives from working, and opening businesses. Barriers to entrepreneurship can also be informal and behavioural. These barriers might include the risks of sexual harassment, expectations of long antisocial working hours, or a lack of access to networks, mentors or role models. Notably McDevitt and Roberts (2014) identify that only 6% of urologist in the US are women, despite 30% of urology patients being women, and these female patients having strong preferences to be seen by a female urologist (and mortality rates for female patients with a female urologist being much lower than for those without one). This imbalance means that group practices compete to recruit the small number of female urologists as partners in the business. However, despite competition sending the signal that a greater supply is required; the continued failure to train sufficient numbers of female urologists (90% of counties in the US lack one) may suggest the existence of informal and behavioural barriers to them entering the profession.

15. These formal and informal barriers mean that the playing field is often not a level one for women. Incumbent firms may fill the gaps left by more efficient firms led by female entrepreneurs being unable to enter the market, leading to weaker competitive constraints on incumbent firms who, even if they are efficient, can use that market power to set higher prices. The male-owned firms that benefit from this protectionism will earn greater profits, while both male and female consumers who hold little or no stake in these firms are made poorer by these barriers. Where these barriers are formal rules they are therefore amongst the many types of anticompetitive regulations that can be identified and addressed by the OECD's Competition Assessment Toolkit.[3]

2 According to the World Bank (2018) report, this is the case in Bhutan, Guinea-Bissau, Pakistan and Suriname.

3 While competition agencies are well placed to identify and address externally imposed barriers to entry, there may also be behavioural, cultural and identity related factors that discourage women entrepreneurs from entering markets. In such cases more effective competition would incentivise investors to find ways to provide the support that is necessary to allow these women to generate the value they are capable of.

16. Gender can also influence consumer prices. For example, the New York City Department of Consumer Affairs (DCA) provides evidence of gender pricing differences across multiple industries. In particular, male and female consumers face price differences when buying the male and female versions of the same type of items. On average, Women's products cost 7 percent more than similar products for men (up to 13 percent more for personal care products). Some authors refer to the fact that female gender products are priced above the male versions as the "pink tax" (De Blasio and Menin 2015).

17. One explanation for differences in price is that women may value these products more and so have a higher willingness to pay for them. Firms can then set different prices for versions of a product that differ only slightly in some way that appeals to a consumer's gender identity, and then let consumers self-select. This might be consistent with the idea that the price differential is sustainable because individuals' choices and their willingness to pay for a product depend on their perceived identity and that deviating from the choices prescribed by their identity is costly (Akerlof and Kranton, 2000).

18. For example, parents may choose to buy toys or clothes as a function of their child's gender even when their child's sense of identity is not yet developed. However, this may change over time. In 2015, the grocery store Target decided to stop separating girls and boys toys in different aisles, while certain fashion players have created gender-neutral clothing lines (though this may also help identify more price-sensitive consumers). On the opposite trend, the recent launching of products such as "Bic *for Her*" or "Brogurt" (yogurt for men) suggests that companies continue to see profit in introducing such products. This is the case despite consumers and the media pointing out the fact that there is nothing inherently "gendered" about Bics or yogurts. In future as personalised pricing algorithms are increasingly used to set online prices it may in fact become easier for firms to frame choices and steer buyers towards gendered products.

19. Price discrimination often appears unfair; indeed, it might be unfair depending on your conception of fairness (Jenny, 2018). However we know that price discrimination often improves the welfare of consumers by ensuring that more consumers are able to buy a product or service than would be the case if a single price had to be set (see OECD, 2016). As a result, we can only be confident that discrimination is harmful for consumers as a whole when it is used to force the exit of a rival or to raise their costs. However, where price discrimination is persistent, it can be an indication that the market is not functioning effectively for certain groups of consumers (in these cases, women, but in other cases it might be low-income families). In such circumstances a market study may help to identify, firstly whether the market is doing all it can or whether these groups are being "left behind" and left to face market power, and secondly which features of the market are driving these effects and ensuring that they persist. For instance, is there exclusionary conduct that needs to be investigated? or barriers to entry to be dismantled? or are firms exploiting behavioural biases or incomplete information (and if so what demand-side remedies might be appropriate)?

