

**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE****Annual Report on Competition Policy Developments in Argentina****-- 2018 --****5-7 June 2019**

This report is submitted by Argentina to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 5-7 June 2019.

JT03447161

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Argentina

Executive Summary

1. This report addresses events that have occurred in the reporting year (1 January 2018 to 31 December 2018).
2. In May 2018, a new competition act was enacted in Argentina. In Section 1, this report gives an overview of the main changes introduced with the competition law reform in Argentina. The main amendments introduced by the new law 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 2018:
 - 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.
 - A sanction to four hospitals in the city of San Carlos de Bariloche, province of Río Negro for collusion. The cartel had no effects due to a precautionary measure issued by the Secretary of Commerce. For this reason, the fines imposed were relatively low.
 - A sanction to a copyright society for excessive pricing and price discrimination in the market for granting authorizations for the reproduction of music to hotels. In addition, a recommendation was issued to dictate and/or encourage the enactment of a regulation of specific tariffs for the secondary reproduction of musical or audiovisual works in hotel rooms and common areas, based on criteria of non-discrimination, reasonableness, transparency and limited scope.
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, until one year after the new competition authority is in place, companies are allowed to notify the operation up to one week after its closing.

- 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.
 - Merger between Telecom and Cablevision, in the telecommunications markets. The operation raised competition concerns in the market for residential fixed internet access in some in some geographical markets. The parties submitted a structural remedy involving the divestiture of the business of residential fixed internet access in such geographical markets, as well as behavioural commitments. The operation was approved after the corresponding divestiture.
 - Acquisition by Molinos Río de la Plata of the pasta business of Mondelez, which ended with the divestiture of one of the acquired brands to a third company, which was not operating in the market before.
5. Section 3 provides with instances in which the CNDC has been consulted by other public organizations in the design and/or implementation of regulatory changes, *e.g.* in the cases of the design of a public procurement system for medicines and the cooperation with the roadworks department in the drafting of a certificate of independent bids for roadwork contracts.
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 2018.

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

1.1. Competition law 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 it was passed on 9 May 2018 as Law No. 27,442.
9. The new law 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. The ANC has not yet been constituted. Until this happens, the Secretary of Commerce, with the technical support of the National Commission for Defence of Competition (the "CNDC") remains the enforcement authority.¹

¹ On the 14 of January 2019, the enforcement authority was transferred to the Secretary of Domestic Commerce, with the technical support of the CNDC.

10. The law 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.²

11. The law also establishes some non-enforcement functions under the scope of the Secretary of Commerce. This constitutes a 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 new law includes an ex ante control, which would replace the current ex post regime.³ 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.

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 needed to be updated, but also need mechanism that prevents this situation from arising in the future. The law addresses this issue by expressing the thresholds in “mobile units”. The law established the value of the mobile units in ARS 20, which will be updated annually following the evolution of the Argentine Consumer Price Index.

14. On the other hand, following international best practices, the law created a leniency program, which did not exist under the previous law, with the purpose of facilitating proper detection, prosecution and sanction of cartels.⁴ 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 cooperate 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

² The process to appoint the members of the new authority has started in 2018 and it is expected to be completed before the end of 2019.

³ The ex-ante regime will start one year after the constitution of the ANC.

⁴ A specific regulation on the procedure of leniency applications has been submitted to public consultation in July 2018. The CNDC has received comments from many national and international organisations, including the OECD.

- A supplementary benefit for the firm that, even without cooperating to the prosecution of the cartel under investigation, discloses or recognizes another coordinated antitrust activity in a different market.

15. The law also brings new guidelines for the application of fines, so as to improve deterrence. According to the new law, maximum fines are 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;
- In case none of the two previous criteria can be calculated, up to 200 million mobile units.

16. The law 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 law 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 law also creates a specialized 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 specialized court shall act under the scope of the Federal Courts of Appeals in Civil and Commercial Matters. The contest to appoint the member of this court has already taken place, although results have not been published yet.

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

19. In 2018 the CNDC opined on 69 cases related to anticompetitive conducts, both cartels and abuses of dominance. Fines were imposed on three of those cases: two cartel cases and one abuse of dominance case.

20. In addition, the CNDC has prepared guidelines for the analysis of abuse of dominance cases. A first version was submitted for public comments in September 2018. Comments have been received from many national and international organizations. The final version of the guideline will be published during 2019.

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

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

21. 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.⁵ 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.

22. The CNDC investigation 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.

23. 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 has been found that certain obligations arranged by the Pharmaceutical Association of Tucumán prevented pharmacies from advertising over-the-counter medicines and perfumery products.

24. 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.

25. 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.

26. 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.

⁵ Resolution SC No. 47, dated 23 January 2018 and Opinion CNDC No. 94, dated 7 November 2017.

