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Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Costa Rica

-- 2019 --

10-12 June 2020

This report is submitted by Costa Rica to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 10-12 June 2020.

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Costa Rica

Executive Summary

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

1.1. Summary of new legal provisions of competition law and related legislation

1. On November 18, 2019, Law 9736, “Strengthening of the Competition Authorities in Costa Rica” amending the Costa Rican regulatory framework for competition law, took effect. This new law follows the recommendations established in the Peer Review of Competition Law and Policy in Costa Rica conducted jointly by the Organization for Economic Co-operation and Development (OECD) and the Inter-American Development Bank (IDB) in September 2014.

2. The primary objective of Law 9736 is to strengthen the national competition authorities and give them an updated regulatory framework in line with best international practice in the matter.

3. Below are the substantial changes introduced by Law 9736:

4. Expansion of the scope of application of the competition law

5. Under the new regime, the competition law is applicable to all economic agents, only specific acts, duly authorized in special laws remain exempt from application of the law. These specific acts concern sugar cane production and marketing, rice importation, coffee production and exportation, maritime shipping and professional associations.

6. Law 9736 establishes that COPROCOM shall review competition law exceptions and exemptions at least once every five years. The authority shall refer to the convenience or otherwise of maintaining said exceptions and whether their merits and reasons for being are maintained.

1.1.1. Independence

7. Law 9736 ensures the strengthening of COPROCOM as a maximum de-concentration body attached to the Ministry of Economy, Industry and Commerce (MEIC) by granting it administrative, budgetary and functional independence. Moreover, it confers instrumental legal personality on it to carry out contractual activities, manage its own resources and budget, and sign contracts and agreements with public and private, national or international entities.

8. The foregoing guarantees that COPROCOM can exclusively and independently exercise the functions and competencies granted by law.

9. Law 9736 establishes mechanisms to ensure the authority’s independence:

10. In technical matters:

- Only the courts can review and annul COPROCOM decisions.
- Members of the Commission (COPROCOM’s governing body) are appointed through a public contest based on their technical competence and experience and then ratified by the Legislative Assembly.

- COPROCOM members' appointments are staggered.
 - COPROCOM members can only be dismissed for just cause as established in the law. Due process shall be followed for dismissing a member of the Commission; this shall be carried out by the Council of Ministers.
11. In administrative matters:
- The special labor regime and recruitment system for COPROCOM technical personnel and commissioners is specialized and outside the civil service. This enables the recruitment and compensation of the staff under conditions similar to other authorities, both national and international.
 - The Commission can select its personnel on the basis of any technical criteria it establishes.
12. In budgetary matters:
- The law establishes a minimum annual amount that the government shall transfer to the authority. This ensures that COPROCOM's main source of revenue cannot be affected by potential short-term political calculations or decisions.
 - COPROCOM shall manage and administer its resources and budgets, as well as any changes it requires.

1.1.2. Increase budget for COPROCOM

13. To guarantee COPROCOM has the necessary financial resources to perform its duties, Law 9736 sets a minimum annual transfer amount that the government must respect. This transfer is equal to 5,309.05 base wages¹ (equivalent to US \$4,034,700 at the average exchange rate for 2019²).

14. COPROCOM's budget is increased significantly, bringing it closer to the budget of other Costa Rican regulatory agencies and international competition authorities.

1.1.3. Appointment of full-time COPROCOM commissioners

15. Law 9736 replaced the part-time appointment of COPROCOM commissioners with a full-time scheme.

16. The law establishes that COPROCOM shall have three regular members, including at least one lawyer and one economist. These members shall serve on a full-time basis with full dedication to their duties, with the exception of university teaching.

17. Moreover, the law establishes that the Commission shall have two alternate members to cover regular member absences. This guarantees an unbroken structural quorum for the Commission so that it can continue with its decision-making.