20. As discussed in II.1, competition policy has an important role in addressing monopsony market power by protecting and improving the efficiency of certain markets that are fundamental for a gender-inclusive economy. However, in the same way that, as discussed above, the elasticity of women's demand for some products differs from men's, equally the elasticity of their labour can also differ (and for reasons not necessarily related to the efficiency of those markets that we designate as fundamental for gender-inclusive economy). We argue that competition practitioners need to be aware of these differences in elasticity in order to make the right decisions in their market definition and competitive assessments, both on the product market and input purchasing market.

21. Gender can also affect the transaction costs associated with participating in markets (Williamson, 1975). Transaction costs include searching costs, information costs, bargaining costs, monitoring costs and enforcing costs. For example, experimental research suggests that there exist gender differences in the propensity to bargain, with women exhibiting a lower propensity to bargain (see Bowles et al. 2005, 2007). Card et al. (2016) explore this issue in a non-experimental setting studying the gender wage gap in Portugal (close to the OECD average wage gap). They study the role of a "sorting" channel (women choosing to work in firms with lower wages) and of a "bargaining" channel (women being worse at bargaining over wages). They find that together the two channels account for 20% of the gender wage gap, and that 25% of that effect is due to differences in bargaining, which leads to female employees obtaining just 90% of the wage premium earned by male employees.

22. In short, we have discussed how gender influences a) market entry, b) market prices and c) market transaction costs. These, in turn, affect competitive constraints in ways that are relevant for competition authorities. For instance, in cases where there are differences in outcomes for women, a competition agency undertaking a market study and identifying price differences may want to ask whether these differences reflect differences in preferences, and if so whether these different preferences imply the need to define a separate market (see application 1 below). They may also consider whether they need to suggest demand-side remedies to improve consumers' ability to drive competitive incentives and obtain better outcomes from the market. In testing the effectiveness of such remedies, agencies may find that differences in biases, bargaining approaches, or information processing strategies lead to certain types of remedy being more effective for women than for men. This might suggest the need for such remedies to combine different approaches and perhaps to target different approaches at different groups.[4]

4 *See* CMA/FCA (2018) report on consumer-facing remedies.

III. Applications

23. We here set out three practical ways in which agencies might work towards creating a more gender-inclusive competition policy.

1. Application one: Product market definition and gender

24. In defining a market, accepted best practice is to use the hypothetical monopolist test. This requires an understanding of whether consumers will choose to substitute the product they purchase in the event of a small but significant non-transitory increase in price above competitive levels. In carrying out this test, it is important to recognise that consumers' choices can depend on their perceived identity and that deviating from the choices their identity drives them to make is costly (Akerlof and Kranton 2000).[5] In the case of "gendered" consumer products, this means that product characteristics are not only physical but also symbolic.[6] It may therefore be important for agencies not to limit themselves to looking at how "consumers" as a whole switch between different products, but to understand how gender (or other aspects of) identity may influence demand substitutability. This is because in some circumstances, these preferences may be strong enough to require the definition of a separate market for gendered products.

25. For example, the US horizontal merger guidelines advise that the agencies may identify "price discrimination markets" in cases where suppliers have information about customers that would allow a hypothetical monopolist to identify customers that are likely to pay a higher price for the relevant product. In some cases the only information that a hypothetical monopolist might need in order to identify those that would pay a higher price, is market research that identifies a greater willingness to pay amongst women. Having that information alone might then lead a hypothetical monopolist to produce products that are near identical in their characteristics, but that are marketed to consumers as a function of gender (by changing colour or even their location in shopping aisles or a website for example). Where consumers then identify themselves by selecting the product targeted at their gender, they reveal their willingness to pay and allow themselves to be targeted with a higher price. Indeed, where there is observable evidence that setting a small but persistent price differential has in fact been profitable, even for a firm that is not a monopolist, agencies may conclude that if a firm facing competition can charge such a premium, then a hypothetical monopolist would also be able to do so.[7]

