



EVALUATION OF THE IMPACT OF THE
PERFORMANCE OF THE NATIONAL COMPETITION
AUTHORITIES PARTICIPATING IN THE
COMPAL programme
WITHIN THEIR RESPECTIVE MARKETS





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TABLE OF CONTENTS

I.	INTRODUCTION AND JUSTIFICATION	1
II.	METHODOLOGY OF ASSESSMENT PROCESS USED FOR COMPETITION AND CONSUMER PROTECTION POLICIES.....	4
III.	METHODOLOGY USED FOR THIS ASSESSMENT	6
IV.	EVOLUTION OF THE PERFORMANCE OF THE NATIONAL AUTHORITIES.....	8
V.	ASSESSMENT OF ECONOMIC IMPACT: ESTIMATION OF SAVINGS GENERATED FOR CONSUMERS.....	15
VI.	ANALYSIS OF RELEVANT CASES	23
VII.	CONCLUSIONS AND RECOMMENDATIONS.....	45
	BIBLIOGRAPHY.....	49
	ANNEX: QUESTIONNAIRE	51

I. INTRODUCTION AND JUSTIFICATION

Under the framework of the *Strengthening of Institutions and Capacities in relation to Competition and Consumer Protection Policies in Latin America (COMPAL III)* of the United Nations Conference on Trade and Development (UNCTAD), this report aims to assess the performance of the national competition authorities (NCA) who currently participate in the Programme, in relation to market impact.

The COMPAL programme provides institutional strengthening and capacities in term of competition and consumer protection for a total of 17 beneficiary countries in Latin America.¹ The Secretary of State for Economic Affairs of Switzerland (SECO) has financed the programme since 2004. The third phase of the programme has been implemented, taking place between 2015 and 2018.

The COMPAL Programme centres its efforts on consolidating acquired capacities and deepening regional cooperation, in addition to providing the public sector with appropriate tools to ensure voluntary compliance with applicable legislation and, in turn, empower global consumers in the 21st century. The technical role of UNCTAD in aiding and strengthening capacities in such areas is focused on providing beneficiary countries with the necessary tools for implementing a competition policy within their respective markets, in addition to improving the well-being of the consumer, and contributing to the sustainable and inclusive development of its members. The final COMPAL objective is to increase the competitiveness of economies and the trust of consumers in national and regional markets.

The INDECOPI-COMPAL School was established in 2015 with these objectives in mind - a joint initiative of the UNCTAD COMPAL Programme and Peruvian agency the National Institute of the Defence of Free Competition and the Protection of Intellectual Property (INDECOPI), which has trained more than 2,500 officers from member countries in matters related to competition and consumer protection. Specifically, training activities were centred on leniency programmes in 2015, with courses in 2016 being dedicated to efforts for promoting competition, and with forensic practices being the main focus of training sessions

in 2017. The courses held by the INDECOPI-COMPAL School provided high-level training with the aim of strengthening the capacities of its member countries in matters concerning the defence of competition and consumer protection, promoting the interchange of experiences, and deepening South-South cooperation in Latin America. Similarly, the INDECOPI-COMPAL School contributes to strengthening the task of creating a suitable market culture, in addition to training professionals.

The INDECOPI-COMPAL School develops its activities in accordance with the following principles:

- to work in partnership with member countries of the COMPAL Programme;
- to provide high level theoretical and practical training;
- to encourage the multiplier effect in relation to its activities;
- to focus on the attainment of concrete results.

The importance of promoting activities for the defence of competition in the Latin American economies is based on an economy in which such companies compete, to a greater extent, for the ultimate benefit of the end consumer who thus obtains more advantageous conditions, but also for the economy as a whole, in the sense that greater competition between companies results in increases in productivity and economic growth (OECD, 2014a.)

The Organisation for Economic Co-operation and Development (OECD) confirms the existence of solid evidence which supports each of the relationships shown in the attached chart, demonstrating that the role of the competition authorities is of great importance in terms of economic growth and the well-being of the consumer.

It is therefore important to increase levels of competition in such markets and the subsequent workload of national agencies for the defence of competition, and to oversee free competition in these markets.

**Figure 1.1:
The impact of regulating competition in terms of growth**



Source: OECD (2014a)

Public sector initiatives are subject to public scrutiny, especially regarding their efficacy and efficiency. With this in mind, an increasingly large number of national competition authorities are being submitted to assessment processes aimed at justifying the efficiency of their performance levels, especially to ascertain if and how their productivity contributes to increases in the economic well-being of society.

This assessment aims to demonstrate the impact of the activities carried out by national agencies in respect towards their respective economies, with a dual objective: to prioritise future activities based on the impact of past ones, and to demonstrate, to society, a suitable level of efficiency in the expenditure of public funds by national competition authorities.

These national competition authorities have been invited to participate in the assessment of the member states included in the COMPAL Programme, on a completely voluntary basis. The authorities are listed as follows:

Information on the most recent activities of these authorities has been requested in order to conduct an assessment into the impact of the activities of these national competition authorities in relation to

the economies of their respective countries., Through use of this information together with the information published on the websites of the respective authorities, including their adopted and published resolutions, compiled data has been structured into the following sections and paragraphs:

- Methodological options for preparation of an assessment into applicable competition defence policies.
- Methodology utilised in the prepared assessment.
- Assessment of agency performance through the development of processed files and information.
- Assessment of economic performance in terms of savings reported to consumers as a consequence of competition defence activities.
- Analysis of the most relevant cases for all countries involved, plus an estimate of overall impact in terms of savings generated for consumers.
- Conclusions and recommendations.

Table 1.1: COMPAL countries' competition authorities	
COUNTRY	EMPOWERING AUTHORITY
ARGENTINA	National Commission for the Defence of Competition
THE PLURINATIONAL STATE OF BOLIVIA	Business Enforcement Authority
BRAZIL	Administrative Council for Economic Defence (CADE)
CHILE	National Economic Prosecutor's Office
COLOMBIA	Superintendence of Industry and Commerce
COSTA RICA	Competition Support Office of the Ministry of Economy, Industry and Commerce
DOMINICAN REPUBLIC	National Commission for the Defence of Competition – PROCOMPETENCIA
ECUADOR	Superintendence of Control of Market Power
EL SALVADOR	Superintendence of Competition
GUATEMALA	Competition Promotion Office of the Ministry of Economy
HONDURAS	Commission for the Defence and Promotion of Competition (CDPC)
NICARAGUA	National Institute for the Defence of Competition – PROCOMPETENCIA
PANAMA	Authority for Consumer and Competition Protection (ACODECO)
PARAGUAY	National Competition Commission – CONACOM
PERU	National Institute for the Defence of Competition and the Protection of Intellectual Property - INDECOPI
URUGUAY	Competition Promotion and Defence Office of the Ministry of Economy and Finance

II. METHODOLOGY OF ASSESSMENT PROCESS USED FOR COMPETITION AND CONSUMER PROTECTION POLICIES

At the end of the twentieth century the national competition authorities from the most developed economies in the world developed assessment and measurement processes to gauge the economic impact of their activities and respond to questions about public spending in relation to the defence of competition. The difficulty of this task led to the use of multiple approaches and methodologies in order to address the situation. A problem arose in the sense that multiple methodologies provided numerous results that were difficult to compare between each other, making it difficult to gauge these results in comparative terms. The intention had been to harmonize all methodologies utilised by countries that stood out in terms of their own competition policies, with international organisations working towards the preparation of a common methodology that would function as a point of reference for national authorities that had already initiated assessment processes. The contribution of the OECD (2014b) is particularly noteworthy in this respect.

There is a difference between the ex-post and ex-ante assessments of public policies. The purpose of an ex-ante assessment is to justify the development of the project and to contribute to elements of improvement. Ex-ante assessments are focused on the behaviour and conduct of the economic agents and the economy, based on past experiences and other variables. On the contrary, the purpose of an ex-post assessment is to justify programme continuity, define accountability for the use of public funds, and introduce improvements that increase the programme's efficacy and efficiency. These assessments are based on the results obtained through the programme during its active application.

The assessment can be macroeconomic or microeconomic in accordance with its scope of action. The purpose of the macroeconomic assessment is to measure the results of a fair competition programme and its effects on economic growth, productivity, technological innovation, price levels, etc., and is also supplemented by quantitative information on the principle aggregates of the economy. A microeconomic assessment is based on the results a concrete action (merger, cartel or collusive practices) in relation to the

results of the companies that operate in the reference market, including the well-being of consumers.

An assessment into procedures and the quality of decisions can also be undertaken, i.e. a legal assessment into established rules and procedures, running in tandem with the analysis of cases that have been resolved. In this instance, the methodology to be used is fundamentally legal.

The assessment of the results obtained by the programme are justification for the use of public funds, to the extent that an efficient allocation of scarce resources from public budgets can be made.

The different assessment methods that can be applied to the competition policy are compiled in table 2.1 below.

The availability of information shall determine the methodology used. The use of macroeconomic models requires the use of multiple time-series comparisons into the performance of the economy and/or the principal sectors of economic activity. Microeconomic models require precise information on the economic activity of the companies in question, and the behaviour of their consumers. Assessments supported by the opinions of the principal authorities shall take place through polls or surveys targeted at a significant sample of the multiple collectives in question.

Ex-post assessments can be performed by personnel of the institution itself, or by external experts, or through a combination of both. Authorities with more experience in conducting assessments, such as the North-American, British and Dutch authorities tend to combine both methods. In general, external evaluators or assessors tend to have better forms of methodological preparation, whereas internal assessors have improved knowledge of institutional and economic realities. It is therefore recommended to implement mixed formulas that combine internal and external assessment, thereby providing greater objectivity through the participation of national authorities.

**Table 2.1:
Methodologies for ex-post assessment of the competition policy**

Microeconomic assessments	
Qualitative methods	
• Resolution analyses	Analysis of judgements concerning the decisions of the competition authorities.
• Surveys and subsequent reviews	Interviews of questionnaires completed by competitors, providers, customers, legal establishments and competition authorities.
Quantitative methods	
• Estimation and simulation of structural models	Uni-equational or pluri-equational econometric demand models
• Calculation of consumer savings	Hypotheses of the effects that are expected to be had on prices, sales and efficiency, including the expected temporary duration of these effects.
• Experimental methods	Results comparison of a group of companies submitted to a specific form of treatment, by comparing them to a control group.
• Analysis of events	Reactions of the capital markets on the announcement of a merger, or its prohibition, in addition to the share prices of the companies affected by the detection of a cartel or an antitrust investigation.
Mixed methods	
• Case studies	Combination of the previous methods for the analysis of a specific instance
• Sectoral market studies	Analysis of interventions that have had an effect in a specific sector
• Meta-analysis	Review of academic literature and competition authorities in specific fields
Macroeconomic assessments	
Qualitative methods	
• Surveys	Surveys to assess the effectiveness of the competition policy
Quantitative methods	
• Calculation of consumer savings	Hypotheses of the effects that are expected to be had on prices, sales and efficiency, including the expected temporary duration of these effects.
• Macroeconometric models	Simulations based on macroeconomic models

Source: European Union: Directorate General of Competition: "Ex-post economic evaluation of competition policy enforcement: A review of the literature" 2015

III. METHODOLOGY USED FOR THIS ASSESSMENT

This assessment shall be based on the following pillars:

1. Performance assessment.
2. Assessment of economic impact.
3. Analysis of prominent cases.
4. Meta-analysis of the performed analyses.

1. Performance assessment

By means of a questionnaire (see Annex 1) completed by the national authorities participating in this process, data has been analysed in relation to activities undertaken during the period of time specified for this assessment (2013-2017).

2. Assessment of economic impact

Through the data provided by the national authorities in relation to the aforementioned questionnaire, and by applying the methodology recommended by the OECD (OECD, 2014b), impact in quantitative terms of competition antitrust activities has been evaluated in relation to the economy of the countries in question and the savings subsequently bestowed on the consumer.

3. Analysis of prominent cases

Participating national competition authorities have been asked to provide detailed information on the cases that they consider to be the most important in relation to the cases resolved for the 2013-17 period, subject to analysis. These cases, as examples of good practices, shall be summarised by describing sanctioned conduct or behaviour, the measures adopted by the authorities in each instance, plus an estimation of their economic impact in relation to society.

4. Meta-analysis of the performed analyses

This process involves an analysis of the assessments undertaken by the national authorities in relation to the main findings of each individual case.

Selection of the sample:

On the basis of the voluntary nature of this study, the questionnaire was sent to 16 national competition

authorities participating in the COMPAL Programme, with the ensuing sample comprising the authorities who supplied the required information.

Even though the period of requested information is from 2013 to 2017, all information supplied has been analysed even if it does not fully include the aforementioned period, either due to the non-availability of data from 2017 or due to the later inclusion of activities.

Below is a list of the national authorities who submitted a response to the requested information:

- Argentina
- Brazil
- Colombia
- Chile
- Ecuador
- El Salvador
- Honduras
- Panama
- Peru

The requested information is not fully complete in certain instances, and therefore difficult to fully assess the impact of competition antitrust actions in relation to consumer savings.

Study schedule:

1. Submission of the questionnaire to national authorities (10 February 2018)
2. Reminder sent to national authorities who have not responded (10 March 2018)
3. Final deadline for the receipt of information (30 March 2018)
4. Delivery of the first study draft to UNCTAD, and further request sent to authorities to submit comments (27 April 2018)
5. Final study with inclusion of all received comments (25 May 2018)

Analysis of the received information:

Using the information received from the national agencies it has been possible to perform the following analysis:

Table 3.1:
Analysis undertaken in each country

Countries	Performance analysis	Consumer savings	Selected cases	Undertaken assessments
ARGENTINA	X	X	X	
BRAZIL	X		X	
CHILE	X	X	X	X
COLOMBIA	X	X	X	
ECUADOR	X	X	X	
EL SALVADOR	X	X	X	X
HONDURAS	X		X	
PANAMA	X		X	
PERU	X	X	X	

IV. EVOLUTION OF THE PERFORMANCE OF THE NATIONAL AUTHORITIES

This is based on information submitted by the national competition authorities for activities related to the number of initiated and concluded proceedings over the last five years, which are broken down into cartels, mergers and acquisitions, and abuse of dominant position / monopolistic practices.

This process investigates activities and performances that could be very unequal in terms of the importance and complexity of their resolution, which does not depend on the input of the national authorities themselves, but instead responds to situations as they

occur on the market. With this in mind, conclusions must therefore be established in terms of tendency and the degree of public intervention.

This is to the extent that one of the fundamental tasks of the national competition authorities is to define good practices in relation to competition while extending their knowledge and observances, in addition to providing quantitative information on the number of activities of this type currently being undertaken.

The activity data of the national competition authorities is compiled below.

Table 4.1:
Activity data of the Argentinian competition authority

ARGENTINA	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels							15	23	7	28
Abuse of position of power / monopolistic practices	14	2	33	0	34	42	29	44	28	54
Mergers and acquisitions	49	0	77	1	81	6	122	130	143	194
TOTAL	63	2	110	1	115	48	166	197	178	276
Dissemination activities and knowledge of good practices	3	0	8	0	3	2	3	4	7	32
TOTAL	66	2	118	1	118	50	169	201	185	308

Source: data supplied by the National Competition Authority (NCA) Argentina

Argentina underwent a strong increase in activity during the analysed period, with particular emphasis in recent years on the number of studied merger and acquisition processes, in addition to increasing activities in relation to the dissemination and knowledge of good practices. There is no differentiated information on cartels of monopolistic practices during the 2013 to 2015 period.

While the Administrative Council for Economic Defence (CADE) of Brazil did not submit any

information on cartels of monopolistic practices, analysis into mergers and takeovers demonstrated a very intense level of activity, in addition to high dissemination and knowledge of good practices. In terms of the latter, note the publication of guides, work-related documents, sectoral notebooks, realisation of events, the disclosure of opinions on cases decided at court, and the holding of multiple courses and conferences.

**Table 4.2:
Activity data of the Brazilian competition authority**

BRAZIL	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined
Mergers and acquisitions	377	351	426	423	403	405	382	381	369	377
Abuse of position of power / monopolistic practices	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined
TOTAL	377	351	426	423	403	405	382	381	369	377
Dissemination activities and knowledge of good practices	3	2	25	23	65	63	58	56	62	65
TOTAL	380	353	451	446	468	468	440	437	431	442

Source: data supplied by the Administrative Council for Economic Defence (CADE) of Brazil

**Table 4.3:
Activity data of the Chilean competition authority**

CHILE	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	4	2	2	1	5	7	3	3	14	3
Mergers and acquisitions	25	21	15	18	16	15	13	10	30	27
Abuse of position of power / monopolistic practices	18	21	15	24	18	25	13	15	24	13
TOTAL	47	44	32	43	39	47	29	28	68	43
Dissemination activities and knowledge of good practices	69	69	60	60	74	74	36	36	36	36
TOTAL	116	113	92	103	113	121	65	64	104	79

Source: data supplied by the National Economic Prosecutor's Office of Chile

In Chile, this set of activities is representative of moderate growth during the period in question, with particular emphasis on efforts to detect the formation

of cartels. A lower number of activities involving the dissemination and knowledge of good practices were observed.

