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Competition Trends 2022

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Foreword

This third edition of OECD Competition Trends presents unique insights into global competition trends based on analysis of data from more than 70 OECD and non-OECD jurisdictions. It analyses each of the variables in the OECD CompStats database and includes a section on the potential impact of COVID-19 on these variables. A spotlight section on leniency sets out the development of leniency programmes and the evolution of leniency applications and then considers the potential impact of private enforcement on leniency applications.

OECD Competition Trends 2022 supports informed policymaking and contributes to improving competition law and policy around the world by providing multi-year data on a large number of economic and legal indicators. The OECD Competition Committee, which includes representatives of the world's major competition authorities, is the premier source of policy analysis and advice to governments on how best to harness market forces in the interests of greater global economic efficiency and prosperity. For over 60 years the OECD and its Competition Committee have taken a leading role in shaping the framework for international co-operation among competition agencies. The resulting recommendations, best practices and policy roundtables serve both as models and inspiration for national initiatives and as tools for sharing global best practices on competition law and policy. Competition officials from developed and emerging economies are offered a unique platform from which to monitor developments in competition policy and enforcement, and to discuss new solutions for increasing effectiveness.

The OECD CompStats database is the result of an initiative launched in 2018 under the guidance of the Bureau of the Competition Committee. The database compiles general statistics relating to competition agencies, including data on enforcement and information on advocacy initiatives. The data are collected annually and currently covers the period 2015–2020.

The data are mainly presented at an aggregate level, combining the data of a certain number of individual jurisdictions. The aggregate-level data includes an analysis (i) for all participating jurisdictions ("All jurisdictions"), (ii) comparing OECD and non-OECD jurisdictions, and (iii) per geographical region (Americas, Asia-Pacific, Europe and Other (i.e. jurisdictions that do not qualify for the first three regions, but for whom not enough jurisdictions in their respective geographic region participate to remain anonymous when presented for their geographic region)).

This work benefits from the support of the OECD Secretariat, in particular the Competition Division, and from the organisation's whole-of-government approach, taking advantage of expertise in other OECD committees and experience in international co-operation. As the role and scope of competition law and policy continue to evolve, the tools of competition authorities must constantly develop and incorporate lessons learned from others. This publication contributes to helping policy makers and competition enforcers to stay up to date with the different ways in which competition law and policy is applied throughout the world.

The publication was prepared by the OECD Competition Division, in particular a team composed of Wouter Meester, project leader; Daniel Westrik, who was the main drafter of the report; Aura García Pabón; Menna Mahmoud; Rebecca Winter; and Lukas Cavada (seconded to the OECD from the Austrian Federal Competition Authority); all of the OECD Competition Division. The report benefited from comments and suggestions on earlier drafts by Ori Schwartz and Antonio Capobianco, respectively Head and Deputy Head of the OECD Competition Division. Paulo Burnier, Federica Maiorano, James Mancini, Ruben Maximiano, and Sabine Zigelski, all of the OECD Competition Division, provided comments on earlier drafts. The report was prepared for publication by Ferdio ApS.

We want to thank the individual competition authorities in the participating jurisdictions who generously provided the information on which much of this publication is based.

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EXECUTIVE SUMMARY

Executive summary

This report highlights worldwide competition enforcement trends using the unique OECD CompStats database that includes 32 variables covering competition authority resources, cartels, abuse of dominance, mergers, and advocacy.

Panel data on competition enforcement indicators can support informed policymaking and contributes to the continuous improvement of competition law and policy. This report presents both comparisons between geographic regions and trends over time, allowing jurisdictions to understand how their data compares to peers and the broader competition community. This descriptive analysis does not determine causal relationships but does highlight overall trends and correlations.

The report has the following sections: (i) OECD CompStats at a glance; (ii) impact of COVID-19; (iii) resources; (iv) cartels; (v) spotlight on leniency programmes; (vi) abuse of dominance; (vii) fines; (viii) mergers; and (ix) advocacy.

OECD Competition Trends 2022
covers almost all global competition enforcement

6
years
(2015-2020)

73
juridictions

91%
of world GDP

Resources (average, all jurisdictions)

€ € € € € €
€ € € € € €
€ € € € € ◖
€ € € €

€21.4 million
Competition budgets increased

129 staff
Competition agencies' headcounts grew
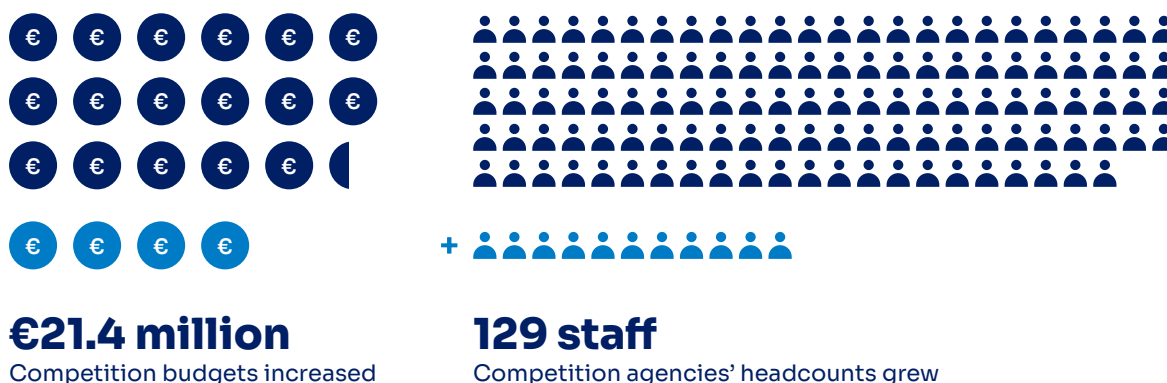
Leniency applications & cartel decisions (total, all jurisdictions)

Leniency applications fell, even as more leniency programmes were launched

2015	577
2020	210

Cartel decision numbers declined

2015	549
2020	450

Mergers (average, all jurisdictions)

147 — 2015
153 — 2016
162 — 2018
165 — 2019
148 — 2020

COVID-19 affected merger notifications in 2020

2015   2016   2017   2018   2019   2020
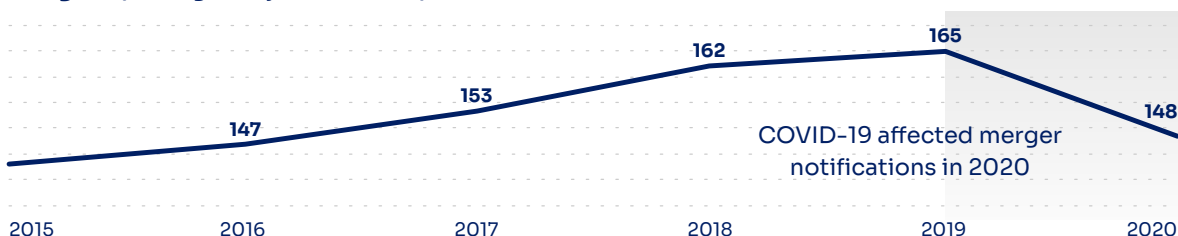
Abuse of dominance decision numbers were relatively unchanged

Competition advocacy through market studies increased

Ex-officio cartel investigations declined

CompStats at a glance

Compared to last year's OECD Competition Trends report, this new edition includes one additional year of data for 2020 and 17 additional jurisdictions. The OECD CompStats database now has six years of data for 73 jurisdictions, covering 91% of world GDP and 73% of world population.

The age of competition laws and authorities in the OECD CompStats database varies significantly. Overall, the average age of these competition authorities is approaching 33 years, while the median age is 28 years. Asia-Pacific has the youngest authorities, while Europe and the Americas have the oldest.

The significant increase in competition authority resources is an indication of the growing importance of competition policy around the world. With an average of €21.4 million in 2020, and a median of €9.1 million, nominal competition budgets increased at a compound annual growth rate of 3.5% for OECD jurisdictions and 4.5% for non-OECD jurisdictions between 2015 and 2020.

In 2020, competition authorities employed an average of 129 competition staff, with a median of 62, representing a compound annual growth rate of 1.5% for OECD jurisdictions and 1.1% for non-OECD jurisdictions with respect to 2015.

Competition authorities worldwide dedicate a substantial part of their resources to detection, investigation, and prosecution of anti-competitive practices. A total of 450 cartel decisions and 220 abuse of dominance decisions were issued in 2020 by the jurisdictions participating in the OECD CompStats database.

Finally, effective merger review is a key component for competition authorities in the OECD CompStats database, as nearly all jurisdictions have an established merger regime. There were 8 548 merger decisions in 2020, representing an increase of 3.0% compared to 2015, but a decrease of 7.3% with respect to 2019.

Impact of COVID-19

Government intervention resulting from COVID-19 predominantly began in March 2020, varying in severity and duration across jurisdictions. All jurisdictions in the OECD CompStats database suffered from a reduction in GDP in 2020. The pandemic also appears to have impacted some competition enforcement variables. The report considers the period 2015-2019 and the year 2020 separately, where relevant, to indicate the potential impact of COVID-19. However, given the descriptive nature of the data, it is not possible to determine the precise impact of COVID-19.

COVID-19 appeared to have impacted some OECD CompStats variables, such as competition authority resources, dawn raids, and merger notifications. There was a significant decline in dawn raids and merger notifications in 2020, while competition authority resources did not grow at the same annual rate in 2020 as they had done over the period 2015 to 2019. For other OECD CompStats variables, a potential COVID-19 impact was not directly visible, or was more ambiguous.

Some competition authorities adapted effectively to the pandemic with improved capabilities. COVID-19 caused several competition authorities to improve their digital capacity as they developed practices to adapt conventional procedures, such as dawn raids.

Resources

In the period 2015 to 2020, competition authorities increased their resources considerably, with a compound annual growth rate of 4.3% in nominal budget terms and 1.7% in terms of competition staff.

While most competition authorities increased resources in 2020 relative to 2019, this increase was typically below the compound annual growth witnessed in the period 2015 to 2019. Moreover, resources grew at different rates between regions and were positively correlated with the age of the authorities.

Smaller authorities, based on nominal competition budget in 2015, typically grew faster during the period 2015 to 2020 than larger authorities. In general, nominal budgets outpaced GDP growth in all regions, while competition staff also increased at higher rates than population in most of them.

Cartels

The average number of cartel decisions per competition authority declined in most regions during the period 2015 to 2020. Cases detected through pro-active detection tools (ex-officio investigations) declined in all regions; leniency applications also declined (see below), depending on the region.

Dawn raids are one of the main tools that authorities use to gather evidence once there is suspected illegal activity. There was a significant drop in 2020 most likely due to government restrictions in response to COVID-19. However, the evolution of cartel dawn raids in the period 2015 to 2019 differed between the various regions. Cartel dawn raids decreased in the Americas, increased in Asia-Pacific and Other, and were stable in Europe.

Overall, there was a decline in the percentage of cartel cases concluded with a settlement (or with an offer of commitments, where possible) during the period 2015 to 2020, although this differed by region.

Spotlight on Leniency

Jurisdictions around the world engage in cartel detection using a variety of investigative powers and detection tools. One of these tools is leniency programmes, which incentivise cartelists to report their conduct in exchange for reduced sanctions, such as a lower fine.

While the first leniency programme from the jurisdictions included in the OECD CompStats database was introduced in 1978, most jurisdictions adopted one in the last 20 years. Although leniency remains a key tool to detect cartels for many jurisdictions, total leniency applications decreased over the period 2015–2020 and were highly concentrated in a few jurisdictions. Just 4 jurisdictions represented 53% of all leniency applications, while the 20 most active leniency programmes represented more than 91%.

Abuse of dominance

Abuse of dominance cases are less numerous than cartel cases and are highly concentrated in a few jurisdictions, with the top-5 jurisdictions accounting for 53% of all decisions, and the top-10 jurisdictions accounting for 69% of all decisions during the period 2015 to 2020. Abuse of dominance investigations and decisions were stable in Asia-Pacific and Other, slightly increased in the Americas, and declined in Europe. The decline in abuse of dominance decisions in Europe was mostly driven by five jurisdictions. These five jurisdictions represented 69% of abuse of dominance decisions in Europe in 2015, but only 17% in 2020. Excluding these five jurisdictions, the number of abuse of dominance decisions in Europe was stable.

Abuse of dominance dawn raids decreased significantly in 2020, potentially due to COVID-19 restrictions. In the period 2015 to 2019, they were stable across all regions, with peaks in 2018 in the Americas and Other. Abuse of dominance dawn raids were nearly all conducted in Europe and Other during the period 2015 to 2020.

Terminating abuse of dominance investigations through settlements and commitments is relatively common, representing close to 22% of all decisions. Their use is more frequent in OECD than non-OECD jurisdictions (respectively 41% and 11% of all cases between 2015 and 2020).

Most abuse of dominance cases were in the Americas and Europe. The percentage of cases with settlements or commitments was similar in the Americas and Europe in 2015, but diverged considerably in recent years, decreasing in the Americas and increasing in Europe.

Fines

Total fines increased with a compound annual growth rate of 31% during the period 2015–2018. However, total fines then declined by 17% in 2019 and 39% in 2020. Although cartel fines represent the majority of total fines (typically between 80 and 95% in each of the years in the period 2015–2020), changes to abuse of dominance fines drove the overall trend.

Total fines were 7.6 times higher than total budget during the period 2015–2020, although this ratio generally decreased in all regions except for Other over this period.

The average fine per cartel decision in OECD countries was higher than that of non-OECD jurisdictions,

except in 2018 which was impacted by a change in one jurisdiction in Other. Most companies fined were in Europe (56.6%), then the Americas (19.0%), Asia-Pacific (16.5%) and Other (8.0%). The average number of companies fined per decision decreased by 33% between 2015 and 2020.

Notwithstanding recent developments in the use and availability of sanctions against individuals, corporate fines are still the most widely used form of sanction for cartel conduct. For jurisdictions where fines on individuals was possible, these represented 27% of cartel cases over the period 2015 to 2020. The number of cartel cases with fines on individuals was relatively variable depending on the region. It declined in Asia-Pacific and Europe and increased in Americas and Other.

In the OECD CompStats database, 28 jurisdictions provided data on imprisonment in cartel cases, mostly in Asia-Pacific. The number of cartel cases in which an individual was imprisoned more than tripled from 2015 to 2018 (16 to 49) but fell back again between 2018 and 2020 (from 49 to 11).

Fines on abuse of dominance cases increased in all regions over the period 2015-2018 with an 132% compound annual growth rate. They then dropped by 64% in 2019 and by 55% in 2020. The significant increase in fines in 2018 was mostly due to large fines imposed in digital cases in Europe.

Abuse of dominance fines were highly concentrated in two jurisdictions which accounted for 78% of all fines during the period 2015-2020.

Most of the companies fined for abusive conduct were in Europe, with two jurisdictions typically responsible for almost 80-90% of the fines imposed in each year in the region. The total number of companies fined in abuse of dominance cases in the world decreased by 20.5%, from 83 in 2015 to 66 in 2020.

Mergers

Almost all jurisdictions in the OECD CompStats database have a merger control regime in force, although their design differs. Most merger regimes in the OECD CompStats database adopt a mandatory pre-merger notification system, charge a filing fee, use turnover as a merger notification threshold, adopt a two-phase regime, and offer a simplified procedure for presumed harmless cases. However, the proportion of jurisdictions with these characteristics varies by region. Most jurisdictions in Europe have these characteristics, while the proportion is more balanced in the remaining regions

Overall, merger-control activity increased in the period 2015 to 2019, but significantly decreased in 2020. In 2020, 93.6% of the mergers were cleared in phase I without remedies. The remaining 6.4% of mergers required further investigation. Around 4.0% of mergers went into Phase II but did not require any remedy. While 2.2% of merger decisions had competition issues that the authorities were able to resolve with remedies in either Phase I or Phase II, only 0.2% of mergers were prohibited. These proportions were similar to the ones observed between 2015 and 2019.

The use of remedies in merger decisions was stable throughout the period 2015-2020, both with respect to the number of merger decisions with remedies and to the share of all merger decisions that used remedies. There was a slight decline in merger decisions with remedies in 2019, and this new lower level was maintained in 2020. However, the use of remedies varied by region, Asia-Pacific being the only one to observe growth in the use of remedies over the period.

Prohibited and withdrawn mergers were rare across all regions. The total number of prohibited and withdrawn mergers was between 50 and 80 per year, across all jurisdictions, during the period 2015 to 2020. Furthermore, there were only 8 jurisdictions with more than 10 prohibited or withdrawn mergers over the period 2015 to 2020, while 39 jurisdictions had between 1 and 10, and 13 jurisdictions had none.

Advocacy

Competition authorities can use market studies to proactively identify whether there are competition concerns in a specific market or sector, or to enhance their knowledge of a particular industry.

While market studies can vary in duration and intensity, nearly all competition authorities performed a market study in the period 2015 to 2020.

Market studies increased in the Americas and Other over the period 2015 to 2020, while in Europe and Asia-Pacific they were stable. Market studies increased in 2020, relative to 2019, in all regions. There were on average 2.8 market studies per jurisdiction in 2020.

OECD
COMPSTATS
AT A GLANCE

1

1. OECD CompStats at a glance

1.1 Coverage of OECD CompStats database

The coverage of the OECD CompStats database significantly increased relative to the previous edition of the OECD Competition Trends report. The OECD CompStats database includes both new jurisdictions and one additional year of data.

The OECD CompStats database includes 17 new jurisdictions, increasing the total coverage from 56 to 73 jurisdictions. All new jurisdictions are non-OECD countries and are located in different parts of the world: (i) 9 in Asia-Pacific; (ii) 4 in the Americas; (iii) 2 in Europe; and (iv) 2 in a region other than the aforementioned ones ("Other").

The complete list of jurisdictions in each region and the list of new jurisdictions added to each region relative to the CompTrends 2021 report are included in "Annex 2: Sources of data: CompStats" at the end of this report. "Annex 3: Competition Authorities in the CompStats Database" sets out the competition authorities that provided data in each jurisdiction.

The OECD CompStats database coverage of world population and economy significantly increased due to the addition of these 17 new jurisdictions. The world population covered by the data increased by 25 percentage points, from 48% to 73%. The world GDP coverage increased by 23 percentage points, from 68% to 91%.

The OECD CompStats database temporal coverage increased from 5 to 6 years due to the additional year of data for 2020.

Figure 1.1. Coverage of the OECD CompStats Database 2020
Figure 1.2. Key facts about the OECD CompStats Database 2020
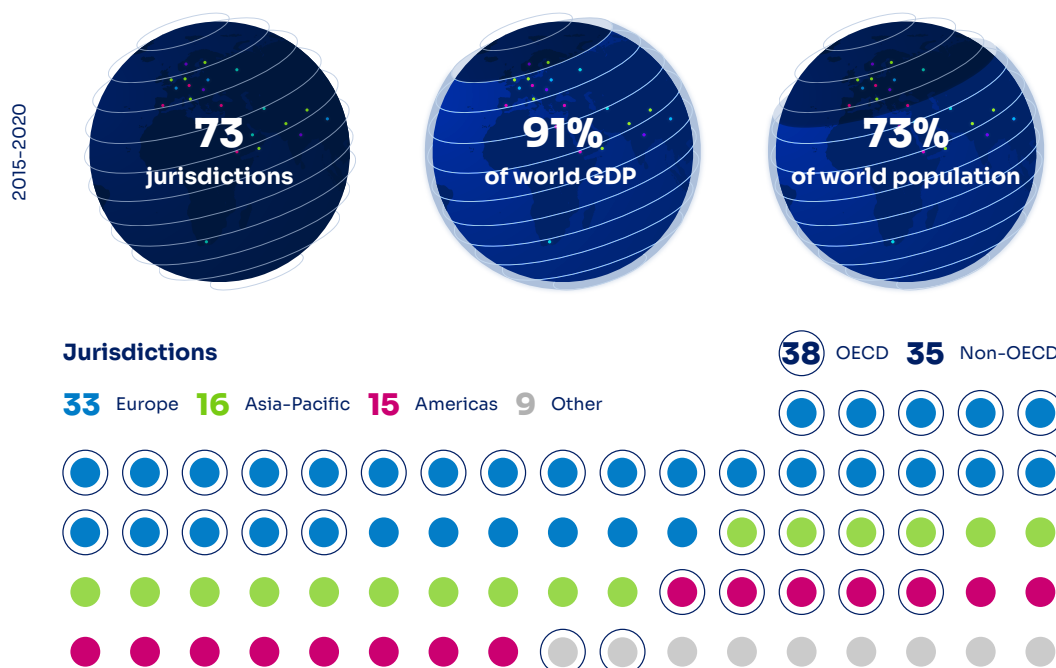
NOTE: Data based on the 73 jurisdictions in the OECD CompStats database.
SOURCE: OECD CompStats database.

1.2 **Alternative groupings**

The OECD CompStats database is based on data provided by competition authorities. The data was provided under the condition that it is kept confidential. This report either aggregates data (e.g. by region) or keeps the identity of a given jurisdiction anonymous when presenting jurisdiction-level data (e.g. in distributions).

However, when competition authorities compare themselves to variables in the CompStats data, they may want to control for other factors, such as age of the competition authority or size of the economy. These factors may differ between jurisdictions in the same geographic region. Therefore, "Annex 1: Alternative Groupings" allows competition authorities to compare with alternative definitions of 'peers'.

1.3 **Data for figures in this report**

The OECD website contains some of the underlying data for the figures in thi s report. The data available online is aggregated or anonymous, such that values for specific jurisdictions are not identifiable. The OECD provides this data online to assist users and researchers in the understanding of the figures presented in *OECD Competition Trends 2022*. "Annex 4: Methodology" sets out any assumptions used to prepare the figures in this report.

Figure 1.3. Evolution of competition law and competition authorities, 1889–2020
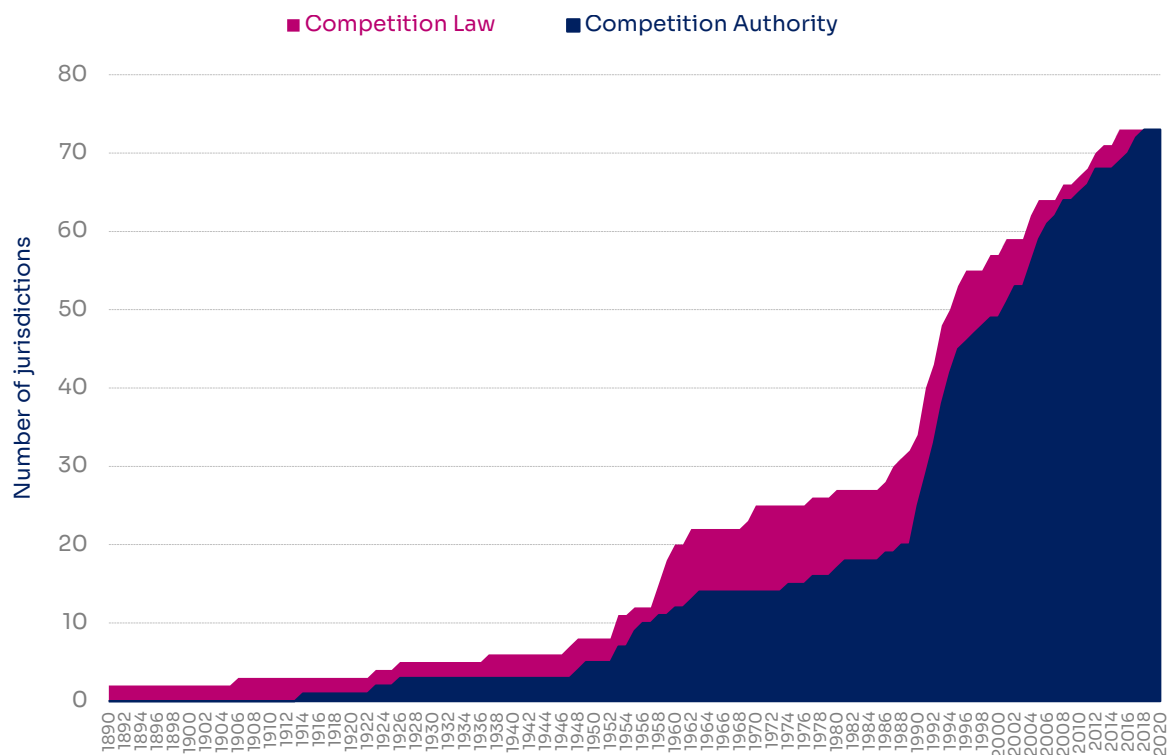
NOTE: Data based on the 73 jurisdictions in the OECD CompStats database.
SOURCE: OECD CompStats database.

1.4 **Age of competition regimes**

The age of competition laws and authorities in the OECD CompStats database varies significantly both across, and within, geographic regions. In all regions, authorities established more than 30 years ago are a minority, while most authorities were established from 1990 onwards.

The average age of a competition authority in Asia-Pacific is 21 years, while this average is 37 years in the Americas and Europe.

In the overall OECD CompStats database, the mean age of competition authorities is approaching 33 years, while the median age is 28 years.[1] However, this varies depending on the region. Asia-Pacific has the youngest competition authorities with the mean age at just over 21 years (and median age of 16.5 years). Older authorities are located in the Americas with mean age over 37 years (and median of 28 years) and Europe with mean age approaching 37 years (and median age of 29 years). Other is also a mix of competition authority ages with a mean of over 29 years (and median of 27 years).

The breadth of ages for jurisdictions in the OECD CompStats database is partly explained by two waves of jurisdictions adopting competition laws and creating competition authorities. Most of the jurisdictions in these waves are in Europe, although not exclusively.

The first wave in Europe was in the 1950's, following World War II, with 10 jurisdictions adopting their first competition law and 6 jurisdictions establishing their competition authority. The second wave was in the 1990's, following the dissolution of the Soviet Union, with 25 jurisdictions adopting their first competition law and 29 jurisdictions establishing their competition authority in Europe.

However, this variation in age is not limited to Europe. The Americas contains some of the oldest competition law regimes in the World, while the vast majority of jurisdictions are relatively young regimes. There are 8 jurisdictions in the Americas (over 50% of the 15 jurisdictions in the Americas) that adopted their first competition law regime after 1990.

Similarly, Asia-Pacific contains mostly young competition regimes, with a few more established ones. There are 10 jurisdictions in Asia-Pacific (over 60%) that adopted a competition law regime after 1990. Furthermore, there are 7 jurisdictions (nearly 45%) that established a competition authority from 2010 onwards.

1.5 **Snapshot of competition resources and enforcement activity**

The general overview below provides a snapshot of competition resources and enforcement activity. It presents several descriptive statistics (including total, mean, and median in 2020) for some key variables that cover the breadth of the OECD CompStats database: nominal competition budget, competition staff, cartel decisions, abuse of dominance decisions and merger decisions.

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1. The mean is calculated by adding the values together and dividing by the number of values. The median represents the middle number in a given sequence of numbers when it is ordered by rank.

Figure 1.4. Snapshot of competition resources and enforcement activity

Competition budgets

Americas
€485m
Mean €35m
Median €7m

Europe
€406m
Mean €14m
Median €8m

Total
€1.3b
Mean €21.4m
Median €9.1m

Other jurisdictions
€113m
Mean €19m
Median €19m

Asia-Pacific
€303m
Mean €28m
Median €10m

Competition agency staff

Americas
2,559
Mean 171
Median 72

Europe
3,062
Mean 93
Median 55

Total
8,364
Mean 129
Median 62

Other jurisdictions
589
Mean 98
Median 70

Asia-Pacific
2,154
Mean 196
Median 115

Cartel decisions

Americas
119
Mean 9
Median 1

Europe
135
Mean 4
Median 3

Total
450
Mean 7
Median 3

Other jurisdictions
87
Mean 15
Median 9

Asia-Pacific
109
Mean 11
Median 2

Abuse of dominance decisions

Americas
110
Mean 8
Median 2

Europe
47
Mean 1
Median 1

Total
220
Mean 4
Median 1

Other jurisdictions
52
Mean 9
Median 5

Asia-Pacific
11
Mean 1
Median 0

Merger decisions

Americas
2,527
Mean 181
Median 25

Europe
3,493
Mean 109
Median 43

Total
8,548
Mean 142
Median 43

Other jurisdictions
710
Mean 142
Median 172

Asia-Pacific
1,818
Mean 202
Median 83

NOTE: All measures based on the number of jurisdictions that provided all six years of data (61 jurisdictions for nominal competition, 65 jurisdictions for competition staff, 63 jurisdictions for cartel decisions, 62 jurisdictions for abuse of dominance decisions, and 60 jurisdictions for merger decisions). Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. Competition staff are staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation).
SOURCE: OECD CompStats database.

IMPACT OF COVID-19

2

2. Impact of COVID-19

Dawn raids and merger notifications fell in 2020 following the onset of the pandemic.

The COVID-19 pandemic caused an economic recession in most countries around the world in 2020. Governments reacted to the pandemic by implementing measures to contain the effects of the virus and boost the economic recovery (OECD, 2021[1]). Competition resources and enforcement may have also been impacted, in particular, with reductions in dawn raids and merger notifications in 2020.

The daily evolution of government intervention resulting from COVID-19 during 2020 is captured in the Stringency Index[2]. Figure 2.1 shows that the magnitude and timing of government intervention resulting from COVID-19 varied significantly between jurisdictions and geographic regions. This variation continues in 2022, as vaccination rates, the prevalence of new variants of the virus, and government intervention continue to differ.

Any impact of COVID-19 on the variables in the OECD CompStats database will only be for part of the year, as most significant government intervention only began in March 2020 (as shown by the Stringency Index). It will be interesting to observe how trends for variables in the OECD CompStats database evolve in the 2021 and 2022 data in future editions of the OECD Competition Trends report.

Given the structure of CompStats data, we do not establish a causal relationship between the changes in competition enforcement in 2020 and COVID-19; there are many factors other than the pandemic, often unique to particular jurisdictions, that may have impacted a variable in 2020. Therefore, it is difficult to construct the counterfactual, i.e., a world absent COVID-19. Nonetheless, where variables exhibited clear trends before the pandemic, and these have been interrupted, it seems reasonable to partly attribute this change to COVID-19.

The potential impact of COVID-19 in 2020 is considered throughout the report. In particular, where relevant, the report presents separately the compound annual growth rate for the period 2015 to 2019 and the growth rate in 2020. The report specifies when there is a plausible impact of COVID-19 on the variable. There may also be cases where there was a potential impact of COVID-19, but it is difficult to establish it using the data and thus no further elaboration is provided.

Some competition authorities adapted effectively to the pandemic with improved capabilities. COVID-19 caused several competition authorities to improve their digital capacity as they were forced to engage in video-conferencing and other forms of digital collaboration. For example, some jurisdictions strengthened the use of digital techniques to effectively access information and individuals during dawn raids performed when the company's premises were closed because of the lockdown (Baker McKenzie, 2021[2]). Furthermore, some authorities that had already invested in digital capabilities before the pandemic, reported that they were better able to deal with the challenges and specific competition issues that resulted from the pandemic (GCR, 2021[3]).

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2. The Oxford COVID-19 Government Response Tracker (OxCGRT) is a composite measure that collects systematic information on policy measures that governments have taken to tackle COVID-19. The different policy responses are tracked since 1 January 2020, cover more than 180 countries and are coded into 23 indicators. This composite measure is a simple additive score of nine indicators measured on an ordinal scale, rescaled to vary from 0 to 100.
SOURCE: https://www.bsg.ox.ac.uk/research/research-projects/COVID-19-government-response-tracker

Figure 2.1. Daily evolution of the range of Stringency Index for jurisdictions
the CompStats database included in each region, 2020
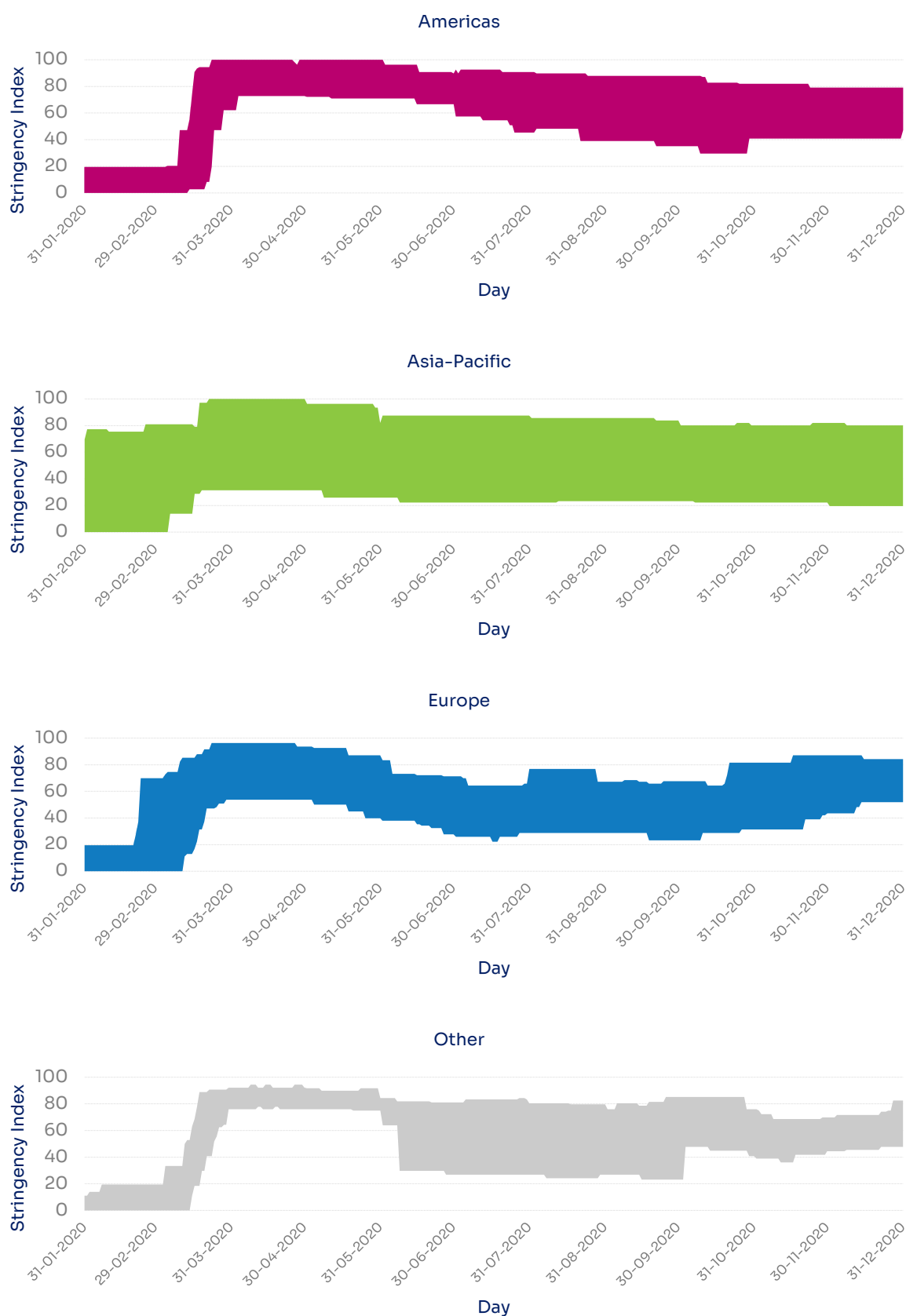
NOTE: The shaded area shows the minimum and maximum daily Stringency Index values for jurisdictions in each region. In other words, it shows the range of government restrictions across jurisdictions in each region evolving over time.
SOURCE: Our World in Data Stringency index: https://ourworldindata.org/grapher/COVID-stringency-index

RESOURCES

3

3. **Resources**

Competition authorities require sufficient resources to effectively enforce competition law (OECD, 2019[8]). A lack of proper funding and staff can threaten the quality and impact of competition enforcement (Jenny, 2016[9]).