26. For example, one (older) case where gender might have been relevant is the European Commission's review of the Warner-Lambert/Gillette merger.[8] This is notable given the context that significant price differences are often observed between wet-shaving products targeted at women and those targeted at men. The case decision explains the market definition adopted as follows: "*The market concerned is the wet-shaving market consisting of razors and razor blades. Dry-shaving are not considered by most wet shavers to be sufficiently close substitutes for wet-shaving products to form part of the same market. Also excluded from this market are other hair removal products such as hair-removing creams and lotions, and wax and electric depilators, which are not close substitutes for wet or dry shaving products and therefore form a separate market*." This may or may not have been the correct decision but it is notable that there is no mention of gender in the analysis. It is therefore welcome that more recent European cases (e.g., *Unilever/Sara Lee*) has fully engaged with the role of gender in product market definition.[9]

27. This matters because the potential consequence of mis-defining such markets is that mergers that reduce competition for gendered products might not be challenged, potentially leading to increased price differentials, or that exclusionary practices are permitted, on the basis of illusionary competitive constraints from producers of "other-gender" products.

2. Application two: Gender and compliance with competition law

28. One hypothesis that has been put forward is that adopting a gender lens might help to understand differences in firms' compliance with competition law (Pike, 2018). For example, research finds that women are more likely to whistle-blow to law enforcement on corporate misconduct or financial fraud, as well as on environmental misconduct (Feldman and Lobel, 2010). This is therefore particularly relevant to whistleblowing to competition agencies on cartels.

29. The reasons for these findings, however, are as yet not clear. Some argue that it is based on different moral and ethical positions (Brabeck 1983 and 1984; Miethe and Rothschild 1994), or that women are more inequity averse (Fehr et al. 2006) then men. Others suggest that women tend to be more risk averse (Croson and Gneezy, 2009) and therefore focus more on the potential penalties for misconduct. Differences in negotiation styles (Bowles et al. 2005, 2007; Croson and Gneezy 2009) and in taste for competition (Niederle and Vesterlund, 2011) may also influence their attitude towards corporate fraud. Another

5 This also suggests that a more subjective approach to market definition that focuses on the characteristics and use of the product is not advisable for such products.

6 Notably these factors may vary across countries, and evolve over time, meaning that practitioners may not be able to rely on past definitions.

7 In addition, in such markets it is not necessary to further consider supply-side substitution since, to the extent that it occurs, it would already be observable in the data.

8 Commission Decision No. 93/252/EEC, O.J. L 116/21 (1993) [1993] 5 C.M.L.R. 559 (*Warner-Lambert/Gillette*).

9 Note for example the econometric approach taken in the analysis: https://www.rbbecon.com/downloads/2012/11/RBB_B39_COL.pdf

suggestion is that the smaller representation of women on some firms' boards means that they may tend to be outsiders to the clubs and informal networks which help generate, or at least militate against the reporting of, collusive behaviour.

30. If substantiated, each of these explanations might lead to their own implications for how agencies should adjust the design of whistleblowing programs. For example, strengthening and emphasizing sanctions against individuals to increase the perceived risk of colluding, or advocating for an increased proportion of women in board and senior leadership positions. However, what the evidence already shows is that women's propensity to whistle-blow is disproportionally affected by the inclusion of anti-retaliation provisions and confidentiality assurances in whistleblowing policies, and the establishment of a duty to report (which introduces sanctions for failing to report). In contrast, men are less responsive to those factors and more responsive to financial incentives to report. For example, Feldman and Lobel (2010) presented women participants with misconduct and a duty to report but no reward. On average, women said they would blow the whistle at a higher rate than when they were presented with a low reward for doing so. The results were directly inverse for the men. Men were less likely to report when presented with a duty than with a low reward.

31. Regardless of gender differences, research suggests financial misconduct is the type of conduct where financial incentives can be effective. This is because the moral response to this type of conduct is weaker (for example in contrast to reporting of medical or safety issues). The size of the financial incentive also increases the deterrence effect, and this can be magnified since evidence suggests that we expect financial incentives to play a key role in other people's choices (whether or not they do, and bearing in mind that we tend to underestimate the importance of financial incentives in our own decision-making). This is borne out by experience with the Dodd-Frank Act in the US, which illustrates the effectiveness of these financial incentives (see Tilton, 2018 on the increase in whistleblowing it has generated). However, while financial incentives have proved successful, and are worth introducing in antitrust, the use of a gender lens suggests that when designing whistleblowing policies, agencies should in addition include tools that would help to increase the propensity for women to blow the whistle on cartel behaviour. For example, anti-retaliation provisions, confidentiality assurances, and the establishment of a duty to report that introduces sanctions for failing to do so.