Table 4.4:
Activity data of the Colombian competition authority

COLOMBIA	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Total	Conditional Sanction	Total	Conditional Sanction	Total	Conditional Sanction	Total	Conditional Sanction	Total	Conditional Sanction
Cartels	6	5	2	2	3	3	7	5	5	5
Mergers and acquisitions	31	3	37	8	45	3	42	3	45	7
Abuse of position of power / monopolistic practices	4	3	1	0	1	1	3	1	0	0
TOTAL	41	11	40	10	49	7	52	9	50	12
Dissemination activities and knowledge of good practices	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined
TOTAL	45	14	41	10	50	8	55	10	50	12

Source: data supplied by the Superintendence of Industry and Commerce Colombia

Colombia demonstrated growth in the total number of processed reports, particularly in relation to mergers and acquisitions. While no numeric information was received on activities involving the dissemination and knowledge of good practices, a

large number of activities took place in relation to virtual courses and training, and business integration guides and academic events such as the Congress of Free Economic Competition, which takes place every year.

Table 4.5:
Activity data of the Ecuadorian competition authority

ECUADOR	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	0	0	2	1	0	0	0	0	0	1
Mergers and acquisitions	13	12	24	18	42	44	36	32	30	24
Abuse of position of power / monopolistic practices	34	19	28	24	30	27	44	51	41	30
TOTAL	47	31	54	43	72	71	80	83	71	55
Dissemination activities and knowledge of good practices	48	48	300	300	1161	1161	1074	1074	1145	1145
TOTAL	95	79	354	343	1233	1232	1154	1157	1216	1200

Source: data supplied by the Superintendence of Control of Market Power. Ecuador

In Ecuador, the number of initiated and processed reports has greatly increased, especially in terms of analysed acquisition and merger processes.

Of particular note is the very high level of growth in relation to the dissemination and knowledge of good practices. This programme consists of a number of national events

Evaluation of the impact of the performance of the national competition authorities participating in the COMPAL Programme within their respective markets

(socialization of the Organic Law that Regulates Market Control and Power), training of User Committees,

national workshops, “Supertienda Ecuador” (Ecuador Superstore), and international workshops.

Table 4.6:
Activity data of the Salvadorian competition authority

EL SALVADOR	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	5	2	4	3	1	2	3	2	3	3
Mergers and acquisitions	20	23	7	9	7	11	10	9	16	15
Abuse of position of power / monopolistic practices	2	1	1	0	0	1	1	1	5	3
TOTAL	27	26	12	12	8	14	14	12	24	21
Dissemination activities and knowledge of good practices	20	20	17	17	14	14	22	22	12	12
TOTAL	47	46	29	29	22	28	36	34	36	33

Source: data supplied by the Superintendence of Competition El Salvador.

The Superintendence of Competition of El Salvador demonstrated a level of stability in the cases under analysis, with particular emphasis on mergers and takeovers. The Superintendence is also actively involved in dissemination activities and good practices.

Honduras has a relatively low level of activity, but has a high level of growth. Activity is concentrated on the analysis of mergers and takeovers.

Table 4.7:
Activity data of the Honduran competition authority

HONDURAS	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	1	1	1	1	0	0	0	0	0	0
Mergers and acquisitions	5	5	8	6	7	5	8	7	9	7
Abuse of position of power / monopolistic practices	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined
TOTAL	6	6	9	7	7	5	8	7	9	7
Dissemination activities and knowledge of good practices	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined	undetermined
TOTAL	6	6	9	7	7	5	8	7	9	7

Source: data supplied by the Commission for the Defence and Promotion of Competition (CDPC) of Honduras.

Table 4.8:
Activity data of the Panamanian competition authority

PANAMA	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	7	7	6	undetermined	11	undetermined	7	undetermined	6	10
Mergers and acquisitions	5	5	1	1	6	3	4	3	2	3
Abuse of position of power / monopolistic practices	2	undetermined	2	undetermined	1	undetermined	4	undetermined	9	undetermined
TOTAL	14	12	9	1	18	3	15	3	17	13
Dissemination activities and knowledge of good practices	1	1	0	0	1	1	2	2	0	0
TOTAL	15	13	9	1	19	4	17	5	17	13

Source: data supplied by the Authority for Consumer and Competition Protection (ACODECO) of Panama.

In Panama there is a growing and centred tendency on abuse of dominant position and monopolistic practices.

The National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI)

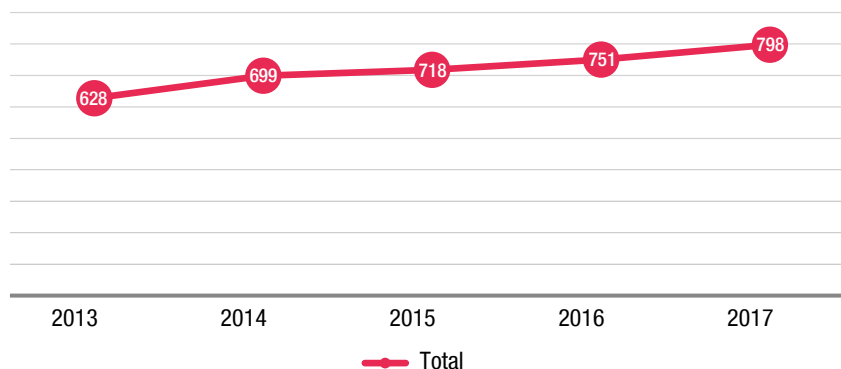
of Peru has undergone a rapid level of growth as a whole, including multiple types of reports. No sanctioned procedures have been registered in relation to the abuse of dominant position during the assessment period, nor any requests for prior

Table 4.9:
Activity data of the Peruvian competition authority

PERU	2013		2014		2015		2016		2017	
	Reports		Reports		Reports		Reports		Reports	
	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded	Initiated	Concluded
Cartels	4	3	4	6	6	7	4	3	5	8
Mergers and acquisitions	1	0	1	2	0	0	0	0	3	1
Abuse of position of power / monopolistic practices	1	4	2	2	1	2	1	1	4	2
TOTAL	6	7	7	10	7	9	5	4	12	11
Dissemination activities and knowledge of good practices	0	0	2	2	2	2	1	1	1	1
TOTAL	6	7	9	12	9	11	6	5	13	12

Source: data supplied by the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) of Peru

Figure 4.1:
Total number of investigations initiated by COMPAL competition authorities



authorisation of business concentration operations (mergers) which have subsequently been denied. There is only currently an obligation in Peru to notify the authorities about business concentration or merger procedures for companies operating in the power industry, with other business sectors not requiring such legal notification.

The joint evolution of the countries that have submitted the required information is shown in figure 4.1.

Table 4 details the number of reports in relation to initiated antitrust actions, but does not include initiated reports for the dissemination and knowledge of good practices. The results for this group of analysed countries indicates an increase of 27% for the five years under consideration.

This important increase can be indicative of a greater concern to promote free competition by public authorities and the economic agents. The increase can also be explained as a result of improved administrative structures of competition authorities and higher efficacy in detecting anticompetitive behaviours. UNCTAD's COMPAL Programme supports its beneficiary countries in strengthening such capacities.

Even though some competition authorities did not report the number of respective activities, actions involving the dissemination and knowledge of good practices underwent strong growth in the 2013 to 2017 period, multiplying by 7.8 times in number. This data needs to be evaluated with caution, however, as the strong level of increase in Ecuador is responsible for almost the entire level of growth.

Figure 4.2:
Advocacy and awareness raising activities by COMPAL competition authorities

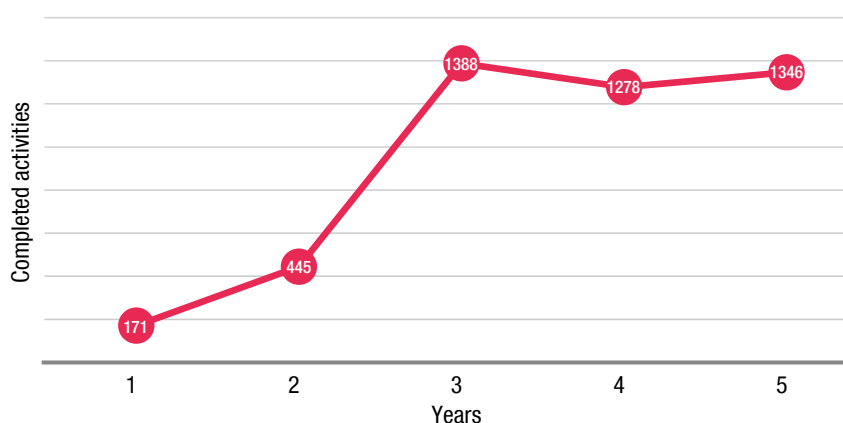
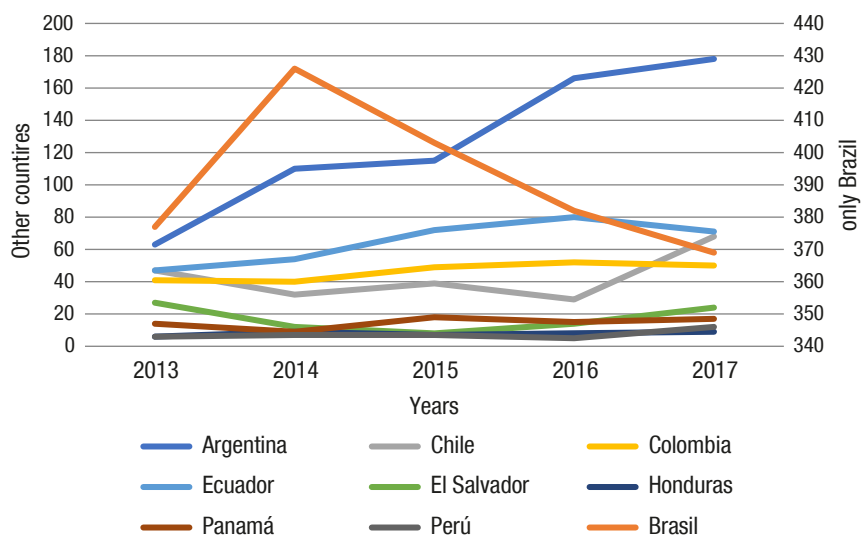


Figure 4.3:
Number of investigations initiated by COMPAL competition authorities



With the exception of Brazil, the data from the reports initiated by these countries (Figure 4) is demonstrative of growing trends and tendencies, although this data needs to be qualified in terms of the logical volatility linked to the complaints and manner of presentation of these cases.

V. ASSESSMENT OF ECONOMIC IMPACT: ESTIMATION OF SAVINGS GENERATED FOR CONSUMERS

The OECD Guide of Impact Assessment (2014c) takes into account the methods used by the principal national competition authorities, proposing the following general principles and procedures for calculating the impact of competition antitrust actions in relation to savings generated for the consumer.

The OECD proposes the following principles:

- Make use of information from concrete cases whenever possible.
- Assume that no intervention shall have a negative or unfavourable effect.
- Estimate customer benefits in a static manner, with the inclusion of dynamic effects whenever possible.
- Calculate and publish estimates on a regular basis.
- Present the results on an annual basis, utilising a three-year moving average.

- Present the results by decision type (e.g. separate the estimated impact of cartel decisions in relation to merger decisions).

The methodology proposed by the OECD has been used in this assessment. This consists of a set of simple and easy-to-apply rules, with the immediate impact being calculated by the number of sales affected by the expected price increase which, in turn, shall depend on the type of anticompetitive conduct detailed in table 5.1. The duration of the effects of this type of conduct on the market shall depend on the type of conduct itself, and shall be applicable for an estimated period of 2 to 3 years, over an estimated period of time.

The OECD proposes that this data be obtained from concrete cases due to the lack of a specific manner for calculating microeconomic data when there are no such instances, with the OECD also suggesting that the hypotheses specified in table 5.1 be used.

Table 5.1:
Estimation of consumer savings

	Cartel	Abuse of dominant position	Mergers and takeovers
Sales affected	Previous sales of the investigated companies in the affected markets	Previous sales of the investigated companies in the affected markets	Previous sales of all companies in the affected markets
Annual impact on prices	Surcharge of 10%	Increase of 5%	Increase of 3%
Duration	3 years	3 years	2 years

Source: OECD 2014

These parameters have been obtained through microeconomic and sectoral studies and comprise very conservative working hypotheses. Please note that there has been no assessment of potentially dissuasive or deterrent impacts in relation to the penalisation of anticompetitive behaviour and its effect on other operators who choose to discontinue their activities through fear of possible sanctions.

The results obtained from the assessment of savings generated for consumers greatly differ between the most prominent countries. For example, by taking

studies into account from the United States of America, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the European Union, which have measured these effects from the 2008-2013 period, the annual average of savings generated by the national competition agencies for their consumers oscillates by 0.006% in terms of Gross Domestic Product (GDP) for the United States, and 0.069 % in terms of GDP for the European Union.

This wide range of differences is due to multiple activities being employed over the years, the varying

sizes of the affected markets, and the different methodologies utilised by each of the competition authorities. It is therefore recommended that a similar methodology to the one proposed by the OECD is used, for analysing data over a time period of more than one year, through utilisation of mobile averages to smooth the temporal effects from this series of data, thereby avoiding strong oscillations which could cause high volume operations.

It is necessary to use the same measurement methodology for making comparisons between the results from multiple competition authorities. It is proposed that the sales made in the reference markets are used for the purposes of measuring affected revenues. In the event that this is not possible due to a lack of sales data, or not being contained in the resolutions, approximate variables may be used such as “prejudice to the estimated general interest” (as in Argentina), or previously imposed fines (under the hypothesis of being able to recover all or part of the damage or detriment incurred by consumers). However, valid solutions for the analysis of the evolution of the performance of the national competition authorities present serious difficulties when making comparisons between various authorities.

The main appeal of this methodology is being able to make estimations by using the data obtained from the resolutions of the national competition authorities. It’s main disadvantage, however, is only being able to measure the direct effects incurred by consumers, which does not consider other competition benefits in addition to price, such as effects in terms of innovation, increases in productivity, improvements in quality, and improved levels of choice experienced by the consumer, in addition to the dissuasive or deterrent effects felt by other companies considering the adoption of anticompetitive conduct or behaviour.

The dissuasive effects that the activities of the national competition authorities, and the sanctions imposed on infringing companies, could have on third-party companies that are planning to adopt non-competitive practices, are not taken into consideration within the multiple assessments. Nevertheless, it is possible to assess that the inclusion of these dissuasive effects has a considerable final impact in terms of consumer savings. The evidence provided by these academic studies and the Office of Fair Trading (OFT)² indicates that these effects are important but very difficult to measure accurately.

The undertaking of an assessment into economic impact, in accordance with the methodology recommended by the OECD, requires the attainment of detailed information from each one of the activities to be evaluated. Thus, each activity performed by national competition authorities in relation to cartels, mergers and acquisitions and the abuse of dominant positions (monopolistic practices), and having been finalised through a total or partial prohibition (denial), must specify the reasoning behind this resolution (total or partial prohibition), including the affected volume of annual sales by the company or companies within the reference market (sector and territory).

Using the data provided by multiple national competition authorities, estimated savings generated for consumers have been calculated for Argentina, Chile, Colombia, Ecuador, El Salvador and Peru. For the other countries included, submitted information was not sufficient to calculate the impact on consumers using the same methodology, either because information was not submitted, incomplete, or due to a lack of sales figures in the affected market, which are necessary for calculating the savings generated for consumers.

For each one of the prohibited forms of conduct, its impact in terms of savings was calculated for the year in question by applying the percentage recommended by OECD to the volume of sales generated in the affected market. This number can be extended for one or two more years, in accordance with the type of conduct, constituting the so-called delayed effects.

Based on the delayed effect of actions being assessed over a two or three-year period, the percentages of savings for 2013 and 2014 are not calculated due to there being no prior information necessary for measuring the delayed effects of previous years. Utilised GDP data was obtained from the International Monetary Fund - World Bank.

Below is a list of the calculations on consumer savings generated by the national competition authorities for situations in which it has been possible to make this calculation.