It is difficult to determine the precise amount of necessary competition authority funding given the heterogeneity in "their role, their scope of activity, the legal context in which they operate, the size of the countries over which they have jurisdiction, the level of market development of the economy they oversee, the importance assigned to market competition" (Jenny, 2016[9]). Nonetheless, it is interesting to examine the variation in budgets and the number of competition staff, across authorities and over time.

In the period 2015 to 2020, competition authorities increased their resources considerably with a compound annual growth rate of 4.3% in nominal budget terms and 1.7% in terms of competition staff.

In 2020, the jurisdictions in the OECD CompStats database employed over 8 364 competition staff, with a mean of 129 and median of 62 in each jurisdiction. The total nominal budget in these jurisdictions was €1 306 million in 2020, with a mean of €21.4 million and median of €9.1 million per agency.

This section of the report has three parts. First, it explores the potential impact of COVID-19 on resources. Most competition authorities increased resources in 2020 relative to 2019, but for many jurisdictions, this was below the compound annual growth rate witnessed in the period 2015 to 2019. However, when considered against the backdrop of the decline in GDP witnessed in all jurisdictions, nominal competition budgets held up well in 2020.

Second, the budget of competition authorities with relatively lower budget in 2015 typically grew faster over the period 2015 to 2020 than in competition authorities with relatively higher budget in 2015. Furthermore, the resources of a competition authority (total nominal budget and total competition staff) are positively correlated with the age of an authority.

Third, competition authority resources (total nominal budget and total competition staff) grew at different rates over the period 2015 to 2020. The trend in average competition budget per member of competition staff varied between regions.

Competition authority resources grew considerably over the period 2015 to 2019, but this growth subsided for most jurisdictions in 2020.

3.1 **Potential impact of COVID-19 on resources**

COVID-19 impacted resources in some jurisdictions in 2020. A few jurisdictions explained in their questionnaire responses that some of the change to their budget in 2020 was due to COVID-19. Jurisdictions indicated two opposing impacts of COVID-19 on resources: (i) a decrease in resources as jurisdictions diverted resources to other important parts of government; (ii) an increase in resources as competition authorities took on new additional work in response to COVID-19.

However, not all jurisdictions identified changes in resources in 2020 due to COVID-19. Furthermore, some budgets for 2020 may have been set before the arrival of COVID-19 (given that most government intervention did not begin before March 2020). Thus, in some jurisdictions, there may have been no impact of COVID-19.

While it is not possible to precisely isolate changes to competition authority resources due to COVID-19 using OECD CompStats data, COVID-19 appears to have been a relevant contributing factor according to some authorities. For most jurisdictions, competition resources in 2020 did not increase by as much as suggested by the trend in the period 2015 to 2019.

3.1.1 **Competition staff**

The number of competition staff appears to have been impacted by COVID-19. The average competition staff per jurisdiction was 9.2% higher in 2019 compared to 2015, equivalent to a compound annual growth rate of 2.2%[3]. The average competition staff per jurisdiction in 2019 was 129. In 2020, the average number of competition staff per jurisdiction decreased by 0.3% (relative to 2019).

Figure 3.1. Average number of competition staff per agency, 2015-2020
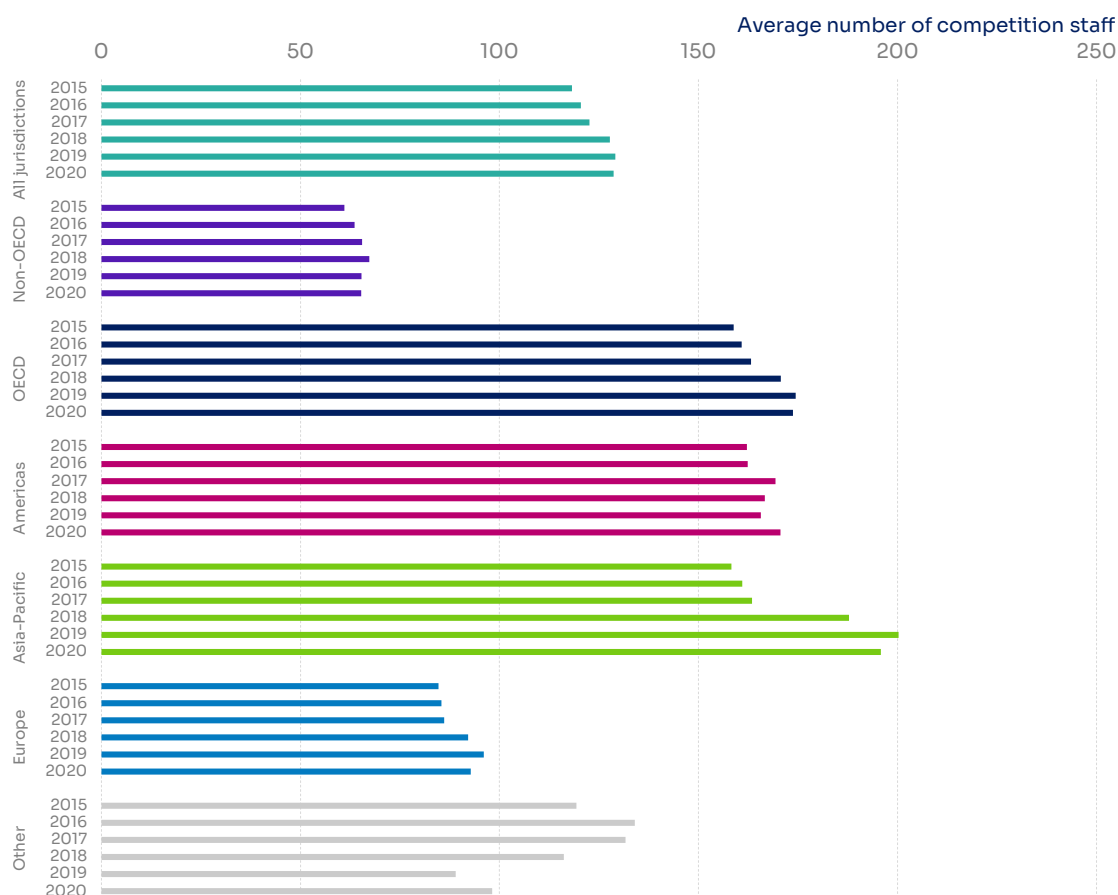
NOTE: Data based on the 65 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Competition staff are staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation).
SOURCE: OECD CompStats database.

3. The large jump in Asia-Pacific in 2018 is driven by two jurisdictions which both increased competition staff considerably.

3.1.2 **Nominal competition budget**

Total authority budget dedicated to competition issues in nominal terms converted using 2015 exchange rates (hereinafter "nominal competition budget") also appears to have been impacted by COVID-19. Figure 3.2 shows an increasing trend in mean nominal competition budgets for the period 2015 to 2019. The average nominal competition budget was 17.8% higher in 2019 compared to 2015, equivalent to a compound annual growth rate of 4.2%. The mean nominal budget increased from €17.3 million in 2015 to €20.3 million in 2019.

In 2020, the average budget per agency increased by 5.2% (relative to 2019) to €21.4 million, which is a larger growth rate than for the period 2015 to 2019. However, this significant increase was mainly driven by three large jurisdictions (as discussed below).

Figure 3.2. Average (mean and median) nominal budget per agency, 2015–2020
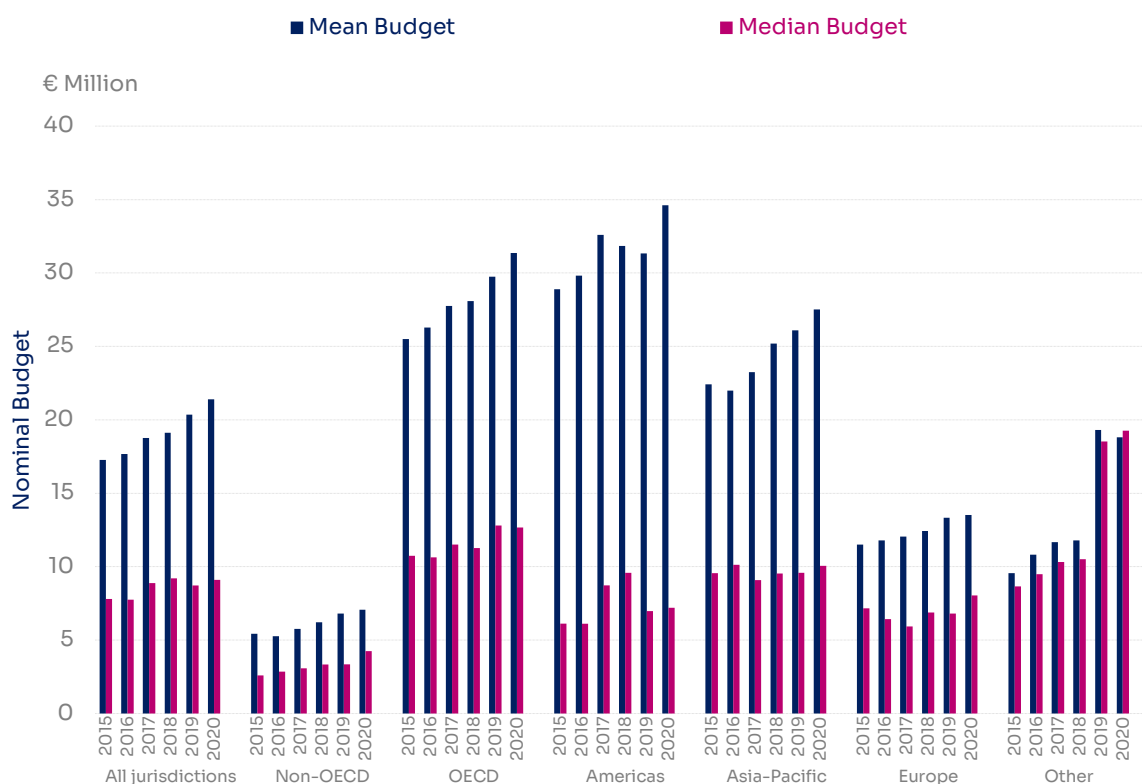
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided nominal competition budget for all six years. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. In a given region and year, the mean is the total amount of budget divided by the number of jurisdictions, while the median is the middle number when ordered from smallest to largest.
SOURCE: OECD CompStats database.

4. Adjusting for inflation, the average real budget increased by 8.3%, equivalent to a compound annual growth rate of 2.0%. Inflation rates were lower in 2020 than 2019 for the vast majority of jurisdictions in the CompStats database. Therefore, the average real budget grew 4.0% in 2020, significantly higher than the compound annual growth rate for the period 2015 to 2019, although this was driven by a few large jurisdictions.

3.1.3 **Distribution of changes in nominal competition budget**

Figure 3.3 shows that the increase in the mean nominal competition budget in 2020 was mainly driven by a few large jurisdictions. While aggregate nominal budget grew, the majority of jurisdictions witnessed a decline in their nominal budget growth in 2020 relative to the compound annual growth rate for the period 2015 to 2019.

Three jurisdictions represented 72.6% of all increases in 2020 relative to 2019. In Figure 3.3 the change to nominal competition budget in 2020 is given by

the dot minus the bar. The jurisdictions are sorted by the change to nominal competition budget, with the largest increases on the left and the largest decreases on the right.

The significant impact of a few jurisdictions within the Americas and Europe can sometimes distort results, as shown by the divergence in the trends of the mean and median nominal budget in 2020 in Figure 3.2.

Figure 3.3. Distribution of nominal budget in 2019 and 2020
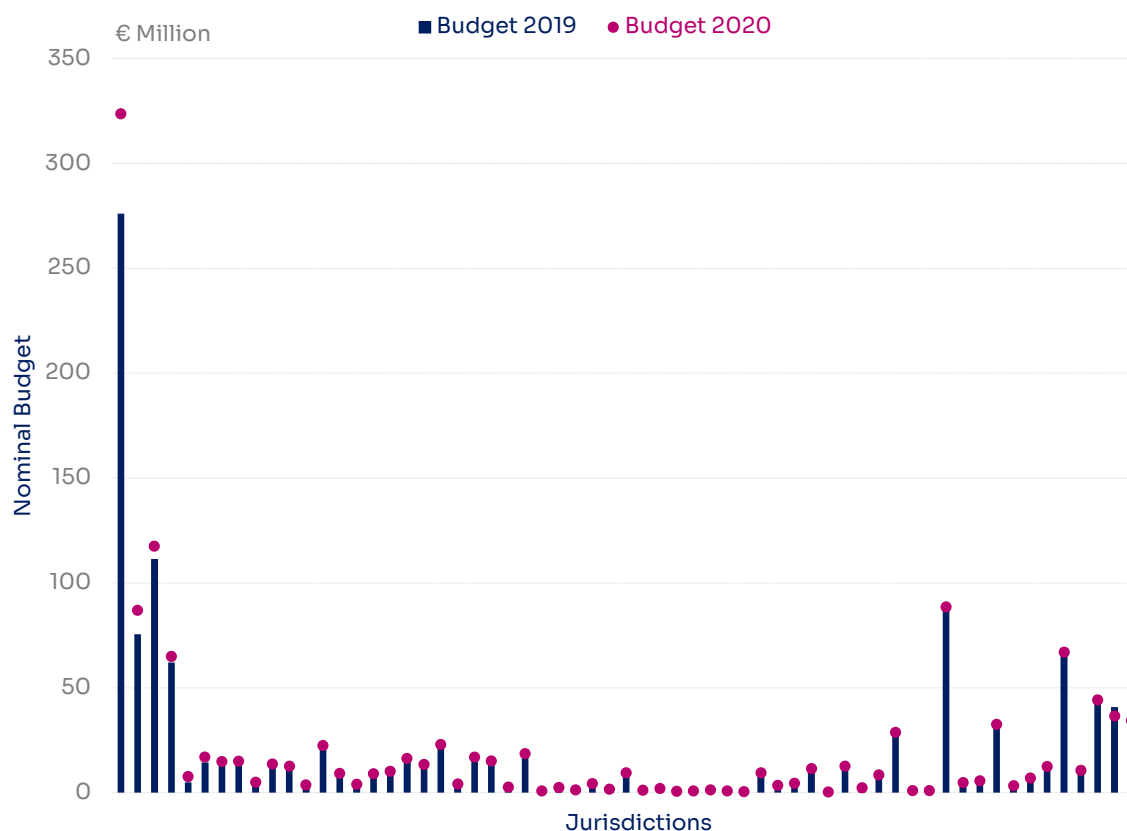
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided nominal competition budget for all six years. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. The figure is ranked the difference in nominal competition budget of 2020 minus 2019, with the largest positive value on the left, and the largest negative value on the right. The jurisdictions with the largest nominal competition budget in 2019 (shown by the blue bar) often have the largest positive difference.
SOURCE: OECD CompStats database.

3.1.4 **Distribution of nominal competition budget growth rates**

Figure 3.4 shows that only 4 jurisdictions (6.6%) had a negative compound annual growth rate for nominal budget in the period 2015 to 2019 (as indicated by the blue bars). However, in 2020, 25 jurisdictions (41.0%) experienced a decline in their nominal budgets relative to 2019 (as shown by the pink dots). In 42 jurisdictions (68.9%) the budget growth rate in 2020 was lower than the compound annual growth rate for 2015 to 2019 (i.e. the pink dot is below the blue bar). The vertical green line separates these two groups of jurisdictions. The slower nominal budget growth for most jurisdictions in 2020 may have been partly caused by COVID-19. Nonetheless, 35 jurisdictions (57.4%) had a positive growth rate in 2020, and a handful of authorities witnessed particularly significant growth.

Figure 3.4. Distribution of compound annual growth rate of nominal budget for the period 2015 to 2019 and the annual percentage change from 2019 to 2020
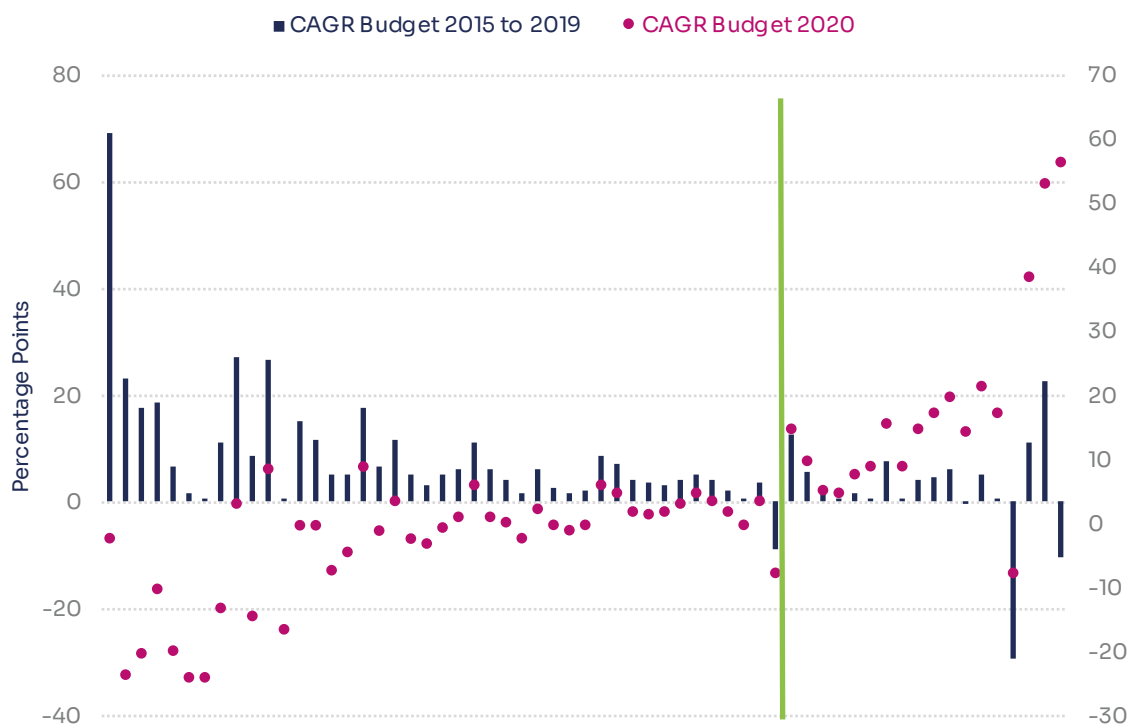
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided nominal competition budget for all six years. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. The green line separates jurisdictions that have 2020 growth rate lower than 2015-2019 CAGR on the left, and jurisdictions that have 2020 growth rate higher than 2015-2019 CAGR on the right.
SOURCE: OECD CompStats database.

3.1.5 **Nominal competition budget trends**

Figure 3.5 shows the divergence in the time series evolution of nominal budget for the Americas and Europe, compared to Asia-Pacific. First, jurisdictions in the Americas and Europe increased at a faster percentage rate over the period 2015 to 2019 than those in Asia-Pacific. Second, in 2020, there was a significant reduction relative to the trend in Europe and Americas, while there was a significant increase relative to the trend in Asia-Pacific, thus reducing the gap in terms of growth that opened up over the period 2015 to 2019.

Figure 3.5. Mean average of ratio of nominal budget (divided by 2015 values) for all jurisdictions in (i) Americas and Europe; and (ii) Asia-Pacific

NOTE: Data based on the 55 jurisdictions in the OECD CompStats database in the Americas, Europe and Asia-Pacific that provided nominal competition budget for all six years. Jurisdictions in Other are excluded from this figure. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. For each jurisdiction, the ratio is calculated by dividing all years by the nominal budget in 2015. The value in 2015 is therefore 1 by construction. The average is then calculated as across all jurisdictions in the regions in each year: (i) Americas and Europe combined; and (ii) Asia-Pacific.
SOURCE: OECD CompStats database.

3.1.6 Nominal competition budget per GDP

The average nominal budget per €1 million GDP increased significantly in 2020. This was mainly driven by the significant drop in GDP in 2020.

Figure 3.6 shows that there was an increasing trend in average nominal budget per €1 million GDP for the period 2015 to 2019. The average nominal budget per €1 million GDP was 5.0% higher in 2019 compared to 2015, equivalent to a compound annual growth rate of 1.2%. The average nominal budget per €1 million GDP increased from €22.6 in 2015 to €23.8 in 2019. In 2020, the average nominal budget per €1 million GDP increased by 17.0% (relative to 2019) to €27.8 per €1 million GDP, which is a larger growth rate than for the period 2015 to 2019.

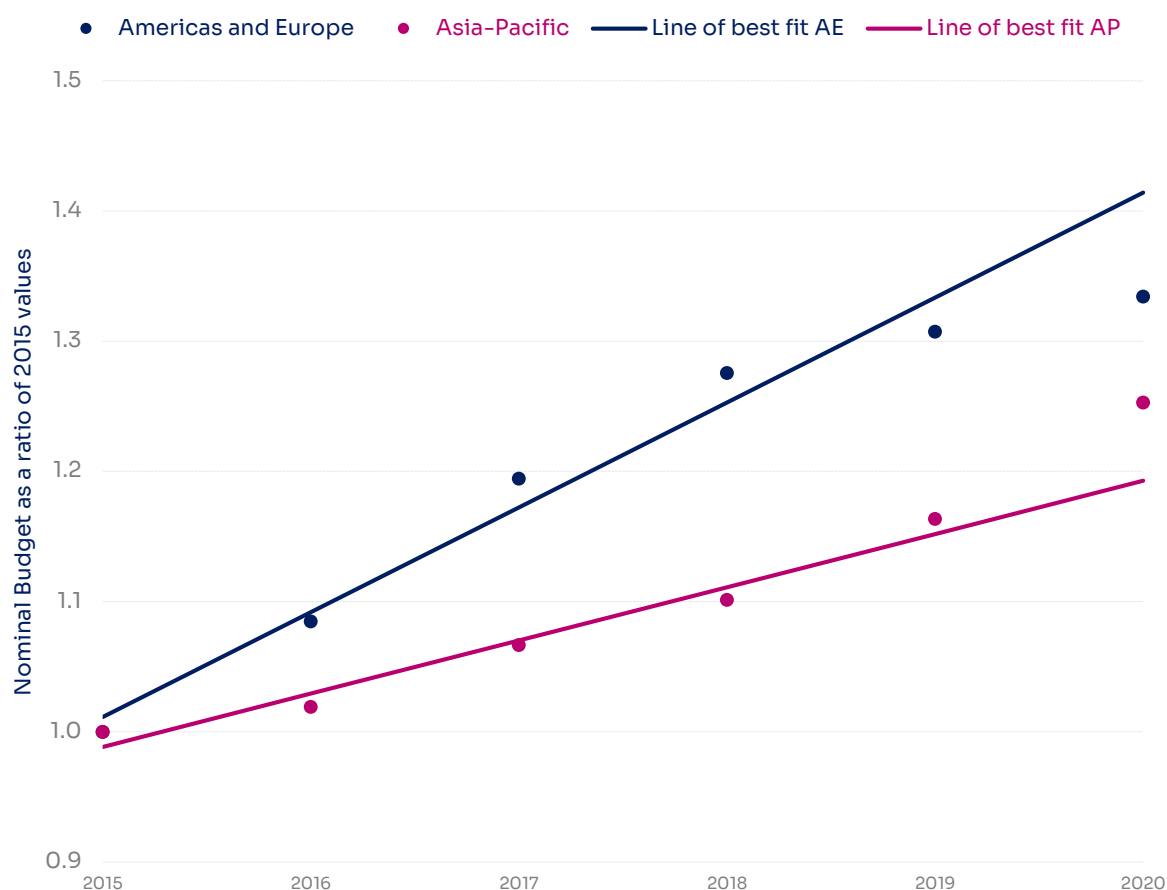**Figure 3.6.** Average competition budget per €1 million GDP, 2015–2020
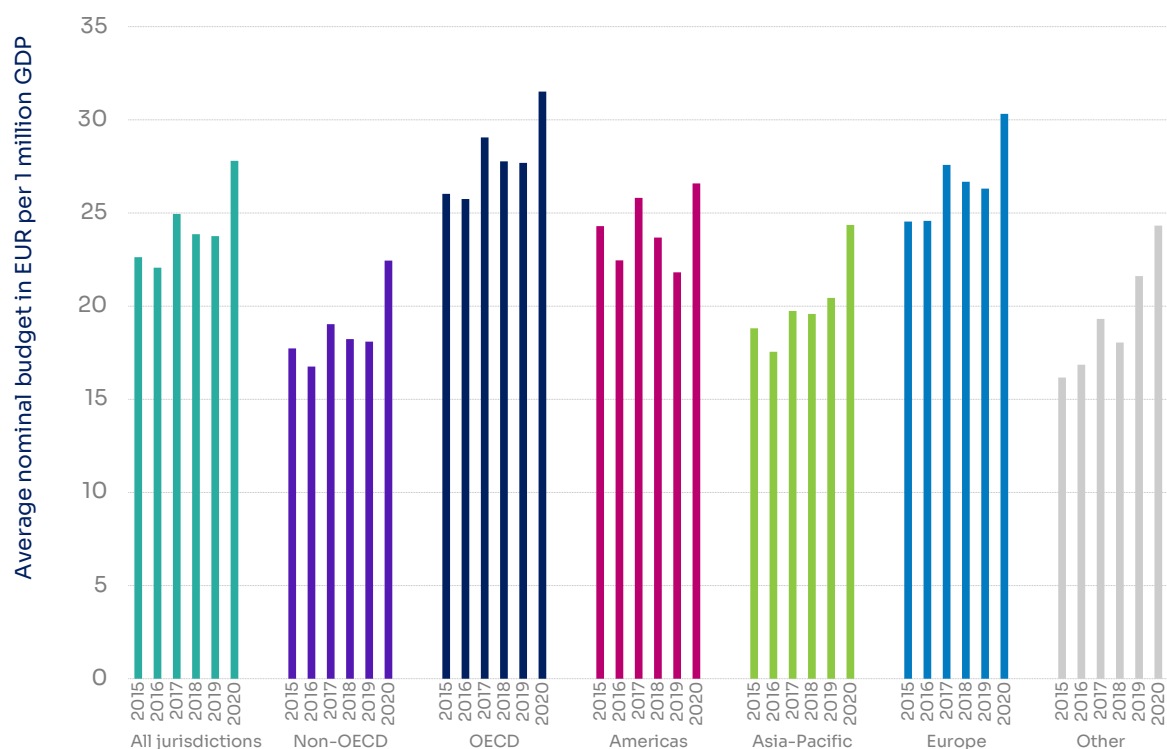
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided nominal competition budget and GDP data for all six years. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database and International Monetary Fund (IMF) for Japan and Chinese Taipei GDP.

3.1.7 **GDP**

Figure 3.7 shows that the increase in average nominal competition budget per €1 million GDP in 2020 was partly driven by the decrease in GDP. There was an increasing trend in nominal GDP for the period 2015 to 2019. The average nominal GDP was 18.2% higher in 2019 compared to 2015, equivalent to compound annual growth rate of 4.3%. In 2020, the nominal GDP decreased by 10.3% (relative to 2019) as all jurisdictions suffered significant decreases in GDP in 2020.

Figure 3.7. Average GDP per jurisdiction, 2015–2020
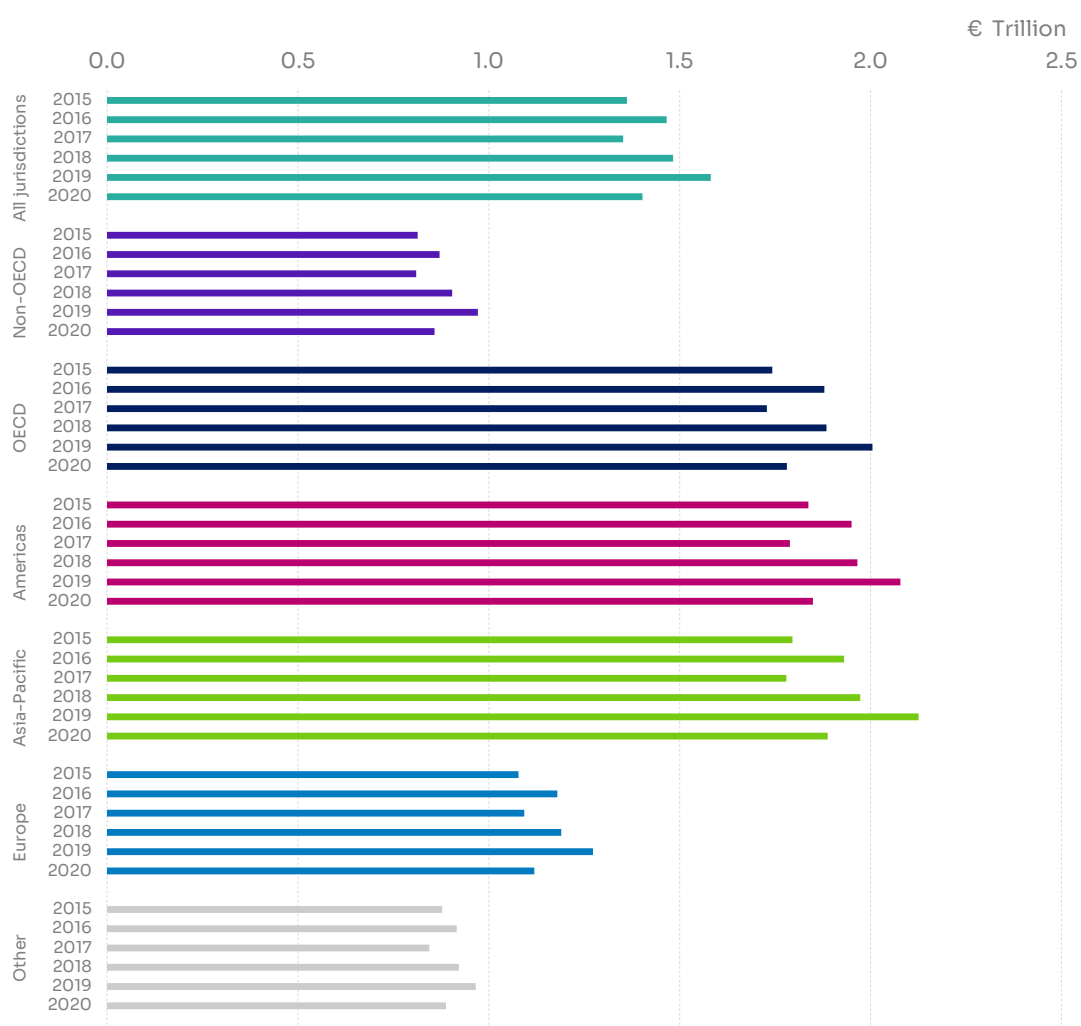
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided budget data for nominal competition budget and GDP for all six years.

SOURCE: OECD CompStats database and International Monetary Fund (IMF) for Japan and Chinese Taipei GDP.

3.2 Smaller competition authorities grew faster than larger authorities

Smaller authorities, based on their nominal competition budget in 2015, typically grew faster during the period 2015 to 2020, than larger authorities. As shown in Figure 3.8, relatively smaller competition authorities in 2015 (on the right-hand side), usually had higher compound annual growth rate for nominal competition budget than relatively larger authorities (on the left-hand side).

Figure 3.8. Distribution of compound annual growth in nominal competition budget for the period 2015 to 2020, ranked by the nominal competition budget in 2015, from highest (left) to lowest (right)
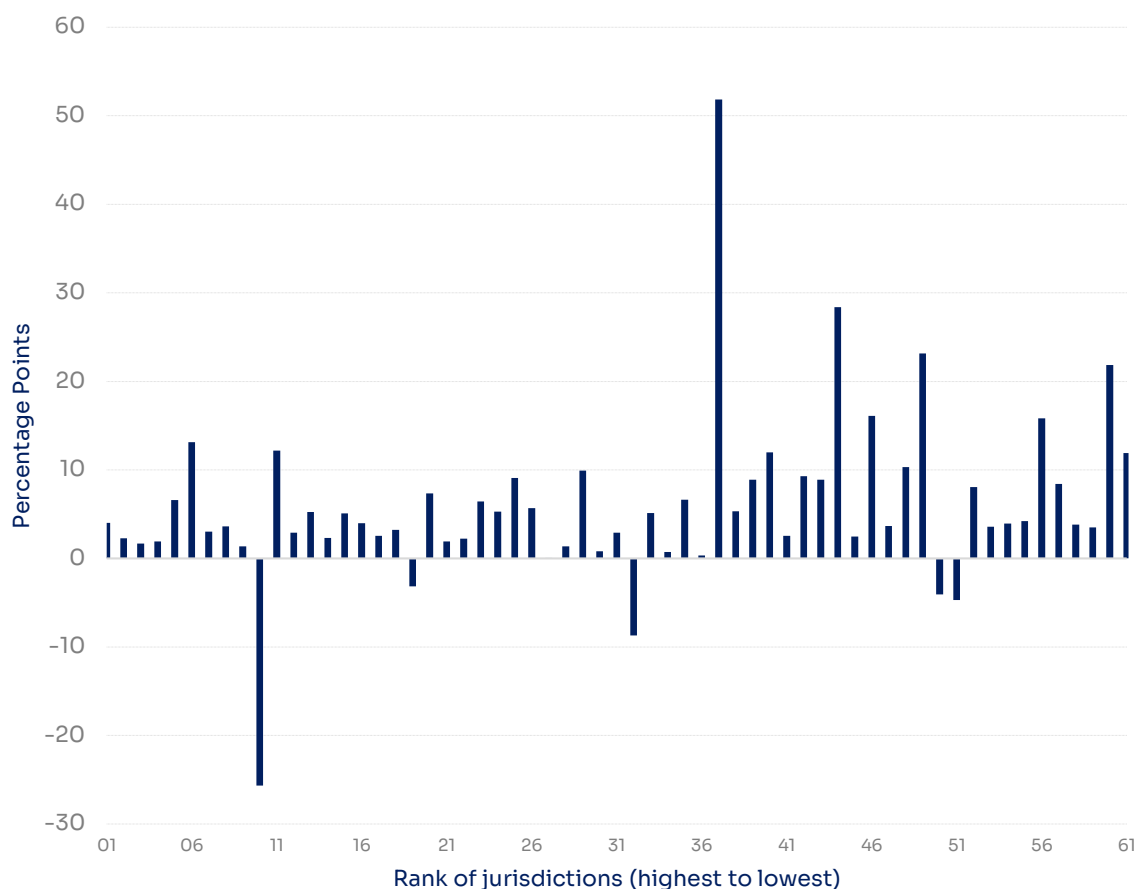
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided nominal competition budget for all six years. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. Five jurisdictions had a negative compound annual growth rate for the period 2015 to 2020.
SOURCE: OECD CompStats database.

Furthermore, Figure 3.9 suggests there is generally a positive relationship between age of the competition authority and resources. This is consistent with the increasing trends in competition staff (Figure 3.1) and nominal budget (Figure 3.2) presented previously. However, it is also possible that larger jurisdictions (in terms of GDP) have older competition authorities.

Figure 3.9. Comparison of age of authority, the number of employees and nominal competition budget, 2020

3.3 **Nominal competition budget and competition staff have been changing at different rates**

Figure 3.6 above, shows that nominal competition budget grew faster than GDP in all regions. Figure 3.11 below, shows that competition staff grew faster than population in several regions.