Collusion of clinics and private hospitals in the city of San Carlos de Bariloche

27. In March 2018, a total fine of ARS 320,950 (about USD 16 thousand) to four hospitals in the city of San Carlos de Bariloche, province of Río Negro.⁶ The sanction was imposed due to a collusion agreement for travel health insurance offered to students on graduation trips.⁷ The four hospitals had a 100% share of the relevant market.

28. The CNDC investigation concluded that the agreement had the object of restricting competition by preventing negotiations between hospitals and travel health insurance companies, as well as imposing commercial conditions, fixing prices of sanitary practices and establishing a joint and exclusive contract in favour of a group of undertakings.

29. Once the complaint was filed, the Secretary of Domestic Commerce issued a precautionary measure, which prevented hospitals from actually implementing the agreement. Therefore, although the agreement was anticompetitive by object, its anticompetitive effects never materialized. For this reason, the amount of the fines imposed was relatively low.

Sanction to a copyright society for excessive prices and price discrimination

30. In June 2018, a fine of ARS 42.732,771 (about USD 1.5 million) was imposed on the Argentine Society of Music Authors and Composers (SADAIC), a civil association representing national music creators and foreign authors' societies for excessive pricing and price discrimination in the market for granting authorizations for the reproduction of music to hotels. In addition, a recommendation to the Ministry of Culture and the Ministry of Justice and Human Rights was issued to dictate and/or encourage the enactment of a regulation of specific tariffs for the secondary reproduction of musical or audio-visual works in hotel rooms and common areas, based on criteria of non-discrimination, reasonableness, transparency and limited scope.⁸

31. The case was initiated in October 2009 following a complaint by the Federation of Gastronomic Hoteliers of the Argentine Republic (FEHGRA), an entity that represents all hotel and gastronomic activity in the country, against the Argentine Society of Music Authors and Composers (SADAIC) for alleged anticompetitive practices. The complaint focuses on the tariffs charged by SADAIC to hotels for music reproduction through television sets and the like located in rooms or common places, known as "secondary reproduction" of musical works. In this regard, FEHGRA complained that the tariffs charged did not respond to a specific service, and that in April 2009 SADAIC had raised its tariffs in an unfounded, unilateral and arbitrary manner. Moreover, SADAIC entered into contracts with certain regional associations of hotels, agreeing on tariff reductions of up to 75% of the general tariff depending on seasonality or occupation rate, a benefit available only to certain establishments.

32. SADAIC is a legal monopoly, whose functions have been established by Law 17,648. Hotels and other lodging establishments are obliged to pay the tariffs set by SADAIC. The CNDC concluded that there was a gap in SADAIC's tariff regulation to case

⁶ Resolution SC No. 135, dated 13 March 2018 and Opinion CNDC No. IF-08323262-APN-CNDC#MP, dated 23 February 2018.

⁷ San Carlos de Bariloche is very popular choice for high school students to go on graduation trip.

⁸ Resolution SC No. 371, dated 26 June 2018 and Opinion CNDC No. 43, dated 17 May 2017.

of hotels, and that in the relevant market for this case could be defined as the service of granting authorizations for the reproduction of music to hotels.

33. On the other hand, the CNDC investigation proved the fact that the unilateral decision of SADAIC had generated an average increase in the tariffs applied to hotels between 33% and 70%, an increase that also occurred with respect to a previous tariff level, that was already very high. The CNDC also opined that the conduct in question was intended to extract the maximum possible income from hotels. Additionally, the fact that SADAIC set its tariffs without taking into account the room occupation rate allowed it to receive a payment without necessarily providing a service. SADAIC's high tariffs also became clear when comparing such tariffs with those charged by other local societies for the collective management of other intellectual property rights, as well as with foreign collective rights management societies.

34. Another point that was analysed in the opinion of the CNDC had to do with the complaint by FEHGRA regarding the existence of price discrimination practices. In fact, from the research carried out, evidence was obtained that SADAIC had subscribed, with certain hotels and chambers that group hotels in certain regions, agreements that contemplated the seasonality and occupancy of the hotels, making these variables exceptional. These agreements, which implied benefits for the hotels and chambers that subscribed them, were not offered to the majority of the members of FEHGRA, which were harmed by the discriminatory behaviour in question.

35. The fine imposed to SADAIC was equal to 10% of SADAIC's revenues from fees charged to hotels during the relevant period.

2.2. Mergers and acquisitions

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

36. Argentina's Competition Law No. 27,442 (LDC) in its article 9 establishes the obligation to notify to the competition authority all operations of mergers and/or acquisitions for which the total turnover of the affected companies is above 100 million mobile units (currently about USD 50 million) in Argentina.⁹

37. The LDC also includes provides for some conditions for those economic concentrations (as defined under article 7)¹⁰ that, even when the abovementioned threshold is met, shall be exempted from the obligation to notify, which can be classified in two groups:

⁹ As established in article 9 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.