In Argentina, regulations do not consider volumes of company sales as one of the necessary elements for assessment in establishing the value of fines, and for this reason are not mentioned in the reports.³ The amount of damage to the general interest caused by the investigated behaviour is estimated. For cartels and abuses of dominant position, the estimated annual amount of damage caused to the general interest over a temporary duration of three years is used (following the methodology used by OECD).

Table 5.2:
Consumer Savings through intervention of the National Authority for Markets and Competition (CNDC) Argentina

ARGENTINA (thousands of Argentina pesos [ARS])	2013	2014	2015	2016	2017
SAVINGS FOR THAT YEAR (*)	6,000,000		34,595,768		13,729,142
DELAYED EFFECTS	undetermined	6,000,000		34,595,768	28,595,768
TOTAL SAVINGS	undetermined	undetermined	34,595,768	34,595,768	42,324,910
GDP (thousands of ARS)	611,471,000	563,614,000	631,621,000	544,735,000	619,872,000
SAVINGS/GDP (%)	undetermined	undetermined	0.4218	0.4006	0.3672

(*) Damage to general interest caused by the investigated forms of conduct.

No sanctions were imposed for cartels or for abuse of dominant position in years 2014 and 2016, nor were there any cancelled or conditioned merger or acquisition operations and, therefore, no direct savings for these years, with the delayed effects of previous operations being applicable only.

Data from Argentina demonstrates strong variability due to the high amount of operations under consideration. On the other hand, consumer savings in relation to GDP are higher than in other countries, possibly as the calculation for “damage to general interest caused by the investigated forms of conduct” may be overestimated in terms of savings, even when calculated in accordance with the OECD methodology.

The National Economic Prosecutor’s Office (FNE) of Chile does not have powers decide on cartels or

antitrust. Its task is to investigate such behaviours and submit findings to the Tribunal for the Defence of Free Competition– which does have power to rule on these types of anticompetitive practices.

For this reason, the only cases reported by the National Economic Prosecutor’s Office of Chile are mergers. This emphasises the economic importance of these operations generally involving large multinational companies.

For specific data in relation to mergers in Chile it has been necessary to establish estimates in relation to the sales figures of companies involved in merger and acquisition processes. This is due to the information provided corresponding to the sales figures of companies operating in world markets, not the Chilean market, thus resulting in potential over-evaluations.

Table 5.3:
Consumer Savings through intervention of the FNE, Chile

CHILE (thousands of Chile Pesos [CLP])	2013	2014	2015	2016	2017
SAVINGS FOR THAT YEAR	4,340	58,179	18,000	70,153	5,270
DELAYED EFFECTS	undetermined	4,340	58,179	18,000	70,153
TOTAL SAVINGS	4,340	62,519	76,179	88,153	75,423
GDP (thousands of CLP)	278,340,000	260,954,000	242,538,000	247,025,000	263,206,000
SAVINGS/GDP (%)	undetermined	undetermined	0.0314	0.0357	0.0287

Table 5.4:
Consumer Savings through intervention of the Superintendence of Industry and Commerce of Colombia

COLOMBIA (thousands of Colombia Pesos [COP])	2013	2014	2015	2016	2017
SAVINGS FOR THAT YEAR	75,367	117,837	664,889	273,891	1,742,657
DELAYED EFFECTS	undetermined	75,367	396,578	669,844	607,878
TOTAL SAVINGS	undetermined	undetermined	1,061,467	943,735	2,350,535
GDP (thousands of COP)	380,170,000	378,323,000	291,530,000	282,357,000	307,475,000
SAVINGS/GDP (%)	undetermined	undetermined	0.1325	0.1095	0.2590

The above table has been put together using data provided through the resolutions of the Superintendence of Industry and Commerce. The information provided makes no mention of the sales volumes of the included companies. In certain cases, this information has been taken from business economic information sources, whereas in other cases (of a lesser quantity) the value of fines have been used as a “proxy” indicator of damage

caused, although this figure is usually lower than that obtained using the OECD methodology.

In Ecuador, activities involving the dissemination and knowledge of good practices are of particular note. These activities should yield results over the long-term in avoiding, although no methodology currently exists that can measure their impact over the short-term.

Table 5.5:
Consumer Savings through intervention of the Superintendence of Control of Market Power (SCPM) Ecuador

ECUADOR (thousands of Ecuador Dollars [US\$])	2013	2014	2015	2016	2017
SAVINGS FOR THAT YEAR	undetermined	145,512	22,455	154,022	38,629
DELAYED EFFECTS	undetermined	undetermined	145,512	146,073	161,621
TOTAL SAVINGS	undetermined	undetermined	167,967	300,095	200,250
GDP (thousands of US\$)	95,130,000	102,292,000	100,177,000	97,802,000	98,576,000
SAVINGS/GDP (%)	undetermined	undetermined	0.1676	0.3068	0.2031

The cases reported by the Superintendencia de Competencia of El Salvador show a growing increase in consumer savings as contained in the table below.

Table 5.6:
Consumer Savings through intervention of the Superintendencia of Competition of El Salvador

EL SALVADOR (thousands of El Salvador Colons [SVC])	2013	2014	2015	2016	2017
SAVINGS FOR THAT YEAR	3,500	undetermined	4,000	10,095	10,090
DELAYED EFFECTS	undetermined	undetermined	3,500	4,000	14,095
TOTAL SAVINGS	undetermined	undetermined	7,500	14,095	24,185
GDP (thousands of SVC)	24,351,000	25,054,000	26,052,000	26,798,000	27,407,000
SAVINGS/GDP (%)	undetermined	undetermined	0.0287	0.0525	0.0882

Table 5.7:
Consumer Savings through intervention of Indecopi Peru

PERU (thousands of Peruvian Sol [PEN])	2013	2014	2015	2016	2017
SAVINGS FOR THAT YEAR	35,384	2,888	33	5,746	456,750
DELAYED EFFECTS	undetermined	undetermined	38,272	2,921	5,779
TOTAL SAVINGS	undetermined	undetermined	38,305	8,667	462,529
GDP (thousands of PEN)	197,903,000	203,103,000	192,310,000	195,299,000	210,013,000
SAVINGS/GDP (%)	undetermined	undetermined	0.0199	0.0044	0.2202

Until 2019 in Peru, pre-merger control by competition authorities was only operative in the electricity sector. Following a recent law reform pre-merger control has been extended to all sectors. There have been no refusals to pre-merger notifications in the electric sector, even though sanctioned behaviour corresponds to a previous set of years, the year of the resolution and its subsequent years have been used for this evaluation.

Results are therefore subject to high variability as the analysed cases consider of very different amounts, so it is recommended to use a three-year moving average. For this reason, it is not appropriate to calculate average tendencies or trends based on such few observances for the 2015-2017 period.

**Table 5.8:
Consumer Savings through intervention of the National Authorities**

% SAVING/GDP	2015	2016	2017	MEAN 2015-2017
ARGENTINA ⁴	0.4218	0.4006	0.3672	0.396
CHILE	0.0314	0.0357	0.0287	0.032
COLOMBIA	0.1325	0.1095	0.2590	0.167
ECUADOR	0.1676	0.3068	0.2031	0.225
EL SALVADOR	0.0287	0.0526	0.0882	0.056
PERU	0.0199	0.0044	0.2202	0.082

The results obtained in terms of savings generated for consumers shows considerable differences between each of the countries, from 0.396% of GDP in the case of Argentina, and 0.032% for the Chilean economy. Most of these differences remain within the variation range of other assessments. For example, considering studies from the United States, the Netherlands, the United Kingdom and the

European Union which measured the same effects in the 2008-2013 period, the annual average of savings generated by the national competition agencies for their consumers varies by 0.006% in terms of GDP for the United States, and 0.10 % in relation to GDP for the Netherlands. Table 5.9 shows the results of the assessments carried out on other economic areas.

**Table 5.9:
Estimations of Annual Consumer Savings (%)**

	YEAR	% SAVING/GDP
EUROPEAN UNION (European Commission)	2014	0.0273 – 0.0553
United States (Department of Justice)	2013	0.0068
United States (Federal Trade Commission)	2013	0.0060
UNITED KINGDOM (Competition and Markets Authority)	2013/14	0.0102
NETHERLANDS (Authority for Consumers and Markets)	2013	0.1075

Source: Ilzkovitz, F. y Dierx, A. (2015)

The Competition and Markets Authority⁵ (CMA) of the United Kingdom has published studies since 2005 which assess the subsequent impacts of its interventions. The assessments are carried out using the following two components: an external component for concrete cases and specific instances; and an internal component which measures the benefits that CMA activities generate for consumers, with both of these components being reviewed by a third-party expert. The assessment is broken down into different activities, with the final results being published by

applying a three-year moving average to avoid the volatility of figures that depend on the greater or lesser value of the presented cases.

For the 2014-17 period, the direct effect of estimated consumer benefits was 3.7 billion GBP, representing annual average savings of 1.2 billion. This figure represents 0.05% of United Kingdom GDP; a much greater impact in comparison to the previous 2013/14 period (0.01%). This assessment calculates the ratio of benefits in relation to the costs of the authority, having obtained a ratio of 18.6 GBP for each GBP spent.

Table 5.10:
Consumer Savings through intervention of the National Authority for Markets and Competition (CNMC) (Spain)

YEAR	Annual Savings EUR (3-year moving average)	GDP (thousands EUR)	Saving/GDP	% Saving/GDP
2016	861,110,430	1,118,522	0.000769865	0.0770
2015	889,359,542	1,079,998	0.000823483	0.0823
2014	151,764,333	1,073,820	0.000141331	0.0141
2013	235,921,186	1,025,693	0.000230012	0.0230

Source: own preparation and use of CNMC data (2017)

The National Authority for Markets and Competition of Spain has published an estimation of the “Impact of National Commission on Markets and Competition interventions in the defence of competition”,⁶ which follows the OECD methodology with a number of adaptations, and quantifies consumer savings by applying a three-year moving average in order to smooth circumstantial oscillations. Table 5.10 compiles the obtained results.

Savings in terms of the percentage of GDP grew over recent years, standing at 0.07% of GDP in 2016, totalling 861 million euros - a slightly greater figure in comparison to that obtained for the leading competition authorities around the world as shown in table 5.9.

As outlined above, comparison between the data obtained through the assessment of multiple countries shows that annual savings generated for consumers are greater in developing countries than in developed ones. This may be due to the fact that lower competition in developing countries’ markets increases the impact of competition enforcement.

As detailed below in table 5.11, the volume of savings for the 6 countries subject to assessment results in an average for each of the assessed years (2015, 2016 and 2017) of US\$ 3,665 million per year in consumer savings, with an impact of 0.285% in terms of GDP.

Table 5.11:
Consumer Savings through intervention of the Assessed National Competition Authorities

MILLIONS US\$	2015	2016	2017	MEAN
ARGENTINA	3,666.30	2,307.60	2,068.50	2,680.8
CHILE	76.1	88.1	75.4	79.9
COLOMBIA	386.4	309	796.4	497.3
ECUADOR	167.9	300	200.2	222.7
EL SALVADOR	7.5	14	24.1	15.2
PERU	38.3	8.6	462.5	169.8
TOTAL SAVINGS (6 countries)	4,342.50	3,027.30	3,627.10	3,665.6
GDP (sum of 6 countries)	1,484,228	1,394,016	1,526,549	1,468,264
% SAVING/GDP	0.293	0.216	0.346	0.285

Source: own preparation

The importance of these figures becomes clear in the sense that, if we assume that the average percentage of GDP is constant at 0.285%, and we apply this percentage to the 17 countries that are part of the COMPAL Programme, whose joint GDP is US\$ 4,061,700 million, we obtain an estimate of consumer savings as a consequence of the activities of national competition authorities at an estimated figure of US\$ 11,575 million.

The significant savings generated for consumers in each country enables us to establish a cost-

benefit ratio in relation to public budgets assigned to the national competition authorities. The national competition authorities have therefore informed us of their allocated budgets for the defence of competition, due to the fact that in some administrations, the authority in charge of ensuring competition undertakes activities in other economic areas. Table 5.12 summarises the savings generated for consumers, the budgets of the national competition authorities, and the benefit/cost ratio.

Table 5.12:
Consumer Savings through intervention of the National Authorities

	2015	2016	2017
ARGENTINA			
Savings generated for consumers ⁷ (thousands ARS)	34,595,768	34,595,768	42,324,910
Budget (ARS)	2,816,607	3,969,791	7,195,252
Ben/Cost. Ratio	12.283	8.714	5.882
COLOMBIA			
Savings generated for consumers (thousands COP)	386,484	309,075	796,481
Budget (COP)	undetermined	8,900,000	10,400,000
Ben/Cost. Ratio	undetermined	34.71	76.57
EL SALVADOR			
Savings generated for consumers (thousands SVC)	7,500	14,095	24,185
Budget (SVC)	2,554,310	2,554,310	2,557,540
Ben/Cost. Ratio	2.94	5.52	9.46
PERU			
Savings generated for consumers (thousands PEN)	21,109	7,044	304,995
Budget (PEN)	2,328,318	2,129,655	2,446,937
Ben/Cost. Ratio	9.06	3.30	124.64

The results of the -benefit-cost ratio are very high in all of the countries, and it is worth mentioning that it follows an increasing trend in all of them, except for Argentina.

VI. ANALYSIS OF RELEVANT CASES

The use of cases can prove useful when evaluating complex economic environments, such as those in which competition authorities operate. Case analysis can only take place over a sample which is not random. Even if not relevant from a statistical point of view, it can provide valuable information on the work of national competition authorities. Furthermore, considering the size of competition agencies and the number of cases they handle, the most prominent cases represent an important part of the authorities' overall impact on the economy.

The analysis of the cases submitted by competition authorities themselves allows for the measurement of economic impacts with a higher degree of accuracy in comparison aggregate activities.

In relation to the relevant market, the average sales volume at the time of the infringement have been used for the purposes of assessing conduct. In accordance with the OECD methodology (2004b), it has been established that estimate increases in prices avoided through national competition authority intervention is of 10% in the case of cartels, and 5% in the case of abuse of dominant position. In both instances, it is assumed that consumer saving lasts for a three-year period: the year of intervention and two additional years, after which it is not possible to presume significant effects. Operations for which it has not been possible to obtain data from any source have not been taken into account. Penalties imposed on individual persons have not been considered within this analysis, except in situations in which they have been fined for their role as autonomous business entities. In situations in which conduct has an "upstream" effect,⁸ it has been taken into account that the negative effect on producers could have been transferred to the end consumer, who would have benefited from an overall price reduction of 10%.

Mergers and acquisitions considered in this chapter are those that national competition authorities have forbidden or authorised with restrictions. The affected market is estimated on the basis of the sum of sales

from companies that are involved in concentration activities in the domestic market only, with sales in international markets affecting other economies but not the consumers of the countries under study. In accordance with the OECD methodology (2014b), it is estimated that the effect of non-authorized mergers and acquisitions would have produced price increases of 3%, with a temporary impact of two years (the year of prohibition and the following year).

The estimate of the economic impact is calculated in accordance with the methodology recommended by OECD (2014c). This is based on the previous sales of companies affected by National Competition Authority intervention, except for Argentina, with available information being an estimation of the damage caused to consumers. A percentage of 10% is applied to cartels, with 5% being applied to situations involving abuse of position of power, and 3% to mergers and acquisitions, which enables an estimate to be obtained in terms of damage caused to consumers through monopolistic practices. Finally, the effect on consumers shall extend for a total of 3 years for cartels and abuse of position of power, and 2 years for mergers and acquisitions.

In some of the presented cases, companies can take advantage of leniency or denouncement programs which enable them to collaborate and receive reductions in fines or penalties. This circumstance, however, has no impact on savings generated for the consumer which, even after being reviewed, have no assessment value.

Forbidden forms of conduct, the affected companies, the result of the activities of the national competition agencies and estimates of the economic impact of their activities in terms of savings generated for consumers, are summarised in table 6.1. Available information is not sufficient to calculate the full economic impact in some cases, with the level of fines imposed being used as an approximate indicator of the damage caused to consumers.