The average number of competition staff per 1 million inhabitants in the Americas has been relatively stable during the period 2015 to 2020, while it has grown considerably in Asia-Pacific. In 2015, there were 4.3 competition staff per 1 million inhabitants in the Americas, while there were 3.9 in Asia-Pacific. In 2020, Asia-Pacific overtook the Americas with 5.0 competition staff per million inhabitants, relative to only 4.2 in the Americas.

The difference in the average number of competition staff per 1 million inhabitants between OECD and non-OECD countries remains significant in 2020, and this gap has increased since 2015. In 2015 non-OECD had 3.1 fewer competition staff per 1 million inhabitants, while in 2020 this increased to 3.8 fewer.

Europe steadily increased over time from 10.0 competition staff per 1 million inhabitants in 2015 to 10.6 in 2020, whereas Other significantly decreased from 7.0 competition staff per 1 million inhabitants in 2015 to 4.7 in 2020.

**Figure 3.10.** Competition staff per 1 million inhabitants, 2020
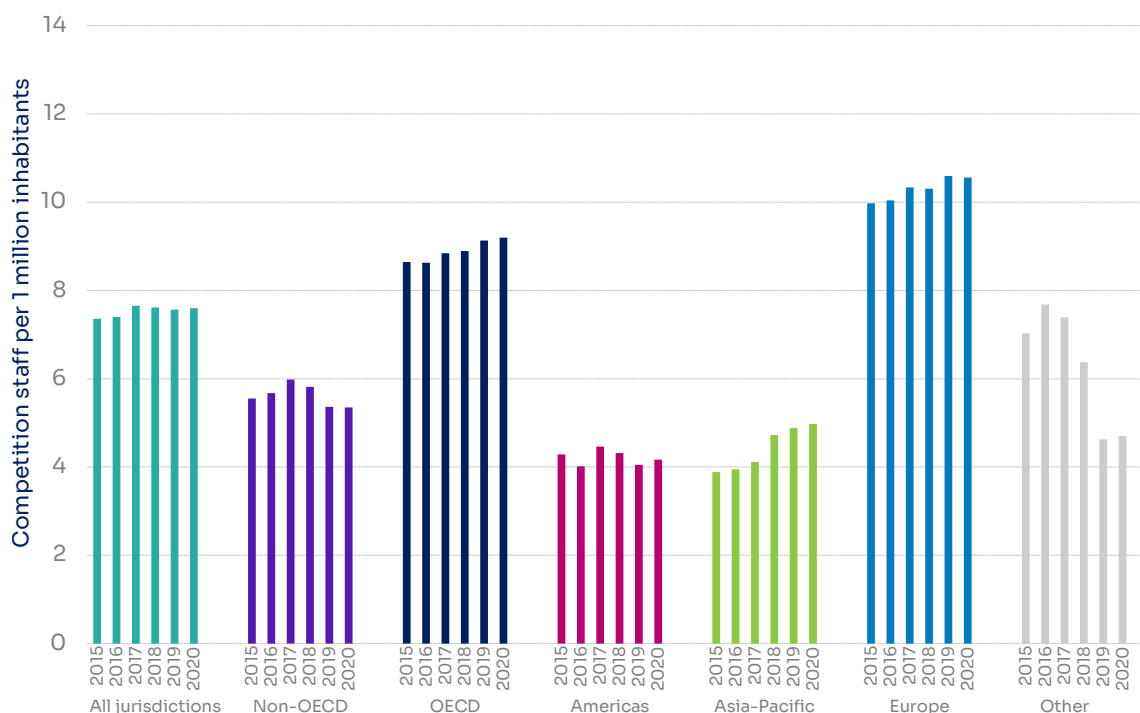
NOTE: Data based on the 65 jurisdictions in the OECD CompStats database that provided data for competition staff and population for all six years. Competition staff are staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation).
SOURCE: OECD CompStats database.

Competition staff and nominal competition budget have not been changing in the same manner, or at the same rate, in all regions.

In Asia-Pacific, there was a decreasing trend in average nominal budget per member of competition staff, suggesting that authorities were hiring competition staff at a faster rate than budgets were increasing or hiring at more junior levels. In Europe and Other, there was an increasing trend, suggesting that authorities were hiring competition staff at a slower rate than budgets were increasing or hiring at more senior levels.

The average nominal budget per member of competition staff is similar in the Americas and Europe. It is higher in Asia-Pacific, despite the decline over the period. It is significantly higher in Other, particularly towards the end of the period, but this is driven by a single jurisdiction.

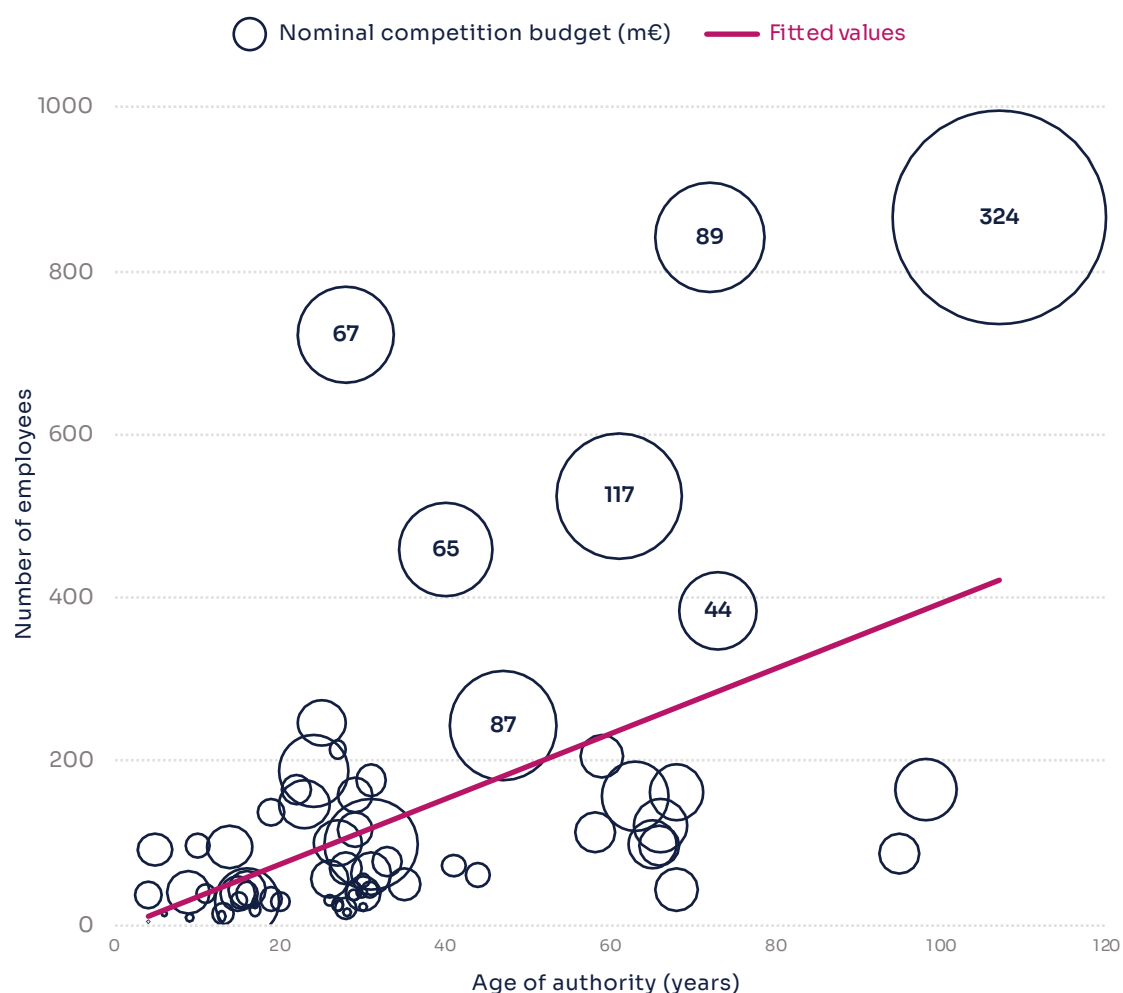**Figure 3.11.** Average budget per competition staff member per agency, 2015–2020
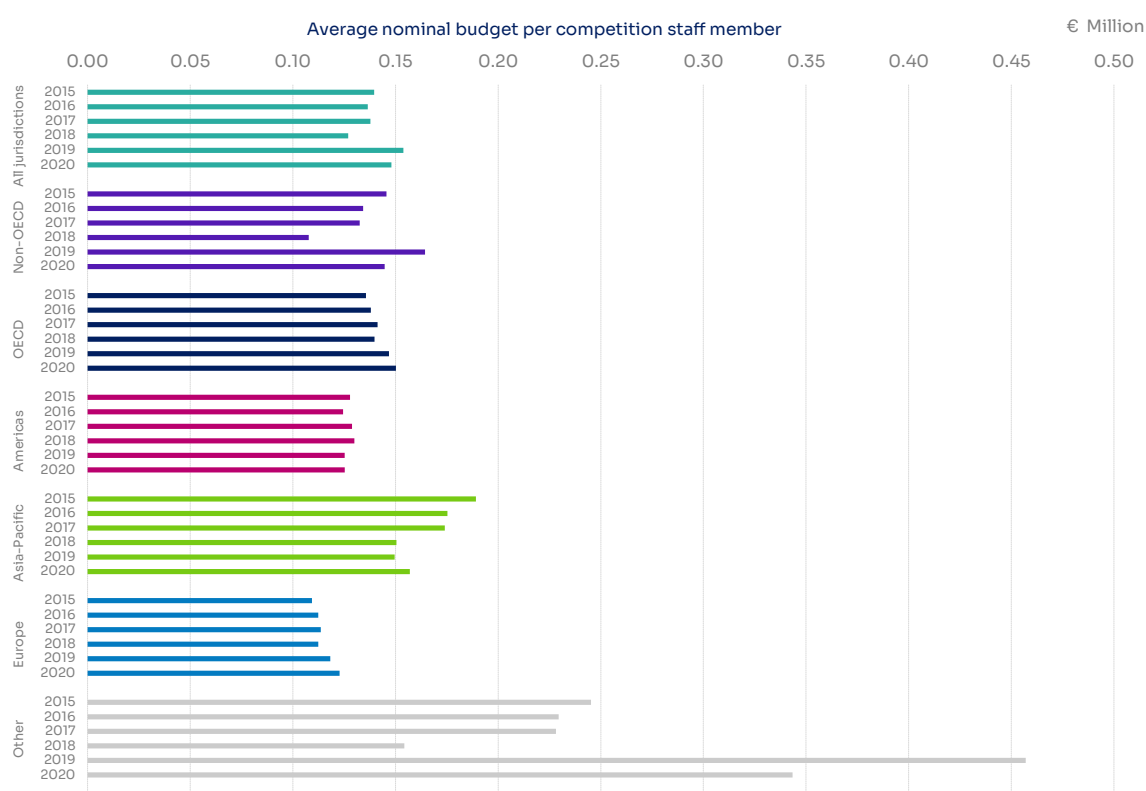
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided nominal competition budget and competition staff data for all six years. Nominal competition budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. Competition staff are staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation).
SOURCE: OECD CompStats database.

CARTELS

4

4. **Cartels**

This section of the report discusses cartel enforcement trends. It focuses on ex-officio cartel investigations, cartel dawn raids, cartel decisions, and the proportion of cartel decisions that use settlements or commitments. Leniency (Section 6) and cartel fines (Section 8.2) are included in separate sections of the report.

4.1 **Ex-officio cartel investigations**

A combination of reactive and pro-active detection tools is optimal for an effective detection regime. Reactive tools, such as leniency programmes, continue to be an important instrument for cartel detection (UNCTAD, 2010[10]). However, since a firm's incentive to enter into such programmes rests on their perceived risk that cartel conduct will be independently detected by the competition authority, it is important that authorities also use pro-active detection tools to launch so-called ex-officio cartel investigations (OECD, 2019[11]).

The number of ex-officio cartel investigations declined in all regions over the period 2015 to 2020. In Asia-Pacific and Europe, there was a peak in 2016 followed by a gradual decline until the end of the period.

Figure 4.1. Average number of ex-officio cartel investigations, 2015–2020
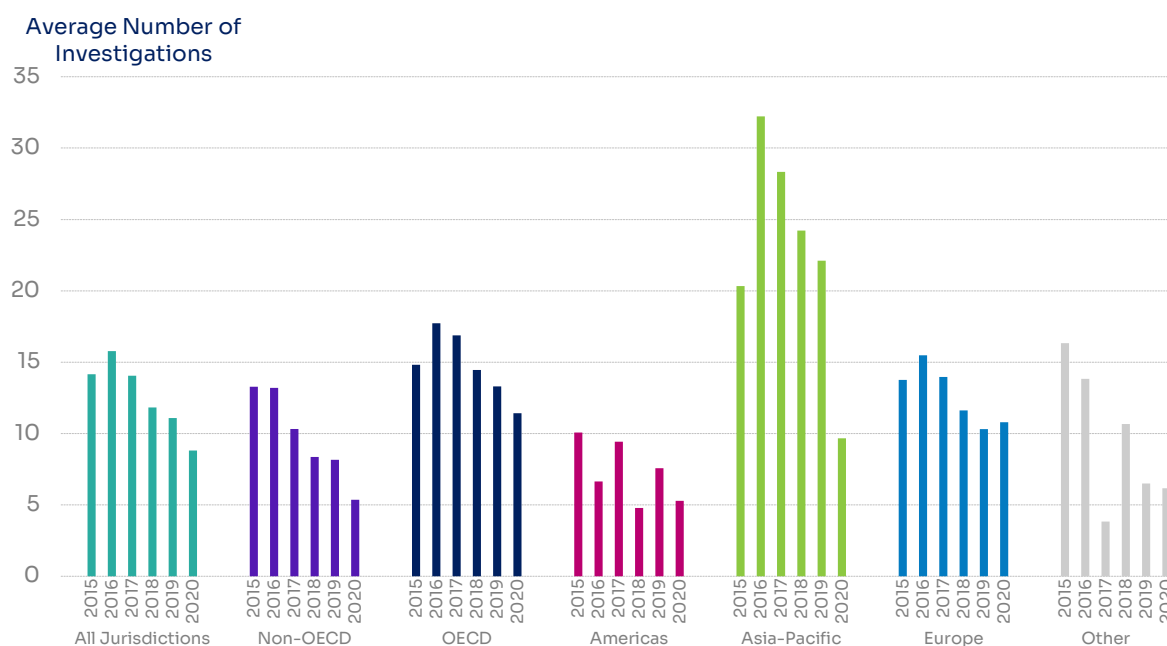
NOTE: Data based on the 58 jurisdictions in the OECD CompStats database that provided comparable data for all six years.
SOURCE: OECD CompStats database.

4.2 **Cartel dawn raids**

Dawn raids are one of the main tools that authorities can use to gather evidence once there is suspected illegal activity (OECD, 2018[12]). When conducting a dawn raid, a competition authority usually sends inspectors unannounced to the business premises of firms suspected of an infringement (and in some cases, also their competitors and/or customers) (Rogers, 2021[13]).

Government restrictions in response to COVID-19 meant that many competition authorities stopped performing dawn raids (Vowden, 2021[14]). In 2020, cartel dawn raids decreased in most jurisdictions. However, dawn raids still took place in 2020, as restrictions related to COVID-19 were not in place for the entirety of 2020.[5]

Cartel dawn raids were typically stable or increasing in the period 2015 to 2019, and dropped by 52.3% in 2020 due to government restrictions resulting from COVID-19. The evolution of cartel dawn raids in the period 2015 to 2019 differed between the various regions. Cartel dawn raids were decreasing in the Americas, increasing in Asia-Pacific and Other, and stable in Europe. In Asia-Pacific, during the period 2015 to 2019, a single competition authority performed 92% of all cartel dawn raids in the region. Therefore, the increase in Asia-Pacific is driven by a single jurisdiction. In Europe, Americas and Other, cartel dawn raids are more evenly spread across several jurisdictions.

-76%
2019-2020, Americas

-88%
2019-2020, Asia-Pacific

-43%
2019-2020, Europe

+18%
2019-2020, Other

Figure 4.2. Average number of cartel dawn raids, 2015-2020
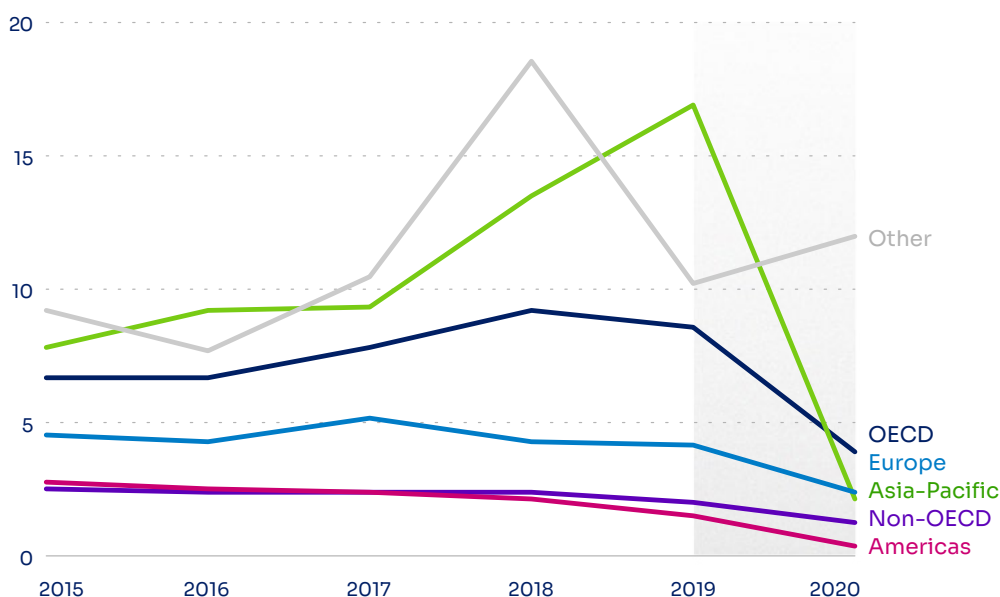
NOTE: Data based on the 53 jurisdictions in the OECD CompStats database that provided comparable data for all six years. This figure only includes jurisdictions where cartel and abuse of dominance dawn raids were provided separately.
SOURCE: OECD CompStats database.

5. Some competition authorities managed to obtain evidence digitally as a substitute for actual dawn raids by gaining access to the company's data (through laptops brought to meetings or via video interrogations) given government restrictions. See (Baker McKenzie, 2021[2]).

4.3 **Cartel decisions**

The number of cartel decisions decreased in all-but-one region in the period 2015 to 2020. In 2018, there was a spike in both Asia-Pacific and Other. In both regions, the increase in 2018 was observed in a few of the largest jurisdictions. In 2020, the average number of cartel decisions across all jurisdictions did not appear to significantly deviate from the trend for the period 2015 to 2019.
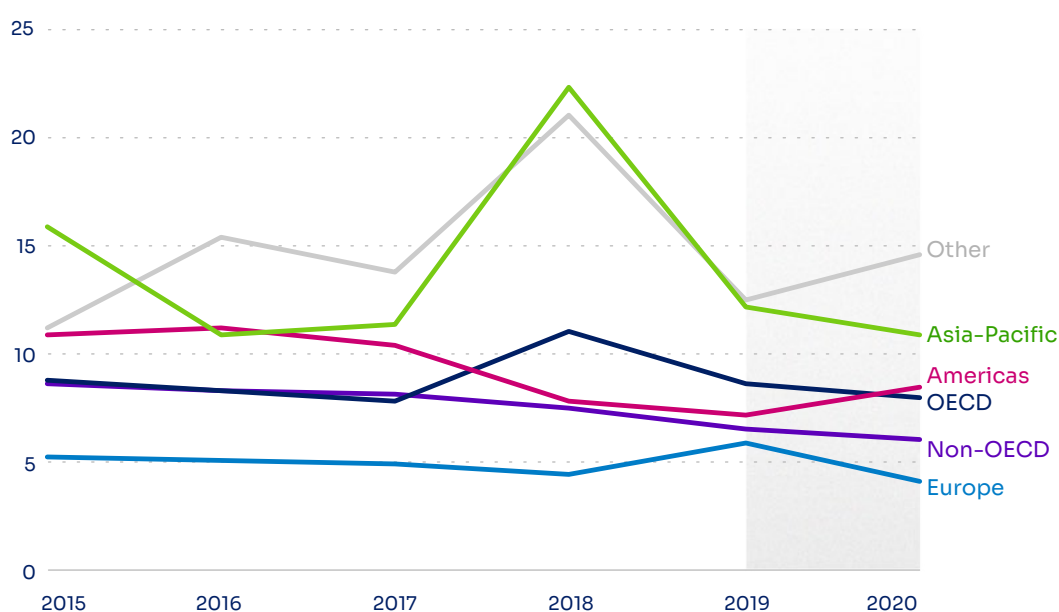
-7%
2019-2020, All

-7%
2019-2020, OECD

Figure 4.3. **Average number of cartel decisions per agency, 2015–2020**

NOTE: Data based on the 63 jurisdictions in the OECD CompStats database that provided comparable data for all six years.
SOURCE: OECD CompStats database.

4.4 **Cartel decisions with settlements or commitments**

Cartel settlement schemes allow competition authorities to terminate certain cartel investigations sooner and to redirect investigative resources to other cases (Hellwig, 2018[16]). These schemes typically require the firms to accept liability for their involvement in the cartel, but offer some incentive in return, such as a reduction in fines. There has been a recent wave of adoption of cartel settlement programmes, particularly in Europe (Snelders, 2021[17]), but also, in the rest of the world (OECD, 2008[18]).

Although not common, in some jurisdictions it is possible to use a commitment decision to terminate an investigation of a horizontal agreement, although in several jurisdictions, they are not allowed for hard core cartel infringements. In general, commitments use remedies as a fast and flexible means to address competition concerns and typically do not require firms to accept liability or pay a fine.

Competition authorities can use cartel settlements and/or commitments to improve the efficient allocation of scarce resources by redeploying staff to new cases, allowing competition authorities to adopt more decisions for a given number of resources. This may act as a deterrent, which in turn, increases the incentive for firms to engage in leniency programmes. In theory, this creates a virtuous circle for cartel enforcement (F. and Lautinen, 2013[14]).

There was a general decline in the percentage of cartel cases with settlements or commitments during the period 2015 to 2020, although this differed by region. The percentage declined in the Americas and Europe, both for the aggregate percentage in each region and average of jurisdiction percentages in each region. In Asia-Pacific, the trend depended on the measure, increasing for the aggregate percentage, and slightly decreasing for the average of jurisdiction percentages, while in Other, the percentage increased for both measures.

As shown in Figure 4.3, most regions have an average number of cartel decisions per year below 10. Therefore, a drop of 10 to 20 percentage points over the period 2015–2020 may represent only 1 or 2 fewer cartel decisions with settlements or commitments.

Figure 4.4. Percentage of cartel cases with settlements or commitments, either aggregate percentage in each region or average of jurisdiction percentages in each region, 2015–2020
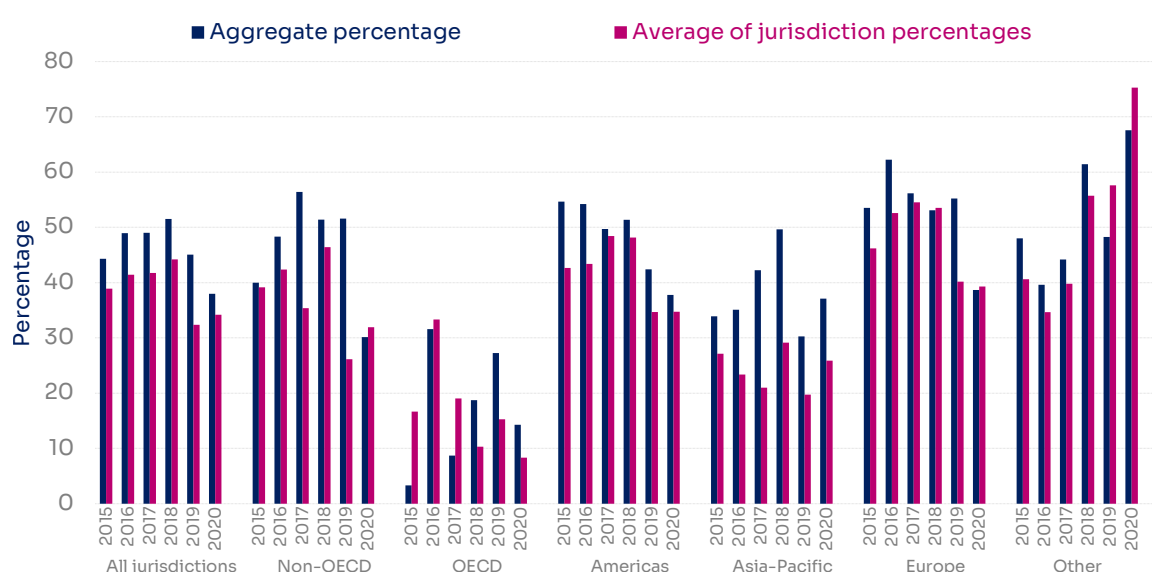
NOTE: Data based on the 55 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have six years of data for cartel decisions, cartel commitments and cartel settlements.
SOURCE: OECD CompStats database.

SPOTLIGHT ON LENIENCY PROGRAMMES

5

5. **Spotlight on Leniency Programmes**

Investigating cartels can be challenging since they are usually entered secretly with the aim of avoiding detection. Competition authorities use various tools to detect cartels. One of these tools is leniency programmes (sometimes also referred to as immunity or amnesty programmes; hereinafter jointly referred to as leniency programmes).

Leniency programmes offer cartel members the opportunity to report their conduct, provide information and evidence, and co-operate with an investigation, in exchange for immunity from, or a reduction in, sanctions (OECD, 2019[20]). Cartel members therefore need to consider the trade-off between continuing the infringement – making additional profit but risking an often substantial sanction – and coming forward by filing a leniency application, which can avoid or limit a potential sanction. Incentives to apply for leniency can be characterised using the so-called 'prisoner's dilemma', because there is a constant threat that a participant may report the cartel to a competition authority (Beaton-Wells, 2015[21]).

Leniency programmes pursue objectives that can be divided into two broad groups. First, leniency programmes uncover conspiracies that would otherwise go undetected (OECD, 2014[22]). Second, leniency programmes act as a form of deterrence. Companies may have less of an incentive to form a cartel due to the increased risk of detection resulting from the constant threat of one of the participants reporting the cartel. Leniency programmes may only be effective in reducing cartels, due to the increased threat of detection, if these programmes continue to be accompanied by other detection tools, such as ex-officio investigations (Chang, 2009[23]).

Importantly, a leniency programme needs to be well-balanced to be effective. It requires both the threat of high fines for cartel members and some risk of detection and prosecution of cartels (OECD, 2019[22]). Furthermore, it is important that the leniency programme is clear and transparent; such that potential applicants understand the procedure and possible consequences (see (UNCTAD, 2016[24]) and (Volpin, Forthcoming[25])). In particular, clarity regarding the scope of immunity or reduction of fines may be crucial (OECD, 2019[19]).
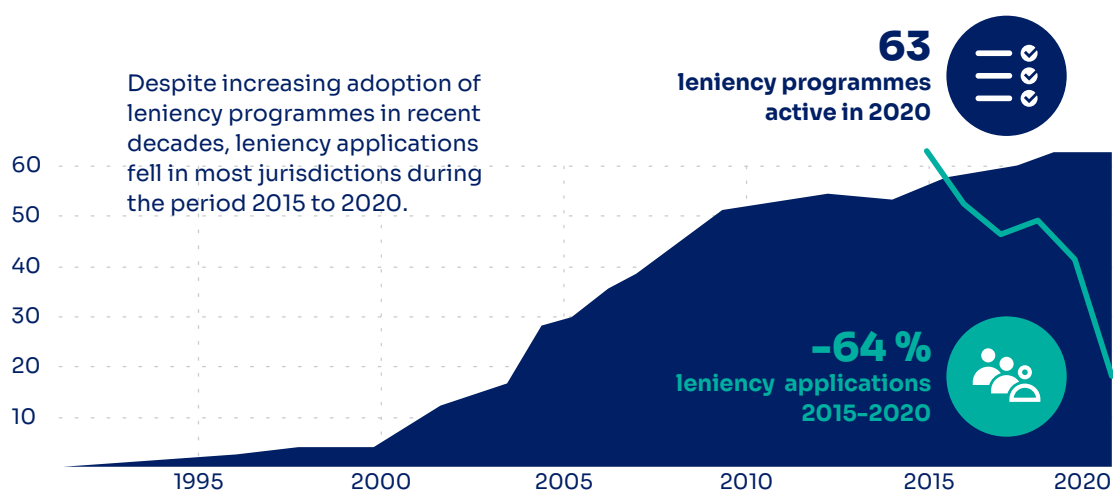
63
leniency programmes active in 2020

Despite increasing adoption of leniency programmes in recent decades, leniency applications fell in most jurisdictions during the period 2015 to 2020.

–64 %
leniency applications 2015–2020

NOTE: Data based on the 63 jurisdictions in the OECD CompStats database that have a leniency programme.
SOURCE: OECD CompStats database.

5.1 Leniency programmes around the World

The first leniency programme from the jurisdictions included in the OECD CompStats database was introduced in 1978. However, most jurisdictions in the OECD CompStats database adopted a leniency programme in the last 20 years.

Most leniency programmes were adopted between 2000 and 2010.

Figure 5.1. Number of jurisdictions with a leniency programme by year of adoption
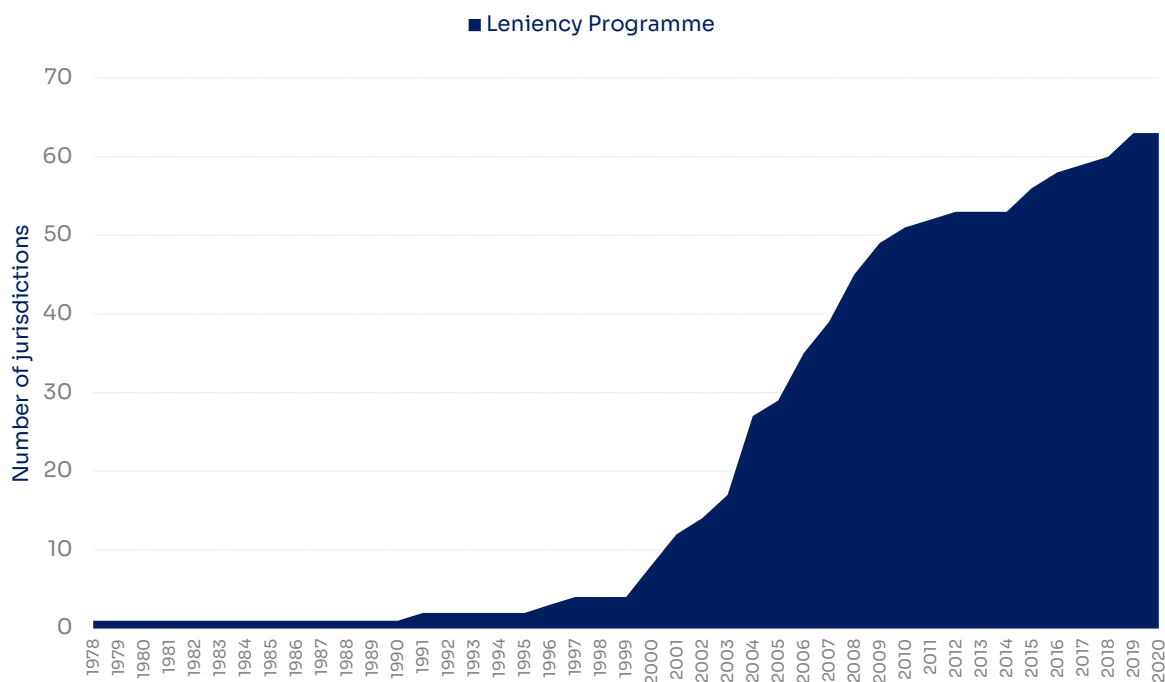
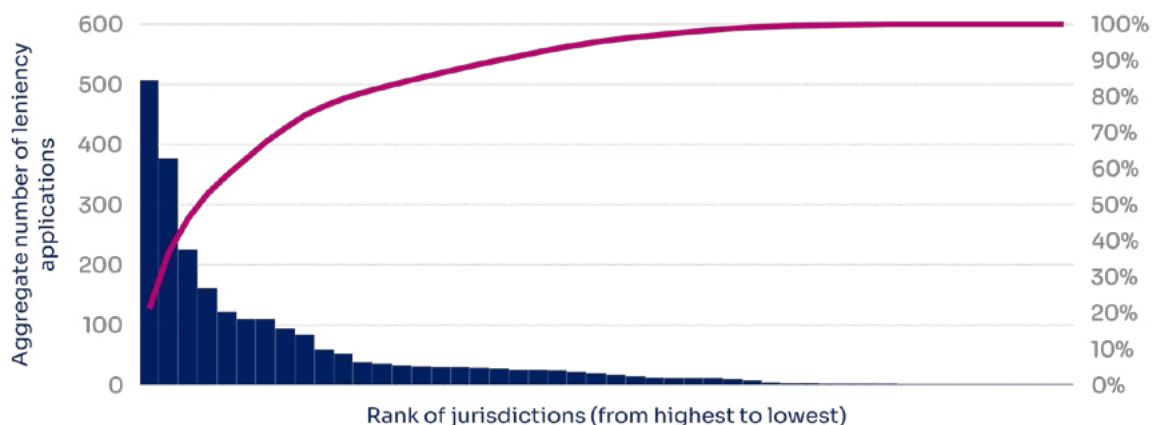**NOTE:** Data based on the 63 jurisdictions in the OECD CompStats database that have a leniency programme.

SOURCE: OECD CompStats database.

In many jurisdictions, leniency remains the key (and sometimes only) tool to detect cartels. Most cartel decisions in 2019 included an immunity/leniency applicant (Allen & Overy, 2020[26]). However, this is not the case for all jurisdictions with a leniency programme. A few jurisdictions represented most leniency applications during the period 2015 to 2020. The top 4 jurisdictions represented 53.1% of all leniency applications, while the 20 most active leniency programmes (top-20) attracted 91.2% of the applications made.

Figure 5.2. Aggregate number of leniency applications for the period 2015–2020, by jurisdiction

NOTE: Data based on the 48 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a leniency programme in force. These jurisdictions provided complete leniency applications data for all six years. There are 25 jurisdictions that are excluded, 19 of these because they provided incomplete leniency applications data for all six years and 6 of these because they do not have a leniency programme. There are also 9 jurisdictions that had zero leniency applications over the period 2015–2020. The blue bars indicate the aggregate number of leniency applications for each jurisdiction. The number of leniency applications can be determined using the left y-axis. The pink line represents the cumulative percentage of leniency applications, starting with the jurisdiction with the highest number of aggregate leniency applications, on the left-hand side of the distribution, and adds the percentage for each jurisdiction as the line goes from left to right. The cumulative percentage can be determined using the right y-axis.
SOURCE: OECD CompStats database.

Leniency programmes may take some time to become effective and established. Young leniency programmes often have no, or low, leniency applications. There is a positive correlation between the number of leniency applications and the age of the leniency programme.