3. Application three: Prioritization decisions

32. As previously discussed, promoting competition in a sector that provides substitute services to those that women provide in the household may achieve two goals. First, increased market efficiency and consumer surplus. Second, boosting of female labour force engagement. Therefore, competition authorities that prioritize market studies and investigations in such markets may benefit from a "double dividend." Reducing market distortions in a particular sector constitutes the first dividend. Improving women's ability to achieve work-life balance and participate in the labour market constitutes the second dividend.

33. An interesting example of a study of a market that is important for these reasons, and which was prioritised, but which appears to have paid little or no attention to that fact, is the 2016 study of UK care and nursing homes for the elderly (CMA, 2016). The CMA recognised that this sector is particularly important because individuals in need of elderly care are often making choices in a highly vulnerable situation. Furthermore, these choices often involve, and have consequences for, third parties such as family members or informal care providers, often women, within the home. In the UK, the market for elderly care involves a mixture of self-funder institutions and local authority funding. Regarding competition, the report documents that competition between care homes is affected by geography, and is lower in rural areas. The report also documents how the nature of funding influences the nature of competition. Care homes that are financed by local authorities are found to focus more on price, while those that are self-funder clients are found to focus more on quality.

34. Despite the role of women as informal care providers, and as recipients of care due to their longer life expectancy than men (OECD, 2018), and despite their higher financial vulnerability (lower earnings and asset ownership, and smaller pensions than men) the market study does not mention gender. Indeed, the CMA's Annual plan 2018/19 sets its priorities to help vulnerable consumers and to promote trust in markets, but does not include gender as a factor of vulnerability. While a gender lens may not have ultimately changed any of the findings in the CMA study, it may be the case that explicitly recognizing the role of gender might have led to the discovery of potentially relevant information. For example, the choices made by elderly women might differ in some way from those of elderly men in regards to the substitutability of different types of care home, the preference for domiciliary care, or there might have been a greater reliance on local authority funding as opposed to self-funding. Similarly, it would be interesting to know what impact, if any, the working status of those with unpaid caring responsibilities had, and whether local market prices had an impact on labour force participation in different areas. Finally, in considering the ex-post impact of the recommendations made in the study it would be interesting to see an estimate of the impact on gender inequality.

35. Another interesting example regarding prioritization concerns the 2014 market study on the childcare sector by the Japan Fair Trade Commission. The study concluded that facilitating competition would be critical to improving the quality and availability of services and recommended that this could be achieved by removing regulations that restrict entry of for-profit corporations and by changing the subsidy and tax policy on different types of providers. Notably in Japan there is a substantial gender gap in housework: women in married couples with at least one child spend on average 7.34 hours a day on housework, out of which 3.45 hours are spent on childcare, while men spend on average 1.23 hours a day on housework out of which 0.49 hours is spent on childcare (GoJ, 2018). Prioritising the promotion of competition in a sector that provides services that can substitute for unpaid work in the household, therefore, may contribute both to market efficiency and to boost female labour force participation.

IV. Integrating gender into competition policy

1. A menu of options

36. Beyond the specific applications set out above, there are a number of other different ways that competition authorities might incorporate gender considerations into their practice under their existing mandate. Table 1 summarizes the ways in which competition authorities might integrate gender considerations into their practice.

37. Applying our conceptual framework to this menu of options identifies a number of options that would deliver a double dividend, and some that might do so. This leads us to conclude that market prioritization, particularly in areas such as market studies and advocacy, should be an initial step to focus upon. Meanwhile using ex-post assessment to evaluate the impact of past prioritization decisions on women may also help competition authorities understand their impact on gender inequality, and whether they are missing opportunities.