Table 6.1:
Assessment of Reported Cases

CONDUCT	COMPANIES	RESULT	ECONOMIC RESULT ⁽¹⁾ (annual impact on prices)	YEAR
ARGENTINA				
Merger Concentration	Laboratories: Pfizer-Laboratorios Elea	Conditioned authorisation	6,000,000 ARS per year over a 2-year period	2013
Monopolistic practices	Laboratories: Braun Medical, Gobbi Novag, Fresenius and Behring	Fine:	11,800,000 ARS per year over a 3-year period	2015
Cartel	Clínicas y Sanatorios de Provincia de Salta	Fine:	137,292,475 ARS per year over 3 years	2017
BRAZIL				
Merger Concentration	Ipiranga and Alesat	Prohibition	2,295 million BRL over a two-year period	2016
Merger Concentration	Ultragaz and Liquigas	Prohibition	256 million BRL over a two-year period	2017
COLOMBIA				
Cartel	Nappies (diapers): Tecnoquímicas, Familia and Kimberly	Fine (Leniency programme)	51,000 million COP over a 3-year period	2016
Monopolistic practices	Notebooks: Carvajal, Kimberly and Scribe	Fine (Leniency programme)	12,500 million COP over a 3-year period	2016
Cartel	Tissue paper: Kimberly, Familia, Papeles Nacionales and P. del R.	Fine (Leniency programme)	93,600 million COP over a 3-year period	2016
CHILE				
Cartel	Poultry companies	Fine	Fine: 46,600,000 CLP	2015
Monopolistic practices	Gynaecologists from Ñuble	Fine	Fine: 1,625,000 CLP	2015
Cartel	Tissue paper: CMPC and SCA Chile	Fine (Denouncement programme)	Fine: 36,000,000 CLP and 150,000,000 CLP to consumers	2017
ECUADOR				
Merger Concentration	Beers: Ab Inbev and SabMiller	Conditional approval	38,629,000 US\$ over a two-year period.	2016
Monopolistic practices	Telephony: Ecuadorian Telecommunications Consortium – CONECEL S.A.	Fine	77,011,000 US\$ over a three-year period.	2016
EL SALVADOR				
Monopolistic practices	Insurance companies: SISA Vida, ASESUISA Vida and AIG Vida.	Fine	4 million US\$ over a three-year period.	2014
Merger Concentration	Beers: Anheuser-Busch InBev and SABMiller	Conditional approval	10,095,769 US Dollars over a two-year period.	2016

Evaluation of the impact of the performance of the national competition authorities participating in the COMPAL Programme within their respective markets

CONDUCT	COMPANIES	RESULT	ECONOMIC RESULT ⁽¹⁾ (annual impact on prices)	YEAR
HONDURAS				
Merger Concentration	Cable television: Millicom and CATECHO	Conditional approval and fine	Fine: 13,399,602 HNL	2015
Monopolistic practices	Pharmacies	Removal of restrictions	40 million HNL in price discounts	2014
PANAMA				
Monopolistic practices	Monitoring Services and Public Control	Fine	6,742,376 million PAB per year over a three-year period.	2009
Monopolistic practices	Beers: Cervecería Nacional S.A.	Fine	20,000,000 PAB over a three-year period.	2017
Cartel	Wheat flour production companies	Fine	4,725,794.56 PAB per year	2015
PERU				
Monopolistic practices	Tissue paper: Kimberly Clark and Protisa	Fine (Leniency programme)	157.2 million US Dollars over a 3-year period.	2017

⁽¹⁾ In cases in which it has not been possible to calculate economic impact due to lack of data, amounts relating to fines imposed have been summarised.

Participating national authorities had been requested to provide, on a prior basis, detailed information on individual cases, or up to 3 cases, which they consider to be the most important of the cases resolved in the 2013-17 period, plus a summary of the most significant aspects of each case, in addition to their resolutions and their economic impacts, summarised in detail below.

ARGENTINA

The most relevant cases resolved by the National Commission for the Defence of Competition, in terms of the level of fines imposed, or through achieved resolutions, are as follows:

Economic concentration: Pfizer Inc. and Laboratorios ELEA S.A.C.I.F. y A.

Description:

The economic concentration operation that motivated the commencement of these activities took place abroad, consisting of changes to the Pharmaceutical Licence Contract of 17 March 1989 convened between the companies Pfizer INC, Warner Lambert Company and Parke-Davis & Company, as licensors, and the company G&M S.A. as the licensee, which in turn was later modified in 1997, 2002 and 2005.

Under the original licence, the companies Warner Lambert Company and Parke-Davis & Company awarded exclusive licences in favour of G&M S.A. for the preparation, packaging and marketing, in Argentina, of a number of their pharmaceutical products, plus the use the corresponding patents for these licensed products, the use of know-how in relation to necessary information and data for production purposes, and the use and commercialisation of licensed products. Similarly, as a consequence of successive modification, certain products marketed by both of the parties were incorporated and excluded from the original licence.

This operation was subject to investigation due to the volume of turnover of the affected companies at national level exceeding the established threshold of 2,000,000 ARS, as established in article 8 of Law no. 25.156, and due to the fact that the operation had not yet been regulated by any of the exceptions specified in the aforementioned law.

Based on the analysis conducted by the National Commission for the Defence of Competition, it was concluded that the notified economic concentration operation breached article 7 of Law 25.156, based on the clause to "Renounce the requirement to be in compliance with non-competition provisions", and therefore had sufficient capacity to restrict or distort competition.

Resolution of the case:

On 9 October 2013, Resolution SC No. 111 was issued, specifying that the notified economic concentration operation must be in compliance

with all modification obligations as specified in the aforementioned clause, which should be limited to the products Agarol, Caladryl, Duranil, Mylanta Pocket, Sacarina Parke Davis, Anusol, Benadryl, Mylanta, Sinutab and the product currently under phase of development by PFIZER INC for neuropathic pain and epilepsy containing the active ingredient Pregabalin, for the duration of the licence.

Calculation of the economic impact:

On the basis of the joint market of the two companies exceeding 200 million ARS, it is estimated that this concentration operation could have generated damage to the consumer in the region of 6 million ARS (Argentine Pesos) over the next two years.

Website of the publication: http://www2.mecon.gov.ar/cndc/archivos_c/1015.pdf

Concerted practices: B. Braun Medical S.A., Gobbi Novag S.A., Fresenius Kabi S.A., CSL Behring S.A.

Description:

The report was initiated on the basis of a complaint made by the Director of Investigations of the office of anti-corruption, by which the accused companies were deemed to have taken part in concerted practices under the framework of public tenders published by a number of public hospitals in the Autonomous City of Buenos Aires, Greater Buenos Aires, Ciudad de La Plata, and their areas of influence, from 2005 to 2007, for the purposes of establishing a gelatin market (also known as plasmatic expanders, polygeline, or plasmatic expanders based on gelatin). In particular, the reported conduct consisted of the distribution of customers and the fixing of prices with the aim of restricting competition to the detriment of general economic interest.

Resolution:

On 25 November 2015, the National Commission for the Defence of Competition declared that all of the reported laboratories, in addition to the individuals Carlos Alberto De Angelis, Daniel Alberto Ascencio and Raúl Miniño, for their inclusion in such activity, should be required to pay a fine of 10,000,000 ARS, and 200,000 ARS, respectively.

Calculation of the economic impact:

The turnover of all companies involved rose to 118 ARS (Argentine Pesos), with it being estimated that these concerted practices would have generated a

consumer loss of 10% in relation to this amount, i.e. 11.8 million ARS over the next three years.

Website of the publication: <http://cndc.produccion.gob.ar/node/699>.

Cartel: Association of Clinics and Private Health Organisations of the Province of Salta, Santa Clara de Asis Private Hospital s.a., Parque s.a., CENESAA s.a., Tres Cerritos Private Hospital s.r.l., Medical Circle of Salta, and the Salteña Association of Orthopaedics and Traumatology (ASOT).

Description:

The sanctioned conduct consisted of the formation of a cartel on the part the sanctioned health organisations in the cities of Salta, Tartagal and Metán, in the province of Salta, with the aim of fixing prices previously agreed with a number of fund managers working in the health industry (mutual and union social works, Provincial Institute of Health of Salta (IPSS) and pre-paid medicine companies) for the provision of health-related benefits for the period December 2011 to December 2013, inclusive. The agreed participation of the health organisations grouped into ACLISASA (a non-profit organisation consisting of clinics and health companies throughout the province, constituting an important part of the fined health organisations) and other non-associated health organisations.

Resolution:

As a consequence of this action, and based on the effects produced by restricting competition in the pharmacy markets, i.e. the reduction in the supply of pharmaceutical services in respect towards health service insurers, and the artificial regulation of medicine prices and perfume/cosmetic articles to the detriment of the end consumer, the National Commission for the Defence of Competition ordered a fine to be imposed on the 15 accused health organisation and ACLISASA at a total amount of 22,768,860 ARS.

Calculation of the economic impact:

The National Commission for the Defence of Competition estimated damages caused to the end consumer due to these practices totalled 411,877,427 ARS, or the equivalent of 137,292,475 ARS per year over a 3-year period.

Website of the publication: https://www.argentina.gob.ar/sites/default/files/rs-2018-03971330-apn-seccmp.pdf_c.1462.pdf

BRAZIL

The most relevant cases presented by the Administrative Council for Economic Defence (CADE) of Brazil are as follows:

Concentration: Caso Ipiranga and Alesat (2016)

Description:

This operation consisted of the acquisition, by Ipiranga Productos de Petróleo S.A. ("Ipiranga"), of the total share capital of the company Alesat Combustibles S.A.

Companies affected:

Ipiranga: The net income of Ipiranga in Brazil totalled approximately BRL 65 billion in 2015, but with no additional turnover in other countries. Ipiranga is part of the Ultrapar group of companies. The income of Ultrapar in Brazil in 2015 amounted to a total of approximately BRL 78 billion, of which BRL 1.3 billion was registered as turnover by foreign subsidiaries and through exports.

Alesat: The net income of Alesat, in 2015, amounted to BRL 11.5 billion. Alesat controls the ALE Group, consisting of a number of companies with activities in Brazilian territory, as listed below: • Alesat Combustibles S.A. • Alecred Promotora de Negocios de Crédito Ltda. • Ale Combustibles S.A. • Alesat Comercial Importaciones y Exportaciones Ltda. The net income of the ALE Group in 2015 was BRL 11.5 billion.

The following analyses were conducted for the purposes of carrying out the study into market concentration:

- Analysis of the production and transportation of petroleum derivatives; the production process of ethanol and the distribution of liquid fuels; and the resale of liquid fuels.
- Analysis of the relevant market (product and geographic dimensions).
- The possibility and probability of exercising market power.
- Entry: Market entry barriers, and the probability, timeliness and appropriateness of market entry at state level.
- Rivalry.
- Market analysis per Brazilian state.

- Efficiency.
- Remedy analysis (great difficulties).

Resolution:

The competition authority decided on total prohibition as a consequence of these analyses (non-approval of the operation).

Calculation of the economic impact:

It is estimated that the savings generated for consumers through the prohibition of this concentration operation is 3% of sales volume in the reference market (76.5 billion BRL), which amounts to 2,295 million BRL of savings over the next two years.

The decision can be consulted at the following address: (CADE document no. SEI 0372036)⁹.

Concentration: Ultragaz and Liquigás (2017)

Description.

The notified operation consists of the proposed acquisition, by Ultragaz, of 100% of the share capital of Liquigás, currently owned by Petrobras.

The Ultragaz company belongs to the Ultrapar economic group. For the year ended 31/12/2015, the Gross Operational Income of Ultrapar amounted to BRL 77 billion in Brazil, and BRL 78 billion throughout the world (including Brazil). In turn, for the year ended 31/12/2015, the Gross Operational Income of Ultragaz amounted to BRL 4,67 billion (with no turnover abroad).

Liquigás Petrobras is the holding company of Sistema Petrobras. For the year ending 31/12/2015, the Gross Operational Income of Petrobras (controlling company) was approximately BRL 328,747 million, with the Gross Operational Income of Sistema Petrobras (consolidated) being approximately BRL 401,320 million. In turn, for the year ending 31/12/2015, the Gross Operational Income of Liquigás amounted to BRL 3,87 billion (with no turnover abroad).

The Brazilian liquid petroleum gas (LPG) market in 2015 had the following characteristics: (i) apparent consumption: 7,308,605 tonnes; (ii) importation: 1,758,351 tonnes (24% of apparent consumption); (iii) total amount of imports: 596,542 (thousands US\$). The operation in terms of product dimension is defined as: Distribution of packaged LPG (LPG-P13 cylinders) and the distribution of bulk LPG (others).

Within the relevant packaged LPG market, the operation reached a total of 3,191 municipalities, in which Ultragaz, Liquigás, or both, were active. Activity in the market is considered to be the existence of any volume of sales of Ultragaz or Liquigás products in the relevant municipalities. There was horizontal market concentration in 1,419 of the municipalities included in the operation; information which has been obtained from the sales overlap of these companies.

The following analyses were conducted for the purposes of carrying out the study into market concentration:

- Relevant market (product and geographic dimension) of packaged LPG, bulk LPG and propellant LPG.
- Analysis of the LPG industry (supply of inputs, provisions, distribution and resale).
- The possibility of exercising market power for each type of LPG.
- Entry barriers.
- The probability, time and appropriateness of the entry.
- Rivalry.
- The probability of coordinated market activity.
- Efficiency.
- Analysis of the remedy (three proposed remedies).

In the relevant bulk LPG market, this operation reached a total of 25 Federal States (the affected companies not undertaking activities in the remaining two Federal States of Acre and Roraima). Ultragaz, Liquigás, or both companies, had activities in all of these Brazilian states, with activity in the market being considered the existence of any volume of sales of the Ultragaz or Liquigás products in the respective state. There is horizontal market concentration in 22 of the Brazilian states covered by the operation; information which has been derived by overlapping the sales of the companies under analysis.

Resolution:

As a consequence of this analysis, the competition authority agreed on total prohibition (non-approval of the operation).

Calculation of the economic impact:

It is estimated that the savings generated for consumers through the prohibition of this concentration operation

is 3% of sales volume within the reference market (8,539 million BRL) which amounts to 256 million BRL of savings over the next two years.

The decision can be consulted for further information at the following address: (CADE document no. SEI 0449454).¹⁰

COLOMBIA

The most relevant cases presented by the Superintendence of Industry and Commerce of Colombia are as follows:

Cartel: Caso Pañales

Description.

The investigation carried out by the Superintendence of Industry and Commerce of Colombia began in late 2013, and relied on the collaboration of the company Kimberly as the first company to voluntarily provide information about the cartel, and Familia as the company to do so. They both confessed their participation in a cartel, and they acknowledged their responsibility. They provided various proof, including documents, emails and declarations of their employees and ex-employees in relation to the existence and work method of the cartel in the disposable baby diaper/nappy for market in Colombia. In exchange for their collaboration, both companies received the leniency benefits established in the competition law.

The investigation undertaken by the Superintendence proved that Tecnoquímicas, Familia and Kimberly carried out a business cartel as part of their business dynamic. The cartel was led, promoted and sponsored by the highest management positions within these companies, including the Chairman and Managing Directors.

By entering and remaining in a cartel for more than a decade (2001-2012), Tecnoquímicas, Familia and Kimberly, abandoned the most elementary aspects of decent business behaviour- good corporate governance and good business practices. They violated their constitutional, legal and ethical duties, thereby deceiving the trust of the Colombian consumers and defrauding the economy.

Resolution:

The Superintendence of Industry and Commerce of Colombia imposed sanctions on Tecnoquímicas, Familia and Kimberly, for having been involved for

more than a decade (2001-2012) in concentrated, continuous and coordinated activity to artificially fix the price of disposable nappies for babies in the Colombian market. The 16 highest directors of these 3 companies (current and ex-employees) were fined for forming a cartel, and for having collaborated, facilitated, authorised, executed and tolerated conduct in violation of the free economic competition system.

The sanctions imposed on Tecnoquímicas, Familia and Kimberly and the 16 most important directors of these companies amounted to more than COP 208 million. The fines imposed on the companies did not exceed 8% of their total assets, nor 7% percent of their annual operating income.

The Superintendence granted Kimberly, in its position as the first reporting company, a one hundred percent (100%) exoneration of fine payment for effectively contributing to the investigation and complying with the commitments required as part of the Benefits for Collaboration Programme. Additionally, Familia in its position as second reporting company, received a reduction of fifty percent (50%) of the imposed fine.

The Superintendence decided not to proceed with its investigation into Drypers, even though its presence in the cartel had been proven, due to the fact that it had discontinued with its activities in 2006 and the sanctioning power of the State having expired. An additional 25 employees from the accused companies were also exonerated, some due to expiration of sanctioning powers, and others for having proved they did not participate in the business cartel.

Calculation of the economic impact:

In accordance with studies undertaken by the Organisation for Cooperation and Economic Development (OECD), business cartels that artificially fix prices in product markets generate prices ranging from 15% to 60% above the prices established by the competition. The market for disposable nappies for babies in Colombia generates income of around COP 600 billion per year, with the fined companies Tecnoquímicas, Familia and Kimberly having had a market participation of greater than 85%.

The turnover of the involved companies amounted to 85% of the market total of COP 600,000 million, through which it is estimated that these concerted practices would have generated an amount of damage to consumers of COP 51,000 million over the next 3 years.