Figure 5.3. Total Leniency applications for the period 2015–2020 against the age of the leniency programme, by region
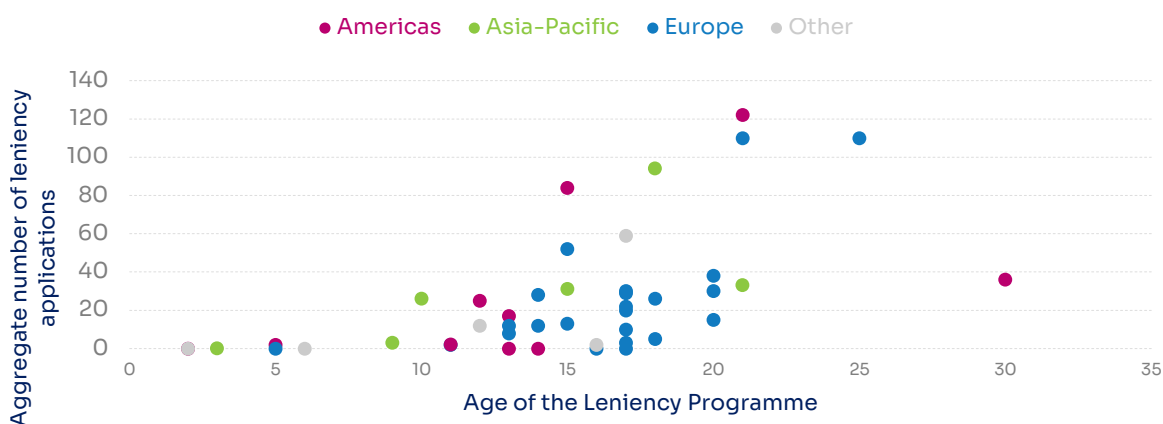

NOTE: Data based on the 48 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a leniency programme in force, however 4 of these jurisdictions are outside of the range presented in this figure.
SOURCE: OECD CompStats database.

5.2 **Overall decline in leniency applications**

The number of leniency applications declined during the period 2015 to 2020. The decline in leniency applications in Europe is well documented (Ysewyn, 2018[27]). However, the decline in leniency applications is prevalent around the world as all regions in the OECD CompStats database show this trend. Leniency applications declined in most jurisdictions in the OECD CompStats database. The number of leniency applications was lower in 2020 than 2015 in 28 jurisdictions (71.8% of the 39 jurisdictions that had at least one leniency application during the period 2015-2020 and provided complete data for all six years).

In Europe, the number of leniency applications steadily declined for the period 2015 to 2020. Leniency applications were 70.5% lower in 2020 than 2015.

In the Americas, the number of leniency applications declined, although not as steadily as in Europe. Nonetheless, leniency applications were 68.6% lower in 2020 than 2015.

-37%

2019-2020, All

-46%

2019-2020, OECD

In Asia-Pacific, the number of leniency applications also declined over the period 2015 to 2020, however this was not a smooth decline. There were spike increases in 2018 and 2019 followed by a significant drop in 2020, although these changes were predominantly caused by a single jurisdiction. Excluding this jurisdiction, the number of leniency applications declined more steadily in Asia-Pacific over the period.

In the region Other, there is an apparent increase in the number of leniency applications in 2020. However, 95.7% of this increase from 2019 to 2020 is driven by a single jurisdiction. Excluding this jurisdiction, there was a decline in the region Other from 2015 to 2020.

Figure 5.4. Total leniency applications, 2015–2020
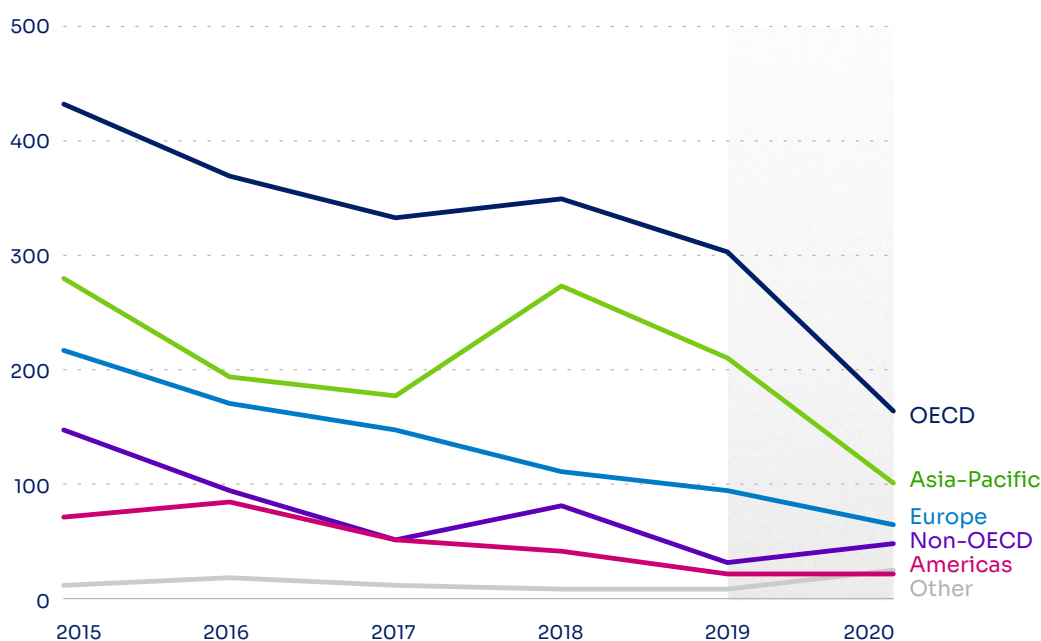
5.3 Leniency applications and private enforcement

The literature points out several possible explanations for a decline in leniency programmes.[6] However, these explanations may vary by jurisdiction and sector and can depend on specific circumstances and factors. Thus, it is difficult to identify explanations that are generally valid.

One of these possible explanations is private enforcement. It is an example of something that has changed significantly over time in many jurisdictions and could have a potential effect on leniency programmes, particularly in Europe in the last few years. Private enforcement enables potentially harmed customers to pursue damage claims against cartel members. In jurisdictions with private enforcement, in addition to criminal and/or civil and administrative sanctions, when considering a leniency application, cartelists also need to assess potential litigation costs and damages resulting from private enforcement. Given this risk of substantial additional costs, private enforcement could have a considerable impact on a cartelists' decision to file for leniency.

To determine whether private enforcement can have a significant impact on the number of leniency applications, the analysis below focuses on jurisdictions that had a meaningful number of leniency applications during the period 2015-2020. As mentioned above, the top-20 jurisdictions represent 91.2% of all leniency applications in the OECD CompStats database in the period 2015-2020. These jurisdictions cover all regions in the OECD CompStats database, with 9 in Europe, 7 in Asia-Pacific, 3 in Americas and 1 in Other. Therefore, the analysis and figures below focus on these jurisdictions.

The EU member states strengthened private enforcement in recent years as they transposed the EU Directive on Antitrust Damages Actions[7] into national law (Rodger, 2018[28]).

Most of the 9 European jurisdictions included in this analysis that introduced private enforcement in the period 2005 to 2020 (see Figure 5.5)[8], showed a decline in leniency applications following the introduction of private enforcement (and often a sharper one than the general decline before its introduction).

Of the remaining 11 jurisdictions, only one of these jurisdictions introduced private enforcement in the period 2005 to 2020 (see Figure 5.6). Most of the remaining 10 jurisdictions introduced private enforcement before 2005. Many of these jurisdictions also show an apparent decline in the number of leniency applications for a comparable period (e.g. from around 2014 onwards).

These figures suggest that there are likely other additional factors causing the decline in leniency applications. Indeed, some academic literature has commented on the US, where a decline in leniency applications has also been observed in the past few years despite no recent change in private enforcement which is already well established (Snelders, 2021[17]).

20 jurisdictions represented 91% of leniency applications during the period 2015 to 2020, while four jurisdictions accounted for 53%.

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6. This includes, for instance, (i) the uncertainties around the cartel concept; (ii) the risk of losing a fighting chance; (iii) the uncertainty concerning jurisdiction; (iv) the very high administrative hurdle; (v) the duration of cartel investigation and damage claims; (vi) the discretionary marker regime; (vii) the domino effect through the extension of the cartel into other markets and jurisdictions; (viii) the broader impact on the relationship with competitors; (ix) the implication for employees; and (x) the risk of private damages ((Ysewyn, 2018[27]), (Volpin, Forthcoming[21]) and (OECD, 2018[22])).

7. Directive no. 2014/104/EU.

8. In order to better contextualise a potential trend after the introduction of private enforcement in a jurisdiction, the OECD has added more years to the analysis by adding data for 2005 to 2014 from Global Competition Review, GCR Rating Enforcement 2021. Consequently, the figures below present the evolution of leniency applications for the period 2005 to 2020 in the top-20 jurisdictions, separated by jurisdictions in Europe and in the rest of the world.

Figure 5.5. Evolution of leniency applications in jurisdictions in Europe that are in the 'top 20', 2005–2020
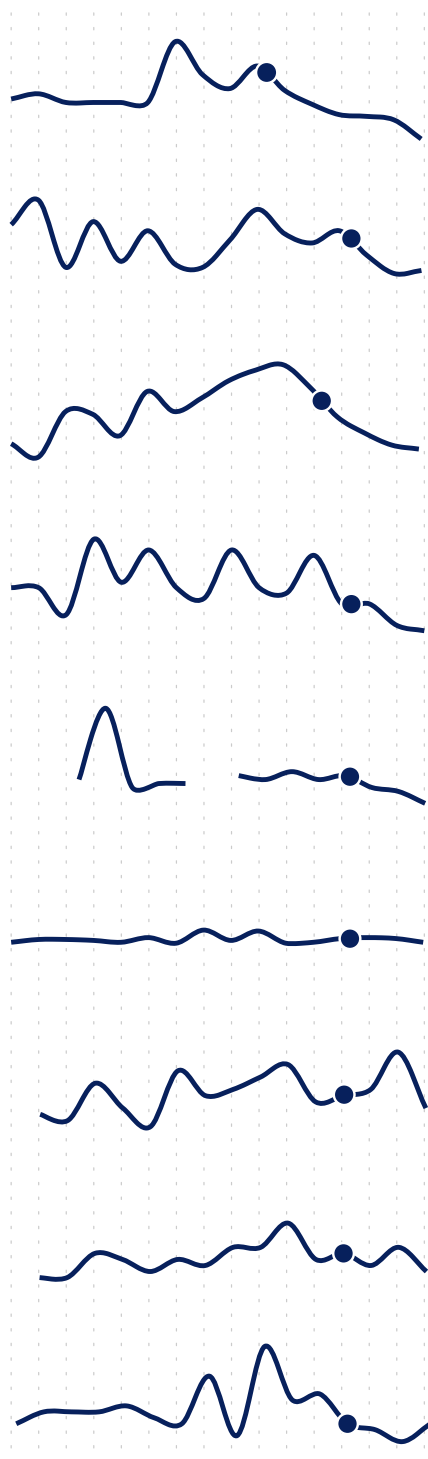
Figure 5.6. Evolution of leniency applications in jurisdictions in Rest of World that are in the 'top 20', 2005–2020
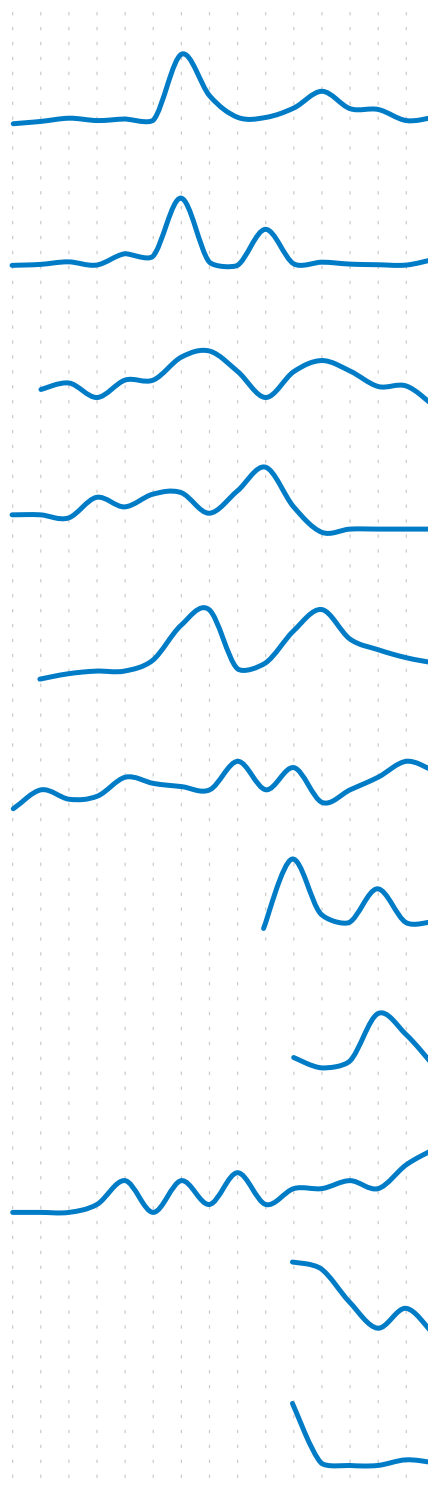
NOTE: A dot indicates the year that private enforcement was introduced in a given jurisdiction.
SOURCE: CompStats database for the period 2015–2020 and GCR's enforcer tracker data from 2005 to 2014.

NOTE: A dot indicates the year that private enforcement was introduced in a given jurisdiction.
SOURCE: CompStats database for the period 2015–2020 and GCR's enforcer tracker data from 2005 to 2014.

ABUSE OF DOMINANCE

6

6. **Abuse of dominance**

This section of the report discusses enforcement trends in abuse of dominance cases. It includes abuse of dominance investigations, abuse of dominance dawn raids, abuse of dominance decisions, and the proportion of abuse of dominance decisions that use settlements or commitments. Abuse of dominance fines are included in Section 8.3 of this report.

6.1 **Abuse of dominance investigations**

The number of abuse of dominance investigations was stable or declining in most regions. In Europe, there was a peak in 2016 and then a limited steady decline in the period 2017 to 2020. However, the peak in 2016 was driven by a single jurisdiction. Excluding this jurisdiction, there was a steady decline over the period 2015 to 2020 in Europe.

Figure 6.1. Average number of abuse of dominance investigations launched, 2015–2020
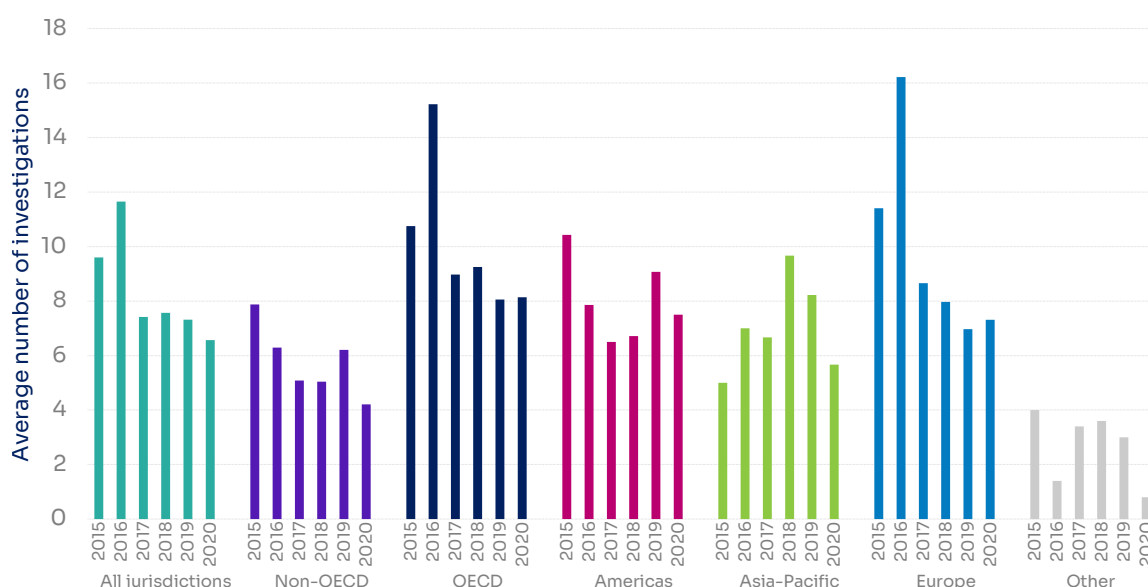
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years.
SOURCE: OECD CompStats database.

6.2 **Abuse of dominance dawn raids**

The number of dawn raids in abuse of dominance investigations during the period 2015 to 2019 was relatively stable across all regions, with peaks in 2018 in the Americas and Other. Abuse of dominance dawn raids were nearly all conducted in Europe and Other during the period 2015 to 2020.

Of all abuse of dominance dawn raids during the period 2015 to 2020, only one (0.3%) was in Asia-Pacific and only 18 (5.9%) were in the Americas (which were only in three jurisdictions, with 14 in a single jurisdiction, and the vast majority most jurisdictions in the Americas without any abuse of dominance dawn raids in the entire period). Abuse of dominance dawn raids across all jurisdictions decreased by 39.3% in 2020 relative to 2019.

–67%
2019–2020, Americas

0%
2019–2020, Asia-Pacific

–45%
2019–2020, Europe

–27%
2019–2020, Other

Figure 6.2. Total number of abuse of dominance dawn raids, 2015–2020

NOTE: Data based on the 49 jurisdictions in the OECD CompStats database that provided comparable data for all six years.
SOURCE: OECD CompStats database.

6.3 **Abuse of dominance decisions**

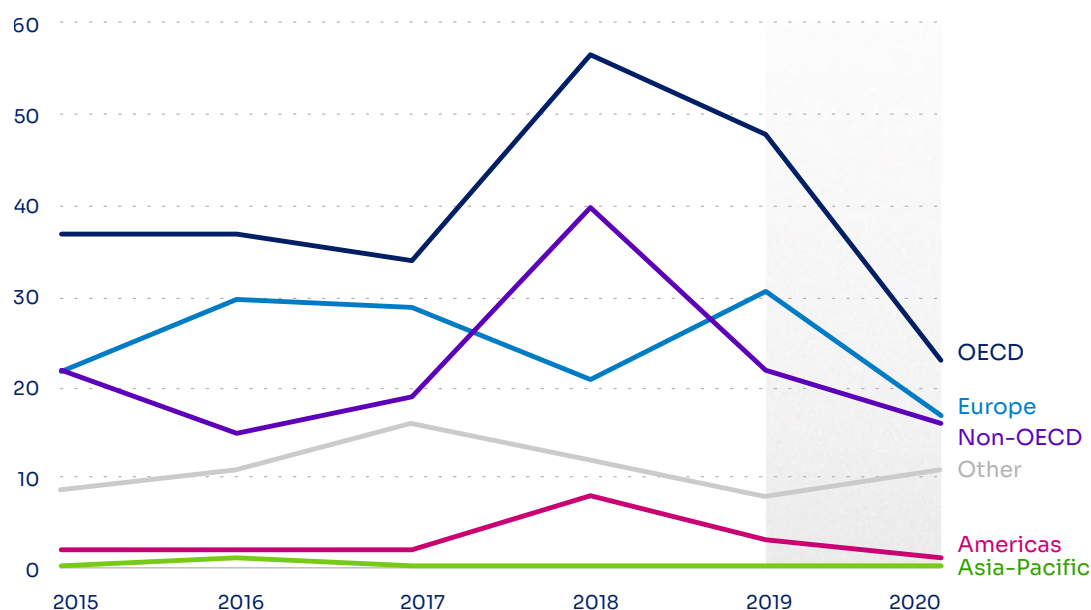A few jurisdictions represented most of the abuse of dominance decisions, with the top 5 jurisdictions accounting for 52% of cases, and the top 10 jurisdictions accounting for 69% of cases during the period 2015 to 2020.

Most jurisdictions had at least one abuse of dominance decision in the period 2015 to 2020. However, only 13 jurisdictions averaged more than 5 abuse of dominance decisions per year over the period 2015 to 2020. The median for all jurisdictions was 1.3 abuse of dominance decisions per year.

Asia-Pacific jurisdictions only accounted for 5.0% of all abuse of dominance decisions in the period 2015 to 2020, while the Americas was 41.0%, Europe was 36.1% and Other was 17.9%.

The abuse of dominance decisions in Other were mainly driven by two jurisdictions that represented

78.2% of all abuse of dominance decisions in the region. Similarly, in the Americas, two jurisdictions represented 73.7% of all decisions. While in the remaining regions the share of the top two jurisdictions was more limited, representing only 29.8% in Europe and 51.3% in Asia-Pacific.

The number of abuse of dominance decisions in the period 2015 to 2020 appeared to be stable in Asia-Pacific and Other, while there was a slight increase in cases in the Americas and a decline in cases in Europe. The decline in Europe was mostly driven by five jurisdictions. These five jurisdictions represented 69% of abuse of dominance decisions in Europe in 2015, and only 17% in 2020. Excluding these five jurisdictions, the number of abuse of dominance decisions in Europe was stable.

Figure 6.3. Average number of abuse of dominance decisions, 2015–2020
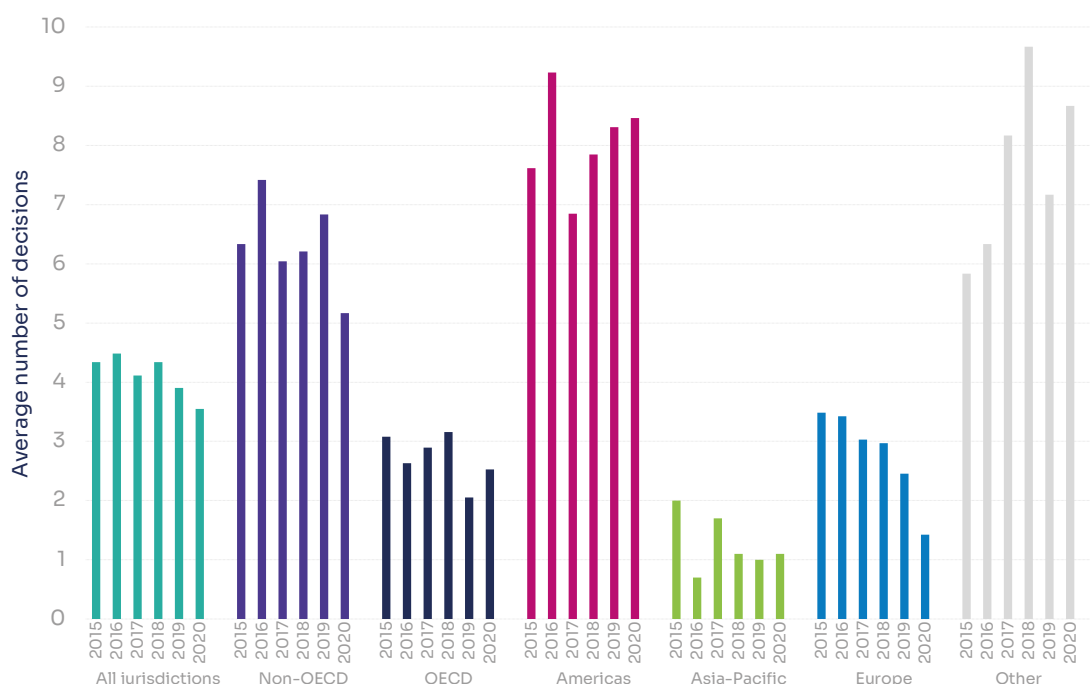
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years.
SOURCE: OECD CompStats database.

Figure 6.4. Total number of abuse of dominance decisions by jurisdiction, 2015–2020
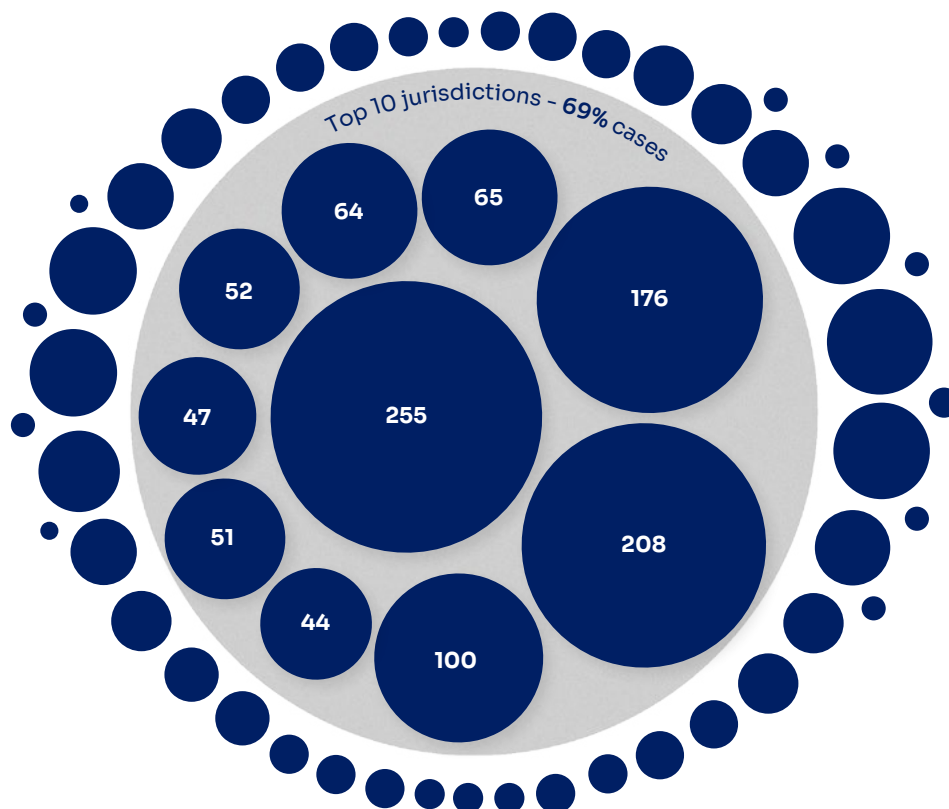
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years.
SOURCE: OECD CompStats database.

6.4 **Abuse of dominance decisions with settlements or commitments**

The use of settlements or commitments in abuse of dominance cases is relatively common, impacting 21.7% of cases during the period 2015 to 2020. Settlements and commitments are more frequent in the OECD than the non-OECD jurisdictions, being used in 40.7% of cases in the OECD and 10.9% in the non-OECD jurisdictions.

There is a relatively high percentage of abuse of dominance cases that use settlements or commitments in Asia–Pacific and Other, but these regions have a relatively low number of abuse of dominance cases. Overall, across all regions, the number of abuse of dominance cases with settlements or commitments are low (less than 5 cases per jurisdiction per year) for most jurisdictions in the dataset.

Most abuse of dominance cases are in the Americas and Europe. The percentage of cases with settlements or commitments was similar in the Americas

and Europe in 2015, but diverged considerably in recent years, decreasing in the Americas and increasing in Europe. This divergence is mostly due to a decrease in abuse of dominance decisions in Europe.

There is significant variation in the percentage of settlements or commitments in abuse of dominance cases. There are several jurisdictions that use settlements or commitments in all abuse of dominance cases over this period, while a similar number of jurisdictions do not use them at all. Most of the jurisdictions with the top 10 highest percentage of cases that use settlements or commitments are in Europe.

Figure 6.5. Total number of abuse of dominance: (i) decisions; and
(ii) cases with settlements or commitments, 2015–2020
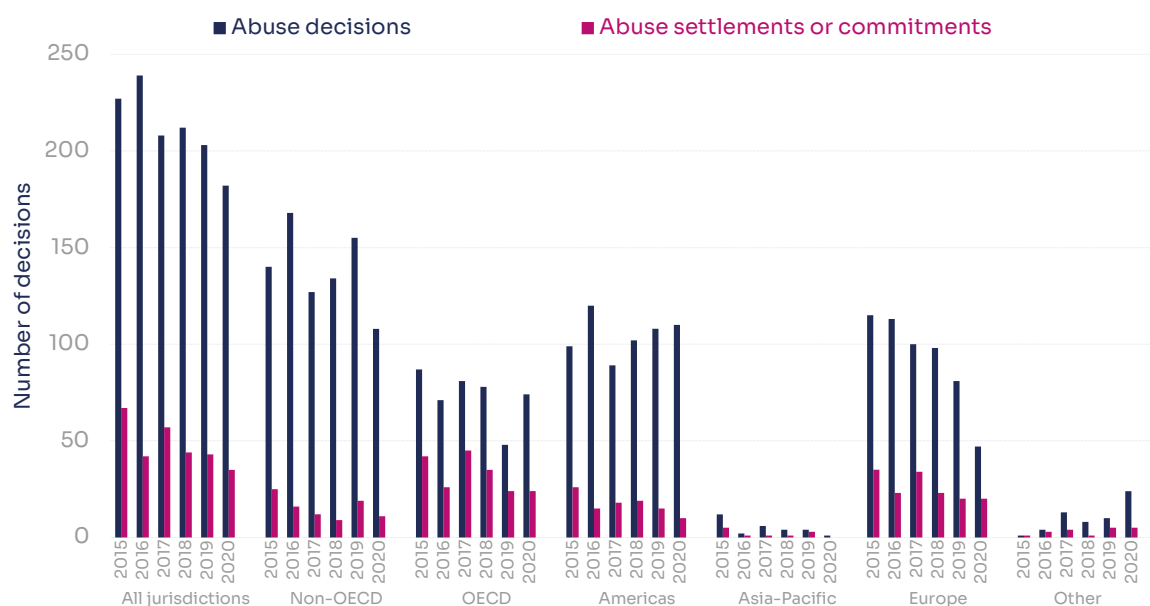
NOTE: Data based on the 56 jurisdictions in the OECD CompStats database that provided comparable data for all six years for both abuse of dominance decisions and abuse of dominance settlements/commitments.
SOURCE: OECD CompStats database

Figure 6.6. Percentage of abuse of dominance cases with
settlements or commitment procedures, 2015–2020
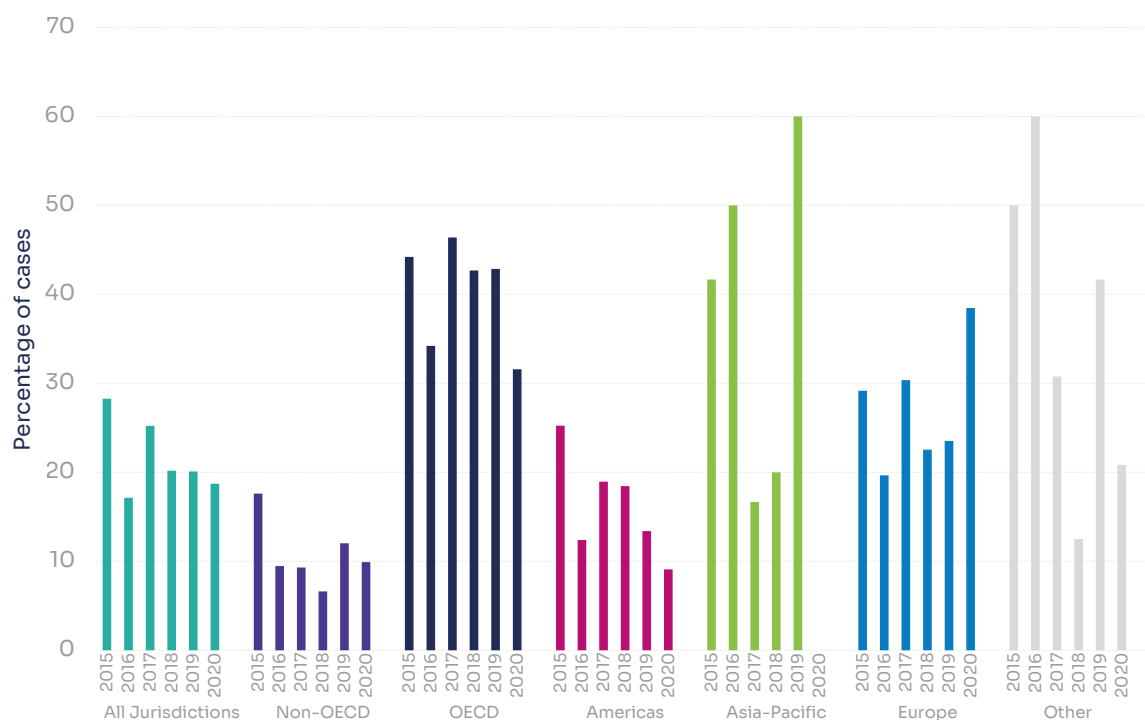
NOTE: Data based on the 56 jurisdictions in the OECD CompStats database that provided comparable data for all six years for both abuse of dominance decisions and abuse of dominance settlements/commitments.
SOURCE: OECD CompStats database.

FINES

7

7. **Fines**

This section of the report focuses on fines imposed by jurisdictions in the OECD CompStats database, either in cartel cases or abuse of dominance cases. This section has three parts: (i) total fines, which is the sum of cartel and abuse of dominance fines; (ii) cartel fines; and (iii) abuse of dominance fines.

7.1 **Total fines**

7.1.1 **Evolution of total fines**

Total fines are the sum of cartel and abuse of dominance fines. Total fines increased with a compound annual growth rate of 31% during the period 2015–2018. However, total fines then declined by 17% in 2019 and 39% in 2020. The Americas and Asia-Pacific peaked in 2017, and Europe and Other peaked in 2018.

Both OECD and non-OECD jurisdictions increased over the period 2015–2018, although non-OECD jurisdictions had a compound annual growth rate of 76% over this period compared to only 24% in OECD jurisdictions. The increase in non-OECD jurisdictions was mainly driven by Other, which had a compound annual growth rate of 253% in the period 2015–2018. The region Other had the highest increase in 2018. It increased by 2144% in 2018 (relative to 2017), mainly driven by one jurisdiction.

In 2019, total fines declined in all-but-one region. Asia-Pacific was the only region that increased. It had annual growth of 117%, although this was driven by two jurisdictions.

In 2020, most jurisdictions decreased. However, there were a few jurisdictions that increased, especially in Americas. The Americas was the only region to increase in 2020, with annual growth of 35%. There were 5 jurisdictions predominantly responsible for this increase.

Abuse of dominance fines spiked in 2017 and peaked in 2018, driving most of the variation in total fines.

