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Executive Summary

1. This report addresses events that have occurred in the reporting year (1 January 2016 to 31 December 2017).

2. Under the current competition law (Law 25,156 in 1999 as amended by Law 26,993), the Executive Power designates the competition authority. Decree 1/2016 and Decree 718/2016 establish the Secretary of Commerce of the Ministry of Production as the current competition authority and provides that the Secretary of Commerce will establish the powers and functions of the National Commission for the Defence of Competition (CNDC for its Spanish acronym) as technical advisor in competition matters. Finally, Resolution 190-E/2016 of the Secretary of Commerce provides the CNDC with the powers to investigate competition files and issue non-binding opinions to the Secretary of Commerce, before its final resolution. In September 2016, a draft competition bill was submitted to Congress. In Section 1, this report gives an overview of the status of the proposal for competition law reform in Argentina. In November 2017, the draft bill was passed by the Chamber of Deputies and it is currently under revision in the Senate. The main amendments proposed by the draft bill are the following:

- The creation of an independent competition agency;
- The creation of a leniency programme for cartel cases;
- The increase of antitrust fines and the implementation of new guidelines to calculate fines in order to increase deterrence;
- The implementation of an ex ante merger control;
- The facilitation of private actions for damages caused as a result of violations of the competition law; and
- The creation of a specialised Court of Appeals to review decisions of the antitrust authority.

3. Section 2 explains competition decisions, both in terms of sanctions for anticompetitive practices and in terms of merger control. As regards anticompetitive practices, the report presents summary of three relevant cases that have been solved in 2017:

- An antitrust investigation against Prisma Medios de Pago, Visa's unique representative in Argentina, for abuse of dominant position and its shareholders for collusion. This case was settled through a commitment that included divestiture and behavioural commitments. In fact, this was the first time in Argentina's competition history that an antitrust case ends with a structural remedy.
- A sanction to hospitals and its association in the province of Salta for collusion. Although the effects of this cartel were reduced to the limits of the province, it also derived in an ex-officio investigation against the national association of hospitals, which is currently ongoing.
- A sanction to three associations of pharmacists in the province of Tucumán for collusion. In this case, the associations of pharmacists had explicit rules that prohibited pharmacies to reduce prices of medicines and other products sold in pharmacies and regulated the working hours of pharmacies.

4. Concerning merger control, the report provides statistics on number, size and type of mergers notified and/or controlled under competition laws. It also provides a summary

of three cases. It must be born in mind that, under the current merger control regime, companies are allowed to notify the operation up to one week after its closing. This, in practice, means that the CNDC analyses operations on an ex-post scenario when some of the effects have already started showing.

- Acquisition by La Salteña of a brand of fresh pasta from Molinos Río de la Plata. This operation was approved by the authority under the understanding that its potential horizontal effects were small.
- Acquisition of Telefe by Viacom. This operation was approved by the authority under the understanding that its potential horizontal and vertical effects were small.
- Acquisition by Anheuser Busch Inbev N.V./S.A. of SAB-Miller. This operation was approved with remedies, as the horizontal effects in the domestic market were significant. The merging parties submitted a proposal that was considered satisfactory by the authority.

5. Section 3 provides with instances in which the CNDC has been consulted by other public organisations in the design and/or implementation of regulatory changes, *e.g.* in the cases of interconnection regulation, regulation in the provision of pilotage services, trade and industrial policies and the design of a public procurement system for medicines.

6. Finally, Section 4 shows the CNDC's resources, both human and financial, as well as its organisational structure and Section 5 provides a brief summary of market studies and pro-competitive recommendations issued by the CNDC in 2017.

1. Changes to competition laws and policies, proposed or adopted

1.1. Proposal for competition reform

7. The major challenge regarding antitrust issues in Argentina is to update the regulatory framework in order to achieve best international practices, aiming at increasing deterrence and pursuing independence, transparency, efficiency and predictability of agency decisions.

8. With this in mind, the CNDC, jointly with legislators of the official party, drafted a new competition bill (the "Draft Bill") during the second half of 2016. In September 2016, the Draft Bill was submitted to the Congress and in November 2017 it was passed by the Chamber of Deputies. Currently, it is under revision in the Senate.