The sanctioning administrative decision can be consulted in more detail at:

http://www.sic.gov.co/sites/default/files/estados/022018/RES_43218_DE_2016.pdf

Collusive Practices: Exercise Book Case:

Description:

Through Resolution No. 7897 of 27 February 2015, the Superintence ordered the opening of an investigation and statement of objections against the companies Carvajal Educación S.A.S., Colombiana Kimberly Colpapel S.A. and Scribe Colombia S.A.S. plus an additional 27 persons connected to these companies.

In its administrative act, the Superintendence presented two major accusations against the investigated companies. Firstly, of having participated in a price agreement to directly and indirectly fix the prices of exercise book products in the market.

Secondly, of having participated in concerted activities in respect towards the following: (i) marketing strategies, and the agreement not to deliver product consignments, nor accept returns of exercise books in single units, nor provide re-invoicing options or the delivery of freebies or gifts; (ii) marketing practices which agreed to reduce the number of sales promoters, and also agreed to reduce and/or maintain investments in certain exercise books; (iii) finance and credit strategies through the exchange of sensitive information within the framework of the so-called Credit Committee; and (iv) the supply and distribution of exercise books on the basis of not offering materials from the intermediate channel sector, nor using the required Sodexo Pass mechanism for the purchase of exercise books.

In relation to the first accusation, the Superintendence found that the investigated companies participated in a permanent and interrupted agreement in relation to the fixing of prices, by agreeing on the sale price of the products, the percentage increase in these prices, and the percentage of discount awarded to marketing channels.

In relation to the second accusation, the Superintendence Regarding found that the multiple agreements on competition variables other than price took place between 2012 and 2014. The Superintendence reached this conclusion by studying a series of evidence including declarations, minutes and other documents resulting from meetings between the

investigated companies. Such evidence also included proof of agreement among the colluding businesses.

Resolution:

The Superintendence of Industry and Commerce imposed sanctions on Carvajal, Kimberly, and Scribe for having been involved in conduct of a concerted, continuous and coordinated manner for the purposes of artificially fixing the prices of exercise books in the Colombian market.

The Superintendence granted Kimberly and Scrice, as they both denounced the cartel simultaneously, a one hundred percent (100%) exoneration of fine payment for effectively contributing to the investigation and complying with the commitments required as part of the Leniency Programme.

Calculation of the economic impact:

The size of the affected market is COP 125,000 million per year, by which it is possible to estimate the amount of damage caused to Colombian consumers as COP 12,500 million (10% of the market) over a 3-year period.

The sanctioning administrative decision can be consulted in more detail at:

http://www.sic.gov.co/sites/default/files/estados/RESOLUCION_54403_CUADERNO.pdf

Cartel: Tissue paper case

Description:

The business price cartel consisting of Kimberly and Familia began in 2000, considered to be the forerunners of the cartel, and the most active and prominent members. The company Papeles Nacionales became part of the cartel in 2001, with C. Y P. del R. joining in 2003.

The sanctioned business cartel operated in a covert structure whose purpose was to circumvent and breach competition law. The participating businesses used nicknames or pseudonyms to identify themselves. They communicated using “façade” email accounts to plan, execute and comply with the direct and indirect process of fixing the prices of toilet paper and other types of tissue paper in the Colombian market. The various members of the business cartel used nicknames and pseudonyms to identify participant companies.

The investigation managed to prove that Kimberly, Familia, Papeles Nacionales and C. Y P. del R. formed a cartel in relation to tissue paper as part of their

business dynamic, to the point of actively promoting and sponsoring these products through the highest echelons of company management. The report has proved direct participation in cartel related activities by managing directors of the companies, that have since been sanctioned through this investigation.

Resolution:

The Superintendence of Industry and Commerce imposed sanctions on Kimberly, Familia, Papeles Nacionales and C. Y P. del R., for having been involved, for more than a decade (2000-2013) in concerted, continuous and coordinated conduct for the artificial fixing of prices of tissue paper in Colombia, consisting of 4 different products: toilet paper, napkins, kitchen towels and handkerchiefs for hands and face. The Superintendence of Industry and Commerce also sanctioned 21 senior directors (employees and ex-employees) of the 4 companies participating in the cartel for having collaborated, facilitated, authorised, executed and tolerated conduct in violation of the free economic competition system.

The sanctions imposed by the Superintendence of Industry and Commerce amounted to a total sum of greater than COP 185 billion. The fines imposed on the 4 manufacturers of tissue paper in Colombia do not surpass 15% of their annual operating income.

The investigation carried out by the Superintendence of Industry and Commerce started at the end of 2013, and relied on the cooperation of Kimberly, Familia, Papeles Nacionales and C. Y P. del R. as the reporting companies, who admitted their participation in the cartel, recognised their responsibilities, provided documents, email addresses and declarations from their current and ex-employees regarding the existence and operations of the business cartel. The Superintendence granted Kimberly, in its position as the first reporting company, a one hundred percent (100%) exoneration of fine payment for effectively contributing to the investigation and complying with the commitments required as part of the Benefits for Collaboration Programme. Additionally, C. Y P. del R. in its position as third reporting company, received a reduction of thirty percent (30%) of the imposed fine.

The superintendence determined that Familia, in its role as second reporter, breached the obligations required under the framework of the Benefits for Collaboration Programme. As a consequence, the aforementioned company was excluded from the provisionally agreed list of benefits and a possible reduction of no less than

50% of the fine. The exclusion of Familia from the Benefits for Collaboration Programme is due to having hidden information, lied about relevant aspects of the investigation, and for not having submitted certain evidence that was in its possession. However, the Superintendence, while deciding on the penalty for Familia, took into account its confession of anticompetitive conduct and the explanations publicly offered to the country, which resulted in a reduction in the imposed fine.

Calculation of the economic impact:

In accordance with studies undertaken by the OECD, business cartels artificially fix prices within the market ranging from 15% to 60% above the prices established by the competition, with items being overpriced by an average of 30%. The market for tissue paper in Colombia generates income of COP 1.2 billion per year, with the fined companies having market participation of greater than 78%.

The size of the market affected by the fined companies is COP 936,000 million per year, by which it is possible to estimate the amount of damage caused to Colombian consumers as 10% of the market, or COP 93,600 million over a 3-year period.

The sanctioning administrative decision can be consulted in more detail at:

http://www.sic.gov.co/sites/default/files/estados/022018/RES_31739_DE_2016.pdf

CHILE

The most relevant cases resolved by the National Economic Prosecutor's Office of Chile are as follows:

Cartel: Poultry Companies.

Description:

In 2011, the National Economic Prosecutor's Office of Chile (FNE), the authority responsible for the defence of free competition in Chile, initiated a collusion lawsuit against the three largest poultry companies in the country: Agrosuper, Ariztía and Don Pollo. The Association of Poultry Producers of Chile was accused of being a trade organisation that intermediates, coordinates and audits the activities of a cartel.

The relevant market from the perspective of the FNE corresponds with the production, commercialisation and wholesale distribution of fresh chicken meat across Chilean territory, but with no alternatives that

closely match these particular characteristics and differentiate potential replacements.

These companies represented more than 92% of chicken production destined for the internal Chilean market (from January to October 2010). This is particularly relevant as chicken is the most consumed meat in Chile, representing 39% of total meat consumption in 2010.

Agrosuper is the leader of the cartel and controls 56% of sales (measured in kilos) as well as being the main producer of foodstuffs throughout the country, with additional and important participation in the pork, turkey and salmon meat markets, plus products such as cured meats, eggs, wines and oils. Ariztía has 29% participation in the reference market, in addition to participating in other foodstuff markets such as turkey, dried meat and eggs. Don Pollo has an 8% participation in the market, in addition to the production of pork, dried meat and eggs.

Since 1995, in coordination with the Association of Poultry Farmers, the analysed companies have drawn up an annual projection for the consumption and demand of chicken for the ensuing year, through which they have been able to determine the amount of chicken that needs to be produced and sold in a joint manner within the local market, thus becoming involved in one of the most serious crimes against free competition in Chile.

Resolution:

On 22 October 2015, the sentence handed down by the Supreme Court imposed, on Agrosuper and Ariztía, the maximum possible fine permitted under Chilean law for cases of collusion: 30 thousand Annual Taxable Units (ATU), equivalent to US\$ 23.3 million for each one of the companies. In the case of Don Pollo, the fine was established at 12 thousand ATU, equivalent to US\$ 9.3 million. In addition to the aforementioned, the sanctioned companies were ordered to dissolve the Association of Poultry Farmers and the guild that coordinated the cartel's operations, with the Supreme Court deciding on an additional fine of 2,000 ATU for taxation purposes, the equivalent of US\$ 1.6 million.

More details of this case and sentence can be found at: <http://www.fne.gob.cl/corte-suprema-confirma-multas-por-colusion-contra-agrosuper-ariztia-y-don-pollo-y-endurece-sancion-contra-el-gremio-que-las-reune/>

Concerted practices: Case of Gynaecologists from Ñuble:

Description:

On 23 October 2013, the National Economic Prosecutor's Office of Chile (FNE) filed an injunction against the Trade Association of Obstetric Gynaecologists of the Province of Ñuble (AGGOÑ) plus a group of 26 doctors.

In terms of the relevant market, the Prosecutor's Office defined these services as "professional and specialist medical services for gynaecology and obstetrics in the Province of Ñuble, of the Bio Bio Region", on the basis of the services provided by the specialist doctors having no close replacements or substitutes, and only facing direct competition from other doctor's practising the same level of speciality in and around the geographic market confined to the Province of Ñuble.

Concerned business represent 90% of the relevant market. The FNE considered the agreement to be anticompetitive and illicit, as it had the effect of restricting, affecting or eliminating competition in the relevant market. The Business Association operated as a platform for managing the activities and conventions under question.

The Trade Association has been accused of concluding and executing an agreement to fix minimum prices of specialist medical consultation services and surgical procedures in the private health system of the communities of Chillán, Chillán Viejo and San Carlos of the Province of Ñuble, which comprise the aforementioned Gynaecologist Association.

A series of minimum agreed prices were implemented and had the desired effects, through which the accused doctors increased the prices of their appointments to an amount equal to, or greater than, CLP 25,000 (approximately US\$ 42), whereas until January 2012, and before the collusive agreement began to take effect, the value of the same consultation services cost an average of CLP 13,000 (approximately US\$ 22).

The reported conduct had a public impact within the communities of the Province of Ñuble, including a reduction in the level of gynaecological care in comparison to the previous year, particularly in relation to medical outpatient appointments, resulting in a loss of social well-being.

Resolution:

The sentence imposed by the Tribunal of Fair Competition, which was later ratified by the Supreme Court, imposed a total fine of 89.7 ATU, equivalent to approximately US\$ 66,000 on the 25 doctors involved, and the Gynaecological Association to which they belonged. The sentence also accepted the request made by the National Economic Prosecutor's Office of Chile to order the dissolution of the Trade Association of Obstetric Gynaecologists of the Province of Ñuble (AGGON).

More details of this case and sentence can be found at: <http://www.fne.gob.cl/corte-suprema-ordena-disolver-gremio-que-reune-a-ginecologos-de-nuble-y-confirma-multas-por-colusion-contra-25-especialistas/>

Collusion: CMPC Tissue & SCA Chile.

Description:

On 27 February 2015, the National Economic Prosecutor's Office imposed an injunction against CMPC Tissue S.A. (CMPC) and SCA Chile S.A. (SCA or PISA) for entering into and executing agreements with the intention of allocating market share quotas and/or fix the sales prices of their tissue paper products from the year 2000 until at least December 2011, which affected the national wholesale distribution market for tissue paper within the mass consumption channel.

The relevant market corresponded to the wholesale distribution of tissue paper products to the end-consumer within the mass consumption channel and over national territory, with the agreement in question including all of the tissue paper brands and categories sold and marketed by the investigated companies.

There was a high level of concentration in this market, with the combination of these two companies surpassing 85% of the average annual participation from 2008 to 2013, and without taking the specific brands produced by each of these companies into account.

In relation to the relevance of each business category, the mass consumption category for CMPC¹¹ represents 80% of total company sales, whereas for SCA it represents 70%. Furthermore, please note that for each type of tissue product there is a more extensive range in terms of quality (premium, value and economic segments), brand (Elite, Confort, Favorita, among others), and format (quantity of sheets, metres and rolls).

At the beginning of 2000, the chain of supermarkets - Distribución y Servicio D&S S.A., now called Walmart, launched its own brand of toilet paper on the market

called "Acuenta", which sparked a price war between companies, and which motivated, in the middle of the year 2000, the commencement of meetings between the then owner of PISA and the general manager of CMPC. These meetings agreed to (i) raise prices, putting an end to the existing price war; (ii) maintain the share prices of CMPC and PISA at a stable level within the mass business market, while conserving market percentages in accordance with the production levels that each party enjoyed before the commencement of the price war, at 76% for CMPC, and 24% for PISA, without any consideration for other competitors; and (iii) fix the relative positioning of the prices of their commercialised products which directly competed with each other, due to PISA product prices generally being lower than those of CMPC for equivalent products.

In order to maintain the agreed market share prices, CMPC and SCA coordinated increased price percentages for their products, in addition to establishing a general framework for sales prices at public level for the tissue paper products estimated by both companies as being equal. To implement this process, both companies sent price lists to supermarkets and wholesale distributors containing the suggested sales prices for the general public.

Resolution:

In its judgement on 28 December 2017, the Tribunal for the Defence of Free Competition (TDLC) declared that both companies entered into and executed agreements with the intention of allocating market share quotas and/or fix the sales prices of their products from the year 2000 until at least December 2011, which affected the national wholesale distribution market for tissue paper within the mass consumption channel.

The TDLC imposed a fine for tax purposes on SCA Chile of 20 thousand Annual Taxable Units (ATU, the equivalent of US\$ 18.3 million) while exempting CMPC from this fine for having been the first company to have accepted the conditions of the compensated leniency programme. Furthermore, the Tribunal ordered both companies to adopt a free competition compliance programme in accordance with FNE directives over a five-year period.

In addition to the aforementioned, the National Consumers Service reached an extrajudicial compensation agreement with CMPC, by which a total of US\$ 150 million is to be paid to consumers, at an equivalent of CLP 7,000 (US\$ 11) for every person of 18 years-of-age or older at the time of this agreement.

This amount is equivalent to approximately 78% of the profits obtained during the years of collusion.

More details of this case and sentence can be found at: <http://www.fne.gob.cl/tclc-condena-a-cmpc-y-sca-por-colusion-en-el-mercado-del-papel-tissue/>

ECUADOR

The cases considered the most relevant by the Superintendence of Control of Market Power are:

Concentration: Ab InBev and SabMiller

Description:

On 10 October 2016 a concentration operation was formalised between AB InBev and SABMiller, the two largest brewing companies in the world, who jointly produce 1/3 of the world's beer. The aforementioned operation had direct effects in Ecuador due to SABMiller (the acquired company) being the owner of the companies: Cervecería Nacional CN, the biggest industrial brewing company in Ecuador, and producer of the brands: Pilsener, Pilsener Light, Club and Pony Malta, among others; plus Dinadec S.A. and Cernyt S.A. (in the process of liquidation); with AB InBev becoming the owner of the brewing company Ambev Ecuador S.A., the producer of brands such as Budweiser, Brahma, Biela and Maltín, among others.

The companies notified the Superintendence of Control of Market Power on 19 November 2015 for subsequent analysis of the concentration transaction, in order to authorise or reject it, or for conditions to be imposed. Full examination of the concentration operation took about 8 months in total, in which 4 relevant markets were identified with a degree of overlap: i) premium beer; ii) discount beer; iii) imported beer; and iv) malt-based alcoholic drinks.

The study identified that the merger would generate: i) high concentration in the analysed market; ii) the existence of high entry barriers (economic, distribution channels and loyalty barriers, for example); iii) and other factors. With all of these variables in mind, the merger generated serious concerns about the creation of unilateral practices that could harm the end consumer.

In this respect, and with the aim of finalising the merger, the competition authority ordered the company to comply with 11 structuring conditions so that the entry of new operators into the beer market was made possible. These conditions included; i) the disinvestment in the

plant; ii) the disinvestment in brands; iii) disinvestment in distribution channel; iv) other conducts.

Among the functions of the Superintendence of Control of Market Power is the power to correct and sanction anti-competitive behaviour, in addition to being able to carry out prior checks for the purposes of avoiding such conduct or behaviour. In the same respect, the Superintendence can control concentration activities through the regulation of possible changes to the structures of the merger, potentially affecting healthy competition in the relevant markets.

Therefore, in a preventive manner and as dictated by rules and regulations, the analysis considered the international merger in which AB InBev would acquire SABMiller, and have a distinct effect on the Ecuadorian companies Ambev Ecuador, Cervecería Nacional, DINADEC and Cernyt.