Figure 7.1. Total fines imposed (abuse of dominance and cartel cases), 2015–2020
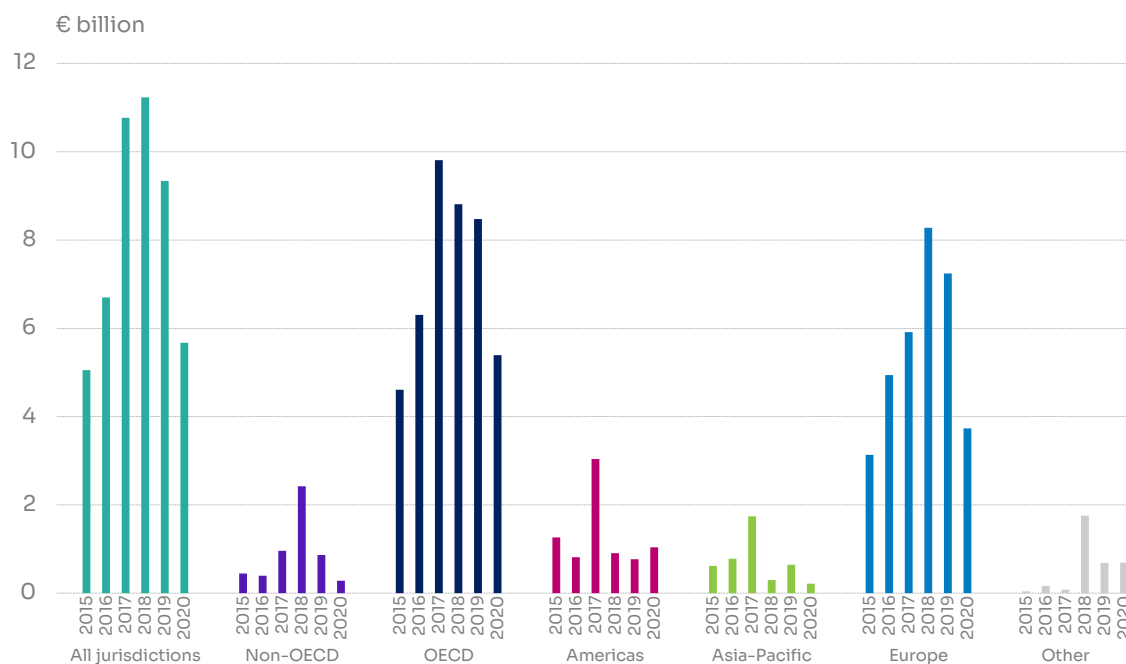
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

Figure 7.2. Average fines imposed (abuse of dominance and cartel cases), 2015–2020
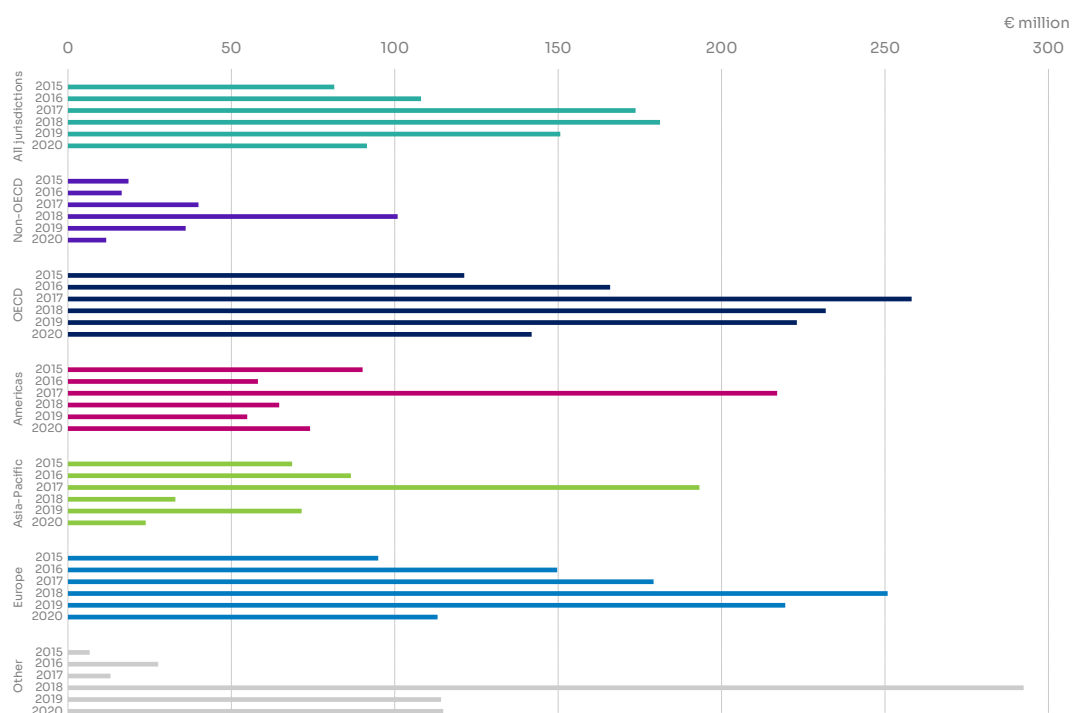
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.1.2 **Comparing cartel and abuse of dominance fines**

Cartel fines constitute around 80 to 95% of the total fines (depending on the year), except for 2017 and 2018, which saw a large spike in abuse of dominance fines.

Even though cartel fines represent the majority of total fines in all-but-one year, the overall trend in total fines is mainly driven by abuse of dominance fines. A few jurisdictions represented most of these abuse of dominance fines.

Figure 7.3. Total of fines imposed by type of infringement (abuse of dominance and cartel cases), by year, 2015–2020

NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.1.3 **Fines–to–budget ratio**

Even though revenue from fines is not necessary to justify the existence of competition authorities, particularly given the wider benefits to the economy from competitive markets (OECD, 2021[29]), total fines far outweighed the budgets of competition authorities during the period 2015-2020. Total fines were 7.6 times higher than the total budget over this period. This was mainly driven by high fines in 2018.

The fine-to-budget ratio decreased in all-but-one region during the period 2015-2020. Overall, the fine-to-budget ratio decreased by around 6% per year, driven both by the fall in total fines and the increase in budget over this period.

However, differences between regions exist. Other was the only region to increase in the period 2015-2020. Other peaked in 2018. The fine-to-budget ratio increased with compound annual growth rate of 27% over the period 2015-2020. The spikes in Other in 2018 and 2019 were caused by a single jurisdiction which had a fairly small budget but imposed the highest fines in the region (in both cartel and abuse of dominance cases). The fines in this jurisdiction exceeded budget by a factor of approximately 899 in 2018 and 150 in 2019.

Excluding Other, Europe had the highest fine-to-budget ratio during the period 2015-2020, typically around 6 times the aggregate budget.

Figure 7.4. Fines-to-budget ratio (abuse of dominance and cartel cases), 2015–2020

NOTE: Data based on the 58 jurisdictions in the OECD CompStats database that provided that provided nominal competition budget and fines data for all six years. Nominal competition budget and fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
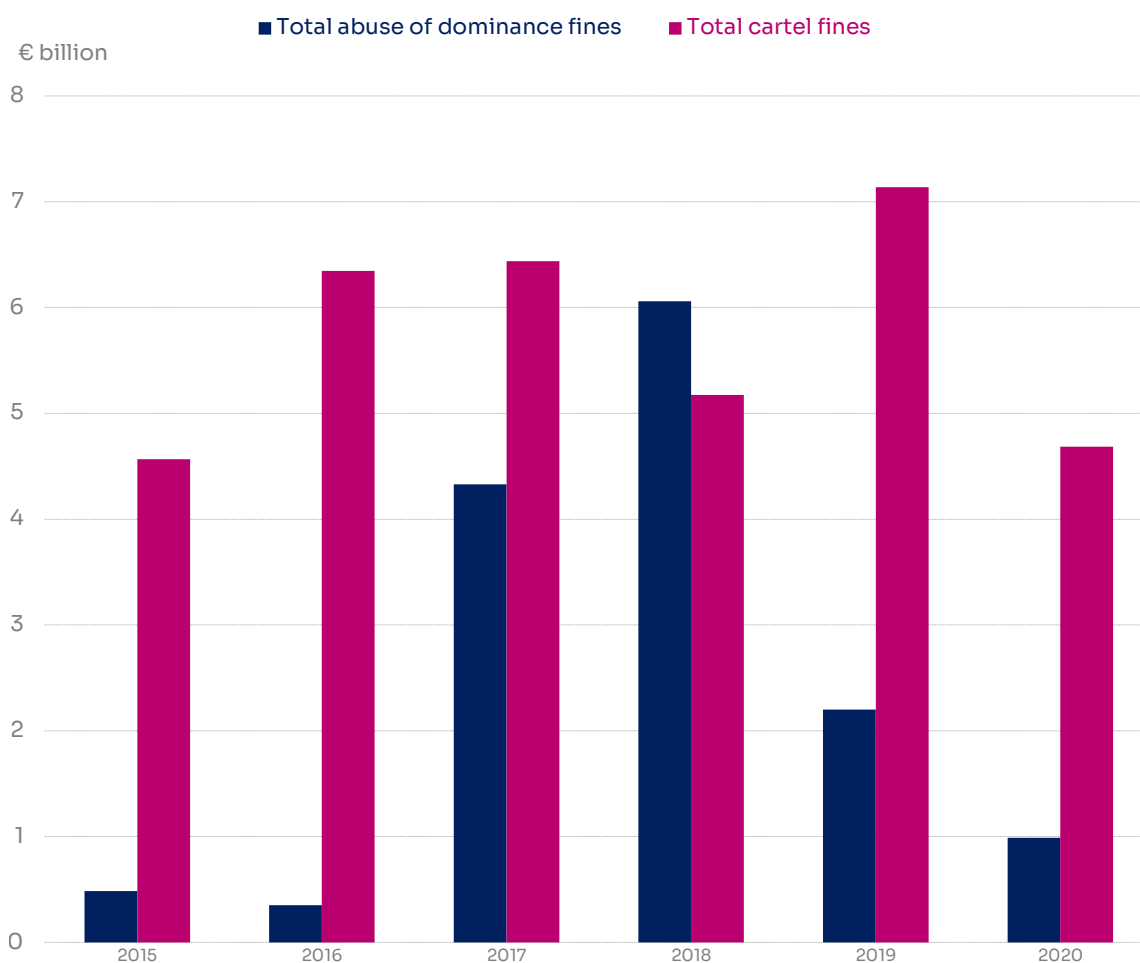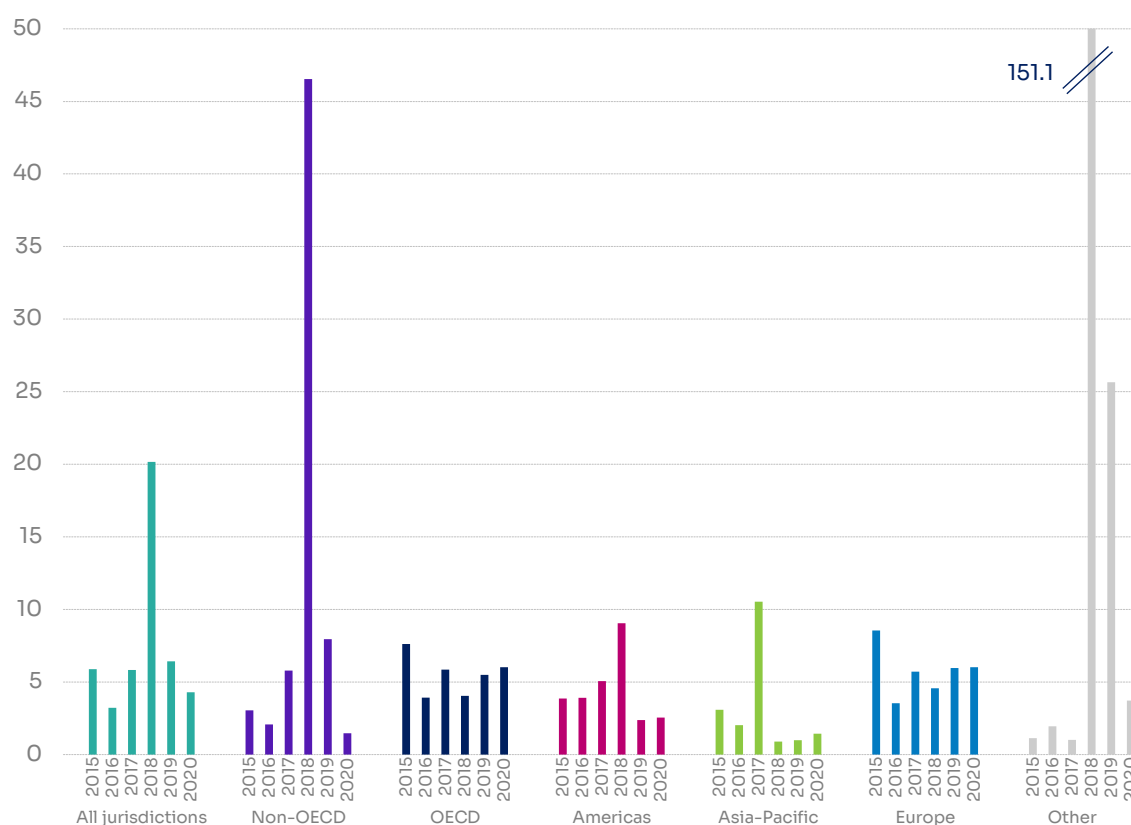SOURCE: OECD CompStats database.

7.2 **Cartel fines**

7.2.1 **Evolution of cartel fines**

Overall, cartel fines increased by 56% during the period 2015-2019, equivalent to a compound annual growth rate of 12%. Cartel fines peaked in 2019 at €7.1 billion. Cartel fines then decreased by 34.4% in 2020 (relative to 2019). This decline in fines in 2020 may partially be due to COVID-19. For example, some jurisdictions withheld or delayed cartel fines during the pandemic.[9]

Cartel fines were relatively stable compared to abuse of dominance fines during the period 2015-2020. Nonetheless, cartel fines varied considerably over this period, both within, and across, regions. During the period 2015-2019, cartel fines slightly increased in Europe and Other, while they decreased in the Americas and Asia-Pacific.

Europe was responsible for more than 88% of the increase in cartel fines in 2019, which was mostly driven by a few large jurisdictions. Cartel fines in Europe had annual growth of 96% in 2019. In 2020, cartel fines decreased by almost 44% annually, which was accompanied by a 29% decrease in cartel decisions.

In the region Other, cartel fines increased with a compound annual growth rate of 115% over the period 2015-2019. There was a large spike in 2018, mainly driven by one jurisdiction that imposed a large record-breaking fine in one case. Other declined by 13% in 2020 (relative to 2019).

In Asia-Pacific, cartel fines increased with a compound annual growth rate of 1.6% over the period 2015-2019, and materially dropped by 68% annually in 2020, the largest decrease of any of the regions.

In the Americas, cartel fines decreased by 11.5% annually over the period 2015-2019. It was the only region to increase in 2020, with annual growth of 36%.

Cartel fines typically constitute around 80 to 95% of total fines in each year.

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9. See (Rafferty, 2021[39]), (Stibbe, 2020[40]), (Rosenboom, 2021[41]) and (Lithuanian Competition Authority, 2020[42])

Figure 7.5. Total of cartel fines imposed, 2015–2020
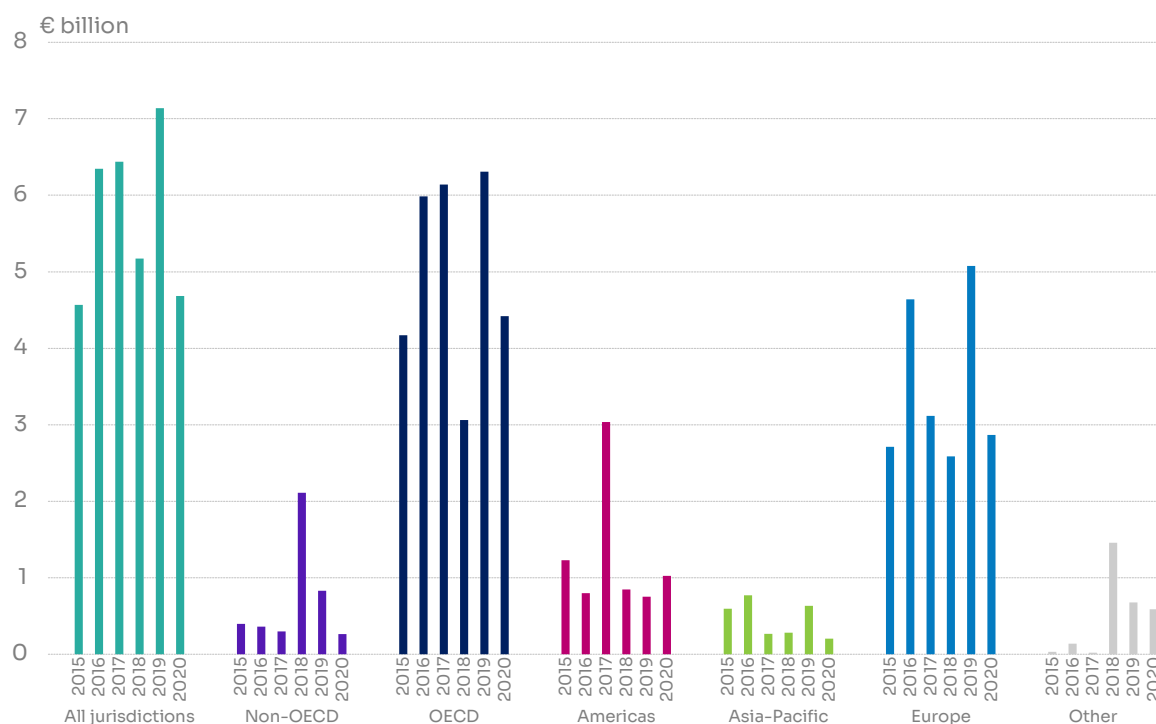
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

Figure 7.6. Average cartel fines imposed, 2015–2020
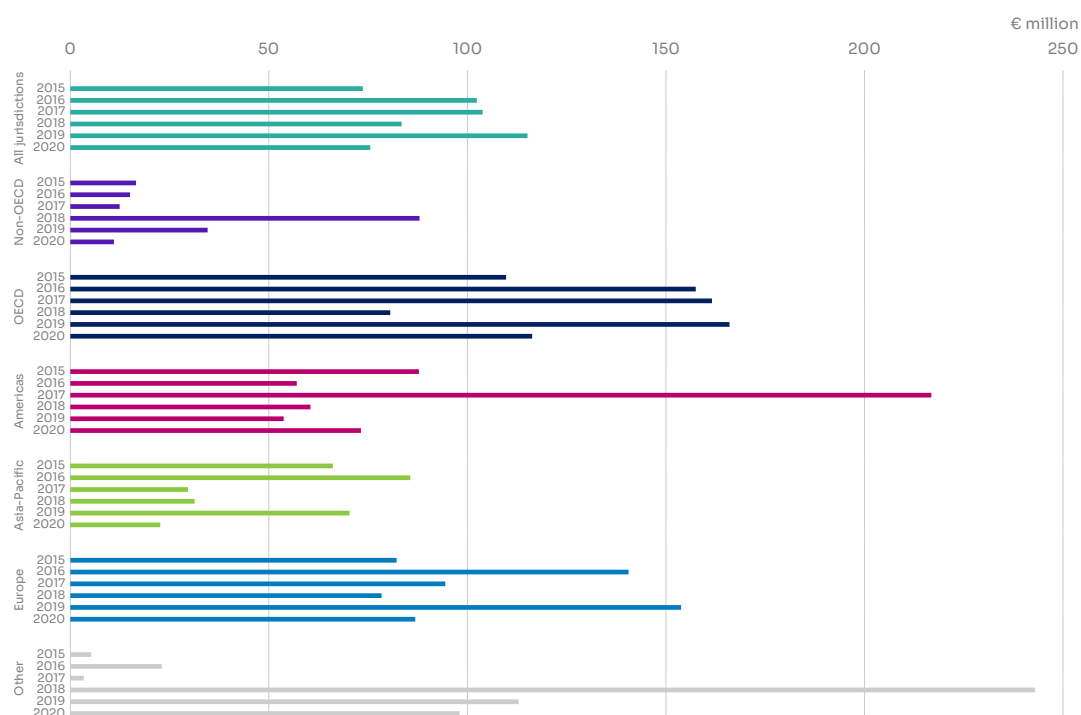
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.2.2 **Comparing cartel fines and cartel decisions**

It may be intuitive to expect that jurisdictions with the highest number of cartel decisions would have the highest cartel fines. However, Figure 7.7 shows this is not the case. The top 4 jurisdictions (in terms of cartel fines) were responsible for 58% (almost €20 billion out of €34 billion) of total fines in cartel cases, but only 7% of the total cartel decisions.

Figure 7.7. Total of cartel fines imposed and total number of decisions, by jurisdiction, 2015–2020

NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.2.3 **Distribution of cartel fines in regions**

Figure 7.8 provides an overview of the distribution of fines among the jurisdictions within each region. In most regions, cartel fines are concentrated in a few large jurisdictions. This handful of jurisdictions drove the overall trend and spikes in each region. For example, in the Americas, the majority of cartel fines in each year are typically are concentrated in two jurisdictions. There is one jurisdiction that drives the peak in 2017.

Figure 7.8. Distribution of cartel fines by jurisdiction within the regions, 2015–2020
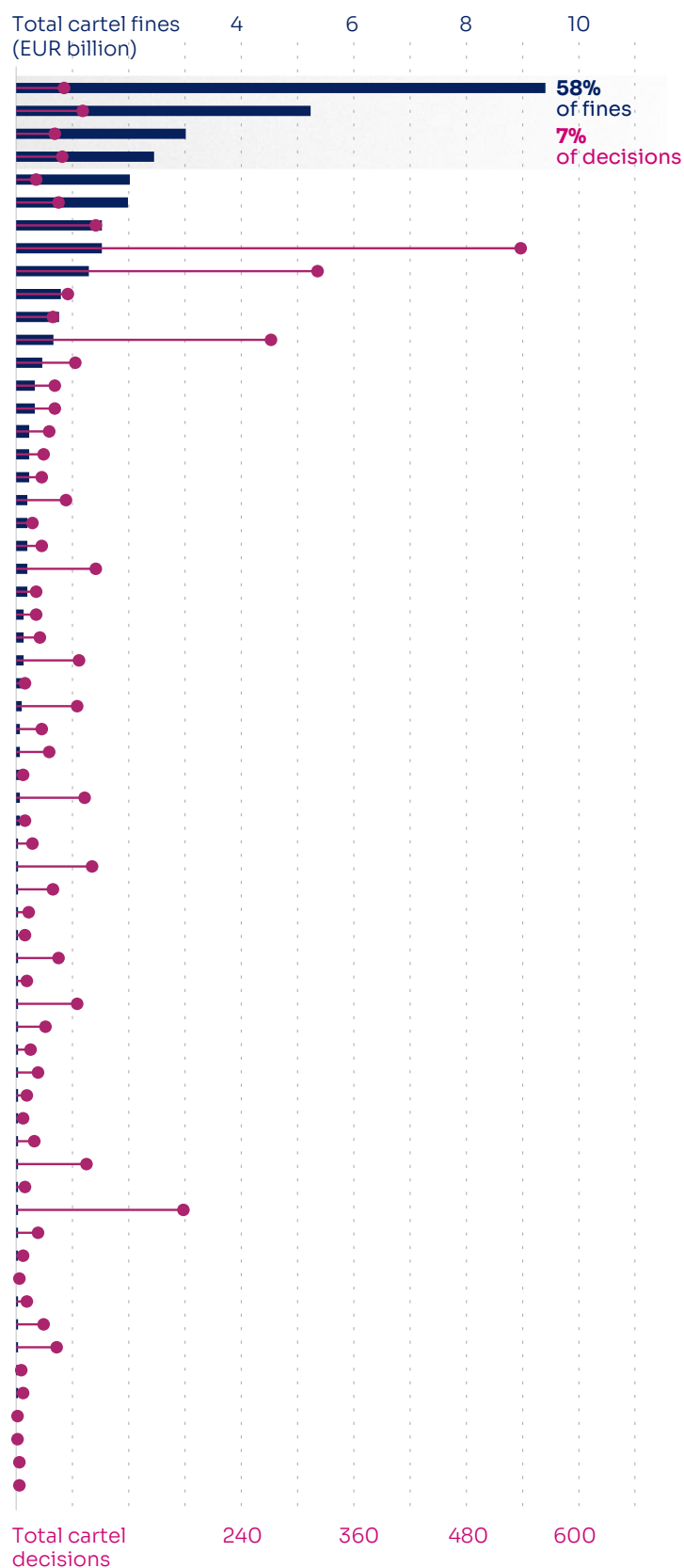

NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. Each colour represents one jurisdiction in each region.
SOURCE: OECD CompStats database.

7.2.4 **Evolution of cartel fines per decision**

Cartel fines are assessed on a case-by-case basis. Each case considers a range of factors such as the number of cartelists, the severity and duration of the violation, the level of cooperation of the company, and the company turnover (OECD, 2016[31]). Therefore, the size of the fine can vary materially between decisions. The average cartel fine per decision over the period 2015-2020 was €18.7 million in OECD jurisdictions and €6.3 million in non-OECD jurisdictions.

Figure 7.9. Average cartel fines imposed per cartel decision, by region, 2015-2020
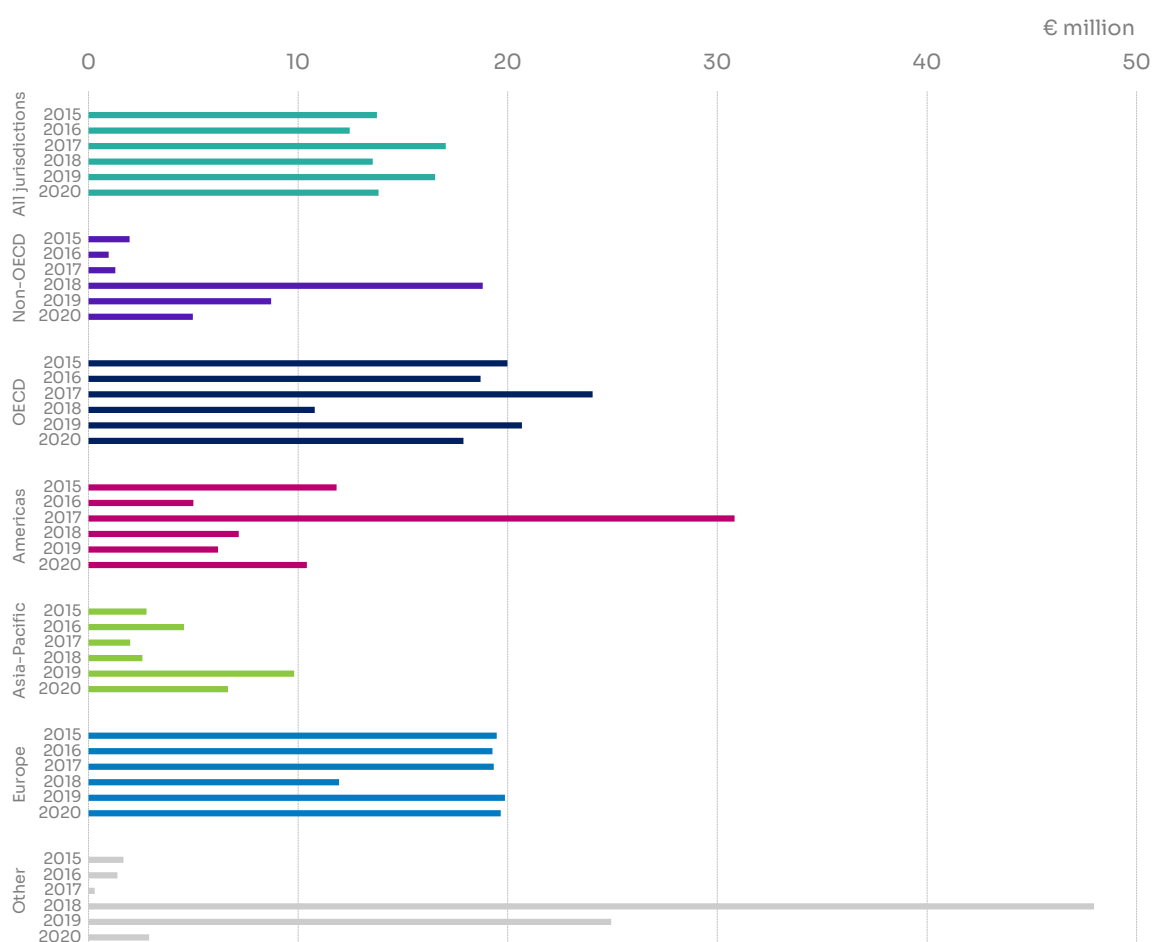

NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.2.5 **Number of companies fined in cartel cases**

Figure 7.10 shows that the number of companies fined in cartel cases decreased in the period 2015 to 2020 in all regions, except Other. The number of companies fined in cartel cases (pink bar) was materially higher in Europe than the remaining regions, despite the total number of cartel decisions (blue bar) being relatively similar across regions. Most companies fined were in Europe (56.6%), then the Americas (19.0%), Asia-Pacific (16.5%) and Other (8.0%).

In the Americas, Asia-Pacific and Europe, the decline in the number of companies fined in cartel cases (pink bar) was greater than the decline in the number of cartel decisions (blue bar) in the period 2015 to 2020. Thus, the average number of companies fined per cartel decision decreased in these regions during the period 2015 to 2020.

Figure 7.10. Total cartel decisions and number of companies fined in cartel cases, 2015–2020
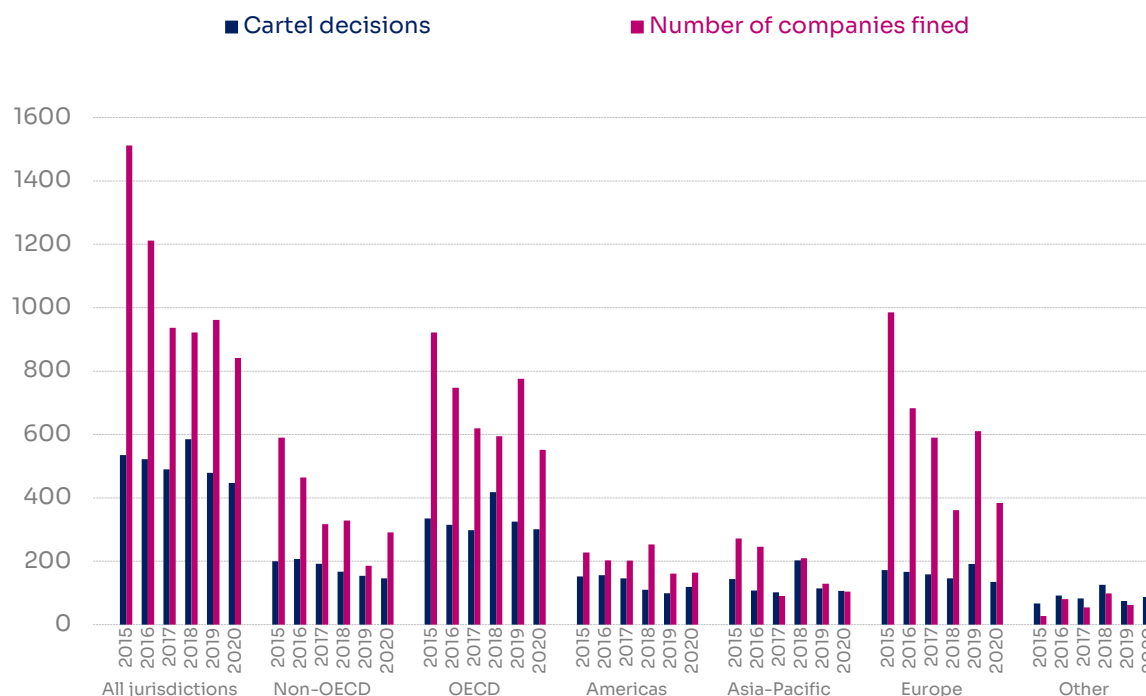
NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have all six years of data for cartel decisions and the number of companies fined in cartel cases. The average number of companies fined per cartel case can be less than one for some years and jurisdictions (e.g. Other in 2015) because: (i) a cartel decision may not find an infringement; (ii) a cartel decision may adopt commitments (although this is only possible in some jurisdictions); (iii) leniency may result in immunity from fines for at least one firm.
SOURCE: OECD CompStats database.

The average number of companies fined per decision decreased by 33% between 2015 and 2020 (from 2.8 to 1.9). The decline was in all-but-one region.

Figure 7.11. Average number of companies fined per cartel decision, 2015–2020

7.2.6 **Cartel cases with monetary fines on individuals**

The number of cartel cases with fines on individuals was relatively variable during the period 2015 to 2020, depending on the region. It declined in Asia-Pacific and Europe. It increased in Other. It varied widely in the Americas, but ultimately increased.

The total number of cartel cases in which an individual was fined decreased by 9.9% in 2020 relative to 2015. At the regional level, the Americas and Other increased over the period 2015 to 2020. There was a sharp increase (1000%, from 1 to 11) in the region Other. In the Americas, the number of cases increased by 38.3% (from 47 to 65) while

the number of cases decreased in Asia-Pacific and Europe during the period. In Asia-Pacific it declined by 76.9% (from 39 to 9), and in Europe it declined by 37.5% (from 24 to 15).

In jurisdictions for which data was available, the number of cartel cases with fines on individuals was a relatively high proportion of all cartel decisions (around 27% over the period 2015 to 2020). The same trends in the number of cases by region are observed when presented as a percentage of all cartel decisions.

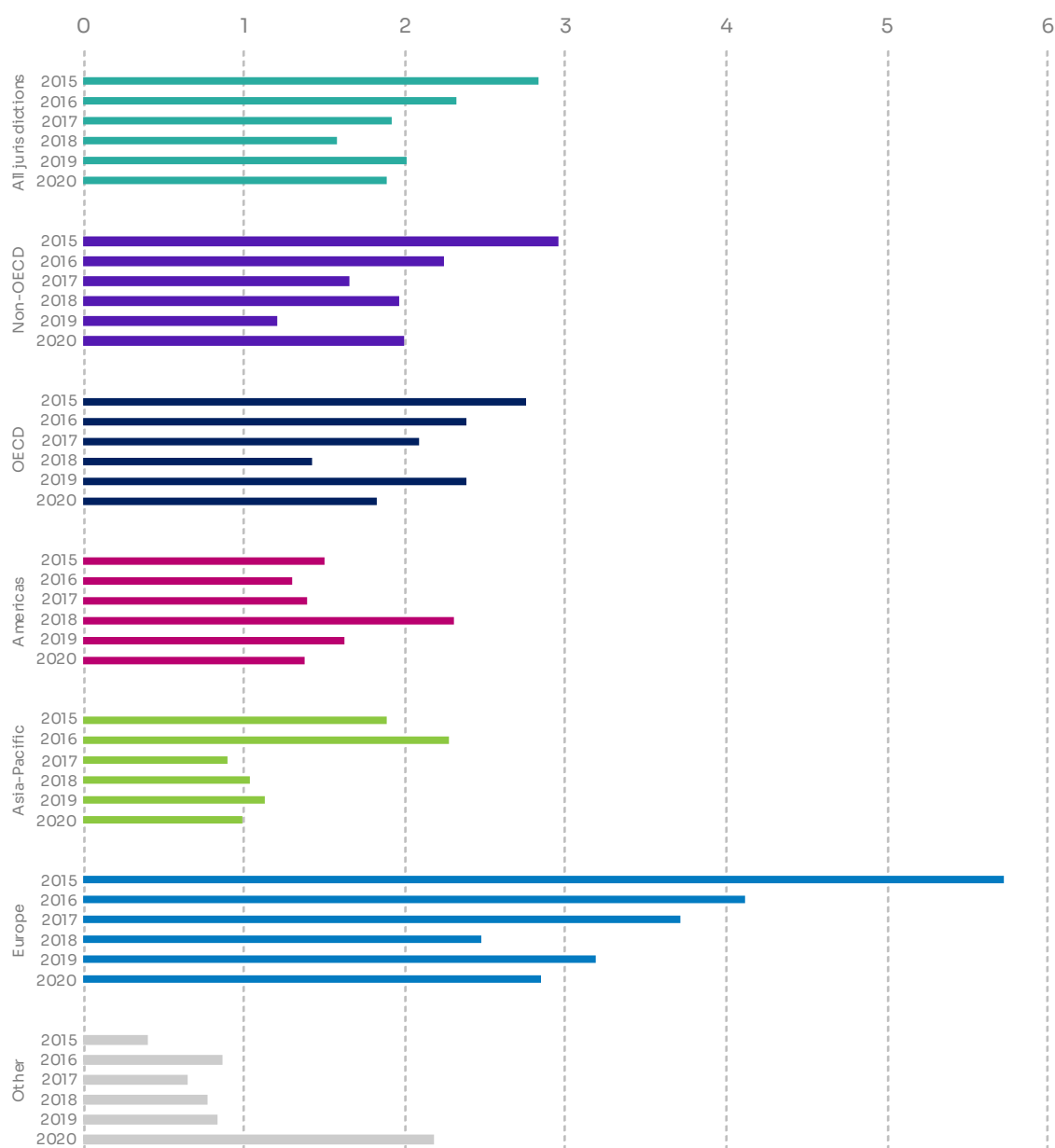**Figure 7.12.** Total number of cases with fines on individuals, 2015–2020
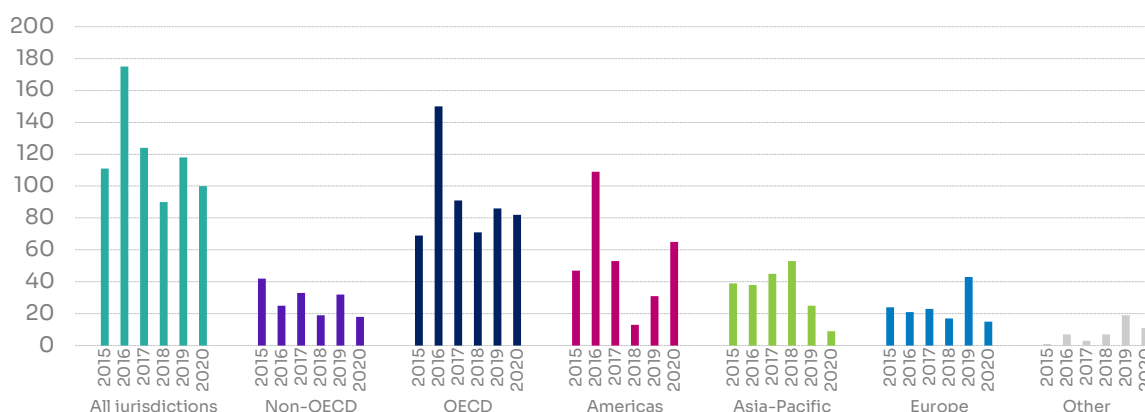
NOTE: Data based on the 47 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have all six years of data for the number of cartel cases in which an individual was fined.
SOURCE: OECD CompStats database.

