

Executive summary

In 2016, the OECD was asked by the Portuguese Competition Authority to carry out a study to assess the impact on competition from existing regulations in the land and maritime transport sectors, and in the self-regulated (liberal) professions. This volume describes the outcome of the competition assessment on the transport sector (road, railway and maritime transport and many ancillary services, such as vehicle inspection centres, as well as Portugal's ports and port services.

The project consisted of identifying and analysing all relevant regulations in the selected transport sectors, using the OECD's Competition Assessment methodology. This involved collecting and mapping all relevant legislation, followed by a close scanning of all the legal texts to identify provisions with potential restrictions using the OECD Competition Assessment Toolkit. The policy objectives for each provision then had to be determined, followed by an in-depth analysis of each regulation. This included assessing whether the restrictions were proportional to the policy objective (such as public safety, etc.). For those regulations found to be overly restrictive, the report proposes specific changes to remove or change regulations that would otherwise hamper market access and the good functioning of operations.

The strength of the Toolkit methodology is that it allows the identification of specific regulatory barriers, such as those that restrict entry to a market, constrain firms' ability to compete (e.g. by imposing operational requirements), treat competitors differently (e.g. by favouring specific types of companies) or facilitate co-ordination among competitors. Such barriers have been shown consistently to harm economic growth and productivity.

The report identifies 485 individual provisions in the transport sector as being harmful to the economy, and makes 417 detailed recommendations for change. This includes 24 provisions that were found to constitute an administrative burden to consumers and society, and 26 provisions that were found to be obsolete. Annex B of this report details all of the recommendations for the provisions identified as potentially harmful.

The in-depth analysis involved a qualitative assessment of the harm to consumers and to the economy arising from the barriers, using economic theory and empirical literature, as well as comparative studies of regulation in jurisdictions across the OECD countries.

The report also outlines the benefits which can be expected if the recommendations are implemented and, whenever possible, provides a quantitative estimate of those benefits to the Portuguese economy or to consumers. We estimate a total positive impact on the Portuguese economy of around EUR 249.28 million per year as result of the implementation of the presented recommendations. This is a rather conservative estimate and does not take into account, for instance, the positive multiplier effect across the economy as a whole arising from having cheaper, better performing or improved access to business transport services.

In addition to quantifiable benefits, the full implementation of the recommendations set out in this report is expected to deliver positive long-term effects on employment, productivity, growth and positively affect the ability of businesses to compete.

Key recommendations of the road sector

- Abolish the mandatory licensing regime for freight operators using solely motor vehicles between 2.5 tonnes and 3.5 tonnes in the domestic market.
- Abolish minimum capital requirements to start the business imposed on passenger and freight transportation operators as well as on truck rental operators.
- Abolish all access and price restrictions for the market of long-distance bus routes, locally known as "express services" and "high-quality services" and adopt formally the necessary secondary legislation.
- Abolish quotas and geographical restrictions for taxis in order to allow taxis to pick up passengers in other municipalities (and thereby charge lower fares for longer trips).
- Abolish the 500 metre geographical restriction on the location of driving schools to allow for free establishment.
- Abolish the geographical restrictions on the establishment of vehicle inspection centres (minimum requirements of distance and population; and market share criteria) and introduce a maximum price regime.

Key recommendations of the rail sector

- Fully regulate the legislation applicable to the certification of train drivers and, in the meanwhile, ensure that both pieces of legislation are in conformity with the relevant European Union (EU) legislation and with each other.
- Abolish the maximum period of validity for railway licences and establish the principles and procedures applicable to their revision every five years, in accordance with the relevant EU legislation.
- Bring into force the regulation explicitly required by provisions applicable to the railway sector. Also, publish the rules, conditions, principles and procedures which guide the intervention of the Authority for Mobility and Transport (AMT) or the Institute for Mobility and Transport (IMT) in the implementation of provisions applicable to the railway sector.

Key recommendations of the ports and maritime sector

- Broaden the private sector's access to the activities of piloting and towing, by only enabling port authorities to directly provide the service when there is no market interest by private operators.
- Redesign concessions for cargo-handling operations to promote investment and lower tariffs for port users. The length of concessions should be linked to the level of investment incurred by the concessionaire; the awarding criterion should enable contracts to be awarded to the bidder offering the lowest tariff for port users. The structure of the concession revenues should be composed of a fixed

rent for the use of the terminal, while royalties are only charged to pass through variable costs of the port authority to private operators.

- Abolish financial guarantees, minimum capital requirements, and equipment and labour standards imposed on cargo-handling operators, towing operators and shipping agents in order to promote market entry and operational efficiency.
- Open the market for the provision of port labour to temporary work agencies and eliminate the specific licensing regime of port labour companies, thereby enhancing competition in the supply of port labour to cargo-handling companies.
- Reduce the cost and administrative burden of obtaining a Pilot Exemption Certificate (PEC) and open access to the piloting profession by abolishing entry restrictions not related to safety, in order to improve the competitiveness of piloting services in ports.
- Implement an alternative model of public service obligations for cabotage in the Portuguese islands, based on general principles that promote efficiency of the public services, transparency and minimise distortions to competition.



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