9. The Draft Bill was designed following both Argentine reality and experience as well as antitrust international trends and best practices. One of the main objectives of the Draft Bill is the creation of an independent authority, the National Competition Authority (the "ANC"), with sufficient powers to adopt its own decisions, control its own budget, and function without political interference.

10. The Draft Bill also sets forth the creation of a Secretary of Investigation of Anticompetitive Conducts and a Secretary of Economic Concentrations, who shall be in charge of the prosecutorial phase of conducts and merger control proceedings, respectively, acting within the scope of the ANC. Hence, within the new competition authority, guarantees to due process will be enhanced through the separation between the prosecution and investigation functions, on the one hand, and the decision function, on the other hand.

11. The Draft Bill also creates the Competition Advocacy Under-Secretary, under the scope of the Secretary of Commerce. Among other tasks, this Under-Secretary will be the formal channel through which the central administration would be able to propose specific market investigations and political initiatives related with competition law. This shall prevent the ANC from any informal pressures from the Executive Power, contributing at the same time to foster the independence of the competition authority.

12. Regarding mergers and acquisitions, the Draft Bill includes an ex ante control, which would replace the current ex post regime. This change comes to solve a current problem of mergers and acquisitions, which are submitted for evaluation after the deal is closed and creates new important challenges to the competition authority, in terms of timing for decision making. In order to help with this issue, the Draft Bill regulates a fast-track procedure for those mergers and acquisitions that fall into a specific scope of low potential impact on competition. This change serves the purpose of speeding up the procedure in those cases, as well as devoting a higher resource to more complex cases.

13. Another major change in this area is the updated and adjustable thresholds for notification of mergers and acquisitions. The thresholds have been frozen during the last fifteen years in local currency (ARS). In a high inflation economy, this implied that an increasingly high number of operations became notifiable. As this was not the object and purpose of the LDC, the thresholds not only need to be updated, but also need an automatic updating system to avoid this same problem to arise in the future. The Draft Bill addresses this issue by providing that the threshold would be updated following the evolution of the Argentine Consumer Price Index.

14. On the other hand, following international best practices, the Draft Bill includes in the Argentine antitrust regime a leniency program, which does not currently exist, with the purpose of facilitating proper detection, prosecution and sanction of cartels. Indeed, Argentina has a poor record of cartel sanctioning when compared to other countries in Latin America which have already implemented their own leniency program. The design of this leniency program brings some of the world's current trends that have proved to be successful in dealing with the problem of cartels. Specifically, the program offers several options for those firms that reveal having participated in a cartel:

- Full immunity to the first firm that reveals having participated in a cartel (with an obligation to cease in the wrongful conduct and to co-operate by providing determining proof of the existence of the cartel),
- A 50% to 20% reduction of the maximum fine for the second firm that does so, and
- A supplementary benefit for the firm that, even without co-operating to the prosecution of the cartel under investigation, discloses or recognises another co-ordinated antitrust activity in a different market.

15. The Draft Bill also brings new guidelines for the application of fines, so as to improve deterrence. The current cap to fines for anticompetitive behaviour has been set in 1999 at ARS 150 million, which at the time was equal to USD 150 million. Today, however, this cap represents less than USD 8 million and has, therefore, lost its deterrence effect. The Draft Bill sets maximum fines related to the profits that the sanctioned firm has obtained as a result of the antitrust violation. Indeed, fines can be

- Up to 30% of the relevant market turnover, multiplied by the number of years of the practice, which may not exceed 30% of the consolidated national turnover;
- Up to double the illicit gains;
- Up to 200 million adjustable units (approximately USD 200 M).

16. Moreover, the Draft Bill also updates the fines to be imposed to firms that shall not comply with the obligation of notifying economic concentrations, or that shall not comply with the remedies set by the CNDC in order to approve certain mergers. It also includes other sanctions such as divestiture, cease order, conditionings, disqualification to exercise trade activities from 1 to 10 years, and the exclusion from the Registry of Government Suppliers.

