



OECD INSTRUMENTS ON COMPETITIVE NEUTRALITY

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COMPETITIVE NEUTRALITY



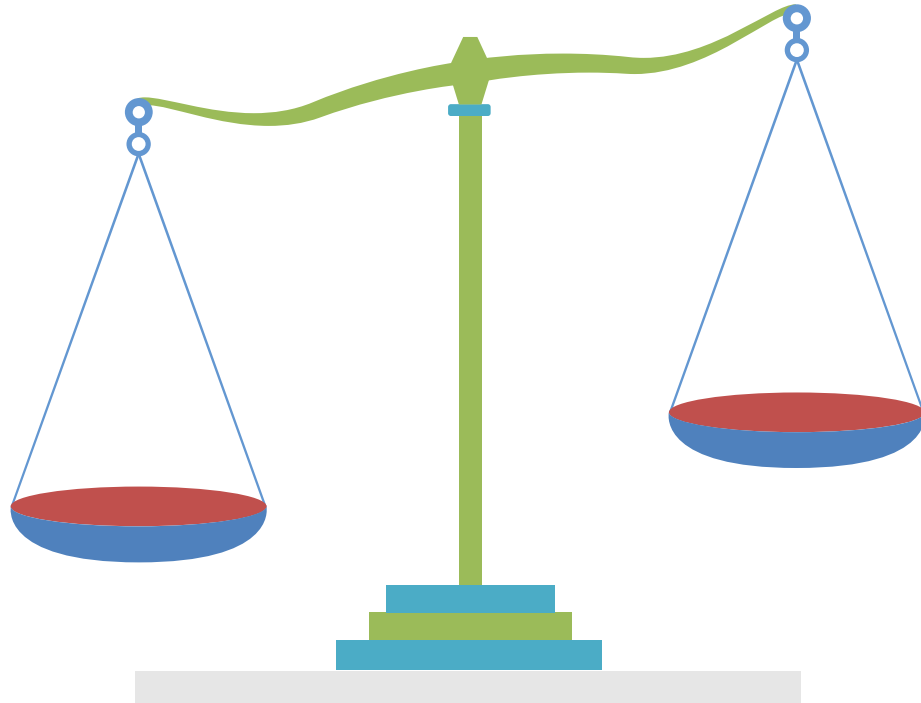
What is competitive neutrality?

- A principle according to which all enterprises are provided a level playing field with respect to a state's ownership, regulation or activity in the market.





Competitive neutrality between whom?