The analysis found that the parties involved were the main protagonists in the industrial brewing market, and the finalisation of the merger would eliminate the only current competitor exercising competitive pressure on the market, on the basis that no other competitors had significant influence on the market. This would enable the combined operator to obtain sufficient market power to enable it to undertake unilateral practices with no effective response on the part of its competitors, and cause subsequent damage to the end consumer through increases in prices, reductions in quality, etc.

Resolution:

With the aim of minimising the effects on the end consumer, and so that the competitive structure of the market could remain intact, the merger was ordered to comply with 11 imposed behavioural and structural conditions. These conditions seek to allow the entry of new operators into the market so as to exercise competitive pressure on competitors and help to avoid forms of anti-competitive behaviour on the part of merging companies.

The responsible organisation, the First Instance Resolution Commission, issued the following resolutions:

i) The first addressed the subordination of The Parties in relation to compliance with the 11 imposed behavioural and structural conditions, through the signing of a document of commitment which specifies the manner in which the aforementioned conditions shall be complied with; and **ii)** The authorised resolution of the document of commitment, for the purposes of ensuring

that The Parties continue to remain fully committed to the 11 conditions specified by the Commission.

Calculation of the economic impact:

The concentration operation had an estimated sales volume of US\$ 1,287 million.

**Table 6.2:
2014 Turnover**

Company Name	2014 Revenue
Cervecería Nacional S.A.	489,420,714.89
Dinadec S.A	781,501,638.00
Cernyt S.A	00.00 ¹²
Ambev Ecuador S.A	16,716,797.50
TOTAL TURNOVER	1,287,630,150.39

Preparation: National Directorate of Studies and Examination of Concentration Control

Through assessment of the volume of sales of the merger, it is estimated that the amount of damage that would have been caused to the end consumer if the proposed measures had not been carried out would have equated to 3% of total volume of sales, i.e. US\$ 38,629,000 over the next two years.

These resolutions can be consulted for further information at:

- Subordination resolution of the concentration operation: Report SCPM-CRPI-2016-017 of 6 May 2016 (<http://www.scpm.gob.ec/es/site-map/articles/90-crpi/531-resoluciones-notificaciones-obligatorias-2016>).
- Approval resolution of the document of commitment: Report SCPM-CRPI-2016-017 of 22 July 2016 (<http://www.scpm.gob.ec/es/site-map/articles/90-crpi/531-resoluciones-notificaciones-obligatorias-2016>).

Abuse of market power: Ecuadorian Telecommunications Consortium – CONECEL S.A.

Description:

The complaint filed by the Public Company, the National Telecommunications Corporation (CNT EP) against the Ecuadorian Telecommunications Consortium - CONECEL S.A., is based on a lease agreement that had been entered into by the latter party with the owners of property that houses necessary

infrastructure for the provision of advanced mobile services. The lease agreements signed by CONECEL S.A., contained an exclusivity by which the lessor will not grant the use, operation or exploitation of any part of the property, under any legal circumstances or in any shape or form, to other companies involved in the telecommunications industry. This was allegedly justified so as to not cause interference, malfunction or danger to and of the installed equipment.

The complaint presented by CNT EP focuses on breaches of rules contained in article 9 of the Organic Law for the Regulation and Control of Market Power, which regulates the abuse of market power.

The investigation analysed the two markets: **i)** the upstream market for the provision of advanced mobile services (the access market which comprises the provisions offered by a telecommunications operator to another operator, such as providing access to a property in which telecommunications infrastructures are hosted, known as “co-habitation”, or access to the aforementioned property, known as “co-location”; and **ii)** the downstream market for the provision of advanced mobile services (corresponding to the provisions of the services of a telecommunications operator to end users or consumers, such as the provision of a mobile voice service).

The upstream market for the provision of advanced mobile services includes the co-habitation or co-location services of the operators who provide the final mobile telecommunications service, i.e. the companies CONECEL S.A., OTECEL S.A., and CNT EP. The upstream market for the provision of advanced mobile services had a national dimension.. Additionally, advanced mobile services are provided on the basis of free competition, with national coverage included, as specified in article 4 of the Advanced Mobile Services Regulation. The complaint filed is principally focused on a demand for access to the buildings in which the telecommunications structure is hosted, and for the subsequent use of the advanced mobile services. It is therefore indispensable to establish a property access market, or co-habitation market, in relation to the property that houses the infrastructure required by an AMS operator.

Furthermore, based on the contents of article 5 of the Organic Law for the Regulation and Control of Market Power, it is stated that in the downstream market for the provision of advanced mobile services, affected goods or services correspond to the mobile voice service and the data transmission service via Short Message Service

(SMS), Multimedia Messaging Service (MMS) and the Internet. Operators provide mobile telephone and data transmission services within this specific market, but with 80% of operator revenue coming from the mobile voice service. The voice communications market was deemed most relevant. In particular, the National Telecommunications Council - CONATEL conducted a study to determine whether similar types of services, such as fixed telephony, constituted part of the relevant market;

CONATEL undertook assessments into the Telecommunications Sector for the purposes of defining relevant markets, in addition to assessing the existence of market power in the downstream market for the provision of advanced mobile services. In 2010 CONATEL decided that the mobile voice service could be defined as a relevant market within Ecuadorian territory, in agreement with the scope of the concession.

Additionally, the downstream market for the provision of mobile voice services is classified as functioning within a national dimension. This is based on the following two factors: i) the economic operators of the advanced mobile service are in possession of concession contracts that were awarded by the State for the use of this service across all national territory; and ii) the products/services provided by the telecommunications operators, in addition to the prices and characteristics of these products and services, are offered in a homogeneous manner throughout Ecuador.

Resolution:

As a consequence, the Ecuadorian Telecommunications Consortium - CONECEL S.A., was ordered to pay a fine of US\$ 138,495,964.60.

Calculation of the economic impact:

In accordance with the website of the Superintendence of Companies, the approximate volume of CONECEL turnover corresponding to the year 2016 was US\$ 1,402 million.

The affected volume of annual sales is US\$ 1,540 million, by which it is possible to estimate the amount of damage caused to consumers as 5% of total turnover (US\$ 77,011 million) over the next three years.

The resolution can be consulted in more detail at the following link:

<http://www.scpm.gob.ec/images/RESOLUCIONES-CRPI/infraccion-ley/2013/SCPM-CRPI-2013-2016-009-7-02-2014.pdf>

EL SALVADOR

Superintendence of Competition of El Salvador has selected the following cases:

Collusive Practices: SISA Vida, S.A. Personal Insurance, ASESUISA Vida, S. A. Personal Insurance and AIG Vida, S. A. Personal Insurance

Description:

The Board of Directors of the Superintendence of Competition (CDSC) of El Salvador determined the existence of a multi-behavioural scheme, initially representing conduct of an apparently individual manner but, upon further analysis, acquired a collective mannerism in terms of limiting and restricting competition in relation to contracting Disability and Survivorship Insurance (DSI) bids. The anticompetitive agreement consisted of manipulating and suppressing offers to share the market in relation to bids by Pension Fund Administrators (PFA) for the contracting of Disability and Survivorship Insurance, in order to ensure that bids were awarded to the insurer belonging to the same economic group as the PFA.

The investigation determined that insurers manipulated the presentation of their bids, by presenting unusually similar bids or bids with no economic foundation, in addition to finding evidence of atypical patterns in relation to differentiated prices, and winning bids that exactly responded to an allocation of customers distributed among the submitting PFAs (Art. 12, item i, of the Regulation of the Supplementary Law).

The following types of conduct were analysed:

- i. The abstention from bidding by AIG Vida in the tenders convened by PFA Crecer;
- ii. The abstention from bidding by Sisa Vida in the tenders convened by PFA Confia;
- iii. The presentation of different bids by Asesuisa Vida, in accordance with the PFA convenor;
- iv. The assignment by AIG Vida, to Sisa Vida, of 95% of the policy risk awarded in the tenders convened by PFA Confía, thereby allowing the

PFA to indirectly participate in the second round of bidding; and

- v. The presentation of strategically different bids on the part of AIG Vida and Sisa Vida, in the tenders convened by PFA Confia and PFA Crecer, respectively.

Resolution:

The Board of Directors of the Superintendence of Competition sanctioned the insurance companies Asesuisa Vida, S. A., Personal Insurance; Sisa Vida, S. A., Personal Insurance; and AIG Vida, S. A., Personal Insurance, for breach of article 25 of the Competition Law, in particular for fixing or limiting prices during public bidding, or market sharing in any type of public or private bidding situation, and market sharing based on a customers, . This was found in the bidding processed of the Pension Fund Administrators “Crecer and Confia” (PFA), specifically in the bid for insurance for Disability and Survivorship (DSI) from April 2008 to April 2012.

It was further determined that this infringement had been of particular severity due to the following factors: (1) constitutional transcendence of Disability and Survivorship Insurance as a public service of an obligatory nature, which guarantees the right to social security; (2) the significant and transcendent dimension of the DSI market to PFA affiliates at national level; (3) the prolonged four-year duration of the practices by the insurance companies involved; (4) the amount of damage caused to competition due to the bidding process; (5) the excess payment of DSI on the part of employers contributing to PFA schemes (or even self-employed workers who made such contributions); and (6) the negative effects on third-parties, either real (affiliated contributors) or potential (possible participants), deployed throughout the affected market.

The imposed fine amounted to 1.2% of total sales for the 2014 fiscal year, for each of the companies involved. For Sisa Vida - SVC 1,469,973.09; for Asesuisa Vida - SVC 1,365,364.56; and for AIG Vida - SVC 590,495.58.

Assessment of the economic impact:

The estimated annual amount of each bidding procedure in terms of coverage and subscription of net premiums totalled about SVC 20 million, i.e. with the combination of both PFAs raising this amount to about SVC 40 million per year, of which, when

multiplied by the four bidding periods included in the investigation (2008 - 2011) resulted in an approximate amount of about SVC 160 million.

Economic damage is estimated at a 10% rise in prices over the next 3 years, through which the prohibition of the scheme would result in consumer savings of about SVC 4 million over the next three years.

The resolution of this case is available at the Superintendence of Competition’s website at: http://www.sc.gob.sv/site/uploads/SC-012-O-PS-R-2013_170415_1425.pdf with the case summary being available at: <http://www.sc.gob.sv/site/pages.php?id=1388>

Concentration: Anheuser-Busch InBev SA/ NV and SABMiller PLC

Description.

In November 2015, the companies AB InBev and SABMiller agreed on an acquisition at worldwide level, by AB InBev, of the entire amount of current and future share capital owned by SABMiller. The authorisation request in El Salvador was presented to the Superintendence of Competition on 5 February 2016.

The SABMiller group has business presence in El Salvador through the company Industrias La Constancia, S. A. de C. V. (from hereon ILC) and other subsidiaries. ILC produces, imports and markets beer and other types of non-alcoholic drinks. In turn, AB InBev imports beer through its subsidiaries in Guatemala and the Dominican Republic, which are then distributed through Salvadorian territory through the company Comercializadora Interamericana S. A. de C. V. and Crio Inversiones S. A. de C. V., respectively.

The assessment carried out by the Superintendence of Competition determined that this transaction would result in a significant limit to competition within the beer market, in addition to affecting the well-being of the end consumer. The identified consequences were: (1) the resulting merged company would, essentially, become a monopolist company; (2) rivalry between the main competitors in the market would disappear; (3) strengthening of the dominant position of ILC would create favourable conditions for a generalized price increase of all beer brands contained within its portfolio; and (4) inappropriate strengthening of the barriers to prevent entry of competitors into the market.

Resolution:

The Board of Directors of the Superintendence of Competition (CDSC) imposed a number of conditions in relation to the request for authorisation for economic concentration between Anheuser-Busch InBev and SABMiller. The main imposed conditions are as follows: (1) to present a Disinvestment Plan for subsequent CDSC approval; (2) formalise relationships with its providers, and abstain from getting involved in anti-competitive practices; and (3) ensure that all labour guarantees remain in place for its employees.

The CDSC deemed it relevant to apply a structural type condition consistent with the disinvestment of assets, and capable of preventing damage to end consumers. In compliance with the resolution of the Superintendence of Competition, on 1 December 2016, AB InBev presented a Disinvestment Plan which stipulated, among other factors, that it would disinvest (no longer sell) the Regia Extra and Suprema brands of beer (in its three representations: Clásica, Roja and Negra), within a period of 180 working days, which may be extended over an equal period.

The purchaser of these brands, which must be suggested and authorised by the Superintendence of Competition, shall be an independent third-party company to the seller. To ensure the effectiveness of this condition, the CDSC will ensure that the purchaser has sufficient economic capacity and market incentive to generate an appropriate level of competition within this market, thereby counteracting the damages caused by the economic concentration. AB InBev and ILC were also ordered to formalise business relationships with retail distributors and suppliers, while abstaining from introducing clauses into contracts that could limit competition. Furthermore, the CDSC established conditions for AB InBev to keep all labour-related guarantees for its employees in place for a period of three years after fulfilment of the disinvestment process.

On 12 December 2016, AB InBev presented a document called 'Acceptance and Commitment to Conditions of Compliance', detailing and accepting all of the conditions agreed with the CDSC.

Assessment of the economic impact:

The amount of the operation expressed in assets amounts to SVC 371,315,889, which expressed in terms of income, is SVC 336,525,635.

On the basis of the effects of such a merger resulting in a price increase of 3% over a two-year period, it is estimated that the savings generated for consumers

would be SVC 10,095,769 per year over a two-year period.

This resolution is available at the Superintendence of Competition's website at: http://www.sc.gob.sv/uploads/SC-003-SCER-2016_260816_1400.pdf with the case summary being available at: <http://www.sc.gob.sv/site/pages.php?id=1823>

HONDURAS

The Commission for the Defence and Promotion of Competition (CDPC) of Honduras has selected the following cases:

Merger: Sociedad Millicom Cable Honduras S. A. de C.V. (Millicom Cable Honduras) and Cable Televisión de Choluteca, S. de R.L. (CATECHO).

Description.

Economic concentration, consisting of the exchange of control through the acquisition of one hundred percent (100%) of CATECHO assets on the part of Millicom Cable Honduras.

This concentration operation was partially authorised in the sense of being approved for the product market: Cable Television and Fixed Internet Services, within the geographic market of: the City of San Lorenzo, Borough of Valle, while prohibiting the concentration project in the sense of it being denied for the product market: Cable Television (standard and high definition) and Fixed Internet Services, within the geographic market of: City of Choluteca, Borough of Choluteca.

On 31 October 2011, the economic agents made a legal Request for Reconsideration, with the Commission authorising the concentration operation for the product market: Cable Television (standard and high definition) and Fixed Internet Services, within the geographic market of: City of Choluteca, Borough of Choluteca.

On 24 October 2014, the Commission decided to initiate an investigation procedure against the economic agent Millicom Cable Honduras S.A. DE C.V.

Resolution:

Through its Resolution dated 15 May 2015 the Commission determined that a restrictive business practice was conducted between 2012-2013 period. It related to price fixing by Millicom Cable Honduras,

S.A. DE C.V. in the markets for Basic TV and Internet services, in their different definitions, and bandwidth packages in the Choluteca market. This resulted in a fine being imposed on Millicom Cable Honduras, S.A. de C.V. of HNL 13,399,602.88.

On 15 June 2015, the economic agent Millicom Cable Honduras submitted a further request for reconsideration to the Commission, applying article 51 of the Law for the Defence and Promotion of Competition. On 6 July 2015, through application of the leniency articles, the Commission reduced the fine imposed on Millicom to an amount of HNL 8,933,068.59.

Collusive Practices: Pharmacies

Description.

The pharmaceutical industry in Honduras is typically characterised by fragmented supply when it comes to the sale of retail medicines. Prior to 2005 retailers were rarely integrated at a vertical level in relation to pharmacies and pharmaceutical laboratories. During 2005 and 2006, market dynamics changed due to the entry into the market by pharmaceutical chains which began to operate under drugstore and pharma formats, and due to the entry of laboratories and pharmacies into the retail industry.

The market dynamics that were established from this period onwards were perceived as a threat by independent retailers. Small independent retailers alleged that the discounts offered by the pharmaceutical chains had predatory prices, thereby making it impossible to remain in the market due to significant reductions in their own profit margins.

Before this apparent threat, independent retailers exercised pressure through the Association of Pharmacy Owners (APROFA) with the intention of eliciting agreements between the laboratories, pharmacies and pharmaceutical chains, for subsequent discussion about current “problems” in the industry in relation to the new range of discounts offered by the pharmaceutical chains. In February 2007 a meeting, took place in which all participating economic agents agreed to establish a maximum range of discounts for retailers to offer to their customers.