17. Regarding damages, the Draft Bill provides those who have been injured as a consequence of the activities sanctioned by antitrust laws with the possibility of filing a claim for damages, stipulating that the resolution of the ANC in relation of a violation of the law shall have force of *res judicata* once it becomes final. This claim shall be filed through expedited summary proceedings as stipulated by Argentina's Code of Civil and Commercial Procedures.

18. Finally, the bill also proposes the creation of a specialised court (the Appellate Court in Antitrust Matters) to deal with competition matters, in order to improve the judicial review of the competition authority decisions. This specialised court shall act under the scope of the Federal Courts of Appeals in Civil and Commercial Matters.

2. Enforcement of competition laws and policies

2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1. Summary of activities of competition authority courts

19. In Argentina, the decisions of the Competition Authority are subject to judicial control. However, since the enactment of Act 25,156 in 1999, the relationship between the Competition Authority and the judiciary power has been under debate. Since then, the discussion has been focused on whether the Federal Court of Appeals on Civil and Commercial Matters or the Criminal Court of Appeals on Economic Matters shall intervene as an appeals court in antitrust issues. As a consequence, applicable laws have been blamed for not providing certainty as to which courts have competent jurisdiction to review decisions from the Competition Authority.

20. In addition, one of the main subjects currently under debate in Argentina is the time the justice takes to solve ongoing cases.

21. Furthermore, the current members of the Competition Authority in Argentina took office only two years ago and, therefore, only a small number of decisions have been subject to appeal.

22. Taking into account the three facts mentioned above, it is still too early to draw any conclusions on the activity of competition courts.

2.1.2. Description of significant cases, including those with international implications

Investigation against PRISMA MEDIOS DE PAGO for abuse of dominant position and its shareholders for collusion

23. In March 2016, the CNDC initiated a study of the market for credit and debit cards and electronic means of payment. As a result, the CNDC initiated in August 2016 an ex-officio investigation against PRISMA MEDIOS DE PAGO (hereinafter, PRISMA) and its shareholders. PRISMA is the sole acquirer and processor of Visa cards in Argentina, which moreover participates in all related markets through associated companies. PRISMA is owned by 14 Argentine banks (including nine of the ten biggest banks in terms of volume of deposits). PRISMA is also the owner (a) of Lapos, which offers terminals for processing in-person payments by card; (b) of SPS Decidir, which offers gateway services for processing online payments; and (c) of Todo Pago, which offers an interface for online payments. In Argentina, Visa is the leading name in the credit cards market: in 2015, 58% of credit card transactions were carried out using Visa cards.

24. PRISMA was investigated for allegedly abusing its dominant position by giving discriminatory treatment, providing low quality service and refusing to provide processing services to its competitors in the market for provision of interfaces for online transactions. PRISMA's shareholders, on the other hand, were investigated for allegedly colluding to fix interest rates and commercial conditions regarding the interest-free instalment financing mechanism.¹

25. In March 2017, as provided by article 36 of Argentina's competition law, PRISMA submitted a settlement proposal consisting of a structural remedy (divestiture of PRISMA), on the one hand, and a behavioural remedy related to the conditions for providing its processing services. All of PRISMA's shareholders later ratified PRISMA's proposal. The CNDC launched a market test, by which it submitted PRISMA's proposal for consultation with the main stakeholders. After negotiating the terms of the settlement proposal with the CNDC, a new (and final) version of the settlement agreement was submitted on August 2017. The main terms of this agreement are:

- **Commitment to divest:** PRISMA's shareholders shall sell all their stakes in PRISMA. Moreover, PRISMA's buyer shall not be a combination of two or more commercial banks currently operating in Argentina. In addition, PRISMA shall stop providing the immediate transfer service, which shall not be included in the sale.
- **Contractual commitments:** PRISMA shall sign issuer-processing contracts with the banks with which it currently operates at market prices, providing guarantees