Figure 7.13. Percentage of cartel cases that had fines on individuals, in jurisdictions where fines on individuals are possible, 2015–2020
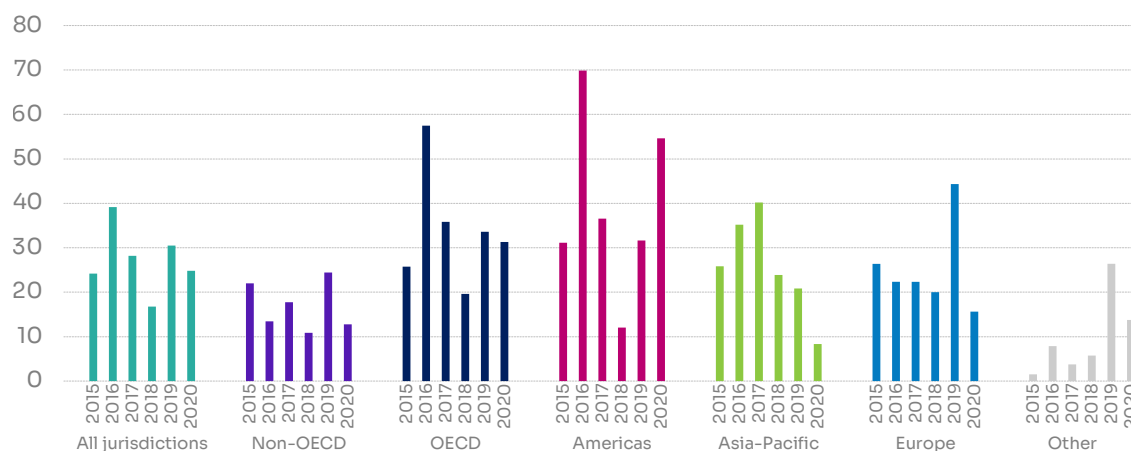
NOTE: Data based on the 47 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have all six years of data for the number of cartel cases with fines on individuals. The percentage is calculated as the number of cartel cases with fines on individuals divided by the number of cartel decisions.
SOURCE: OECD CompStats database.

7.2.7 **Cartel cases with imprisonment of individuals**

The number of cartel cases in which an individual was imprisoned more than tripled from 2015 to 2018 (16 to 49) but fell back again from 2018 to 2020 (from 49 to 11, by 77.6%). Only 28 jurisdictions provided data for imprisonment in cartel cases and all of these were OECD jurisdictions.

Most cartel cases with imprisonment were in Asia-Pacific. The region thus determined the overall trend in imprisonments. Asia-Pacific represented 69.0% of cartel cases in which an individual was imprisoned, while Europe represented only 1.6%.

The peak in 2018 in Asia-Pacific is driven by a single jurisdiction accounting for 100.0% of the total cartel cases in which an individual was imprisoned in Asia-Pacific in 2018.

Figure 7.14. Total number of cartel cases in which individuals were imprisoned, 2015–2020
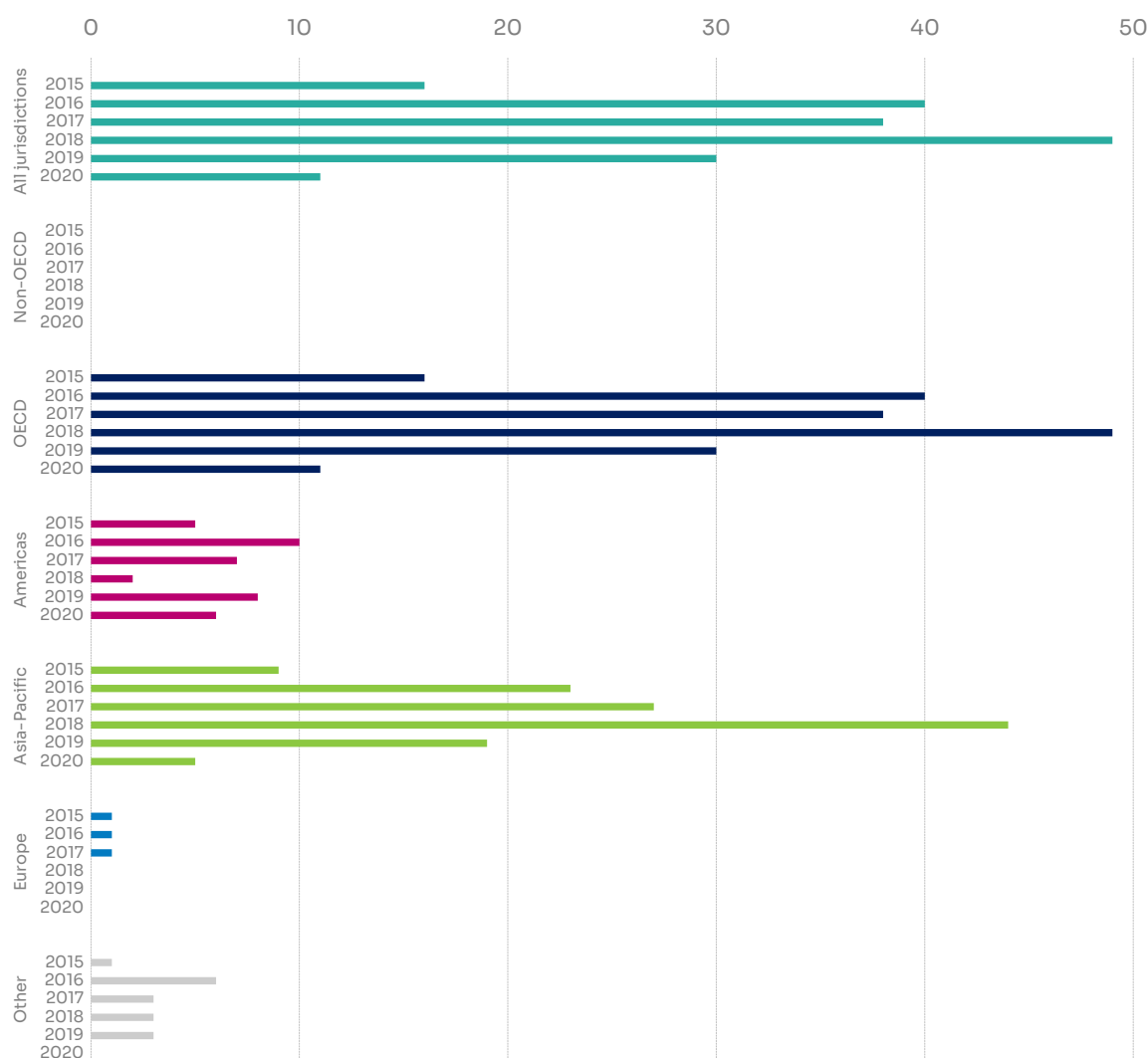
NOTE: Data based on the 28 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have all six years of data for the number of individuals imprisoned in cartel cases.
SOURCE: OECD CompStats database.

7.3 **Abuse of dominance fines**

7.3.1 **Evolution of abuse of dominance fines**

There were fewer abuse of dominance decisions than cartel decisions in the period 2015-2020. Abuse of dominance fines were also lower than cartel fines during this period. Similarly to cartels, abuse of dominance cases are unique and fines depend on several factors such as the conduct in question and the turnover of the infringing company. Therefore, abuse of dominance fines vary considerably between years and jurisdictions.

Abuse of dominance fines increased in most regions over the period 2015-2018. Overall, abuse of dominance fines increased by 1149% in 2018 relative to 2015, equivalent to 132% compound annual growth rate. Abuse of dominance fines then dropped by 64% in 2019 and 55% in 2020. The peak in 2018 was predominantly driven by a few jurisdictions in Europe, but also some in the Americas and Other. Much of this increase was due to infringements in digital markets, particularly in Europe.

Figure 7.15. Total of abuse of dominance fines imposed, 2015–2020 in € billion
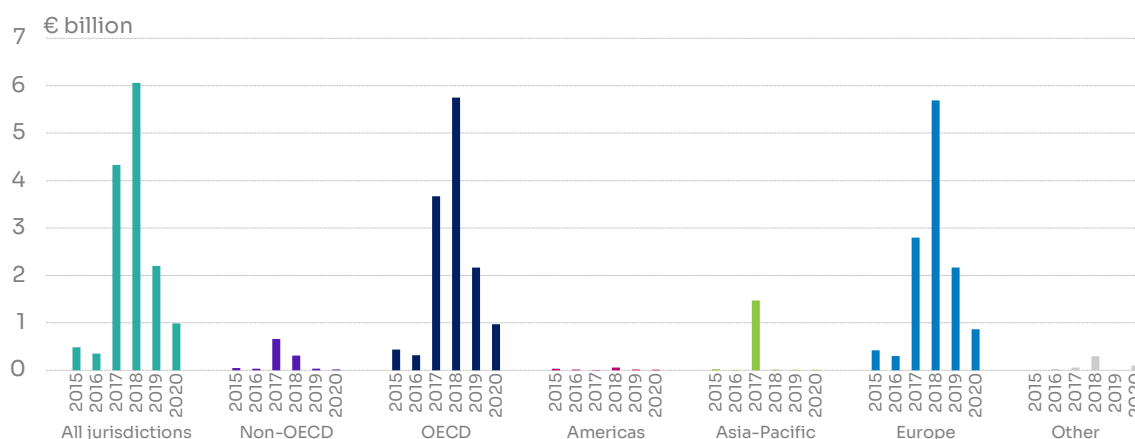
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

Figure 7.16. Average abuse of dominance fines imposed, 2015–2020
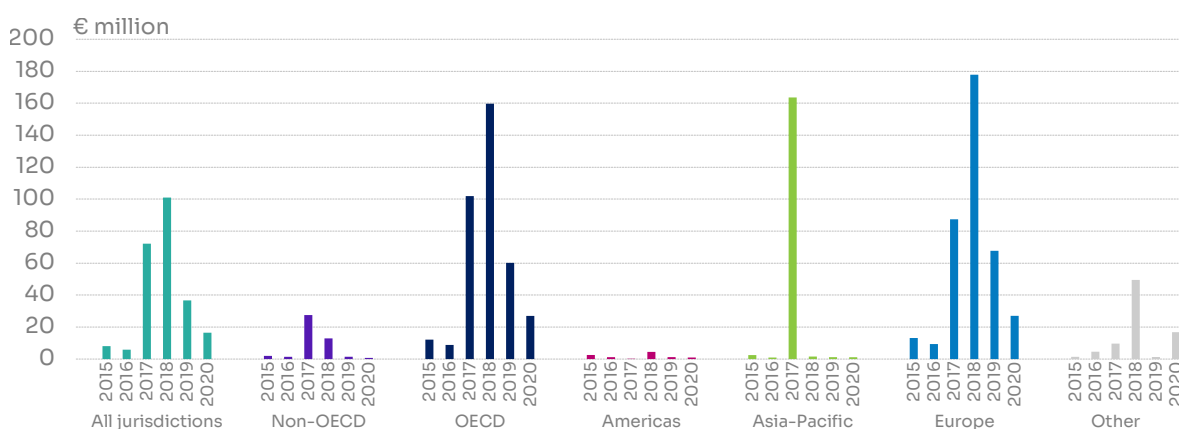
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.3.2 Comparing abuse of dominance fines and abuse of dominance decisions

As shown above for cartel fines, jurisdictions with the highest number of abuse of dominance decisions do not have the highest abuse of dominance fines. Figure 7.17 shows that two jurisdictions represented 78% of abuse of dominance fines in the period 2015-2020, but only 2% of the abuse of dominance decisions.

Figure 7.17. Total of abuse of dominance fines imposed and total number of decisions, by jurisdiction, 2015-2020

NOTE: Data based on the 59 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations.
SOURCE: OECD CompStats database.

7.3.3 **Distribution of abuse of dominance fines in regions**

A few jurisdictions in each region were responsible for the majority of the abuse of dominance fines, and the fluctuations in these fines. In particular, in Europe, two jurisdictions each year were responsible for almost 80–90% of the annual fines.

Figure 7.18. Distribution of abuse of dominance fines by jurisdiction, 2015–2020

NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Fines are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate distortions due to currency fluctuations. Each colour represents one jurisdiction in each region.
SOURCE: OECD CompStats database.

Over the period 2015-2020, the average abuse of
dominance fine per decision was €21.3 million. In
2017, the average abuse of dominance fine per de-
cision peaked at €49 million per decision, although
this was driven by a few jurisdictions.

Figure 7.19. Average fines imposed per abuse of dominance
decision, by jurisdiction, 2015–2020

7.3.4 **Companies fined in abuse of dominance cases**

Fines on companies are the main sanction in abuse of dominance cases (OECD, 2016[31]). The number of companies fined in abuse of dominance cases was stable or slightly decreased during the period 2015 to 2020.

The total number of companies fined in abuse of dominance cases decreased by 20.5%, from 83 in 2015 to 66 in 2020. The vast majority the companies fined in abuse of dominance cases in the period 2015 to 2020 were in Europe (48%), while the rest were mainly located in the Americas (22%) and Other (22%), and a relatively small proportion in Asia-Pacific (8%).

A single company can face multiple abuse of dominance decisions, for example, if it has engaged in several abuse of dominance infringements. The Americas had the highest number of abuse of dominance decisions per company fined. This increased during the period 2015 to 2020, with spikes in 2017 and 2019.

Figure 7.20. Total abuse of dominance decisions and number of companies fined in abuse of dominance cases, 2015–2020
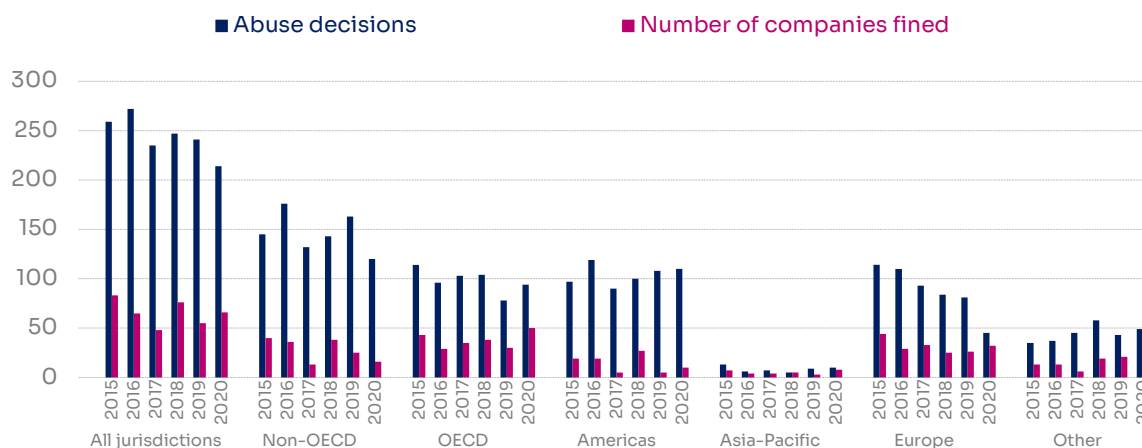
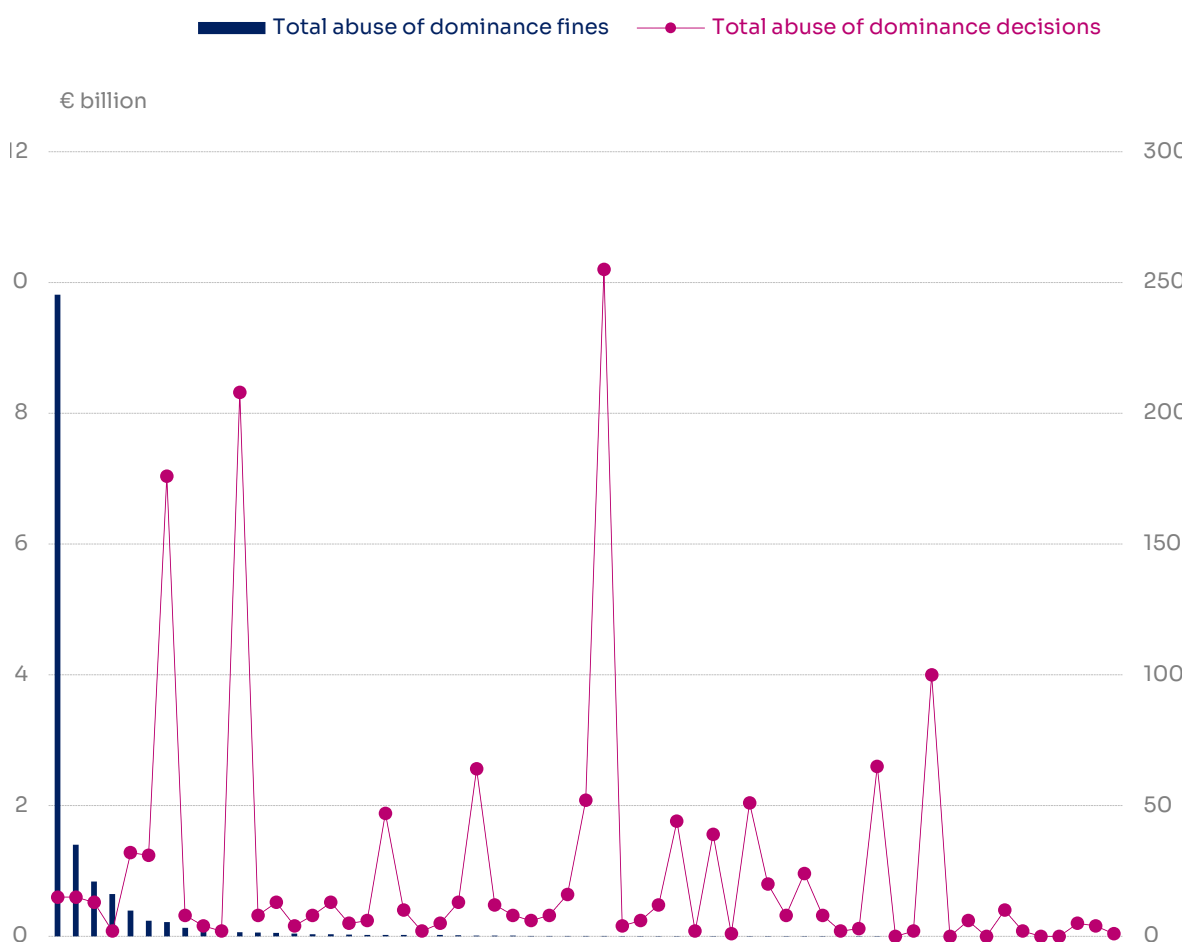**NOTE:** Data based on the 58 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have all six years of data for the number of companies fined in abuse of dominance cases.
SOURCE: OECD CompStats database.

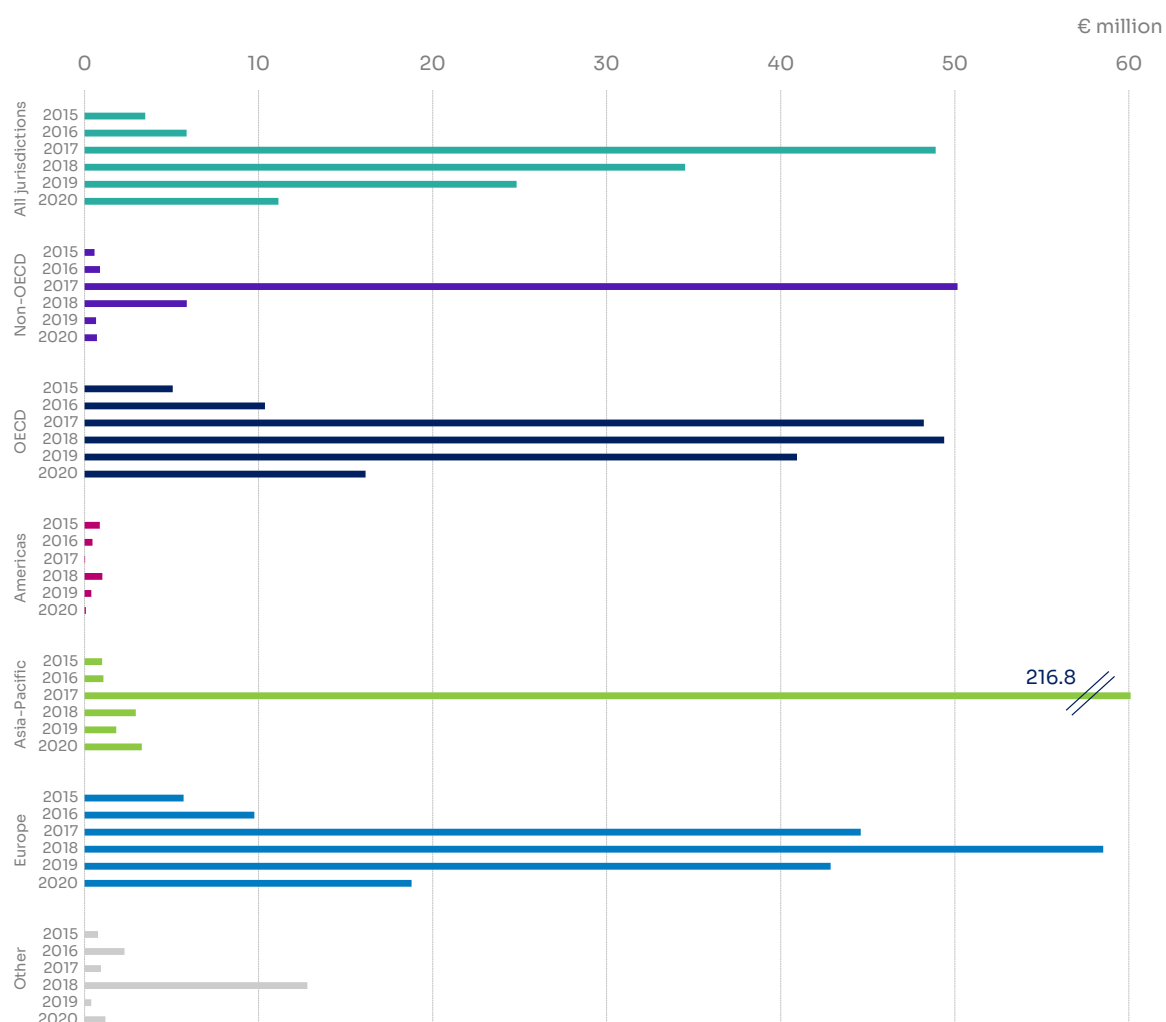**Figure 7.21.** Average number of abuse of dominance decisions per company fined in abuse of dominance cases, 2015–2020
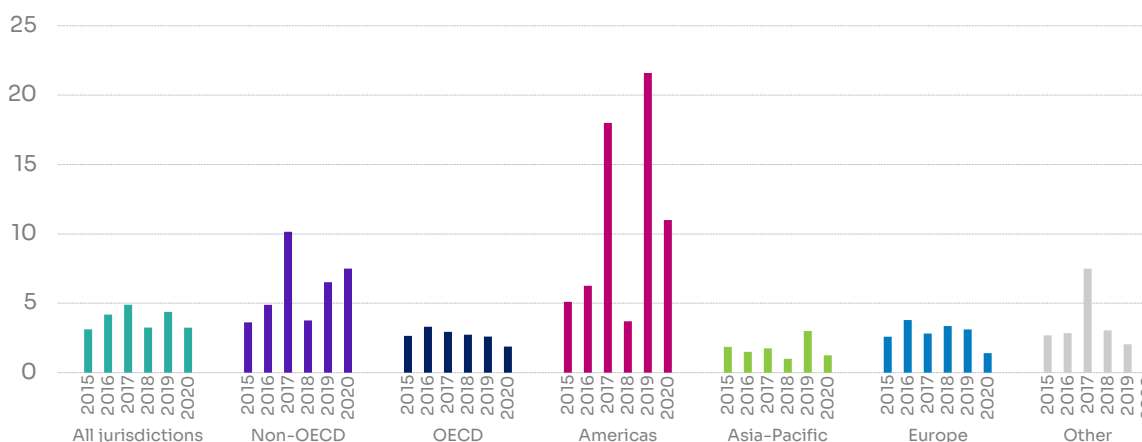
NOTE: Data based on the 58 jurisdictions in the OECD CompStats database that provided comparable data for all six years. These are jurisdictions that have all six years of data for the number of companies fined in abuse of dominance cases.
SOURCE: OECD CompStats database.

MERGERS

8

8. **Mergers**

This section of the report presents trends in merger cases. It focuses on characteristics of merger control regimes, trends in merger notifications and decisions, distribution of types of merger decisions, and trends in the distribution of types of merger decisions (with a particular focus on remedies, prohibitions, and withdrawals).

8.1 **Characteristics of merger control regimes in CompStats**

Competition authorities can use effective merger control to address any potential competition concerns arising from a merger, while allowing consumers to benefit from potential efficiencies that may result from such transactions (OECD, 2019[32]). The number of merger regimes around the world has increased significantly in the last few decades.

Merger control is an important element of competition enforcement for almost all jurisdictions

Merger notifications increased over the period 2015 to 2019, but dropped significantly in 2020, falling nearly as low as levels last observed in 2016.

in the CompStats data. There are 66 jurisdictions (90% of the 73) that have a merger control regime that is in force. These 66 jurisdictions are divided into two groups: (i) 34 jurisdictions that introduced their merger regime in the same year as the year of establishing the competition law; and (ii) 32 jurisdictions introduced the merger control regime in the years following the enactment of the competition law.

Figure 8.1. Development of competition law and merger regimes in force in CompStats, 1889–2020
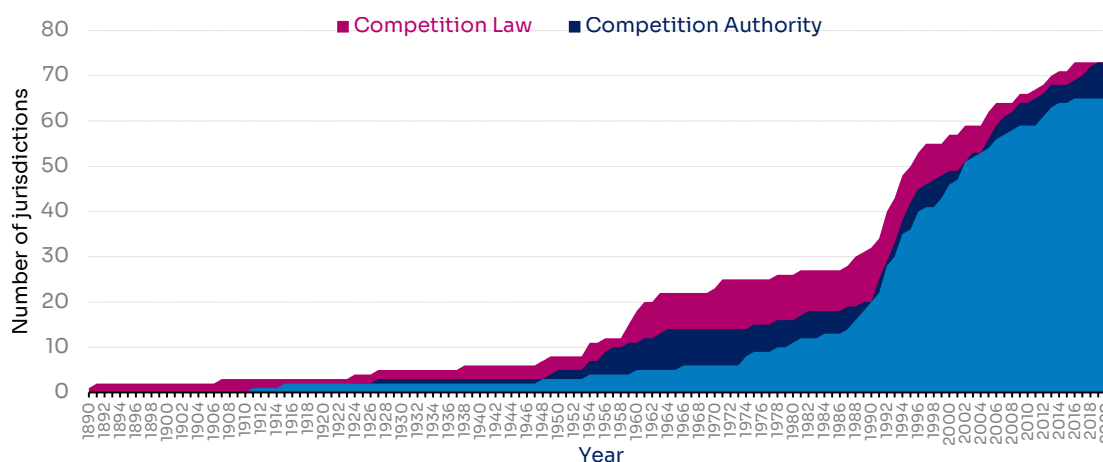
NOTE: Data based on the 66 jurisdictions in the OECD CompStats database that have a merger regime in force.
SOURCE: OECD CompStats database.

Figure 8.2 shows that most merger regimes in the OECD CompStats database adopt a mandatory pre-merger notification system, charge a filing fee, use turnover as a merger notification threshold, adopt a two-phase regime, and offer a simplified procedure for presumed harmless cases. However, this varies by region. Most jurisdictions in Europe have these characteristics, while in the Americas, Asia-Pacific, and Other there is more variation.

Figure 8.2. Characteristics of merger control regimes in CompStats

Mandatory and voluntary merger notification regimes
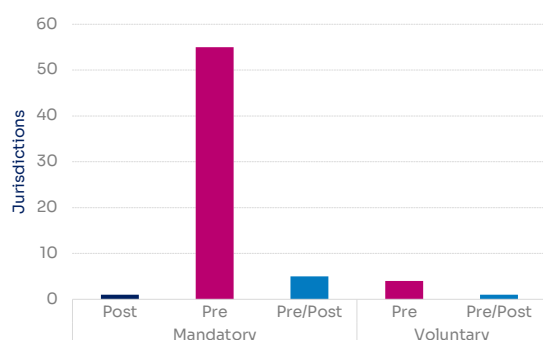
Filing-fee requirements
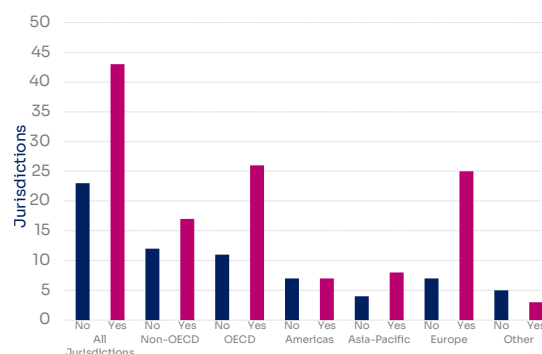
Selected criteria for notification thresholds
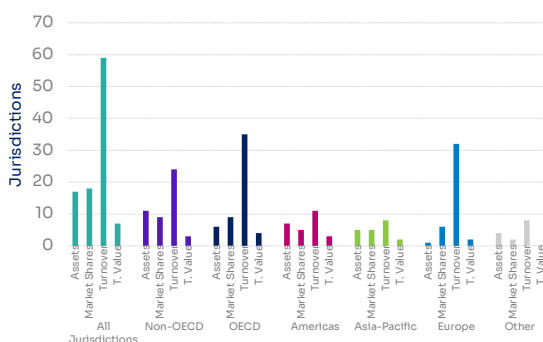
Use of simplified merger regime
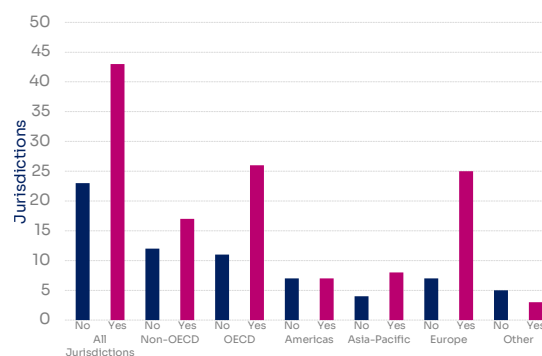
One-phase or two-phase approaches
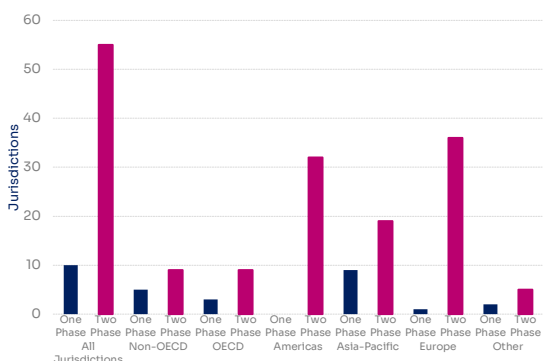
NOTE: The graphs in this figure contain different number of jurisdictions. From top left to bottom right, the graphs include: (i) 66 jurisdictions; (ii) 66 jurisdictions; (iii) 65 jurisdictions; (iv) 66 jurisdictions; and (v) 65 jurisdictions.
SOURCE: OECD CompStats database

8.2 **Trends in merger notifications and decisions**

The jurisdictions in the OECD CompStats data-base faced some common merger enforcement trends. Merger notifications increased in the period 2015 to 2019, but significantly decreased in 2020. However, they bounced back towards the end of 2020, significantly increasing in the later quarters of the year (DAMITT, 2021[33]). The decline in the number of merger notifications in 2020 may have resulted from the COVID-19 pandemic as some firms paused their merger activity given the increased economic uncertainty and some authorities asked firms to delay their merger notifications ((Latham & Watkins LLP, 2021[34]), (GCR, 2021[35]) and (OECD, 2020[30])). The evolution of merger decisions was similar to merger notifications, although the decline in merger decisions began in 2019.

The average number of merger notifications per jurisdiction increased during the period 2015 to 2019. They were 15.2% higher in 2019 compared to 2015, equivalent to a compound annual growth rate of 3.6%. The average number of merger notifications per jurisdiction increased from 143 in 2015 to 165 in 2019.

In 2020, the average number of merger notifications per jurisdiction decreased by 9.9% (relative to 2019) to 148, falling nearly as low as the levels last observed in 2016. However, this overall finding was driven by a fall in the number of merger notifications in the Americas and Europe. Asia-Pacific was the only region in which the number of merger notifications increased in 2020.

The increase in the number of merger notifications in Asia-Pacific in 2020 was partially due to a change in one of the jurisdictions in its competition law (which also partially impacted 2019). Nonetheless, excluding that jurisdiction, there was still an increase in merger notifications in 2020 in Asia-Pacific. This may be partly due to competition authorities in Asia-Pacific being particularly accommodating to merging parties, such as through changes in legal provisions (like changes in notification thresholds or notification periods), or the streamlining of the merger assessment process (for instance by allowing parties to submit documents electronically and conducting interviews remotely) (OECD, 2021, p. 64[31]).