1.1.4. Improved procedure for investigating and sanctioning

18. Law 9736 establishes a special procedure for investigating and sanctioning anticompetitive conducts, designed for the purpose of addressing the complexities and particularities of competition-related matters.

¹ The base wage for 2019 equaled 446,200 colones.

² This refers to the Costa Rican Central Bank's average buying and selling exchange rate of 587.13 colones to the US dollar.

19. The special procedure establishes three independent stages: investigation, instruction (pre-trial) and resolution/decision-making. To provide greater transparency and legal certainty to economic agents, the law provides for segregation of duties among the staff participating in each of the stages. This special procedure will be applied by the two competition authorities.

20. The special procedure introduces a leniency program that provides for elimination or reduction of fines for economic agents who cooperate with the authorities in the investigation of absolute monopolistic practices (hardcore cartels). The leniency program will help improve the detection of cartels by competition authorities.

21. In addition, investigated economic agents could request the following early termination mechanisms: termination for manifest inadmissibility, early termination with acknowledgement of commission of the conduct (settlements), and early termination with offer of commitments (commitments).

1.1.5. Classification of conducts and effective sanctions for deterring illegal conducts and encouraging cooperation of economic agents with the competition authority

22. Law 9736 increased the number of practices the competition authorities can sanction. In the case of COPROCOM, it also substantially increased the fines for each type of offence.

23. Law 9736 classifies infractions as minor, serious and very serious. It establishes that fines shall be calculated as a maximum percentage of the economic agent's total gross income during the previous tax year. Fines are set at a maximum of 3% for minor infractions, 5% for serious infractions and 10% for very serious infractions.

24. In addition, for individuals who participate in monopolistic practices or illegal mergers, and for public officials who aid, facilitate, promote or participate in any way in monopolistic practices, a maximum fine is set of up to six hundred eighty base wages, equivalent to US \$516,777 (at the average exchange rate for 2019³).

1.1.6. Modification of the definition of merger and new standard for reviewing mergers

25. Law 9736 sets up an ex ante notification system with suspensory effects and establishes a two-phase procedure for merger control that will allow the competition authority to clear non-problematic transactions in an agile manner.

26. In addition, it eliminates the possibility of notifying of a merger after the transaction has been executed.

27. The law establishes a new standard for review of mergers that follows international best practices and provides that the authority should focus its review on the effects of the transaction.

28. Finally, notification thresholds are modified to permit more efficient use of the authority's resources and avoid the review of transactions lacking anticompetitive effects on the market.

³ This refers to the Costa Rican Central Bank's average buying and selling exchange rate of 587.13 colones to the US dollar.

1.1.7. Strengthening of the competition authorities' advocacy powers

29. Law 9736 reinforces the competition authorities' advocacy powers for eliminating and preventing entry barriers or distortions established in laws, regulations, agreements, circulars and administrative decisions through the issuing of opinions and market studies.

30. Furthermore, they will be able to carry out training and promotional activities to build public knowledge and awareness of the benefits of competition.

31. Finally, Law 9736 grants the authorities the power to establish cooperation agreements with public or private, national or international entities and to exchange information with other competition authorities in order to take part and collaborate in the investigations of anticompetitive practices and illegal mergers.

1.1.8. Power to carry out market studies

32. Law 9736 reinforces the competition authorities' powers to efficiently conduct market studies by granting them sufficient power to request information from both public and private entities.

33. The authorities will be able to make all recommendations they deem necessary in these studies. The recommendations issued in a market study will not be binding, but public entities deviating from these recommendations must inform the respective competition authority of the reasons they will not be implementing the recommendations.

1.1.9. Transfer to COPROCOM of the power to authorize mergers in the financial sector

34. Law 9736 grants COPROCOM the power to authorize mergers in the financial sector. Notwithstanding, transactions that may imply a financial systemic risk for the financial system shall be heard exclusively by the respective financial regulator. The idea of this is to protect and mitigate risks for the solvency, soundness and stability of the entities or financial system.