¹ The practice of interest-free instalments was widespread in Argentina, especially for the purchase of home appliances and other durable goods. The system functioned as follows. The merchant offered the product at a certain price, which could be paid by the purchaser with a credit card in a number of predetermined, interest-free instalments. 48 hours after the sale, the acquirer (PRISMA in transactions with the Visa card) would transfer the amount of the sale to the merchant (net of the fee), with a discount corresponding to the interest rate for advance payment of the amount of the instalments. To cover this cost, the merchant included in the cash price a component corresponding to the interest that would have to be paid if the sale were made in instalments. As a result, if a purchaser wished to use any means other than the credit card to finance his or her purchases, he or she would be paying the interest twice: a) the explicit interest rate charged by the lender, and b) the implicit interest rate built into the price, to finance the credit card instalment payments.

of service provision. On the other hand, the merchant discount fee shall explicitly separate the portion attributed to the interchange fee from the portion attributed to the acquiring fee. Finally, PRISMA commits to provide its services to third parties under non-discriminatory conditions in all the relevant markets involved.

26. PRISMA's commitment was finally approved on 26 September 2017 and the CNDC is at the moment monitoring the commitment, in particular, the divestiture process.

Collusion of hospitals in the province of Salta

27. A total fine of ARS 22,768,860 (USD 1.14 million) was imposed on the main hospital providers in the cities of Salta, Tartagal and Metán in the province of Salta, and on the Association of Private Clinics and Sanatoriums of the Province of Salta, (ACLISASA). The sanction was imposed due to a collusion agreement aimed at setting prices in a concerted manner during the period between December 2011 and December 2013.

28. The case was initiated in June 2012 following a complaint made by the Secretariat of Consumer Protection of the Ministry of Government of the Province of Salta that originated in a presentation made by a health insurance company.

29. The sanctioned conduct consisted of a cartel agreement between clinics in the cities of Salta, Tartagal and Metán, province of Salta, with the purpose of setting in a concerted manner the prices agreed with the administrators of health funds for hospital services' provisions. The participants of this agreement were the clinics associated in ACLISASA and other non-associated clinics. ACLISASA was used as an instrument to set the cartel.

30. As a consequence of this agreement, health fund administrators and health insurers were forced to, either increase the cost of medical insurance or rationalise the use of medical benefits, providing a poorer service to their clients. In any case, the harmful effects of the price agreement directly affected the welfare of the users of sanatoriums services in Salta.

31. Likewise, it is expected that the fine imposed on this group of clinics in the province of Salta will set an example on other clinics located in the rest of the country, which could result in benefits for users nationwide.

32. In addition to the application of the aforementioned fines, an ex officio investigation was initiated against the ARGENTINE CONFEDERATION OF CLINICS, SANATORIUMS AND HOSPITALS (CONFECCLISA) for elaborating and disseminating the referential values for the clinics benefits to its members. The behaviour of CONFECCLISA could fit within the conducts prohibited by the Argentine competition law, such as possible concerted price fixing, exchange of information with the same object or fixing, imposition or practice of agreements with competitors in relation to prices and conditions of purchase or sale of goods, provision of services or production.

33. According to the principles of comparative law, the initial fine for cases of collusive agreements ranges between 20% and 30% of the turnover of the product involved during the period in which the conduct was carried out, with a maximum that reaches 10% of the total turnover of the company sanctioned during the last financial year.

34. In this case, the value of the fines was set in a proportion between 2% and 4% of the total income of the last financial year of the companies denounced, in order not to compromise the economic viability of the companies. On the other hand, the calculation

of 20% of the turnover of the product involved in the sanctioned behaviour exceeded in many cases the maximum of 10% of total turnover.

Collusion of pharmacies through associations of pharmacists in the province of Tucumán

35. A total fine of ARS 6,453,839 (USD 322.4 thousand) was imposed on the Pharmaceutical Association of Tucumán, the Association of Pharmacies of Tucumán and the Circle of Pharmacies of the South, for an anticompetitive practice that involved a price fixing agreement, the regulation of investment in advertising and the setting of limits to the operating hours of pharmacies in the province of Tucumán. The sanction seeks to prevent cartel behaviour among pharmacies from resulting in higher prices for medicines or worse conditions of provision of services for consumers.

36. The CNDC determined that this agreement consisted of prohibiting or limiting discounts to consumers, prohibiting advertising related to prices, discounts or offers of medicines and perfumery products and limiting the opening and closing hours of pharmacies. Therefore, consumers were directly affected by the agreement, as they were prevented from obtaining better prices and quality of service provision.