Table 1. A menu of options for competition authorities

		Consequences		Double dividend*
Competition authorities activities	**Menu of Options**	**Efficiency**	**Equity**	**Yes/No/Maybe?**
Competition Law and Merger control				
Antitrust enforcement	Check product market definition along gender lines to evaluate anti-competitive practices	X	?	Maybe****
	Consider using exploitative abuse of dominance provisions in the law to take cases against gender-based price discrimination.		X	
	Consider gender differences when designing incentives for individuals to whistle-blow on cartels	X		
Merger control	Check product market definition along gender lines to evaluate merger consequences.	X	?	Maybe****
	Consider the impact of mergers on monopsony market power over female workers	X	X	Yes
Advocacy				
Market studies	Study barriers to entry across gender lines including transaction costs and behavioural factors.	X	X	Yes
	Study whether key markets for women are working well.	X	X	Yes
	Provide consumer remedies that account for gender differences in transaction costs and behavioural factors.	X	X	Yes
Ad hoc advocacy	When providing opinions on regulations or governments policies, agencies may identify the additional consequences for gender inequality of any anti-competitive concern that they identify.	X	X***	Yes
Consumer protection**	Check whether gender is a dimension of consumer vulnerability in a given market.		X	

* Double dividend: Whether the action may improve efficiency in a particular market (first dividend) and contribute to reducing gender inequality (second dividend).

** Consumer protection concerns only those competition authorities with a consumer protection mandate.

*** While ad hoc advocacy may not have a direct effect on equity, it may contribute to it indirectly.

**** This may affect decision-making and therefore prevent price rises in gendered markets.

2. Should competition authorities with public interest mandates consider gender explicitly?

38. Competition authorities around the world differ in the nature of their mandate (OECD, 1994). For some of them their mandate includes public interest considerations as well as consumer welfare. Public interest often relates to historical and/or strategic factors. For example, in South Africa the competition authority includes race as part of its public interest mandate, and in Australia, national interest considerations including economic and non-economic factors are considered in the evaluation of foreign entity acquisitions. In Canada, federal agencies, though not the competition authority, take into account public interest considerations when reviewing mergers related to foreign acquisitions and in certain regulated sectors (OECD, 2016).

39. While it is not evident that there is any need for a general public interest test in competition law, if governments were to decide to add one to the mandate of a competition authority, then there would be grounds for including gender inequality amongst those public interests. This would recognize that women have historically been, and indeed continue to be, disadvantaged in many countries and socio-economic contexts. Indeed, as we have identified in this paper there may be a number of synergies between a gender inclusive objective and an efficiency objective. However, we can also imagine that a number of decisions might satisfy a gender-inclusive objective whilst conflicting with a consumer welfare objective. For instance, strict prohibitions on non-discriminatory pricing would prevent firms setting cheaper prices for products that appeal to whichever gender is less willing-to-pay for a product. This would eliminate the inequality but likely reduce output and leave consumers as a whole worse off. In contrast, identifying different preferences, incorporating them within market definition, and exploring the causes of market power in the relevant market would allow agencies to make decisions in the interests of consumers in each of the relevant markets.

V. Conclusion

40. We argue there is a bi-directional relation between gender and competition. Competition policy helps to reduce gender inequality when it tackles anticompetitive behaviour and reduces prices in markets that women buy from, and in particular in markets that facilitate greater market participation. For instance, more effective competition in services which substitute for the unpaid work that typically falls upon women, or in services that help women to invest in themselves and their businesses. Competition policy can also help to reduce market power that allows unscrupulous employers to engage in taste-based discrimination by employers and to prevent the creation of monopsony power that can be particularly strong in relation to women whose labour supply is less responsive to changes in wages. Finally, it also can contribute by advocating for pro-competitive measures to move activity from the informal economy—which disproportionally relies on female workers—into the formal economy.

41. At the same time, we argue that recognising gender differences and adopting a gender lens can help agencies to improve the effectiveness of competition policy in improving consumer welfare. It can help ensure that we adopt the right product market definition; it can help structure more effective consumer facing remedies; and it may help to encourage whistle-blowers and improved compliance processes. Each of which may, by improving competition, also feedback into reduced gender inequality for the reasons set out above.

42. This means policymakers should be looking to establish a gender-inclusive competition policy in order to obtain the double-dividend of efficiency and equity effects. Furthermore, we would suggest that those working on gender policy should add the pro-competitive role of many gender policies to their case-for-change. While appealing to policymakers' sense of fairness, and firms self-interest, have achieved a great deal, an appeal on the grounds of market efficiency may allow for greater progress still. ■

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