Similarly to merger notifications, the number of merger decisions increased during the period 2015 to 2018. However, there was already a slight decrease in the average number of merger decisions in 2019. There was still a significant drop in merger decisions in 2020. Again, the change in 2020 differed between regions, as merger decisions increased in Asia-Pacific and decreased in the Americas and Europe.

Figure 8.3. Average number of merger notifications and
decisions per jurisdiction, by region, 2015–2020
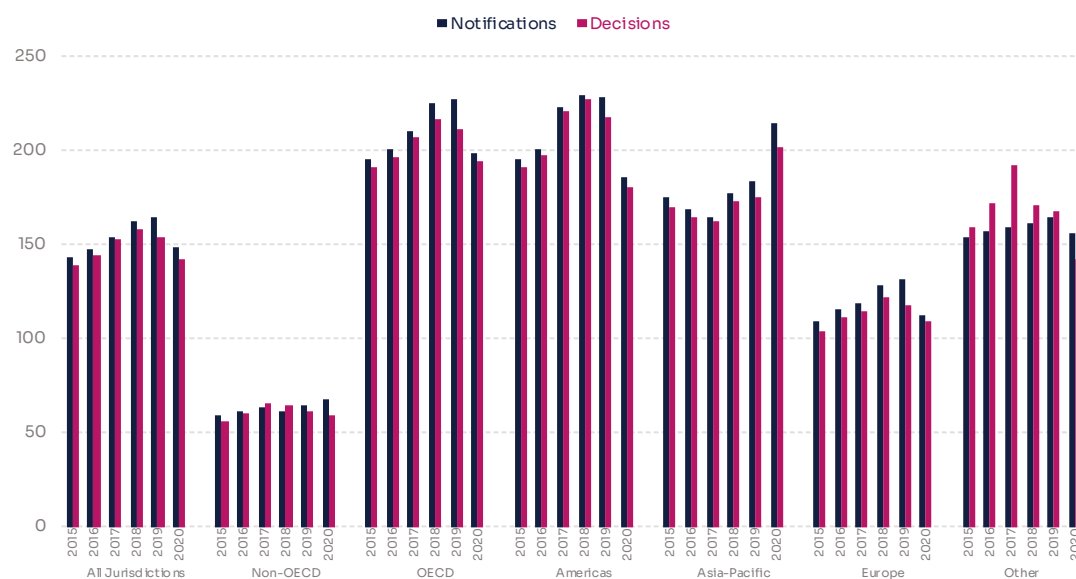
A few large jurisdictions represented most merger decisions in 2020. The top 5 jurisdictions represented 54% of all merger decisions in 2020, while the top 10 represented 71%. Figure 8.4 shows that jurisdictions with the highest number of merger decisions in 2019 also drove most of the change in 2020, as indicated by the difference between the value in 2019 (bar) and the value in 2020 (dot).

NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force. Merger decisions include clearances (phase 1 and phase 2), clearances with remedies (phase 1 and phase 2), and prohibitions. Clearance decisions include the expiration of the waiting period. **SOURCE:** OECD CompStats database.

Figure 8.4. Distribution of merger decisions by jurisdiction in 2019 and 2020
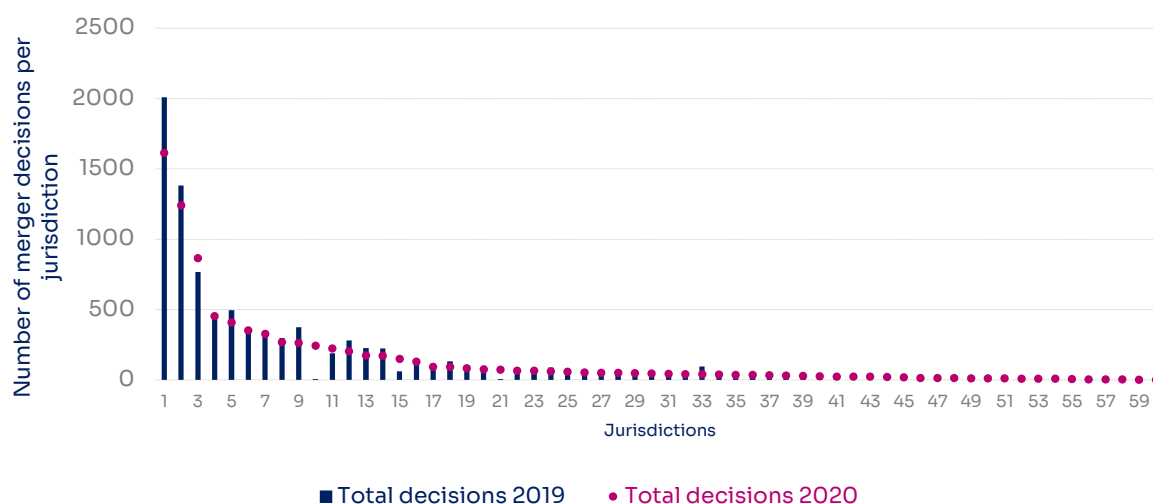
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force. Merger decisions include clearances (phase 1 and phase 2), clearances with remedies (phase 1 and phase 2), and prohibitions. Clearance decisions include the expiration of the waiting period. **SOURCE:** OECD CompStats database.

8.3 **Distribution of types of merger decisions**

Most merger decisions in 2020 did not pose competition issues, with 93.6% of mergers cleared in Phase I without remedies. The remaining 6.4% of merger decisions required further investigation or intervention. Around 4.0% of mergers went into Phase II but did not require any intervention. While 2.2% of merger decisions had competition issues that the authorities were able to resolve with remedies in either Phase I or Phase II. Only 0.2% of mergers were prohibited.

Figure 8.5. Types of merger decisions 2020

Phase I Clearances **93.6%**

4% Phase I Clearances with remedies

1.4% Phase II Clearances

0.8% Phase II Clearances with remedies

0.2% Phase II prohibitions (or trials)

NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force. Merger decisions include clearances (phase 1 and phase 2), clearances with remedies (phase 1 and phase 2), and prohibitions. Clearance decisions include the expiration of the waiting period.
SOURCE: OECD CompStats database.

8.4 **Trends in the distribution of types of merger decisions**

The overall distribution of types of merger decisions was relatively stable during the period 2015 to 2020. Nonetheless, during this period, there was a shift away from Phase II clearances without remedies towards more Phase I clearances without remedies.

Figure 8.6. Types of merger decisions 2015–2020

8.5 Remedies

Remedies, either behavioral or structural, are the main tool that competition authorities can use to address any competition concerns resulting from an envisaged merger while allowing consumers to benefit from any efficiencies resulting from the merger (OECD, 2011[36]). Figure 8.7 shows the use of remedies in merger decisions was stable throughout the period 2015-2020, both the number of merger decisions with remedies and the share of all merger decisions that used remedies were stable. There was a slight decline in the number of merger decisions with remedies in 2019, and this new lower level was maintained in 2020. Therefore, as a share of all merger decisions, this decreased in 2019 but increased again in 2020 as the total number of merger decisions dropped relative to 2019.

However, Figure 8.8 shows that the number of merger cases resolved with remedies varied by region. In the Americas, the number of merger decisions with remedies declined over the period 2015 to 2020. In Europe and Other, it rose and fell again. Asia-Pacific was the only region in which the number of merger cases with remedies increased over the period.

Figure 8.7. Total decisions with remedies and percentage of remedy decisions over total number of decisions
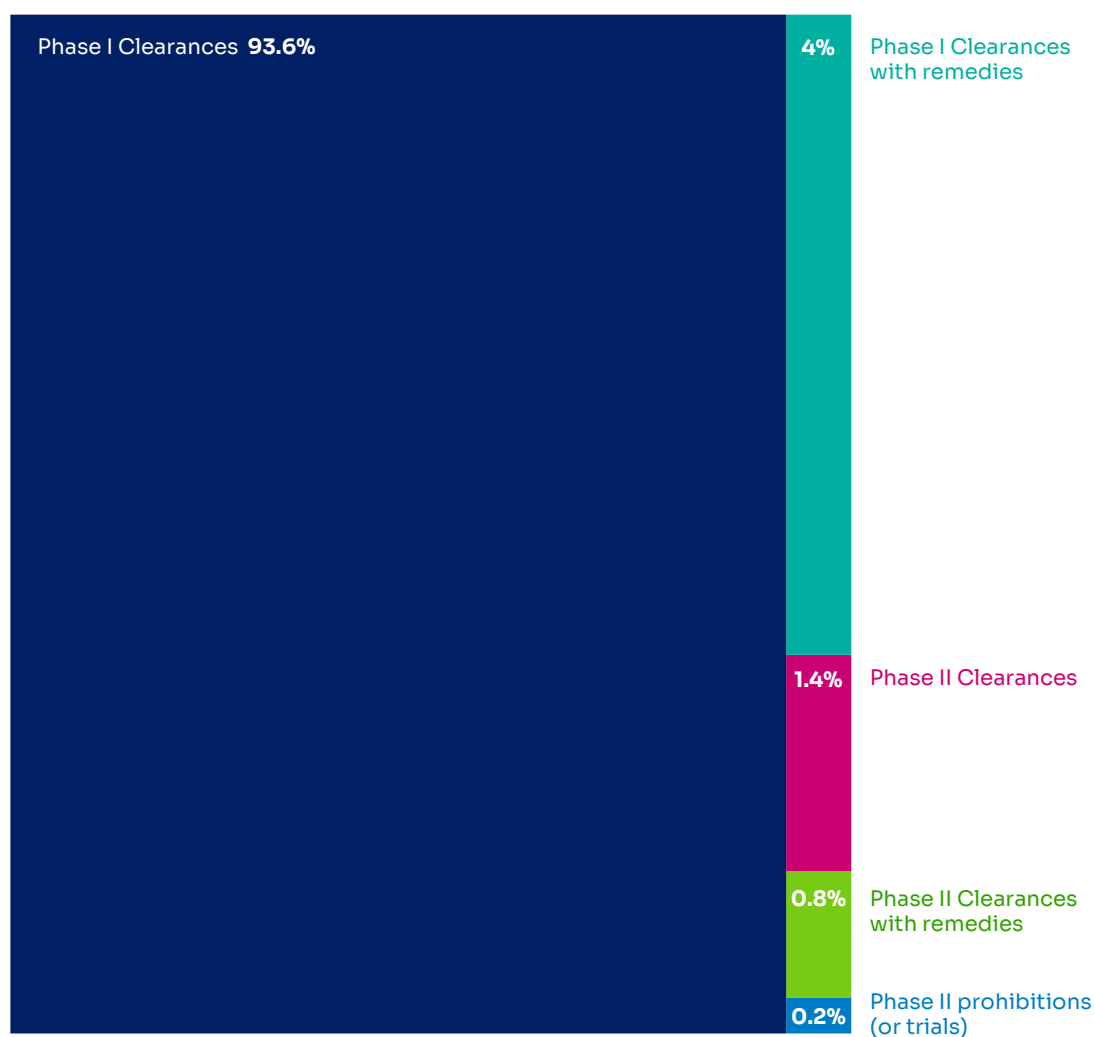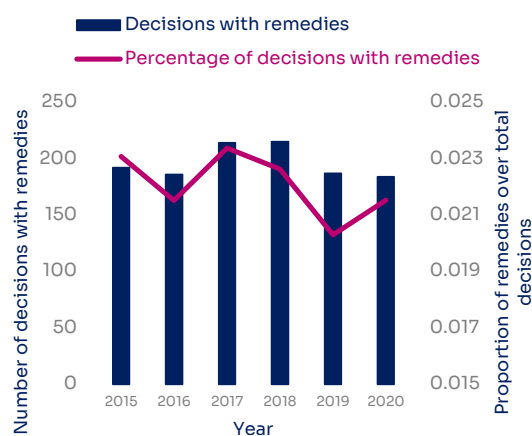

NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force. This figure contains all clearance decisions with remedies: the sum of Phase I clearances with remedies and Phase II clearances with remedies.
SOURCE: OECD CompStats database.

Figure 8.8. Total decisions with remedies, by region, 2015-2020
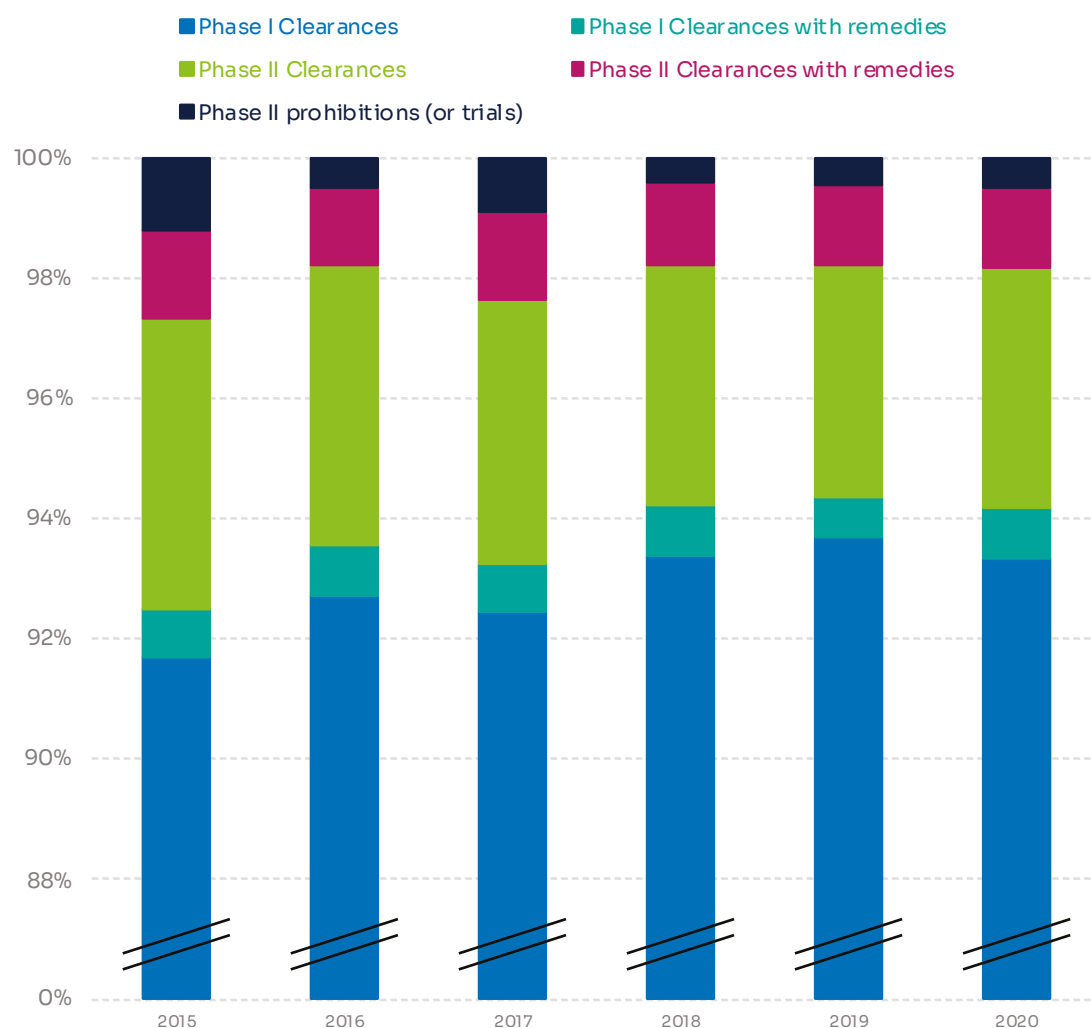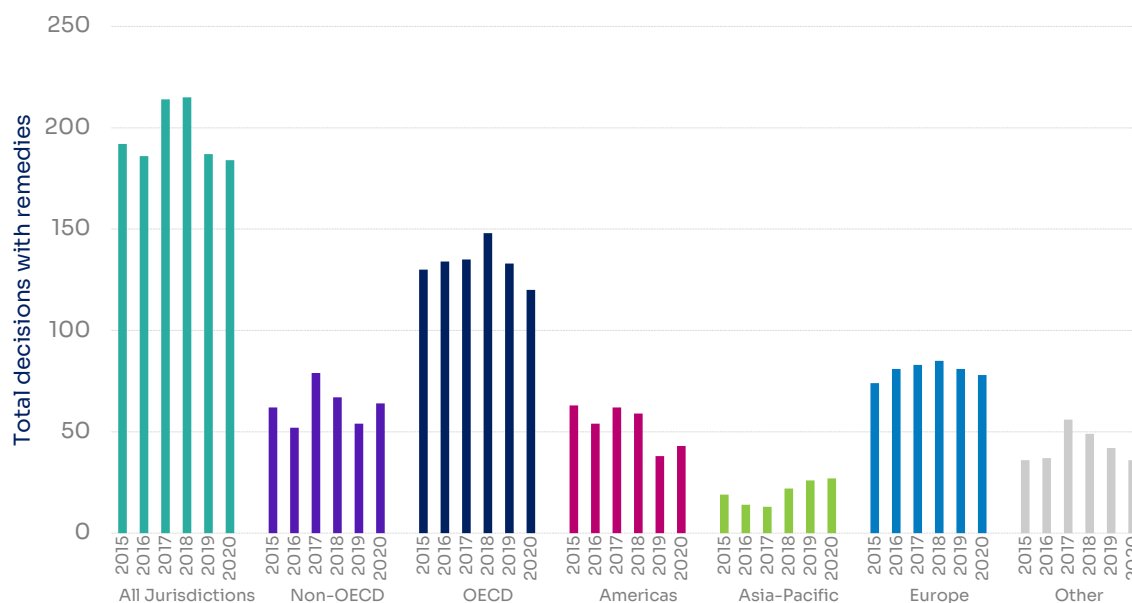

NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force. This figure contains all clearance decisions with remedies: the sum of Phase I clearances with remedies and Phase II clearances with remedies.
SOURCE: OECD CompStats database.

As for overall merger decisions, merger decisions with remedies (including both Phase I and Phase II decisions) were mostly concentrated in a few jurisdictions. The top 5 jurisdictions represented 50% of all merger decisions in 2020, while the top 10 represented 67%. Only three jurisdictions had more than ten mergers with remedies in 2020. There were 16 jurisdictions that did not have any merger decisions with remedies. However, as shown by the difference between the value in 2019 (bar) and the value in 2020 (dot), there was significant variation in many of the jurisdictions, not just those with the largest values in 2019.

Figure 8.9. Reliance of competition authorities on remedies in 2019 and 2020

8.6 **Prohibitions and withdrawals**

Prohibited and withdrawn mergers are rare. The total number of prohibited and withdrawn mergers was between 50 and 80 per year, across all jurisdictions, during the period 2015 to 2020. Furthermore, there were only 8 jurisdictions with more than 10 prohibited or withdrawn mergers over the period 2015 to 2020, while 39 jurisdictions had between 1 and 10, and 13 jurisdictions had none. Therefore, small changes in the number of cases can significantly impact the trend.

Overall, prohibition decisions increased during the period 2015-2019, and then dropped across most jurisdictions in 2020.

Total withdrawn mergers increased throughout the period 2015 to 2020. However, the overall increase in the period was not driven by increasing trends across jurisdictions. Rather, different jurisdictions contributed to the increase in each separate year.[10] These were relatively small increases; the number of withdrawals per jurisdiction per year was below 10 for all jurisdictions apart from one.

Figure 8.10. Total prohibition decisions and withdrawn merger notifications, 2015-2020
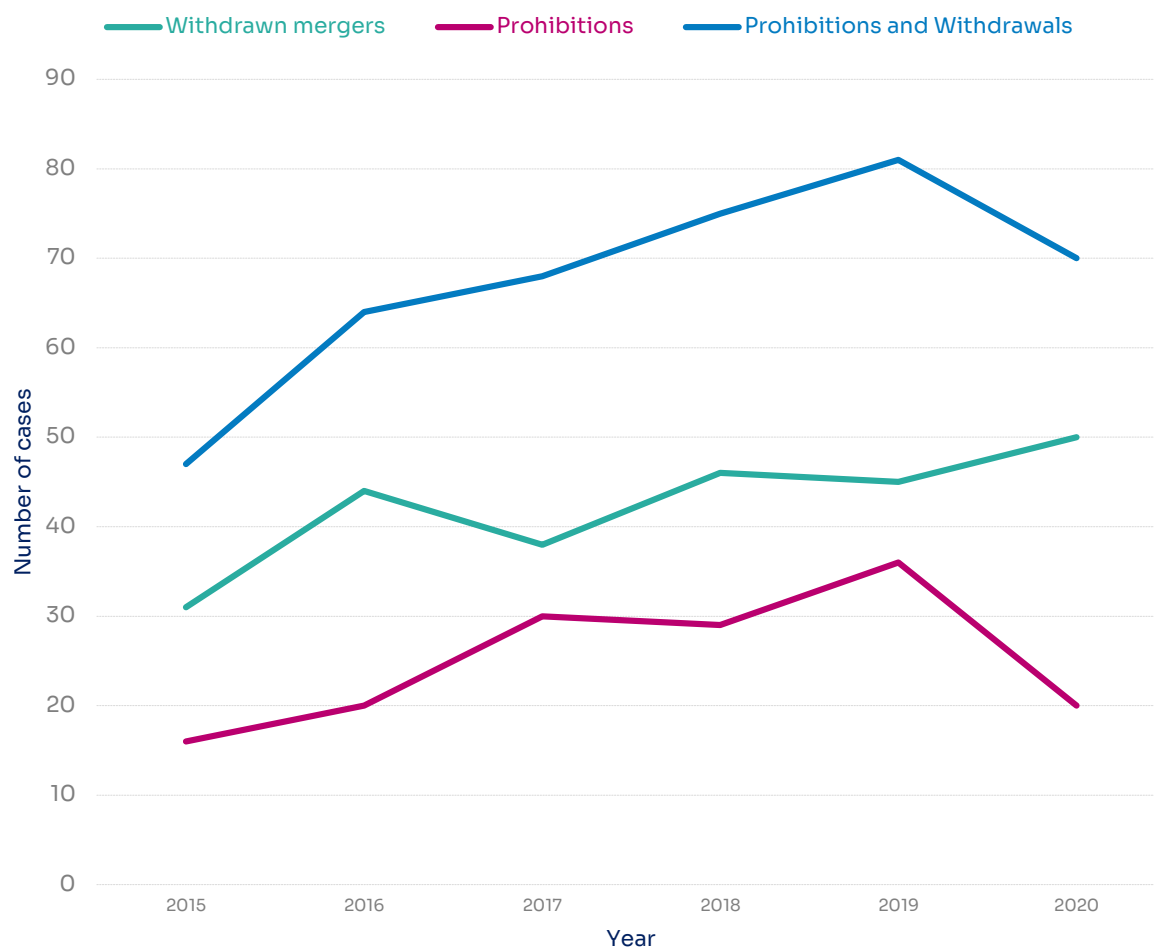
10. For example, a given jurisdiction may have had a large increase in 2016, but then decreased again in the period 2017 to 2020.

Prohibitions in Europe and Asia–Pacific increased during the period 2015 to 2019 but dropped in 2020. In the Americas, prohibitions increased generally throughout the period 2015 to 2020. The decrease over the period 2015 to 2020 in Other was driven by a single jurisdiction.

Figure 8.11. Total prohibition decisions, 2015–2020
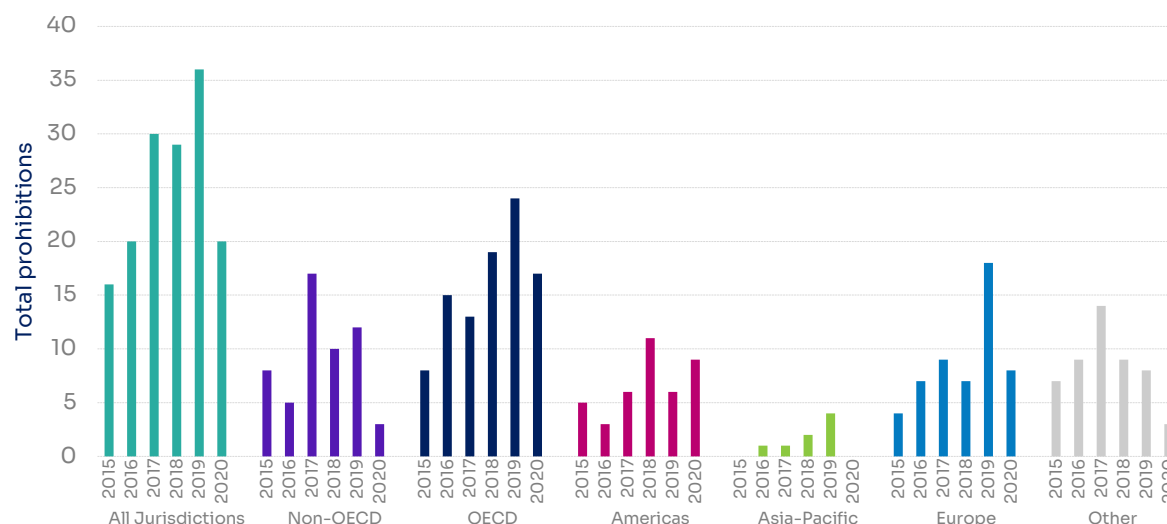
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force.**SOURCE:** OECD CompStats database.

Withdrawn notifications increased over the period 2015 to 2020 in the Americas, Europe and Other. In Asia–Pacific, withdrawn notifications were relatively stable throughout the period.

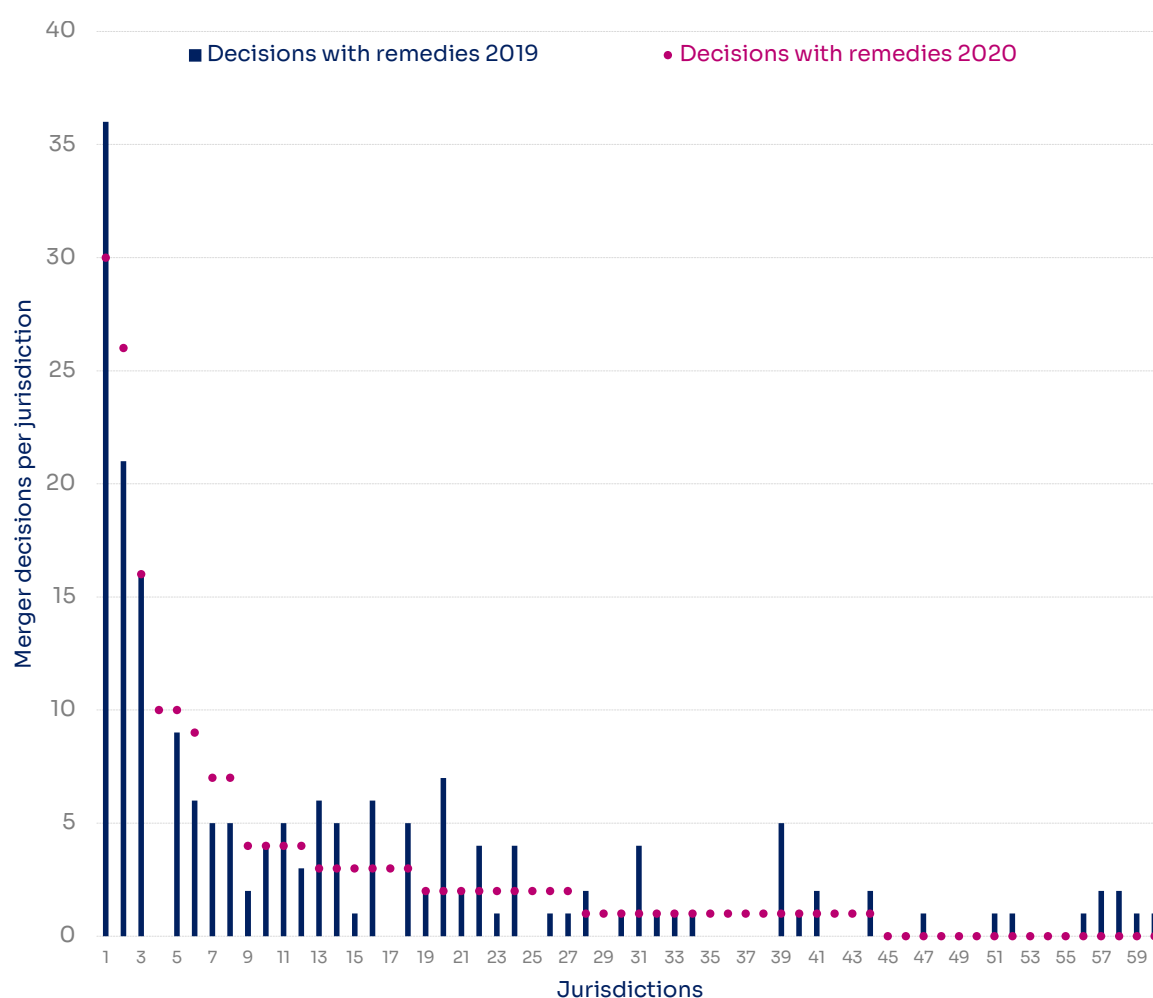**Figure 8.12.** Total withdrawn notifications, 2015–2020
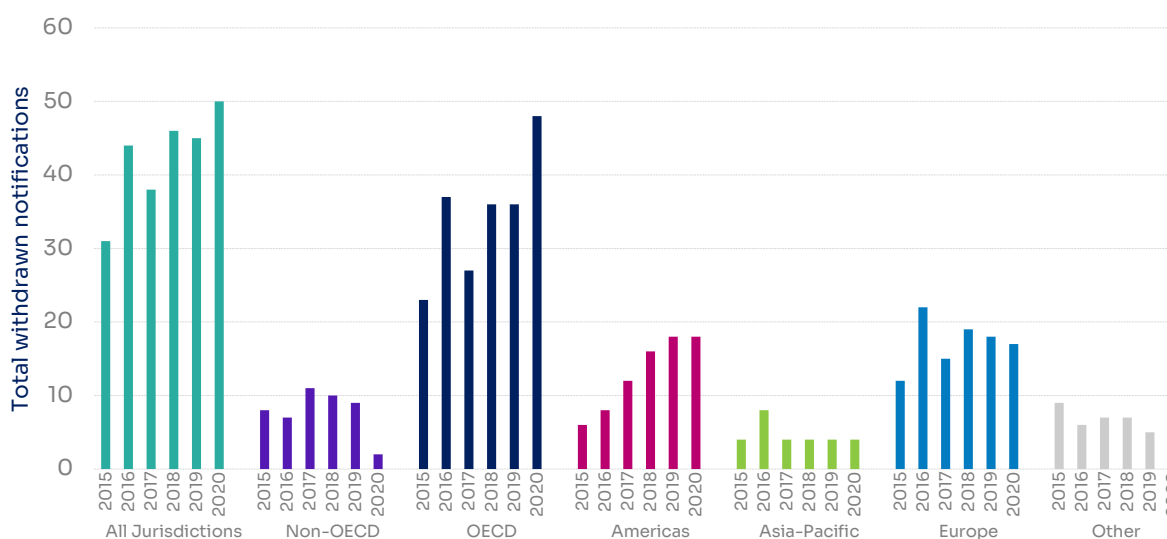
NOTE: Data based on the 58 jurisdictions in the OECD CompStats database that provided comparable data for all six years and have a merger regime in force.
SOURCE: OECD CompStats database.

ADVOCACY

9

9. **Advocacy**

Competition advocacy consists of activities, outside of enforcement, that competition authorities pursue to promote a culture of competition in their markets. Competition advocacy raises public awareness of how their policies may impact competition.

Advocacy can take various forms and is heterogeneous in nature. For example, advocacy events can consist of presentations, day events, multi-day events, national or international conferences. In addition to "the number of market studies", the OECD CompStats database contains two advocacy variables measuring the "number of formal advocacy opinions issued to governments, regulators, legislators" and "number of advocacy events organised". These two variables are excluded from this report because they are particularly difficult to compare given the unit of measurement is not consistent over time or across jurisdictions.

9.1 **Market studies**

Competition authorities can use market studies to proactively identify whether there are competition concerns in a specific market or sector (OECD, 2020[37]), or to enhance their knowledge of a particular industry, which can be useful in future antitrust investigations, as well as merger cases or advocacy efforts (OECD, 2018[38]).

Market studies can vary in duration and intensity. Nonetheless, nearly all competition authorities performed a market study in the period 2015 to 2020. There was only one OECD jurisdiction and a few non-OECD jurisdictions that did not perform a market study during this period.

The number of market studies increased in the Americas and Other over the period 2015 to 2020, while in Europe and Asia-Pacific they were stable. The number of market studies increased in 2020, relative to 2019, in all regions. There were on average 2.8 market studies per jurisdiction in 2020.

Figure 9.1. Average number of market studies, 2015–2020
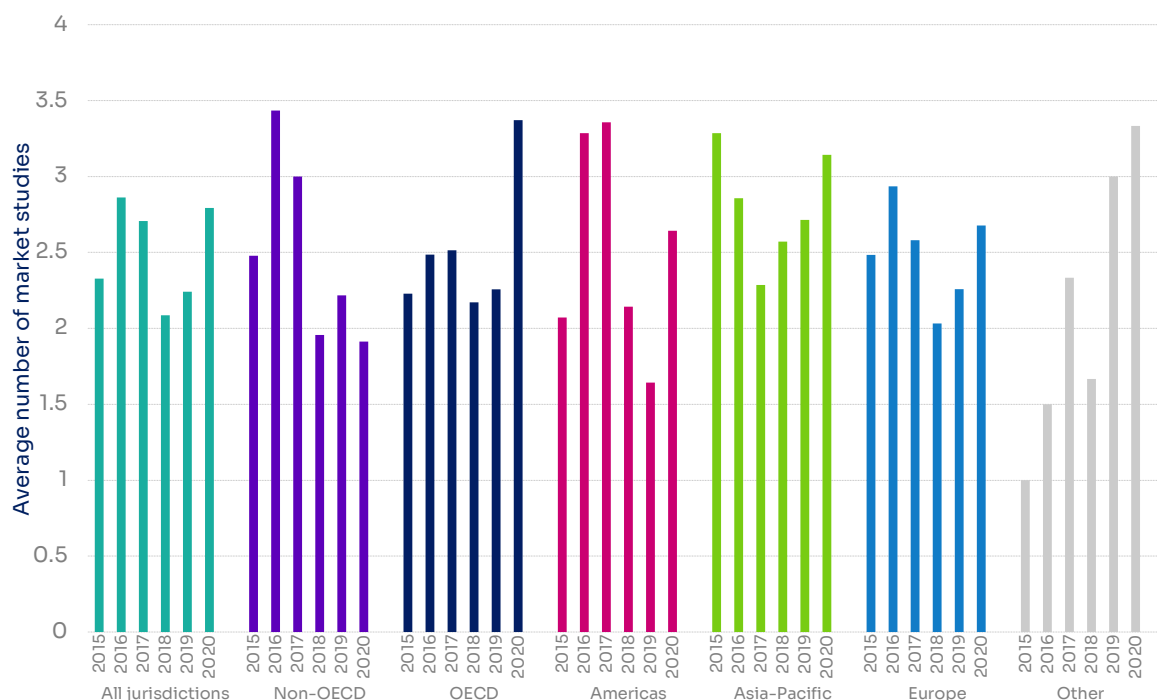
NOTE: This figure includes 58 jurisdictions. These are jurisdictions that have six years of data for market studies.
SOURCE: OECD CompStats database.