37. An agreement was signed by the Pharmaceutical Association of Tucumán, the Association of Pharmacies of Tucumán and the Circle of Pharmacies of the South by which the three entities committed not to make discounts larger than 10% on the retail price of medicines and other perfumery products, and to regulate the opening and closing hours of pharmacies. Moreover, it was been found that certain obligations arranged by the Pharmaceutical Association of Tucumán prevented pharmacies from advertising over-the-counter medicines and perfumery products.

38. Other restrictions imposed by these entities consisted of fighting all activity and competition from chains of pharmacies. Any pharmacy that wanted to operate in the province of Tucumán was forced to adhere to these entities to be part of the collecting system for pharmaceutical benefits and have access to the main social, mutual and health management companies, which represents a restriction to free competition.

39. On the other hand, to ensure compliance with these conditions, these entities established sanctions for those pharmacies that would like to compete through lower prices or better services. The sanctions consisted of the exclusion from the providers lists of the three entities and, therefore, from the collecting management service of the medicines covered by the largest social security and welfare institute in the province.

40. In addition to the fines imposed, the Pharmaceutical Association of Tucumán, the Pharmacy Association of Tucumán and the Circle of Pharmacies of the South were ordered to refrain from prohibiting competition among their associates, to allow discounts on medicines and perfumery products, to allow advertising that fits within the current legal framework and not to interfere in the setting of working hours of their associated pharmacies. In this sense, the entities were ordered to modify or eliminate the articles of their internal norms and the code of ethics that could impose barriers or hinder competition among pharmacies.

2.2. Mergers and acquisitions

2.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition laws

41. Argentina's Competition Law No. 25,156 (LDC) in its article 8 establishes the obligation to notify to the competition authority all operations of mergers and/or acquisitions that are above the following thresholds:

- The total turnover of the affected companies is above ARS 200 million (about USD 10 million) in Argentina;² and
- The value of the transferred assets, shares or rights exceeds ARS 20 million (about USD 1 million); or
- The acquiring company has carried out operations in excess of ARS 60 million (about USD 3 million) in the last three years.

42. The LDC also includes provides for some conditions for those economic concentrations (as defined under article 6)³ that, even when the abovementioned thresholds are met, shall be exempted from the obligation to notify, which can be classified in two groups:

- Operations involving companies which conduct economic activities outside Argentina, whenever said activities shall not have effects in the Argentine market (article 3 of the LDC);⁴
- Exemptions to the obligation to notify (article 10 of the LDC), in particular, cases in which:
 - The purchaser already holds more than 50% of the shares of the acquired company;
 - The acquisition comprises bonds, debentures, certificates of indebtedness or shares without voting rights;
 - The acquisition of a domestic company by a foreign company that does not own any shares or assets of another domestic company;
 - The acquisition of a business under liquidation, which has not conducted business during at least the latest year; or
 - The amount of the transaction or the assets acquired does not exceed ARS 20 million (about USD 1 million), unless there has been more than one acquisition in the preceding 12 months and their total value exceeds that amount, or the value of the total of such acquisitions in the preceding 36

² As established in article 8 of the LDC, total turnover is to be understood as the amounts resulting from the sale of products and the provision of services performed by the affected companies during the last year corresponding to their ordinary activities, after deduction of the discounts on sales, as well as value added tax and other taxes directly related to turnover.

³ Under article 6 of the LDC, a concentration could be achieved either through merger of companies; bulk transfers; acquisition of ownership of interest in a legal entity that amounts to legal control or enables the purchaser to obtain substantial influence thereof; or by any legal act that either transfers the assets of a business or grants a "substantial" influence or "determining influence" in the government and administration of the business.

⁴ In order to determine whether an operation involving companies that perform their business activities outside Argentina has effects on the domestic market, CNDC's case law establishes the criterion of "substantiality, frequency and predictability of exports to Argentina."

months exceeds ARS 60 million (USD 3 million). The transactions subject to the 12 and 36 months accumulations must have occurred in the same market.