SOEs vs Private



Private vs Private



Domestic vs Foreign



Different legal form

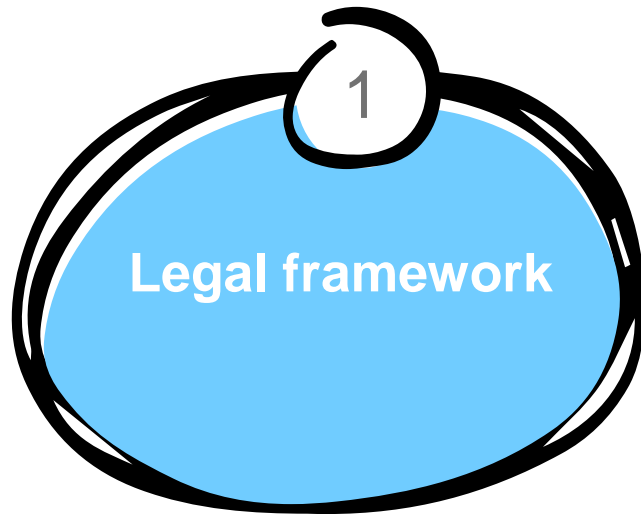




OECD RECOMMENDATION ON COMPETITIVE NEUTRALITY

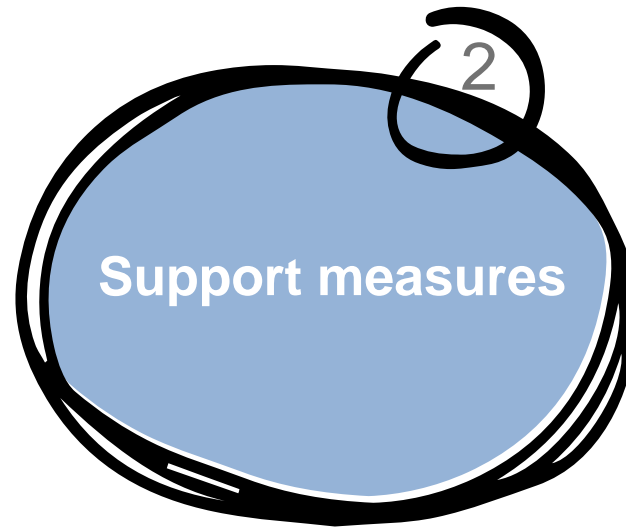


The main elements of the Recommendation

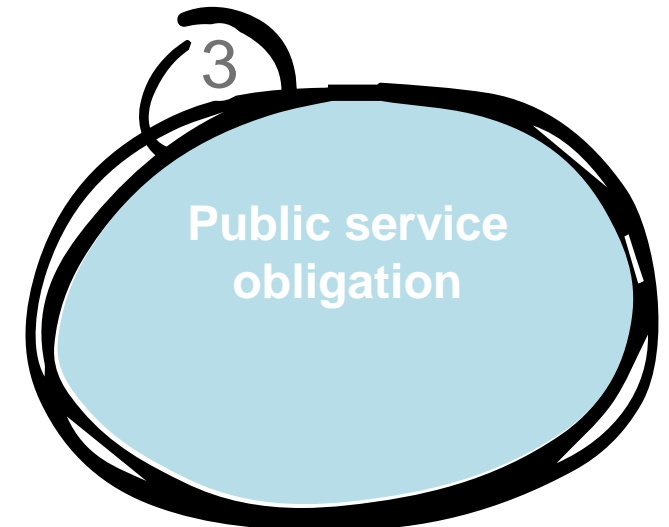


Ensuring that

- The legal framework applicable to markets in which enterprises compete is neutral
- Competition is not unduly prevented, restricted or distorted



Preserving CN when designing measures that may enhance an enterprise's market performance and distort competition



Limiting compensation for any public service obligation so that it is appropriate and proportionate to the value of the services



1. Legal framework

- 1 Adopt or maintain a competitively neutral competition law
- 2 Subject competing enterprises to equivalent competition and bankruptcy rules
- 3 Subject competing activities to the same regulatory environment
- 4 Ensure that no enterprise is granted any undue advantage in government procurement processes



Examples – Competition law and enforcement

- Risk that SOEs may benefit from exemptions from competition law, especially in non-OECD countries
- Enforcement challenges such as adapting analytical tools to SOEs (e.g. establishing control) and questions on the deterrence effect of fines
- Differential treatment in bankruptcy law and its enforcement may relax budget constraints for some competitors

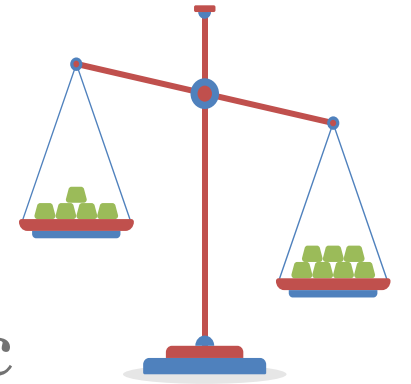


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Examples – Regulatory environment

- Grandfathering clauses, where incumbents are still subject to old regulations, while new entrants must abide to new and stricter rules
- Different licensing requirements imposed on domestic and foreign enterprises, where the latter are often subject to higher capital requirements compared with domestic licensees
- In some countries, SOEs do not need a licence to enter the market while competitors do





2. Support measures

Avoid offering undue advantages that distort competition and selectively benefit some enterprises over others

For example

1

Loans, loan guarantees and state investment in capital at conditions not in line with market principles

2

Favourable tax treatment or grants

3

Goods or services provided by governments at favourable prices




Where overriding public policy objectives require an exception, this should be transparent to all, proportionate and periodically reviewed.



3. Public service obligations

Limit compensation for any public service obligation so that it is appropriate and proportionate to the value of the services

- 1 Transparently and specifically identify any public service obligation
 - 2 Impose high standards of transparency, account separation and disclosure → no cross-subsidies
 - 3 Maintain independent oversight to ensure that remuneration is calculated on clear targets and objectives, and based on efficiently incurred costs
-  Public service obligation may be placed on an SOE or a private company



OECD SUPPORT ON COMPETITIVE NEUTRALITY IN PRACTICE



What happens next? Implementation

- Adherence to the Recommendation on Competitive Neutrality
- More specific activities by the OECD
 - Dissemination
 - Develop a toolkit to support implementation
 - Serve as a forum for sharing experiences
 - Monitor implementation and report to the Council





What is the OECD doing about competitive neutrality?

- Advocate for limited exemptions for SOEs (Peer Reviews)
- Ensure level playing field in enforcement actions (Roundtables)
- Subject competing activities to the same regulatory environment and ensure that enterprises do not regulate the markets in which they compete (Competition assessment projects)
- Support Competitive Neutrality reviews (Fostering Competition in ASEAN)





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Online event

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Day 1

Trade, development and competition

(Open to the public via You Tube live)

Peer Review of Tunisia

Day

**2 Economic analysis and evidence in
abuse cases
& break-out sessions**

Day

**3 The promotion of competitive
neutrality by competition authorities**

**Peer Review of the Eurasian Economic
Union**



Thank you

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