¹⁰ Under article 7 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.

- Operations involving companies which conduct economic activities outside Argentina, whenever said activities shall not have effects in the Argentine market (article 4 of the LDC);¹¹
- Exemptions to the obligation to notify (article 11 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 20 million mobile units (currently about USD 11 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 months exceeds 60 million mobile units (currently about USD 34 million). The transactions subject to the 12 and 36 months accumulations must have occurred in the same market.

38. During 2018 the CNDC received 105 merger notifications, compared with 157 merger notifications in 2017. The average time to issue a merger decision decreased from 8 months in 2017 to 4 months in 2018. In 2018 the CNDC issued 202 merger opinions, all of them clearing the operation, although remedies were imposed in three cases. Out of the 202 mergers cleared, 75 referred to conglomerate operations, 81 were operations with only horizontal effects, 17 were operations with only vertical effects and 29 had both horizontal and vertical effects.

39. In April 2018, through Resolution SC 208/2018, Argentina issued new guidelines for the analysis of M&A operations, replacing the previous version from 2001. Through this change, Argentina has included some innovative tools in merger analysis, providing clarity to the private sector on how those tools would be used.

2.2.2. Summary of significant cases

Acquisition by Anheuser Busch Inbev of SAB-Miller

40. This was an international operation and consists of the acquisition by Anheuser Busch Inbev (ABI) of SAB Miller in the beer market.¹²

41. 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,

¹¹ 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."

¹² Resolution SC No. 136, dated 14 March 2018 and Opinion CNDC No. 255, dated 22 November 2017.

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.

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

43. The CNDC estimated that the combined market share of merging companies was sufficiently high, so as to create competition 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 commercialized 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.

44. 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.

Merger between Telecom Argentina and Cablevisión

45. The CNDC imposed, by a majority vote, both structural and behavioural remedies to the merger between Telecom Argentina S.A. (Telecom) and Cablevisión S.A. (CV).¹³ Both companies operated in several markets within the communications sector. So far, this has been the biggest operation in the communications industry in Argentina. It was a convergent merger, mainly complementary, combining two firms strong in different services, with core businesses in mobile communication services (Telecom) and pay TV (CV). Therefore, some markets raised no competition concerns. One example is the case of fixed telecommunication services, where Telecom was one of the two main providers, whereas CV had no participation. Another example is the paid TV market, where CV was a big player, while Telecom had no participation.

46. On the other hand, the operation had horizontal effects, in particular in the provision of residential fixed internet access in some geographical markets.

47. For the case of residential fixed internet access, the analysis of CNDC's majority vote concluded that in 29 cities in the country, the merger would leave customers with no alternative provider. Indeed, in those cities, Telecom was virtually the only provider of fixed telecommunication services, CV was the main provider of paid TV services and those were the only companies whose networks could be used to provide internet access to residential customers. To address this problem, the parties to the transaction offered a commitment by which they would transfer 143,464 internet residential customers that were served by Telecom (through the brand Arnet) to an independent provider that was active in other cities. They would also transfer the right to use the Arnet brand in those cities and give access to Telecom's physical infrastructure, which Telecom would continue to use to provide fixed telecommunication services. CNDC's majority vote considered that the

¹³ Resolution SC No. 374, dated 29 June 2018 and Opinion CNDC No. Conc. 1507, dated 28 June 2018.

proposed buyer had the expertise, economic capacity and knowledge needed to perform as an effective competitor in the relevant cities.

48. The merger involved an accumulation of radioelectric spectrum. However, previous to the merger, there was a cap set by the sector regulator and it has already been established that the merged company had to return 80 MHz of radioelectric spectrum. In addition, the CNDC made some recommendations to the regulator aimed at accelerating the spectrum return process and introduced competition considerations when designing the future use of radioelectric spectrum.

49. An additional issue concerned the possibility that Telecom would start offering a “quadruple play” service package, which could introduce new services valuable for consumers but at the same time could give first mover advantage to the merged entity that gave rise to competition concerns. As a consequence, a commitment was required for the parties not to bundle pay TV and mobile communication services until mid-2019 or until other providers would be able to provide the same bundle. In addition, recommendations were addressed to the regulator to promote entry from virtual mobile operators.

50. In June 2018, the operation was approved after the divestiture and subject to behavioural commitments.

Acquisition by Molinos Río de la Plata of four dry pasta brands from Mondelez

51. The operation consisted of the acquisition by Molinos and Molinos IP of two production plants and four dry pasta brands belonging to Mondelez.¹⁴ This operation implied the exit of Mondelez from the dry pasta business.

52. The operation implied the increase in the market share of Molinos in a market of differentiated products, and, by a majority vote, the CNDC required the divestiture of one of the acquired brands to Bonafide, which had no previous participation in the market in Argentina and was part of a group that was successfully developing the pasta business in other countries, such as Chile and Peru.