43. During 2017 the CNDC received 157 merger notifications, compared with 124 merger notifications in 2016. The average time to issue a merger decision decreased from 5 months in 2016 to 3.5 months in 2017. Out of the 157 mergers notified, 70 referred to conglomerate operations, 55 were operations with only horizontal effects, 10 were operations with only vertical effects and 21 had both horizontal and vertical effects. The remaining operation turned out not to be notifiable. In 2017 the CNDC issued 224 merger decisions, all of them approving the operation.

2.2.2. Summary of significant cases

Acquisition by La Salteña of a brand of fresh pasta from Molinos Río de la Plata

44. The operation consisted of the acquisition by La Salteña of the brand of fresh pasta “Matarazzo” which included fresh stuffed pasta and fresh plain pasta, as well as the assets associated with its manufacturing and marketing, all belonging to Molinos Río de la Plata (Molinos).

45. The operation generated horizontal relationships in the pasta business and was evaluated in the most restrictive scenario, in which the horizontal effects were greater. This scenario was the market of fresh pasta (a market approximately five times smaller than the market of dried pasta in Argentina). In fact, fresh and dried pasta can be thought of as two separate markets due to the differences between the industrial processes by which dried pasta and fresh pasta are elaborated and preserved, which are reflected in differences on retail prices.

46. Fresh pasta should be stored at a temperature between 4° C and 8° C, so refrigeration is necessary for its conservation. It is stored in refrigerated chambers or fridges at the commercialisation stores. The average shelf life of fresh pasta in a refrigerator is 45 days, and 180 days in the freezer. The shelf life of fresh pasta is considerably shorter than that of dried pasta.

47. In short, circumscribing the markets affected by the operation as indicated, the resulting market shares were 10% in volume and 15% in turnover and most of these shares corresponded to La Salteña.

48. Based on the analysis, the operation was approved.

Acquisition of Telefe by Viacom

49. The operation consisted of the acquisition by Viacom of the control of Telefé, which is one of the main television signals in Argentina. Viacom is a diversified international media company that operates pay television signals, production and licensing of content for television, production and distribution of films and movie theatre management in the City of Buenos Aires, among others.

50. In addition to operating the aforementioned television signal in the City of Buenos Aires, Telefé exploited a significant amount of signals in some of the main cities of Argentina and carried out the production of audio-visual content and film production, as well as the commercialisation of advertising through the firm Tevefe.

51. Given the activities of the acquiring group and the target company (in production of content for television, production of television signals, film production and marketing

of advertising spaces), the operation had the potential to have both horizontal and vertical effects.

52. Both the acquirer and the target company produced television content for their own signals, so these services were not offered in the market and, consequently, the potential horizontal effects did not raise competition concerns.

53. Regarding the production of television signals, while the acquiring group offered pay television signals, the target company produced open television signals. Since those were defined as separate relevant markets, there were no horizontal effects in this case.

54. Finally, in terms of film production, the combined market share was small (11%) and similar situation was registered in advertising, where the notifying companies operated in open TV, pay TV and theatres but were absent in other channels and their combined market share was just under 16%.

55. As regards vertical relations, a potential effect was observed between the film production activity of Viacom and the exhibition of films by Telefé. However, this did not raise competition concerns because the target company devotes a very small part of its programming to project films and, in addition, the material is exhibited in Argentina only 36 months after its premiere in theatres.

56. Finally, another potential vertical effect was identified since the buyer group was integrated into the stages of distribution and exhibition of films in theatres, and the operation was giving access to the production of cinematographic contents. Given that its market share in film distribution was 20% and that Telefé was a minor player in film production, it was assessed that this effect did not restrict competition.

57. As a result of the analysis, the operation was approved.

Acquisition by Anheuser Busch Inbev of SAB-Miller

58. This was an international operation and consists of the acquisition by Anheuser Busch Inbev (ABI) of SAB Miller in the beer market.

59. In Argentina, ABI was operating through the country's main brewing firm, Cervecería y Maltería Quilmes S.A. (CMQ), with more than 75% market share in 2016, while SAB-Miller was ranked in the third place with a share of about 5%. The remaining 20% belonged to CCU Argentina (CCU), a brewing company from Chile. Therefore, the operation revealed a horizontal relationship in the beer market.