1.2. Other relevant measures, including new guidelines

35. Costa Rica has proposed a cooperation project to the IDB for using grant money to prepare a series of guidelines, manuals and secondary regulations needed for effective application of Law 9736. In addition, SUTEL has earmarked internal funds for developing other guidelines and manuals that will apply to both competition authorities.

36. The following instruments will be developed:

- Guideline for the Analysis of Unilateral Conducts and Vertical Agreements.
- Guideline for Merger Analysis.
- Guidelines establishing the Obligations and Requirements for Notifying Mergers.
- Guideline on Methodology and Criteria Used for the Imposition of Fines.
- Guideline on How to Conduct Market Studies.
- Manual on How to Detect Collusive Public Tenders.
- Manual for Handling Confidential Information.
- Manual for the Application of the Leniency Program.
- Manuals on Internal Procedures.

- Manual for Conducting Dawn Raids.
 - Guidelines for ex post Analysis of Authority Decisions.
 - Guidelines for Compliance Programs.
 - Guidelines for Competition Assessment for Evaluation of New Regulation.
37. These documents will be developed from 2020 to 2022.

1.3. Government proposals for new legislation

38. There are no other legal provisions to report.

2. Enforcement of Competition Laws and Policies

2.1. Actions against anti-competitive practices, including agreements and abuses of dominance

2.1.1. Cartels and horizontal agreements

39. At the beginning of 2019, COPROCOM started an ex officio investigation into several commercial banks for an alleged agreement on the interchange fee in the credit card acquiring service. The investigation is still in a preliminary investigation phase.

40. SUTEL concluded a preliminary investigation into alleged illegal agreements of market sharing between competitors in the fixed broadband internet and subscription TV access markets. Said investigation initiated in 2018, but the authority did not find any indications that the investigated companies had acted as a cartel.

2.1.2. Abuse of dominance and vertical restriction

41. With regard to abuse of dominance, in 2019 the competition authorities resolved several key cases and initiated other new cases.

42. COPROCOM carried out seven investigations into vertical restrictions in different markets. These were shelved because insufficient indications were found of anticompetitive conducts. In addition, the authority ordered the shelving of the administrative disciplinary procedure opened against the Asociación de Importadores de Vehículos y Maquinaria (AIVEMA) and several members of AIVEMA's Board of Directors, since insufficient indications were found of the substantiable existence of an anticompetitive object or effect, whether referring to a real displacement or a substantial impediment to market entry.

43. SUTEL initiated five investigations in 2019, most of them related to vertical restrictions in broadband Internet and subscription TV access markets. It also closed four investigations that were open on the following issues: alleged predatory pricing (two cases) and alleged exclusivity agreements (two cases). No fines were imposed in any of these cases.

2.1.3. Summary of activities

44. The following table summarizes the work of COPROCOM and SUTEL in enforcing competition law.

Table 1. Costa Rica: Actions taken by COPROCOM and SUTEL to enforce competition Law 2019