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

53. The CNDC is becoming an important source of consultations in the formulation and/or implementation of other public policies or regulations.

3.1. Public procurement of medicines

54. One goal of the Argentine government is to improve its procurement mechanism, in particular in pharmaceutical products. In this regard, the CNDC has been consulted in two instances. First, the CNDC participated as advisor of the task force to organise the first joint procurement of medicines in Argentina, with the idea of monitoring the process and the tender documents to prevent collusion. Nine pharmaceutical companies submitted bids on March 2018. The experience was a huge success as the winning bid implied price reductions of about 80%. Second, the CNDC collaborated with a major reform in public procurement of medicines by the largest health insurance for retired population (Instituto

¹⁴ Resolution SC No. 363, dated 22 June 2018 and Opinion CNDC Conc. 1173, dated 15 June 2018.

Nacional de Servicios Sociales para Jubilados y Pensionados, commonly known as PAMI). The change implemented by the end of 2018, recovered PAMI's autonomy and allowed individual contracts with pharmaceutical companies instead of a joint agreement with trade associations representing the pharmaceutical industry.¹⁵

3.2. Design of tender documents for roadworks

55. In December 2018, the OECD, in the context of the project “Fighting bid rigging: a competition review of Argentina’s public procurement regime” organized two training workshops. The workshops were designed to train public procurement officials and staff of the CNDC on costs and risks of bid rigging and recommend good practices concerning designing tenders that reduce the risk of bid rigging, identifying possible instances of bid rigging in the procurement process (red flags); and what to do when bid rigging is found. Following these workshops, officials of the National Roads Directorate requested the CNDC’s advice in drafting a Certificate of Independent Bid Determination, to be included in the tender documents for roadwork contracts.¹⁶

4. Resources of competition authorities

4.1. Resources overall

56. 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.

57. 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.

58. The CNDC’s total budget for the period from 1 January 2018 to 31 December 2018 was ARS 135,811,149, equal to USD 3,602,418 and EUR 3,146,691.¹⁷

59. The staff of the CNDC as of December 2018 was 101 people, of which 32 economists, 35 lawyers, 14 other professionals and 20 support staff. The evolution of human resources is shown in Table 1.

¹⁵ For more details, see Argentina’s contribution to the Roundtable on “Designing publicly funded healthcare markets” held in December 2018, DAF/COMP/WP2/WD(2018)46.

¹⁶ In January 2019, the National Roads Directorate sent a note to the CNDC communicating its decision to incorporate said certificate in the bidding documents.

¹⁷ Exchange rate as of 31/12/2018: USD 1 = ARS 37.70 and EUR 1 = ARS 43.16.

Table 1. Number of employees (2017-2018)

Profession	2017	2018
Economists	33	32
Lawyers	35	35
Other professions	13	14
Support Staff	23	20
Total	104	101

4.2. Human resources by activity

60. The allocation of professionals across antitrust activities is shown below in Table 2.

Table 2. CNDC's human resources by area (2017-2018)

Activity	2017	2018
Enforcement against anticompetitive practices	31	28
Merger review and enforcement	29	21
Advocacy efforts	14	18
Administration and support activities	30	34
Total	104	101

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

5.1. New guidelines for merger analysis

61. In April 2018, through Resolution SC 208/2018, Argentina issued new guidelines for the analysis of M&A operations, replacing the previous version that had been in force since 2001. Through this change, Argentina has included some innovative tools in merger analysis, providing clarity to the private sector on how those tools would be used and increasing predictability of the agency's decisions.

5.2. Market studies and pro-competitive recommendations

62. In 2018 the CNDC has issued three pro-competitive recommendations in different markets:

- **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. Disposition CNDC No. 18 dated 18 January 2018.
- **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. Disposition CNDC No. 31 dated 2 March 2018.

- **Long steel products:** Following a study of the market for long steel products, the CNDC found elements to open an ex-officio investigation against the main producer in this market for potential abuse of its dominant position through exclusive distribution agreements, which could increase entry barriers in the market and limit price competition. Disposition CNDC No. 76 dated 18 July 2018.
63. Other market studies are still ongoing, such as pharmaceuticals, supermarkets, cement and gasoline.

5.3. Pro-competitive guidelines

64. In December 2018 the CNDC issued a guideline on competition law for trade and professional associations that is currently posted on its website.¹⁸ The guideline explains the potential risks said associations face of infringing competition law and provides recommendations in the form of dos and don'ts that would help with competition law compliance.

¹⁸ Ver Guía sobre Defensa de la Competencia para Asociaciones y Cámaras Empresariales y Colegios y Asociaciones Profesionales, December 2018, https://www.argentina.gob.ar/sites/default/files/guia_camaras_y_asociaciones_empresariales_10-12-2018_0.pdf.