60. Both in Argentina and internationally, beer was defined as a market of differentiated products with three segments: low Price brands (low end), medium brands (premium) and the upper segment of the so-called super premium (high end).

61. The estimated that the combined market share of merging companies was sufficiently high, so as to create competitions concerns in the beer market. Moreover, a particularity of the Argentine market made these concerns even greater. Indeed, while worldwide ABI is the owner of the Budweiser brand, in Argentina this brand, with a 6% market share, was commercialised by CCU through a contract that would expire in 2025. Therefore, without any remedies, ABI would have reached more than 85% of the beer market after 2025.

62. In order to address these concerns, the merging companies submitted a divestment proposal, by which ABI would transfer seven brands to CCU. In return, CCU would advance the transfer of Budweiser to ABI. The competition authority assessed that this

proposal would solve its concerns and, therefore, the operation was approved with the condition that the companies implement the divestment proposal.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

63. The CNDC is becoming an important source of consultations in the formulation and/or implementation of other public policies or regulations. Some of the examples of intervention of the CNDC are explained below.

3.1. Interconnection regulation

64. At the beginning of 2017, the Ministry of Communications issued a project to establish a new (updated) regulation for interconnection and access, which was opened to consultations. The project had references to some issues related to competition enforcement, such as essential facilities, market definition and market power. To avoid misusing those concepts, the Advocacy Unit of the CNDC prepared a document explaining competition jurisprudence on the matter and the extent to which they should be applied to the Information and Communication Technologies.

3.2. Regulation in the provision of pilotage services

65. In April 2017, the Undersecretary of Ports and Waterways was revising the regulation for the provision of pilotage services to vessels entering certain Argentine ports. In this context, it requested the CNDC to issue an opinion regarding said regulation. The CNDC recommended to establish price caps for pilotage and related services and to reduce barriers to entry in the market.

3.3. Trade barriers

66. In several instances the CNDC recommended that trade barriers be reduced, in particular when the domestic market is highly concentrated. This was the case, for example, for some products in markets of industrial inputs such as aluminium, steel and petrochemicals that used to be affected by a special import procedure that works as a non-tariff barrier. Similarly, the CNDC was consulted regarding the potential effect of an antidumping measure in a highly concentrated domestic market (load cells for weighing scales).

3.4. Public procurement of medicines

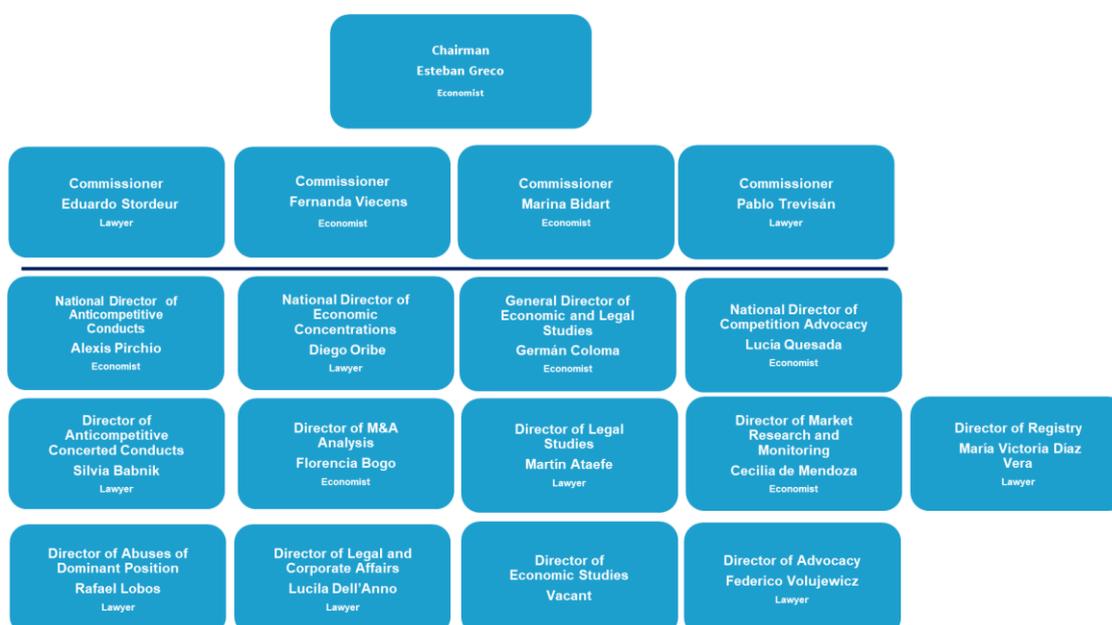
67. For the first time in Argentina, many public organisations got together to organise a public tender to procure Factor VIII, a treatment for haemophilia A, whose cost is entirely born by the public sector. The CNDC participated in the development of the bidding process, giving advice on the bid specifications so that opportunities for collusion are minimised. The experiment was a huge success and the bids received imply substantial savings in the cost of the treatment for 2018 compared to the prices paid in previous years. The government is, therefore, planning to extend this process to other medical treatments.