COPROCOM				
Preliminary Investigations				
Case File	Market	Conduct	Companies	Decision or Vote
021-19-D	Disposable biomedical materials and equipment	Vertical restrictions (Exclusionary conduct)	Briscar S.A. and Deljim	07-2019
034-17-D	Soft drinks	Vertical restrictions (price discrimination)	Coca-Cola Femsa de Costa Rica S.A.	09-2019
091-18-D	Inks and similar items for printers	Vertical restrictions	IM Inversiones Multiaccess S.A. against the National Directorate of CEN-CINAI	10-2019
079-18-D	Vehicle replacement parts	Vertical restrictions (exclusivity)	Qualitas Compañía de Seguros S.A.	23-2019
032-18-D	TV	Abuse of dominance (predatory pricing)	La Casa de los Precios Bajos S.A. and Corporación de Supermercados Unidos S.R.L.	32-2019
046-18-D	Medical equipment	Abuse of Dominance (predatory pricing)	Eurociencia Costa Rica and Distribuidora Óptica S.A.	33-2019
012-18-D	Vehicle replacement parts	Abuse of Dominance (predatory pricing)	Instituto Nacional de Seguros, Vehículos Internacionales S.A. and Corporación Grupo Q	48-2019
Administrative Proceedings				
008-19-IO	Radio stations	Failure to notify a merger	Grupo Latino de Radio Difusión de Costa Rica S.A. and Medios Estratégicos de Comunicación S.R.L.	Pending final decision of this procedure
SUTEL				
Preliminary Investigations				
Case File	Market	Conduct	Companies	Decision
T0062-STT-MOT-PM-01267-2018	Subscription TV, Internet access	Vertical restrictions (exclusivity)	Televisora de Costa Rica S.A.	RCS-168-2019
T0062-STT-MOT-PM-01297-2018	Subscription TV, Internet access	Cartel (market sharing)	Televisora de Costa Rica S.A.	RCS-148-2019
FOR-SUTEL-DGM-CGL-00093-2018	Subscription TV, Internet access	Abuse of dominance position (predatory pricing)	Millicom Cable Costa Rica S.A.	RDGM-00008-SUTEL-2019
I0053-STT-MOT-PM-01682-2018	Telecommunications network infrastructure	Abuse of dominance position (predatory pricing)	Instituto Costarricense de Electricidad	RDGM-00003-SUTEL-2019
T0062-STT-MOT-AU-01124-2018	Subscription TV, Internet access	Vertical restrictions (exclusivity)	Cabletica S.A.	RDGM-00021-SUTEL-2019

2.1.4. Judicial Review

45. The following table summarizes the judicial reviews of competition decisions.

Table 2. Costa Rica: Judicial Reviews of Issued Competition Decisions, 2019

COPROCOM				
Judicial Decisions	Administrative Decisions	Conduct	Companies	Judicial Review
2019-001806 of 9:30 on February 1, 2019	Vote COPROCOM N° 93-2018	Denied authorization for merger	Grupo Empresarial de Supermercados S.A. (Gessa) and Corporación de Supermercados Unidos S.R.L (Walmart)	The Constitutional Court of the Supreme Court of Justice rejected the Writ of Amparo in the particular case.
165-F-TC-2019 of 14:48 on October 10, 2019	Vote COPROCOM N° 08-2014 Vote COPROCOM N° 32-2015	Collusive tendering	Corporación CEK de Costa Rica S.A., Lemen de Costa Rica S.A. and KEM de Centroamérica S.A.	The Court of Cassation for Contentious Administrative and Civil Tax Matters rejected the cassation appeal. COPROCOM's decision was confirmed.
SUTEL				
Judicial Decisions	Administrative Decisions	Conduct	Companies	Judicial Review
Res. 000008-F-TC-2019 of 09:00 on February 6, 2019	RCS-088-2015	Abuse of dominance position (margin squeeze)	Instituto Costarricense de Electricidad	The appeals court rejected the appeal filed by SUTEL by confirming the lower court's ruling that decision. The decision RCS-088-2015 had been declared null and void.

2.1.5. Summary of key cases

46. After several preliminary investigations arising from complaints had been conducted, five of these were shelved for lacking indications of anticompetitive conducts. In two of these, recommendations were issued to institutions for the purpose of improving public procurement. Notwithstanding, one of the preliminary investigations culminated in the opening of an administrative disciplinary procedure against the companies Medios Estratégicos de Comunicación S.R.L., La Nación S.A., and Sociedad Española de Radiodifusión S.L.U. (Prisa Radio) for an alleged failure to notify a merger.