ANNEX 1
ALTERNATIVE GROUPINGS

A given geographic region typically contains jurisdictions with significantly different levels of gross national income, nominal competition budget, competition staff, and age of competition authority. Therefore, competition authorities may not always want to benchmark themselves against an average for their geographic region. Thus, this annex allows competition authorities to compare to alternative definitions of 'peers'.

This annex presents the group definitions in the first section. There are then additional figures in each of the following sections:

- **Resources:**
  - "Average of nominal budget by income level"
  - "Average number of competition staff by budget group"
- **Cartels**
  - "Average number of cartel decisions by age of authority"
  - "Average number of ex-officio cartel investigations by staff group"
- **Abuse of dominance:**
  - "Average number of abuse of dominance decisions by staff group"
  - "Average number of abuse of dominance investigations by staff group"
- **Mergers:**
  - "Average number of merger notifications by income level"
  - "Average number of merger decisions by staff group".

Group definitions

This annex includes four group definitions. These are:

- **Income level group:**[11]
  - High income group
  - Upper-middle income group
  - Lower-middle income group
- **Budget group:**
  - Group 1: nominal competition budget less than or equal to €2.5 million
  - Group 2: nominal competition budget greater than €2.5 million but less than or equal to €10 million
  - Group 3: nominal competition greater than €10 million but less than or equal to €20 million
  - Group 4: nominal competition that exceeds €20 million
- **Staff group:**
  - Group 1: less than or equal to 30 competition staff
  - Group 2: competition staff greater than 30 but less than or equal to 50
  - Group 3: competition staff greater than 50 but less than or equal to 100
  - Group 4: competition staff greater than 100 but less than or equal to 200
  - Group 5: competition staff exceeds 200
- **Competition authority age group:**
  - Group 1: established for less than or equal to 20 years
  - Group 2: established for more than 20 years and less than 30 years
  - Group 3: established for more than 30 years.

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11. The income level group is defined by the World Bank. The size of the economy is estimated using the gross national income (GNI) per capita in 2019. The GNI figures are those estimated by the World Bank from the corresponding ones in the United Nations' Systems of National Accounts, expressed in domestic currency and converted to U.S. dollars using the World Bank Atlas method to smooth fluctuations in prices and exchange rates in the cross-country comparison of national incomes. Available at: https://datatopics.worldbank.org/world-development-indicators/the-world-by-income-and-region.html

Resources

Nominal budget by income-level group

Annex 1 – Figure 1 – Average of nominal budget by income level, by geographic region, 2015–2020
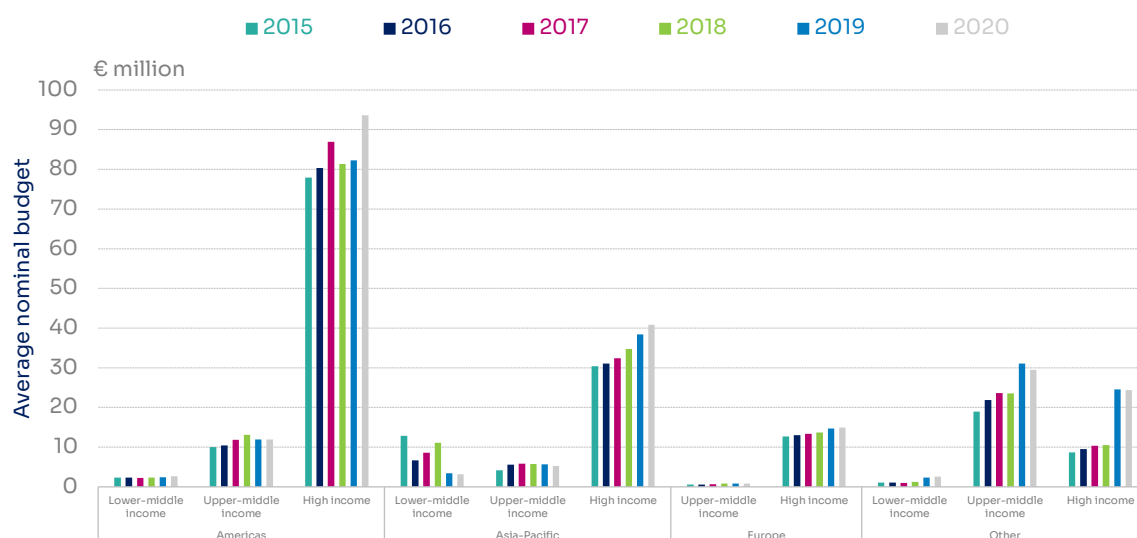
NOTE: Data based on the 61 jurisdictions in the OECD CompStats database that provided budget data for solely competition activities for all six years. Budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate currency fluctuations distorting budget changes. Classification is made based on the level of income of a country by using gross national income (GNI) per capita (in the previous year 2019).
SOURCE: OECD CompStats database.

Competition staff per budget-level group

Annex 1 – Figure 2 – Average number of competition staff by budget group, 2015–2020
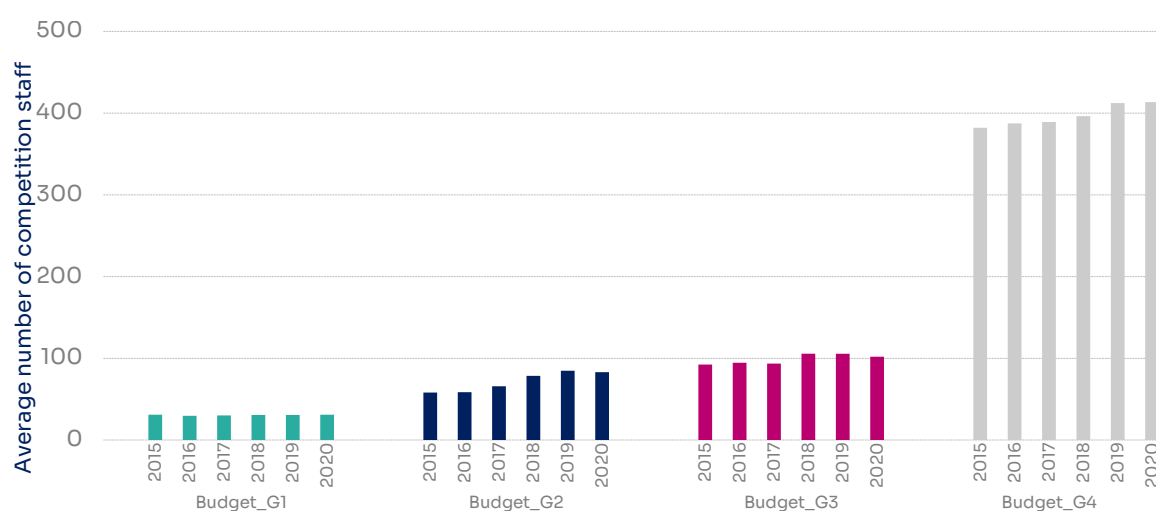
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided budget and staff data for solely competition activities for all six years. Budget figures are in 2015 euros (non-euro currencies are converted using 2015 official exchange rates on 31 December 2015) to eliminate currency fluctuations distorting budget changes. Competition staff are staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation). Classification is made based on the budget value provided in 2020.
SOURCE: OECD CompStats database.

Cartels

Cartel decisions by age of authority

Annex 1 – Figure 3 – Average number of cartel decisions by age
of authority, by geographic region, 2015–2020
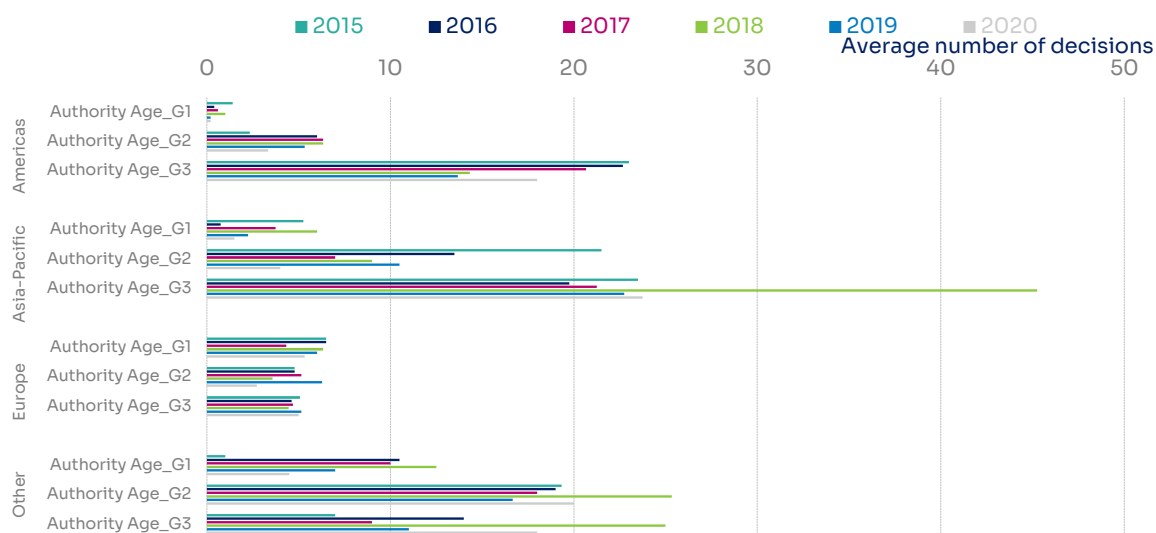
NOTE: Data based on the 63 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Classification is made based on the age of authority. Authority age group-1 has been established for less than or equal to 20 years, Authority age group-2 has been established for more than 20 years and less than 30 years, Authority age group-3 has been established for more than 30 years.
SOURCE: OECD CompStats database.

Ex-officio cartel investigations per staff-level group

Annex 1 – Figure 4 – Average number of ex-officio cartel
investigations by staff group, 2015–2020

NOTE: Data based on the 63 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Competition staff is staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation). Classification is made based on staff value provided in 2020. Competition staff-group 1 has competition staff less than or equal 30, staff-group 2 has staff employed greater than 30 but less than or equal 50, staff-group 3 has competition staff greater than 50 but less than or equal 100, staff-group 4 has a staff greater than 100 but less than or equal to 200 and staff-group 5 exceeds 200 competition enforcers.
SOURCE: OECD CompStats database.

Abuse of dominance

Abuse of dominance decisions per staff-level group

Annex 1 – Figure 5 – Average number of abuse of dominance decisions by staff group, 2015–2020

NOTE: Data based on the 62 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Competition staff is staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation). Classification is made based on staff value provided in 2020. Competition staff-group 1 has competition staff less than or equal 30, staff-group 2 has staff employed greater than 30 but less than or equal 50, staff-group 3 has competition staff greater than 50 but less than or equal 100, staff-group 4 has a staff greater than 100 but less than or equal to 200 and staff-group 5 exceeds 200 competition enforcers.
SOURCE: OECD CompStats database.

Abuse of dominance investigations per staff-level group

Annex 1 – Figure 6 – Average number of abuse of dominance investigations by staff group, 2015–2020

NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided comparable data for all six years. Competition staff is staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation). Classification is made based on staff value provided in 2020. Competition staff-group 1 has competition staff less than or equal 30, staff-group 2 has staff employed greater than 30 but less than or equal 50, staff-group 3 has competition staff greater than 50 but less than or equal 100, staff-group 4 has a staff greater than 100 but less than or equal to 200 and staff-group 5 exceeds 200 competition enforcers.
SOURCE: OECD CompStats database.

Mergers

Merger notifications by income-level group

Annex 1 – Figure 7 – Average number of merger notifications by income level, by geographic region, 2015–2020
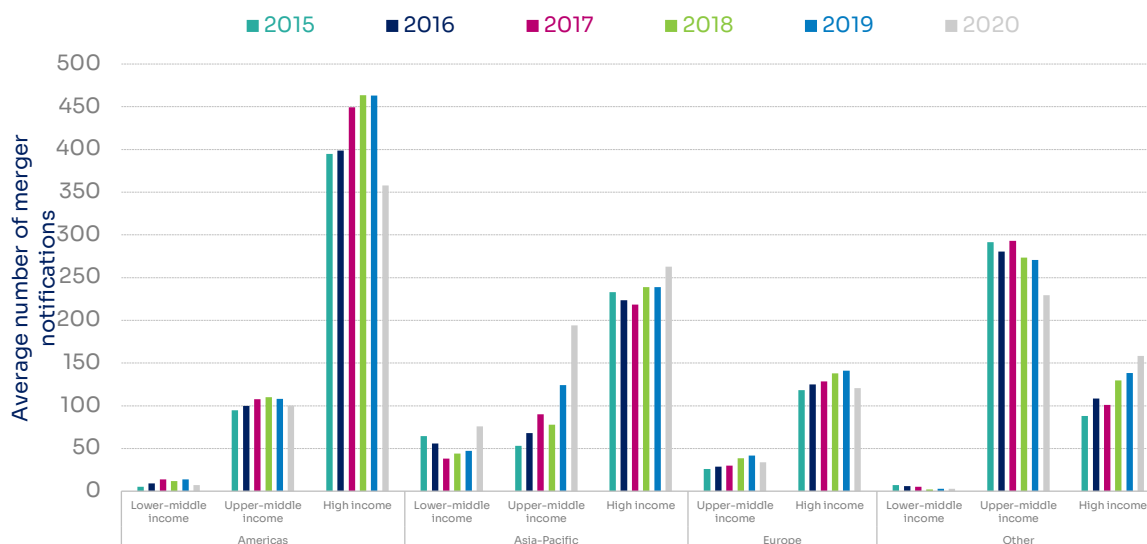
NOTE: Data based on the 60 jurisdictions in the OECD CompStats database that provided data for all six years and have a merger regime in force. Classification is made based on the level of income of a country by using gross national income (GNI) per capita (in the previous year 2019).
SOURCE: OECD CompStats database.

Merger decisions per staff-level group

Annex 1 – Figure 8 – Average number of merger decisions by staff group, 2015–2020

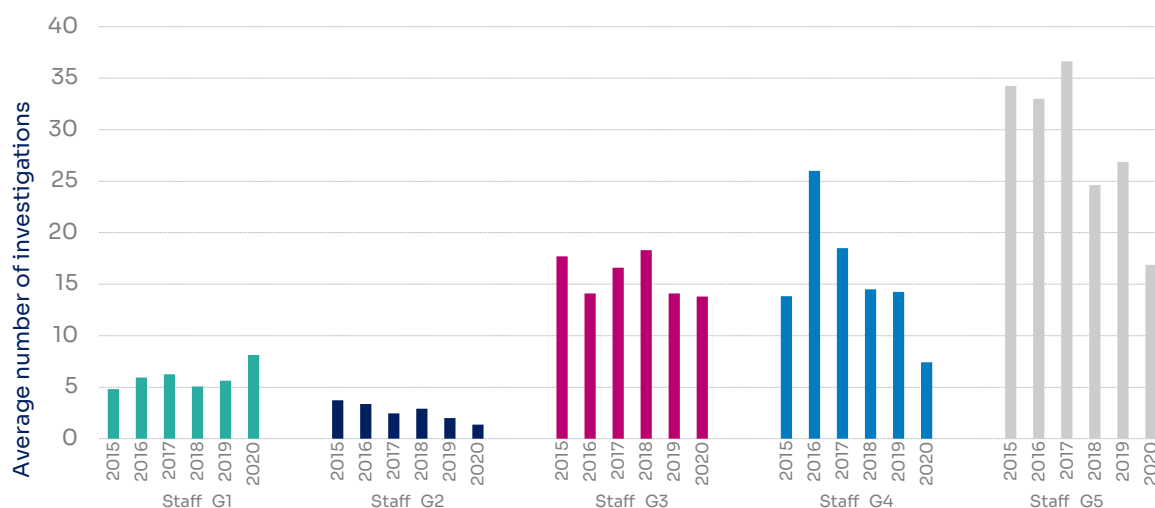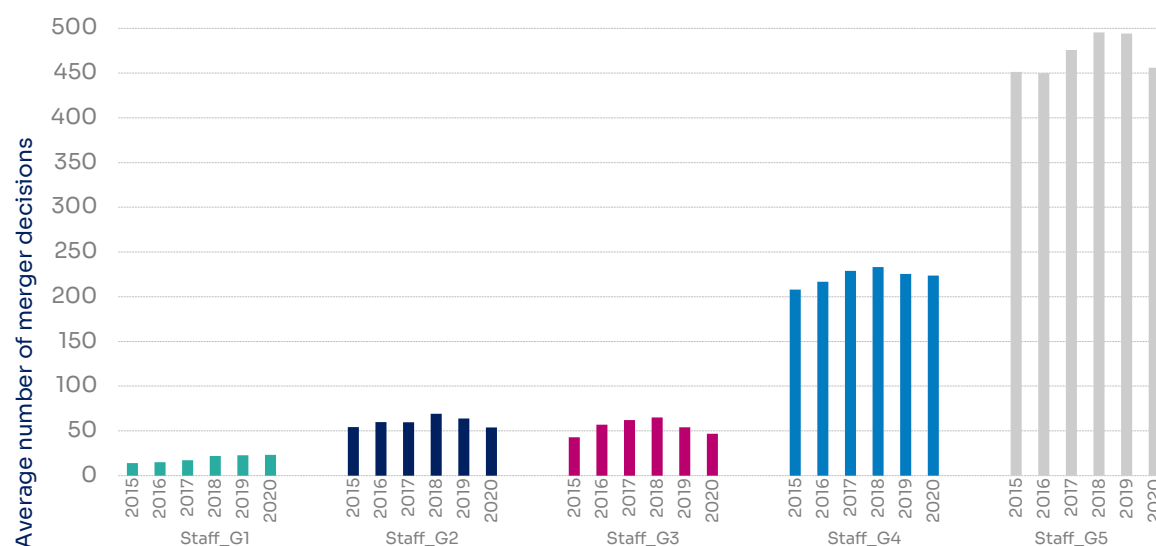**NOTE:** Data based on the 60 jurisdictions in the OECD CompStats database that provided data for all six years and have a merger regime in force. Competition staff is staff working only on competition (excluding administrative staff or staff involved in other functions of the authority, such as consumer protection, public procurement, sector regulation). Classification is made based on staff value provided in 2020. Competition staff-group 1 has competition staff less than or equal 30, staff-group 2 has staff employed greater than 30 but less than or equal 50, staff-group 3 has competition staff greater than 50 but less than or equal 100, staff-group 4 has a staff greater than 100 but less than or equal to 200 and staff-group 5 exceeds 200 competition enforcers. Merger decisions include clearances (phase 1 and phase 2), clearances with remedies (phase 1 and phase 2), and prohibitions. Clearance decisions include the expiration of the waiting period.
SOURCE: OECD CompStats database.

ANNEX 2
SOURCES OF DATA: COMPSTATS

In 2018, under the guidance of the Bureau of the Competition Committee, the OECD Secretariat launched an initiative to develop a database of general statistics relating to competition agencies, including data on enforcement and information on advocacy initiatives.

Some statistics related to competition authorities' activities are already publicly available. However, this information is often dispersed, lacks consistency across time and jurisdictions, and is currently not used systematically to identify overall trends from which to draw policy lessons. This initiative fills this gap.

The OECD Secretariat collects data annually from: (i) competition authorities in OECD countries; (ii) authorities in non-OECD jurisdictions that are Participants or Associates in the OECD Competition Committee; and (iii) agencies in jurisdictions that are neither OECD member nor a participant or associate in the OECD Competition Committee but have expressed an interest to join the database.

Jurisdictions

The OECD CompStats database currently covers data from competition agencies in 73 jurisdictions, of which 38 jurisdictions are OECD countries (including the European Commission).[12]

There are four geographic regions used in the analysis: Americas, Asia-Pacific, Europe and Other. The 73 jurisdictions in the OECD CompStats database are allocated to these geographic regions as follows (jurisdictions with an asterisk (*) are considered as OECD members for the data analysis):

a. Americas (15): Argentina, Barbados, Brazil, Canada*, Chile*, Colombia*, Costa Rica[13], Dominican Republic, Ecuador, El Salvador, Mexico*, Panama, Paraguay, Peru, United States*.

b. Asia-Pacific (16): Australia*, Bangladesh, Brunei Darussalam, People's Republic of China, Chinese Taipei, Hong Kong (China), India, Indonesia, Japan*, Korea*, Malaysia, New Zealand*, Philippines, Singapore, Thailand, Viet Nam.

c. Europe (33): Albania*, Austria, Belgium*, Bulgaria, Croatia, Czech Republic*, Denmark*, European Commission*, Estonia, Finland*, France*, Germany*, Greece*, Hungary*, Iceland*, Ireland*, Italy*, Latvia*, Lithuania*, Luxembourg*,

Malta, Montenegro, Netherlands*, Norway*, Poland*, Portugal*, Romania, Slovak Republic*, Slovenia*, Spain*, Sweden*, Switzerland*, United Kingdom*.

d. Other (9): Egypt, Israel*, Kazakhstan, Russian Federation, Saudi Arabia, South Africa, Tunisia, Turkey*, Ukraine.

The "Global competition enforcement update 2015-2019" included 56 jurisdictions. These jurisdictions were allocated to geographic regions as follows (jurisdictions with an asterisk (*) are considered as OECD members for the data analysis):

e. Americas (11): Argentina, Brazil, Canada*, Chile*, Colombia*, Costa Rica, Ecuador, El Salvador, Mexico*, Peru, United States*.

f. Asia-Pacific (7): Australia*, Chinese Taipei, India, Indonesia, Japan*, Korea*, New Zealand*.

g. Europe (31): Austria*, Belgium*, Bulgaria, Croatia, Czech Republic*, Denmark*, Estonia*, European Commission*[14], Finland*, France*, Germany*, Greece*, Hungary*, Iceland*, Ireland*, Italy*, Latvia*, Lithuania*, Luxembourg*, Malta, Netherlands*, Norway*, Poland*, Portugal*, Romania, Slovak Republic*, Slovenia*, Spain*, Sweden*, Switzerland*, United Kingdom*.

h. Other (7): Egypt, Israel*, Kazakhstan, Russian Federation, South Africa, Turkey*, Ukraine.

This report adds 17 new jurisdictions to the OECD CompStats database. These jurisdictions are allocated to geographic regions as follows (none of these jurisdictions are OECD members):

i. Americas (4): Barbados, Dominican Republic, Panama, Paraguay.

j. Asia-Pacific (9): Bangladesh, Brunei Darussalam, People's Republic of China, Hong Kong (China), Malaysia, Philippines, Singapore, Thailand, Viet Nam.

k. Europe (2): Albania, Montenegro.

l. Other (2): Saudi Arabia, Tunisia.

Period

The OECD CompStats database contains six years of annual data for the period 2015 to 2020.

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12. The Commission of the European Union (EU) takes part in the work of the OECD, in accordance with the Supplementary Protocol to the Convention on the Organisation for Economic Co-operation and Development.
13. Costa Rica became an OECD member in 2021. However, given this report pertains to the years before Costa Rica's accession, the data analysis treats Costa Rica as a non-OECD jurisdiction.
14. The Commission of the European Union (EU) takes part in the work of the OECD, in accordance with the Supplementary Protocol to the Convention on the Organisation for Economic Co-operation and Development.

Data

The following areas are currently covered in OECD CompStats database.

1. General information

- Budget
- Number of staff
- Number of competition staff

2. Cartels and other anticompetitive agreements

- Number of decisions
- Number of decisions on vertical agreements
- Number of cases with settlements or plea bargain
- Number of cases with negotiated/consensual procedure for settling cases
- Number of leniency applications
- Number of ex-officio investigations launched
- Number of cases that used a dawn raid
- Total amount of fines imposed
- Number of companies fined
- Number of cases with fines on individual
- Number of cases with imprisonment of individual

3. Abuse of dominance/unilateral conduct

- Number of decisions
- Number of cases with negotiated/consensual procedure for settling cases
- Number of investigations launched
- Number of cases that used a dawn raid
- Total amount of fines imposed
- Number of companies fined

4. Mergers and acquisitions

- Number of notifications
- Number of Phase One (or single phase) clearances
- Number of Phase One (or single phase) clearances with remedies
- Number of Phase Two clearances (after an in-depth investigation)
- Number of Phase Two clearances with remedies
- Number of Phase Two prohibitions (or trials)
- Number of withdrawn notifications by merging parties in Phase Two

5. Advocacy

- Number of market studies
- Number of formal advocacy opinions issued to governments, regulators, legislators
- Number of advocacy events organized

6. Additional public data

In order to enrich the database and allow for better and in-depth analysis, the Secretariat has added the following variables to the database:

- Gross domestic product (GDP, current prices, purchasing power parity) data from the World Bank development indicators database. For some countries (Japan and Chinese Taipei), GDP data is from the International Monetary Fund (GDP, current prices, purchasing power parity).
- Population data from the United Nations World Population Prospects 2019
- Year of implementation of competition law
- Year of establishment of competition agency
- Year of adoption of merger control
- Characteristics of merger control regimes in CompStats (mandatory vs. voluntary merger notification, filing-fee requirements, selected criteria for establishing merger-notification threshold, use of simplified merger regime, and one-phase vs. two-phase approaches)
- Stringency Index[15]

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15. The Oxford COVID-19 Government Response Tracker (OxCGRT) is a composite measure that collects systematic information on policy measures that governments have taken to tackle COVID-19. The different policy responses are tracked since 1 January 2020, cover more than 180 countries and are coded into 23 indicators. This composite measure is a simple additive score of nine indicators measured on an ordinal scale, rescaled to vary from 0 to 100.
SOURCE: https://www.bsg.ox.ac.uk/research/research-projects/COVID-19-government-response-tracker

ANNEX 3
COMPETITION AUTHORITIES IN THE OECD COMPSTATS DATABASE

Jurisdiction	Competition authority	Abbreviation
Albania	Autoriteti I Konkurrencës Competition Authority of Albania	CAA
Argentina	Comisión Nacional de Defensa de la Competencia National Antitrust Commission	CNDC
Australia	Australian Competition and Consumer Commission	ACCC
Austria	Bundeswettbewerbsbehörde The Federal Competition Authority	BWB
Bangladesh	বাংলাদেশ প্রতিযোগিতা কমিশন Bangladesh Competition Commission	CCB
Barbados	The Barbados Fair Trading Commission	Barbados FTC
Belgium	Belgische Mededingingsautoriteit Autorité belge de la Concurrence Belgian Competition Authority	BMA
Brazil	Conselho Administrativo de Defesa Econômica Administrative Council for Economic Defence	CADE
Brunei Darussalam	Competition Commission Brunei Darussalam	CCBD
	Department of Competition and Consumer Affairs Department of Economic Planning and Statistics Ministry of Finance and Economy	DCCA
Bulgaria	Комисия за защита на конкуренцията Commission on Protection of Competition	CPC
Canada	The Competition Bureau Canada	
Chile	Fiscalía Nacional Económica National Economic Prosecutor	FNE
	The Tribunal de Defensa de la Libre Competencia Tribunal for the Defense of Free Competition	TDLC
People's Republic of China	国家市场监督管理总局反垄断局 State Administration for Market Regulation	SAMR
Chinese Taipei	公平交易委員會 The Fair Trade Commission of Chinese Taipei	Chinese Taipei FTC
Colombia	Superintendencia de Industria y Comercio Superintendence of Industry and Commerce	SIC
Costa Rica	Comisión para Promover la Competencia Commission for the Promotion of Competition	COPROCOM
	Superintendencia de Telecomunicaciones Costa Rica Telecommunications Superintendency	SUTEL

Jurisdiction	Competition authority	Abbreviation
Croatia	Agencija za zaštitu tržišnog natjecanja Croatian Competition Agency	AZTN
Czech Republic	Úřad Pro Ochranu Hospodářské Soutěže Office for the Protection of Competition	ÚOHS
Denmark	Konkurrence- og Forbrugerstyrelsen Danish Competition and Consumer Authority	KFST DCCA
Dominican Republic	Comisión Nacional de Defensa de la Competencia de República Dominicana National Commission for the Defence of Competition of the Dominican Republic	PRO-COMPETENCIA
Ecuador	Superintendencia de Control del Poder de Mercado Superintendency for Control of Market Power	SCPM
Egypt	جهاز حماية المنافسة ومنع الممارسات الإحتكارية Egyptian Competition Authority	ECA
El Salvador	Superintendencia de Competencia de El Salvador Superintendency of Competition	SC
Estonia	Konkurentsiamet The Estonian Competition Authority	
European Commission	European Commission Directorate- General for Competition	DG COMP
Finland	Kilpailu- ja kuluttajavirasto Konkurrens-och konsumentverket Finnish Competition and Consumer Authority	KKV FCCA
France	Autorité de la concurrence – France French Competition Authority	
Germany	Bundeskartellamt	
Greece	της Επιτροπή Ανταγωνισμού Hellenic Competition Commission	HCC
Hong Kong, China	Competition Commission (Hong Kong) 競爭事務委員會 (香港)	COMPCOMM
Hungary	Gazdasági Versenyhivatal Hungarian Competition Authority	GVH
Iceland	Samkeppniseftirlitið Icelandic Competition Authority	ICA
India	भारतीय प्रतिस्पर्धा आयोग The Competition Commission of India	CCI

Jurisdiction	Competition authority	Abbreviation
Indonesia	Komisi Pengawas Persaingan Usaha Indonesia Competition Commission	KPPU ICC
Ireland	Coimisiún um Iomaíocht agus Cosaint Tomhaltóirí Competition and Consumer Protection Commission	CCPC
Israel	Israel Competition Authority	
Italy	Autorità Garante della Concorrenza e del Mercato Italian Competition Authority	AGCM
Japan	公正取引委員会 Japan Fair Trade Commission	JFTC
Kazakhstan	Бәсекелестікті қорғау және дамыту агенттігі Agency for the Protection and Development of Competition	
Korea	공정거래위원회 Korea Fair Trade Commission	KFTC
Latvia	Konkurences Padome Competition Council of the Republic of Latvia	KP
Lithuania	Lietuvos Respublikos Konkurencijos Taryba Competition Council of the Republic of Lithuania	KT
Luxembourg	Conseil de la Concurrence Grand-Duché de Luxembourg Competition Council	
Malaysia	Suruhanjaya Persaingan Malaysia Malaysia Competition Commission	MyCC
Malta	Malta Competition and Consumer Affairs Authority The Office for Competition	MCCAA
Mexico	Comisión Federal de Competencia Económica Federal Economic Competition Commission	COFECE
	Instituto Federal de Telecomunicaciones Federal Institute of Telecommunications	IFT
Montenegro	Agencija za zaštitu konkurencije Agency for Protection of Competition	AZZK
Netherlands	Autoriteit Consument & Markt Authority for Consumers and Markets	ACM
New Zealand	New Zealand Commerce Commission	NZCOMCOM-NZCC
Norway	Konkurransetilsynet Norwegian Competition Authority	

Jurisdiction	Competition authority	Abbreviation
Panama	Autoridad de Protección al Consumidor y Defensa de la Competencia Authority for Consumer Protection and Competition Defense	ACODECO Panamá
Paraguay	Tetã Ñemureko Mohendaha Aty Comisión Nacional De La Competencia National Competition Commission	CONACOM
Peru	Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual National Institute for the Defence of Free Competition and the Protection of Intellectual Property	INDECOPI
Philippines	Philippine Competition Commission	PCC
Poland	Urząd Ochrony Konkurencji I Konsumentów Office of Competition and Consumer Protection	UOKiK
Portugal	Autoridade da Concorrência Portuguese Competition Authority	AdC
Romania	Consiliul Concurenţei România Romanian Competition Council	
Russian Federation	Федеральная Антимонопольная Служба Federal Antimonopoly Service of the Russian Federation	FAS Russia
Saudi Arabia	الهيئة العامة للمنافسة General Authority for Competition	GAC
Singapore	Competition and Consumer Commission of Singapore	CCCS
Slovak Republic	Protimonopolný Úrad Slovenskej Republiky Antimonopoly Office of the Slovak Republic	AMO SR
Slovenia	Javna agencija Republike Slovenije za varstvo konkurence Slovenian Competition Protection Agency	CPA
South Africa	Competition Commission of South Africa	CompCom SA
Spain	Comisión Nacional De Los Mercados Y La Competencia The Spanish National Commission of Markets and Competition	CNMC
Sweden	Konkurrensverket Swedish Competition Authority	

Jurisdiction	Competition authority	Abbreviation
Switzerland	Schweizerische Eidgenossenschaft Confédération suisse Confederazione Svizzera Confederaziun svizra The Competition Commission	COMCO
Thailand	สำนักงานคณะกรรมการการแข่งขันทางการค้า Office of Trade Competition Commission	OTCC
Tunisia	مجلس المنافسة Competition Council of Tunisia Conseil de la concurrence	CCT
Turkey	Rekabet Kurumu Turkish Competition Authority	TCA
Ukraine	Антимонопольний комітет України Antimonopoly Committee of Ukraine	AMCU
United Kingdom	Competition and Markets Authority	CMA
United States	Department of Justice Antitrust Division	DOJ
	Federal Trade Commission Bureau of Competition	FTC
Viet Nam	Vietnam Competition and Consumer Authority	VCCA

ANNEX 4
METHODOLOGY

This annex includes the methodological approach to ensure consistency, completeness, transparency, comparability, and accuracy.

The OECD CompStats database contains 32 variables obtained from questionnaire responses provided by competition authorities.

The quality of the OECD CompStats database improved due to corrections to previous years. For each variable, there is now greater consistency across jurisdictions. Nonetheless, given the large number of jurisdictions and their various competition law frameworks, improving the consistency of the data is an ongoing process and there may be further improvements to the data in future editions of the OECD Competition Trends report.

The time-series analysis in this report only contains jurisdictions that provided data for all six years to ensure consistency over time, allowing comparison between different years. The number of jurisdictions with data available for all six years varies depending on the variable. The analysis for 2020 uses the same set of jurisdictions as the time-series analysis to ensure consistency between figures.

For some jurisdictions, a competition authority's mandate extends beyond competition activities to consumer protection, public procurement, or other functions. To ensure consistency and comparability, the report only takes into account the budget and staff figures of those competition authorities reporting their budget and staff exclusively for competition law and policy activities for the six years (excluding, for instance, consumer protection).

Jurisdictions sometimes provided monetary values in their local currency. Financial figures (budgets and fines) of competition authorities are converted in euros to allow for comparison and aggregation.

For charts of financial figures over time, the official exchange rates from 2015 were used (published on 31 December 2015), to avoid fluctuations over time because of currency appreciations or devaluations. This means that the time series evolution in a given jurisdiction is not subject to any exchange rate effects. However, it also means that comparisons between jurisdictions in the years 2016 to 2020 are not based on the current exchange rates in those years.

For the purpose of the report, merger decisions include both formal decisions and other outcomes, such as the expiration of the waiting period or no-objection letters. Merger prohibitions include trials.

The total number of cartel and abuse of dominance decisions include the final decisions taken by the competition authority (or by a relevant court, if the competition authority does not take decisions in a given jurisdiction). Such decisions are not necessarily established infringements as some regimes use formal decisions to confirm the absence of an infringement. Moreover, in some cases, final decisions may still be subject to appeal. The total number of decisions excludes these appeals. For the purposes of this report, multiple decisions for the same cartel case (e.g., a separate decision for each defendant) are treated as a single decision.

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