4. Resources of competition authorities

68. The CNDC is composed of five members: one president and four commissioners. According to the LDC two of the commissioners must be lawyers and the other two must be economists.

69. In addition, the CNDC is structured in four National Directorates (Economic Concentrations, Anticompetitive Conduct, Economic and Legal Studies and Competition Advocacy, each of which is in turn structured in two Directions), and a Direction of Registry. Figure 1 below shows the CNDC's organisational structure.

Figure 1. CNDC's internal structure



70. The staff of the CNDC as of February 2018 was 104 people, of which 36 economists, 37 lawyers, 13 other professionals and 23 support staff. The allocation of professionals across antitrust activities is shown below in **Error! Reference source not found.**

Table 1. CNDC's human resources by area

Activity	Number of people
Enforcement against anticompetitive practices	31
Merger review and enforcement	29
Advocacy efforts	14
Administration and support activities	30
Total	104

71. The CNDC total budget for the period from 1 January 2017 to 31 December 2017 was ARS 153,367,276, or about USD 7,481,331.

5. Summaries of or references to new reports and studies on competition policy issues

5.1. Market studies and pro-competitive recommendations

72. The CNDC has issued several pro-competitive recommendations in different markets:

- **Credit cards and electronic means of payments:** The recommendations to the Central Bank and the Secretary of Commerce aimed at increasing competition in the acquiring market. As a consequence, an investigation against PRISMA (Visa representative in Argentina) for abuse of dominant position was initiated and a series of changes in the regulatory framework have been implemented (regulation of the interchange fee, reduction of the merchant discount fee, promotion of entry). See https://www.argentina.gob.ar/sites/default/files/cndc_resol_invmerc_tarjetas_2.pdf and https://www.argentina.gob.ar/sites/default/files/competitive_conditions_analysis_on_the_credit_cards.pdf for an English summary.
- **Milk and dairy products:** The recommendations to the Undersecretary of Dairy aimed at (1) providing measures to limit access of dairy producers to information regarding their competitors that could facilitate collusion and (2) promoting best practices for associations of producers in the market to limit the possibility that said associations may work as collusion facilitators. As a result, the issue of collusion and information sharing has been introduced in the discussions between the public authority and the producers. See https://www.argentina.gob.ar/sites/default/files/im_lacteos.pdf.
- **Inter-city passenger transportation by road:** The recommendations to the Undersecretary of Passenger Transportation aimed at (1) simplifying bureaucratic procedures in order to facilitate entry in each relevant market, (2) modifying price regulation to eliminate minimum prices, (3) improving data collection and sectorial statistics, and (4) promoting efficiency by working on the complementarity of this service with other transportation modes, in particular, air transportation.
- **Primary aluminium:** The recommendations to the Secretary of Commerce aimed at promoting competition in this market through a reduction of tariff and non-tariff barriers to imports to make imported aluminium a credible competitor of the domestic (monopoly) producer. The CNDC also recommended that it be consulted before introducing changes in the trade policy that could affect this product.

73. Other market studies are still ongoing, such as steel, pharmaceuticals, supermarkets, cement and gasoline.