In other words, the laboratories (producers), pharmacies (wholesaler-importers) and retailers agreed to “censor” the range of discounts that could be offered on the part of pharmaceutical chains

and independent retailers to end consumers. These discounts were fixed at a maximum of 15% for the general public, and 25% for senior citizens.

Furthermore, a restriction was found to be set in place in contradiction to clear market competition, made effective by a legal provision that limited the entry requirements of pharmacies and their ability to change their location, to a minimum distance of 250 linear metres away from any other pharmacy. This restriction was established by the Pharmaceutical Chemical Association of Honduras (CQF) as one of the necessary procedures for pharmacy owners in being able to get a government licence or submit a request to change location. This restriction caused limitations among pharmacies competing on the market, causing general losses to the end consumer (higher prices, lower product ranges, less access to generic products, fewer discounts and lack of loyalty programmes).

Resolution:

Once the resolutions had been signed at administrative level, the relevant parties requested through the courts of the Republic of Honduras, that the Commission challenged the existing anti-competitive resolutions. Each case presented a number of challenges for the Commission based on the appeals lodged by the sanctioned economic agents. The legal cases were overseen by the Courts of Administrative Litigation, the Court of Appeals, and even by the Supreme Court of Justice on the basis of judicial reviews. The final legal case was resolved in 2014.

As a result of the elimination of competitive restrictions, and removal of the market entry barriers was accomplished, this immediately encouraged new pharmacies to open across the country, especially in areas in which competition could potentially increase such as around hospitals, health centres and areas of high public transit. It was then possible to observe greater competition within the market, with increases in discounts offered by pharmacies, either by independent retailers or pharmacy chains.

Since the definitive elimination of the restrictive measures, 67 pharmacies have opened in 33 different cities throughout Honduras. The cities benefited from the advocacy-related efforts of 16 departments throughout Honduras, representing 90% of the country’s entire geography. New market participants have implemented business strategies which are

consistent with the range of discounts offered to end consumers, which initially oscillated between 5% and 10%. The peak of the discount war between retailers in the main city of Honduras, with discounts of up to 30% for the general public, and 40% for senior citizens.

The principal objectives of the undertaken advocacy activities were focused on obtaining the following results:

- 1) Re-establish the right to free competition in the pharmaceutical market.
- 2) Ensure appropriate supply and demand for the commercialisation of pharmaceutical products, thus enabling pharmacies to be established in any part of the country.
- 3) Revitalise options available to end consumers in terms of price, quality and services.

PANAMA

The Authority for Consumer and Competition Protection (ACODECO) of Panama provided the following cases:

Collusive Practices: Monitoring Services and Public Control

Description:

On 30 May 2003, the Commission of Free Competition and Consumer Affairs (CLICAC) decided to sue 16 companies (advertising agencies) for being involved in an absolute monopolistic practice for the purchase of an advertising investment monitoring service. The sued advertising agencies are client companies of a advertising investment monitoring service.

The sued companies were associated with the Panamanian Association of Advertising Agencies (APAP) and were therefore obliged to be in full compliance with the resolutions of the Boards of Directors or General Management under penalty of expulsion from the association.

In 2002, various meetings took place between members of the association at the head offices of the Monitoring Commission of the APAP. The meeting involved negotiations between associates and providers of the advertising investment monitoring service, including the approval of joint negotiations for the monitoring service with the company IBOPE

TIME. Each of the participating companies signed the contract and rescinded all previous contracts with the CIP from 1 May 2003 onwards

The sued advertising agencies negotiated and agreed to hire IBOPE as a provider, with a similarly structured contract and jointly negotiated fees.

Resolution:

The sentence handed down by the eighth judge of the civil court determined that the sued agencies had agreed, convened, combined and arranged for the manipulation, concertation and/or fixation of the purchase price of the advertising investment monitoring service in the market in which this service had been acquired, thereby restricting competition in a prohibited and illicit way, and constituting an absolute monopolistic practice.

As a consequence, the 16 advertising agencies were ordered to pay a fine of PAB 880,929.66 to the Advertising Investment Monitoring and Control Service for the correction of incurred damages, plus the payment of PAB 119,092 for costs.

Calculation of the economic impact:

The economic impact in terms of economic damaged caused to the companies was estimated by CLICAC at PAB 20,227,129.80

The resolution can be consulted in more detail at the following link: http://www.acodeco.gob.pa/acodeco/uploads/pdf/fallos_sanciones/PUBLICITARIAS_31diciembre2008.09_02_2009_10_27_40_a.m..pdf

Collusive Practices: Cervecería Nacional, S.A.

Description:

On 30 November 2017, the High Court of Justice of Panama confirmed the decision of 22 November 2015 which declared that the economic group composed of Cervecería Nacional S.A. and its subsidiaries were involved in monopolistic practices. The decision confirmed the arguments put forward by ACODECO as it declared that the breaches of the competition rules related to abuse of dominance by Cervecería Nacional S.A. The company, through the exercise of its substantial market power, raised barriers to entry in the beer distribution market and/or impeded the entry and permanence of its only direct competitor Cervecería Barú Panamá, S.A. and other potential

competitors. This was achieved, by signing exclusivity contracts with beer suppliers.

These violations had an impact on the market by signing contracts for the supply of beer conditioned by exclusivity agreements which were presented in different formats, including loaned financial amounts, with exclusivity clauses in relation to the sale of the beer by/from the accused group, and monopolistic practices which are classified as illicit under legislation governing fair competition in Panama. The amount of damage generated to consumers is based on restricting the consumer from their right to choose a range of products and prices.

Resolution:

A guilty verdict issued by the ninth judge of the civil court, and subsequent fine imposed by ACODECO.

Calculation of the economic impact:

The Panamanian beer market is estimated to surpass PAB 400 million per year. With this in mind, consumers would have been impacted by an estimated 5% price increase over a three-year period, amounting to PAB 20 million per year.

More information about this case can be found at: http://www.acodeco.gob.pa/acodeco/uploads/pdf/noticias/DOC-20171203-WA0001.12_04_2017_10_09_03_a.m..pdf

Cartel: Companies that use flour as an input.

Description:

The Panamanian flour industry is comprised of the companies Gold Mills de Panamá S.A., Harinas de Panamá S.A., Oro del Norte S.A. and Harinas del Istmo S.A., which supply the entire national market. They import all of the wheat needed for their production of wheat flour, which is later distributed inside the country.

Since 1991 this market has been subject to price regulations on the part of the Price Regulation Office, which has been operating on the basis of free competition principles since this date. On 8 March 1994, the four above mentioned companies met together to sign a document which fixed the prices of flour throughout the internal market, who then agreed to share the national market in the following ratios: Gold Mills de Panamá S.A. (35.42%), Harinas de Panamá S.A. (35.42%), Harinas del Istmo S.A.

(15.42%) and Oro del Norte S.A. (13.75%). They also established a control mechanism for compliance with this agreement, including the appointment of an Auditor/Controller.

The Commission of Free Competition and Consumer Affairs (CLICAC) judged that the agreement and its successive amendments led to the carrying out of illicit practices which had the following effects: a) the fixing, manipulation, concertation and imposition of the sale price of flour across the Panamanian national market; b) the exchange of information with the aim or effect of fixing or arranging the sale price of flour; c) the distribution of specific market portions or segments to each company; d) the implicit agreement not to produce or process flour for the national market, with the exception of a limited quantity.

As a consequence, the prices charged by each company had a very small amount of variation, were very high, and were not true in relation to production costs. The companies demonstrated an idle capacity of approximately 25%.

Resolution:

The eighth judge of the civil court of the First Judicial Court of Panama (on 3 October 2003) declared that the aforementioned companies were involved in absolute monopolistic practices, which were consistent with informally agreeing to establish the price margins of flour, in addition to maintaining specific market participation percentages. The companies also agreed on the intervention of the National Association of Wheat Mills of Panama and an expert to maintain and manipulate sale prices, exchange information and maintain market participation percentages. The third Upper Court of Justice of the First Judicial District of Panama subsequently confirmed their judgement on 24 June 2004.

Calculation of the economic impact:

CLICAC estimated that the effects imposed by these illicit practices resulted in an estimated level of damage, for the period from 4 November 1996 to September 1997, at an amount of PAB 4,725,794.56.

More information about this case can be found at: http://www.acodeco.gob.pa/acodeco/uploads/pdf/fallos_sanciones/CasoHarinas_28junio2004.09_02_2009_08_22_23_a.m..pdf

http://www.acodeco.gob.pa/acodeco/uploads/pdf/fallos_sanciones/HARINAS_30septiembre2003.09_02_2009_10_13_26_a.m..pdf

PERU

The National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) of Peru provided the following case:

Collusive Practices: Kimberly Clark Perú S.R.L., Productos Tissue del Perú S.A. and multiple individual persons.

Description:

The conduct analysed involved collusive practices in the form of agreeing to fix prices and commercial conditions in relation to the commercialisation of toilet paper and other tissue paper products.

Between 2005 and 2014, general managers and other employees from both companies belonging to the sanctioned cartel, secretly decided on a range of specific price increases at a number of meetings held in hotel rooms and restaurants. They also utilised a number of telephone contacts.

The cartel, consisting of Kimberly Clark and Protisa, imposed a number of price increases on their customers (distributors, retailers, supermarkets, etc.) at a rate of more than 20% in certain instances, throughout the aforementioned period. This directly affected competition conditions on the market for toilet paper and other tissue paper products. This also caused, in a number of instances, increases in the sale price to the general public.

The evidence identified during an investigation included emails and electronic records obtained during inspection visits to the companies in question, testimonies acknowledging infringement by the participants, a diary belonging to the secretary of the ex-General Manager of Protisa with details of calls and meetings, and invoices from the hotels where such meetings took place. Such evidence was contrasted with the fluctuation of market prices plus other relevant commercial conditions of the companies unearthed during the investigation period.

The INDECOPI Commission for the Defence of Free Competition managed to break up the toilet paper cartel thanks to the application of the Leniency Programme. This involved a decision, initially of an administrative nature, that sanctioned the providers who managed approximately 90% of the toilet paper and other tissue paper products (thin-absorbent toilet paper) market. The aforementioned companies manipulated prices and other commercial conditions between 2005 and 2014. The Leniency Programme grants exoneration

benefits or reductions in fines or sanctions that might be imposed on offending parties, in exchange for their maximum cooperation and for providing any such evidence that enables infringements or breaches to be detected that might otherwise have remained hidden, which affect the end-consumer economy.

Resolution:

On 22 March 2017, the Commission for the Defence of Free Competition decided to sanction Kimberly Clark Perú S.R.L. and Productos Tissue del Perú S.A. by means of the following fines:

Table 6.3:
Fines proposed by INDECOPI

Company	Applicable fine (Tax Units)	US\$
KIMBERLY CLARK S.R.L	42,385.14	52,818
PRODUCTOS TISSUE DEL PERÚ S.A.	25,726.28	32,058

However, in accordance with the assessment of the Technical Secretariat of the Commission under the Leniency Programme framework, the first party to provide detailed information about the cartel was completely exonerated, whereas the second informant company had their fine reduced by 50%. The aforementioned benefits did not exonerate the companies from the imposition of corrective measures (as established in this case) nor potential legal redress for damages and losses that might have been incurred. The Commission also imposed fines on individual persons which amounted to approximately PEN 348,724 in total.

Additionally, the authority ordered Kimberly Clark and Protisa to establish a compliance programme in relation to free competition rules and regulations, to avoid possible relapse into such practices and future impact on markets and consumers. This compliance programme shall last a total of five years and shall entail, among other factors, the implementation of annual training courses for company employees and managers in relation to the rules of free competition, including a final examination to assess respective levels of knowledge in relation to these regulations.

Calculation of the economic impact:

The volume of sales of the affected companies was PEN 1,572,191,698.40, by which it can be estimated that the savings generated for Peruvian consumers was avoidance of overcharged prices at a rate of 10% over a three-year period, totalling PEN 157.2 million per year over a 3-year period.

Resolution 010-2017/CLC-INDECOPI is available at the following link: <http://servicio.indecopi.gob.pe/bus-cadorResoluciones/competencia.seam>

ANALYSIS OF THE ASSESSMENTS CARRIED OUT BY THE NATIONAL AUTHORITIES

Participating national authorities were requested to provide information about the assessment processes which they had previously undertaken at national level. The only case received was the assessment performed by the National Economic Prosecutor's Office (FNE) of Chile.

This is a study based on the opinions of multiple target audiences in relation to the work carried out by the national assessment authority. This assessment methodology carried out by means of a survey establishes the opinions and evaluations of multiple stakeholders from their perspectives as company employees, lawyers, civil servants, students, opinion makers, and the general public. This methodology demonstrates the difficulty of selecting a sample with an adequate level of knowledge in relation to competitive activity, in the sense, for example, that not all entities have specific competition related experience nor understand the basis on which the national authority works. To resolve this problem, a non-random selection of the sample is specifically focused on entities with a prior amount of knowledge which, in turn, also restricts the size of the sample. In these instances, a derivative bias can be submitted in which the given answer is not so much an actual assessment, but aimed at influencing the final result of the study.

In all instances, this survey methodology contributes to valuable information on the perceptions of multiple collectives, especially in the instances which repeat temporarily, therefore making it possible to measure these temporary changes. In general, it is recommended that these qualitative studies are supplemented by other assessment methodologies of a quantitative nature.

Assessment undertaken by the National Economic Prosecutor's Office of Chile

National Economic Prosecutor's Office (FNE) of Chile commissioned Deloitte with the preparation of the Third Study on the Perceived Dissuasive Effect of the Activities of the National Economic Prosecutor's Office (FNE, 2016). This study analyses the opinion of

prosecutors and lawyers from a number of companies in relation to their perception of the FNE and its performance in the role of the defence and promotion of free competition.

This is based on a personal survey sent to 13 company-based prosecutors and lawyers. The survey included a total of 18 closed questions developed by the FNE with the methodological assistance of Deloitte. The overall theme of the questions included topics on mergers, cartels, abuse of position of power, and lawsuits.

These questions were answered by the surveyed company prosecutors and lawyers, based on their experiences of free competition within their own companies throughout the period from 2014 to 2016. The results demonstrated a good general perception of the activities and dissuasive capacities of the FNE and existing free competition defence institutions in Chile.

The most emphatic results are detailed as follows:

- 87% of the persons surveyed qualified the activities of the FNE as an investigator and pursuer of justice in relation to free competition as "Good".
- 92% of the persons surveyed estimated the FNE as being "Effective" or "Moderately effective" in being able to detect anticompetitive activities.
- 93% of the persons surveyed considered the degree of dissuasion imposed by the new administrative/economic sanctions as "Very high" (50%) or "High" (43%). In the same respect, 86% of the persons surveyed considered the degree of dissuasion of the new criminal sanctions as "Very high" (57%) or "High" (29%). The above figures could appear to imply that the administrative/economic sanctions are more dissuasive than the criminal sanctions.
- 50% of the persons surveyed are in "Total agreement" or "In agreement" with the new rules governing the new leniency programme, as being reasonable and clear.
- 72% of the persons surveyed consider the new operational control procedures as "Very good" (36%) or "Good" (36%).

An additional 24 lawyers specialised in free competition were interviewed, who responded to 30 questions related to mergers, cartels, abuse of position of

power, lawsuits and other similar subjects. The study generally demonstrated a good perception of the activities and dissuasive capacities of the FNE. The most emphatic results are detailed as follows:

- 92% of the persons studied considered the degree of intervention of the FNE as “Correct” in terms of the analysis of mergers, with 83% qualifying the technical analysis carried out in this respect as “Good”.
- 88% felt that the FNE took unique and exclusive elements into consideration during its analyses, with 42% qualifying the professional level of the FNE’s lawyers who participated in lawsuits as “Very Good”.
- 58% gave a grade 7 in terms of the level of independence of FNE activities, while 25% gave a grade 6. This yielded an average score of 6.4 from a scale of 1 to 7, and a significant rise in comparison to the score of 5.8 obtained in 2014, and 4.5 in 2012.

- In relation to cartels, 92% qualified the degree of FNE intervention as “Correct”, demonstrating an important improvement in comparison to the 63% obtained in 2014. In the same respect, 67% classified the FNE analysis in this respect as “Good” or “Very Good”.
- In terms of abuse of dominant position, 42% qualified the activities of the FNE as “Correct” while only 12% considered them to be “Exaggerated”. The technical level of the FNE in such matters was assessed as “Very Good” or “Good” by 58% of the persons surveyed.

The Superintendence of Competition of El Salvador has since established such methodologies for the ex-ante analysis of its decisions, in addition to having undertaken a first ex-ante assessment into the impact of its decision-making process for the flour cartel. This assessment is currently undergoing a publication process.

VII. CONCLUSIONS AND RECOMMENDATIONS

The increase of competition in the relevant markets is considered to be a driving factor in terms of economic growth and productivity. All participating countries are therefore committed to an intense amount of work on the part of their national authorities to increase the level of competition in their internal markets.

In general, national authorities involved in this assessment process have demonstrated, for the 2013-17 period, a marked increase in levels of activity in relation to the number of issued and sanctioned reports. All countries, with the exception of Brazil, have demonstrated a clear increase in the number of reports that have been initiated and published during the 2013-17 period.

The above image summarises the number of initiated antitrust activities, but does not include initiated reports for the dissemination and knowledge of good practices. The results for this group of analysed countries indicates an increase of 27% in initiated reports for the five years under consideration. This data is indicative of greater effectiveness in the detection and denunciation of anticompetitive behaviour.

This important increase is indicative of greater concern for the development of free competition on the part of the economic authorities and the economic agents. The strengthening of the administrative structures of these countries, and improved efficiency in the detection of anticompetitive behaviour, are other explanatory factors. It is these tasks in which COMPAL collaborates with the member countries of the Programme.

Even though some competition authorities did not report the number of respective activities, actions involving the dissemination and knowledge of good

practices underwent strong growth in the 2013 to 2017 period, multiplying by 7.8 times.

These activities are now contributing to improvements in the economies of the respective countries, due to increased market competition helping to improve the allocation of resources which, in turn, are generating improvements in terms of growth, productivity, innovation and the well-being of the end consumer. The higher the level of competition and rivalry in national markets, the lower prices become which, as a consequence, benefit the end consumer.

The economic impact of the activities of the national competition agencies, measured in terms of “savings generated for the end consumer”, demonstrates, for the countries in which it has been possible to make such calculations, very favourable results in comparative terms with countries that do not have such measures. It is necessary to underline the prudent character of these assessments, in addition to pointing out that the dissuasive effects that authority activities have on other market agents, that give up these practices, are not taken into account.

A comparison between the data obtained from Latin American agencies in relation to assessments carried out in other countries, indicates that annual savings generated for consumers are greater in economies that have a reduced level of development, and with a lower level of competition existing in local markets, with the cases that were detected having a greater impact as a result.

In absolute terms, the quantification of savings generated in these countries is shown in the table below, which shows the importance of the amount of savings generated by the activities of the national competition authorities.

Figure 7.1:
Initiated investigations

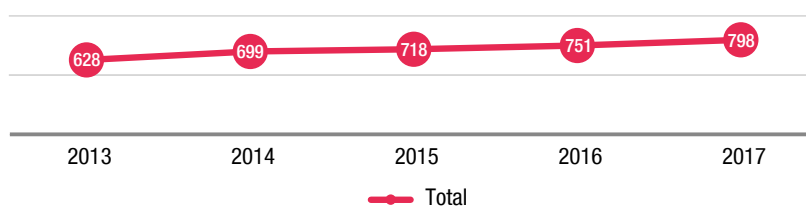


Table 7.1:
Consumer savings through intervention of the assessed national competition authorities

Millions US\$	2015	2016	2017	MEAN
ARGENTINA	3,666.30	2,307.60	2,068.50	2,680.8
CHILE	76.1	88.1	75.4	79.9
COLOMBIA	386.4	309	796.4	497.3
ECUADOR	167.9	300	200.2	222.7
EL SALVADOR	7.5	14	24.1	15.2
PERU	38.3	8.6	462.5	169.8
TOTAL SAVINGS (6 countries)	4,342.5	3,027.3	3,627.1	3,665.6
GDP (sum of 6 countries)	1,484,228	1,394,016	1,526,549	1,468,264
% SAVING/GDP	0.293	0.216	0.346	0.285

Source: own preparation

As detailed in the table below, the volume of savings for the 6 countries subject to evaluation, results in an average for each of the assessed years (2015, 2016 and 2017) of 3,665 million US\$ per year in consumer savings, with an impact of 0.285% in terms of GDP.

The importance of these figures becomes clear in the sense that, if we assume that the average percentage of GDP is constant at 0.285%, and we apply this percentage to the 17 Latin American countries that are part of the COMPAL Programme, whose joint GDP in 2017 is 4,061,700 million US\$, we obtain an estimate of consumer savings as a consequence of the activities of national competition authorities at an estimated figure of 11,575 million US\$.

It is important to note that the savings generated for the consumer are much higher than the budgets allocated to the national authorities, demonstrating that, given on the assumptions made in our analysis, the allocation of public funds for competition defence campaigns and policies have a high rate of return.

The savings/budget ratio tends to be higher in larger countries, which could be due to certain large economies acting as the driving force for competition. The very high ratios in Argentina could be influenced by the different measurement procedures used in assessing the amount of damaged caused to consumers. There is an increasing number in Colombia, El Salvador and Peru, perhaps demonstrates growing efficiency in the use of resources specifically assigned for the defence of competition.

The analysed period is still too small to fully establish conclusions in terms of progress over time. However, strong increases in the inspection and sanction related activities of the national competition authorities can clearly be seen, including high yields in terms of increases in consumer well-being. The COMPAL Programme has contributed to these results by increasing its training and awareness activities in relation to anticompetitive behaviour, in addition to encouraging conduct which is more focused on such behaviour.

Table 7.2:
The relationship between savings generated for the end consumer and the budget set aside for defence of competition

SAVINGS/BUDGET	2015	2016	2017	MEAN 2015-2017
ARGENTINA	952.15	555.08	319.69	797.59
COLOMBIA	undetermined	34.71	76.57	57.28
EL SALVADOR	2.94	5.52	9.46	5.97
PERU	9.06	3.30	124.64	45.66

The study of the cases submitted by the national competition authorities participating in the assessment process shows how important these studies are for the economies of their respective countries, with economic valuations also being an important and contributing factor in relation to consumer savings. Many of these cases are indicative of the direct impact on specific sectors which, in turn, have a direct impact on basic economic decisions made by citizens (food, basic necessities, mass consumption, medicines, etc.).

Some of these cases demonstrate how important the leniency programmes have been in terms of achieving resolutions, by making the rapid cessation of anticompetitive behaviour possible. Please also note the importance of the leniency programme training activities provided by the INDECOPI-COMPAL School in 2015, in the cases reviewed by Colombia, Peru and Chile in which these methods were applied.

The resolution of these cases establishes a base for the dissemination of good practices throughout multiple countries. It also provides a wide range of addressed cases which can be useful in training and awareness programmes.

The resulting **recommendations** of this study are:

- To strengthen a culture of competition through **increases in dissemination and training activities.**

The intensification of awareness activities and exchanges of experiences between the national competition authorities participating in the COMPAL Programme, contributing to greater effectiveness in the defence of competition in the respective markets. It is necessary to increase the level of knowledge and awareness of competition standards on the part of companies and consumers alike, in addition to providing training for civil servants and lawyers who can apply such standards. Latin American countries have a business culture which tends to justify agreements between competitors, as opposed to encouraging rivalry. It is therefore necessary to disseminate knowledge of the advantages of an economy with more competition between companies, resulting in price reductions for the end consumer.

- Encourage **assessments by national authorities** by estimating and disclosing the

positive effect of activities in relation to the savings generated for end consumers.

It would be very positive if each competition authority was able to conduct its own economic assessment, by differentiating between activities aimed at combating cartels, the abuse of dominant position, and analysing company processes in relation to mergers and takeovers. This would result in valuable information for establishing the work priorities of these authorities.

- Implement a **cost-benefit analysis** of the results obtained by the national competition authorities.

Obtain estimations in terms of savings generated for consumers, together with the budgets assigned to the national competition authorities which, in turn, make it possible to establish results expressed in terms of the economic yield of each monetary unit set aside for these policies.

These results could be subsequently disclosed to the public for the purposes of strengthening the favourable image of investment into such policies, in addition to legitimising allocated budgets.

- Establish a **workshop at regional level** with the aim of encouraging and unifying the **methodologies used in the assessment processes.**

Economic and legal information are the fundamental forms of input in any assessment process. This information is more reliable and closer to the true reality of the country in question. It is therefore proposed that an assessment from a workshop perspective takes place, in which the persons responsible for each of the participant authorities exchange information in relation to the methodologies used, in addition to providing basic information about their respective countries.

There is a dual purpose to this workshop: firstly, to train and educate national competition authorities on the assessment process; and secondly, to establish the basis for a first economic assessment.

- Design a **survey methodology** aimed at understanding the attitudes and opinions of the main **groups of interest** in relation to competition activities: companies, lawyers, civil servants, students, and public opinion in general.

The basic methodological problem faced by these surveys is trying to define an accurate and significant sample of responses (random) which are also knowledgeable in terms of the material in question. Thus, the majority of companies, especially small and medium ones, have limited information on these types of anticompetitive practices and are not aware of activities involving the defence of competition. It is still interesting, however, to provide a series of data with the same content for the purposes of assessing progress in this respect.

In terms of the general public, a number of questions can be incorporated into public opinion polls generally carried out by state-based organisations. The analysed responses in comparative terms over time provide information about the viewpoints of national citizens in relation to the activities of their respective national competition authorities, such as what they do and how effective they are.

A workshop should be established in which the persons in charge of the national competition authorities can assess the suitability of this type of work, the different alternatives that can be implemented, the preparation of new questions, etc., thereby facilitating the decision-making process and setting it into motion, in addition to encouraging convergence in terms of the procedures that facilitate comparison.

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ANNEX: QUESTIONNAIRE

EVALUATION OF THE IMPACT OF THE PERFORMANCE OF THE NATIONAL COMPETITION AUTHORITIES PARTICIPATING IN THE COMPAL PROGRAMME WITHIN THEIR RESPECTIVE MARKETS

INTRODUCTION:

UNCTAD, under the framework of Strengthening of Institutions and Capacities in relation to Competition and Consumer Protection Policies in Latin America (COMPAL III) aims to assess the performance of the national competition authorities (NCA) currently participating in this Programme, in relation to market impact.

It is necessary to receive information from the national competition authorities for the purposes of undertaking this assessment, in addition to collaborating with other sources and publications. The use of multiple assessment methods, combining quantitative and qualitative methods, increase the solidity of the results obtained.

To enable this information to be harmonised and easier to compare, we ask all participants to complete the following questionnaire.

The period of time for consideration in this assessment is from 2013 to 2017. However, should there be problems in providing information for this entire period, please provide information for as many of the requested years as possible.

This research is being carried out by Dr. Ignacio Cruz Roche¹³, Professor at the Autonomous University of Madrid, in his role as consultant, and on the part of COMPAL UNCTAD by Arnau Izaguerri¹⁴, who can be contacted for all inquiries and for the sending of the respective questionnaires.

It is the intention of the COMPAL Programme that this study, including the results of the assessment, shall be published in the month of July, so we therefore request that the completed questionnaires be sent to us by 10 March.

1. EVALUATION OF PERFORMANCE

Please indicate the number of activities carried out by your agency in relation to anticompetitive behaviour for each of the years included in the 2013 to 2017 period.

YEAR 2013	REPORTS	
	INITIATED	CONCLUDED
Cartels		
Mergers and acquisitions		
Abuse of position of power / monopolistic practices		
Dissemination activities and knowledge of good practices		
YEAR 2014	REPORTS	
	INITIATED	CONCLUDED
Cartels		
Mergers and acquisitions		
Abuse of position of power / monopolistic practices		
Dissemination activities and knowledge of good practices		
YEAR 2015	REPORTS	
	INITIATED	CONCLUDED
Cartels		
Mergers and acquisitions		
Abuse of position of power / monopolistic practices		
Dissemination activities and knowledge of good practices		
YEAR 2016	REPORTS	
	INITIATED	CONCLUDED
Cartels		
Mergers and acquisitions		
Abuse of position of power / monopolistic practices		
Dissemination activities and knowledge of good practices		
YEAR 2017	REPORTS	
	INITIATED	CONCLUDED
Cartels		
Mergers and acquisitions		
Abuse of position of power / monopolistic practices		
Dissemination activities and knowledge of good practices		

2. ASSESSMENT OF ECONOMIC IMPACT

The undertaking of an assessment into economic impact, in accordance with the methodology recommended by the OECD, requires detailed information for each one of the activities to be evaluated. Thus, for each activity performed by national competition authorities in relation to cartels, mergers and acquisitions and the abuse of dominant position (monopolistic practices), having been finalised through a total or partial prohibition (denial), the reasoning behind this resolution must be specified (total or partial prohibition), including the affected volume of annual sales by the company or companies.

Please add more cases to the questionnaire, as deemed necessary.

YEAR 2013 (cite the cases: company XXXX)	Resolution: total (T) or partial (P) prohibition.	Annual volume of affected sales
Cartels: • • • (add more as necessary)		
Mergers and acquisitions • • • (add more as necessary)		
Abuse of position of power / monopolistic practices • • • (add more as necessary)		
YEAR 2014 (cite the cases: XXXX)	Resolution: total (T) or partial (P) prohibition.	Annual volume of affected sales
Cartels: • • • (add more as necessary)		
Mergers and acquisitions • • • (add more as necessary)		
Abuse of position of power / monopolistic practices • • • (add more as necessary)		

Evaluation of the impact of the performance of the national competition authorities participating
in the *COMPAL Programme* within their respective markets

YEAR 2015 (cite the cases: XXXX)	Resolution: total (T) or partial (P) prohibition.	Annual volume of affected sales
Cartels: • • • (add more as necessary)		
Mergers and acquisitions • • • (add more as necessary)		
Abuse of position of power / monopolistic practices • • • (add more as necessary)		
YEAR 2016 (cite the cases: XXXX)	Resolution: total (T) or partial (P) prohibition.	Annual volume of affected sales
Cartels: • • • (add more as necessary)		
Mergers and acquisitions • • • (add more as necessary)		
Abuse of position of power / monopolistic practices • • • (add more as necessary)		
YEAR 2017 (cite the cases: XXXX)	Resolution: total (T) or partial (P) prohibition.	Annual volume of affected sales
Cartels: • • • (add more as necessary)		
Mergers and acquisitions • • • (add more as necessary)		
Abuse of position of power / monopolistic practices • • • (add more as necessary)		

3. ANALYSIS OF PROMINENT CASES

Participating national competition authorities shall be asked to provide detailed information on the case, or last 3 cases, which they consider to be the most important in relation to the cases resolved for the 2013-17 period.

The submitted cases can have a free format, but must contain at least the following information.

- Affected company or companies
- Description of the analysed conduct
- Type of resolution (favourable or condemning; total or partial)
- Volume of sales of the company(ies), and the economic sector in which they operate
- Link to where the resolution is published (website)

4. CARRIED OUT ASSESSMENT

Has the National Competition Authority conducted an assessment into its activity?

YES NO

If the answer is positive, indicate the name of the study:

.....

and the name of the website on which it is published:

SEND TO: ignacio.cruz@uam.es and arnau.izaguerri@unctad.org

THANK YOU VERY MUCH FOR YOUR COOPERATION

NOTES

- ¹ These countries are: Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay and Mexico (in the area of consumer protection only).
- ² Véase OFT: “*The impact of competition interventions on compliance and deterrence*” (OFT 1391) and “*The determinant effect of competition enforcement*” (OFT 962)
- ³ On 9 May 2018 the new Law for the Defence of Competition No. 27.442 was sanctioned, stating in article 55 that it, d) makes provision for sales volumes to be used as a criterion for fixing penalties in cases of cartel / abuse of dominant position. As a consequence, reports shall stipulate volumes of company sales from this date onwards.
- ⁴ Assessment achieved by estimating the amount of damage to general interest, and not through the volume of sales.
- ⁵ Competition & Market Authority (2017): “CMA impact assessment 2016/17”
- ⁶ García Verdugo, J. and Gómez, L. (2017): “Impacto de las intervenciones de la CNMC en defensa de la competencia (2016)” Document AE-01/17, CNMC.
- ⁷ Calculated by estimating the damage caused to consumers by the CNDC
- ⁸ Upstream effects are understood as those caused by company suppliers.
- ⁹ See: https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_processo_pesquisar.php?acao_externa=protocolo_pesquisar&acao_origem_externa=protocolo_pesquisar&id_orgao_acesso_externo=0
- ¹⁰ See: https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_processo_pesquisar.php?acao_externa=protocolo_pesquisar&acao_origem_externa=protocolo_pesquisar&id_orgao_acesso_externo=0
- ¹¹ Mass Consumption: products acquired by end consumers for domestic and commercial use, mainly from supermarkets.
- ¹² As reported
- ¹³ For any questions or queries please contact ignacio.cruz@uam.es
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