2.2. Mergers and acquisitions

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

47. In 2019, COPROCOM issued 25 decisions concerning prior notifications of economic mergers.

48. SUTEL resolved on two notifications of mergers, which were approved without conditions.

49. With regard to merger control, the following cases were concluded in 2019:

Table 3. Mergers and acquisitions reviewed by COPROCOM and SUTEL 2019

COPROCOM			
Case File	Market	Parties	Vote
99-18-CE	Acquisition and administration of personal loans and/or credit cards declared bad debts for collection and recovery in the national territory	Banco Davivienda de Costa Rica S.A. and Recuperadora de Crédito Invercom S.A.	01-2019
86-18-CE	Vehicle rentals and tourism transportation	Inversiones El Trueno S.A., Centriz Costa Rica S.A., Interbuses Uno de Costa Rica S.A. and Strategic Business S.A.	11-2019 29-2019
98-18-CE	Herbicides, fungicides, insecticides and processing aids	UPL Corporation Limited and Grupo Bioquim Industria Bioquim Centroamericana S.A.	28-2019
05-19-CE	Snacks	Roma Prince S.A., Alimentos S.A. and Kalicox Holding Corporation	30-2019 39-2019
12-19-CE	Bananas for exportation	Banamera Dione S.A., Hacienda Sahara S.A., Hacienda Río Palacio S.A. and others	31-2019
14-19-CE	Container deposit, transport, maintenance and repair	CatalinaBD Holdings L.P., CatalinaBD LLC, FRS Capital Corporation., Homeport Holdings Inc., FRS Capital, and BIP Mercury I L.P.	34-2019
09-19-CE	Electronic products for automobiles	Wolfcrest Limited and Pioneer Corporation	35-2019
19-19-CE	Nutritional supplements	Pepsico Inc., Hormel Foods Corporation and CytoSport Holdings Inc.	37-2019
22-19-CE	Components and systems for the automobile sector	KKR & CO Inc., CK Holdings Co. LTD., and Magneti Marelli S.p.A.	38-2019
40-19-CE	Secondary batteries	KPS Capital Partners LP and Trojan Battery Holdings LLC	40-2019
61-19-CE	Maritime container shipping, freight transport and logistics solutions	CMA CGM S.A. and Ceva Logistics AG	41-2019
24-19-CE	Real estate and tourism developments	Rincón de la Vieja Holding S.A. and Inversiones El Trueno S.A.	43-2019
10-19-CE	Medicines subject to restricted sale	Farmacia Sucre S.A., GFI Pharma Global S.A. and Inversiones Farmacéuticas Santa Lucía	44-2019
29-19-CE	Financial services of unregulated entities	Grupo San Juan Inc., Lulinkados S.A, Kuiki Credit Holding, S.A. and Kuiki Credit Costa Rica, S.A.	45-2019
28-19-CE	Flexible packages for the manufacture of medical devices	Amcor Limitada and Bemis Company INC	51-2019
30-19-CE	Packages for medical devices	Tekni-Plex INC. and Amcor Limited	52-2019
38-19-CE	Medicines for systemic pain relief (non-steroid anti-inflammatory drugs).	Glaxosmithkline P.L.C., GlaxoSmithKline Costa Rica S.A., and Pfizer Inc.	56-2019
36-19-CE	Vehicle rentals	Grupo Empresarial Aizenman (Veinsa Motors) and Motorescostaricapuntocom S.A. (Sixt Rent a Car)	57-2019
42-19-CE	Financial and accounting services; administration and support services	Genpact Outsourcing and Walmart GSS Latin America S.R.L.	58-2019
45-19-CE	Fiduciary services	Consultores Financieros Cofin S.A., and de Corporación de Inversiones Credomatic, S.A.	60-2019
47-19-CE	Medicines subject to restricted sale	Distribuidora Tres Quince L.C.S.A., Compañía Farmacéutica S.A., Inversiones de Latinoamérica S.S.K.R.S.R.L., and Sergio Alexander Porras Ureña	64-2019
49-19-CE	Hotel and hotel real estate services	GSS Altagracia CR LLC and Brisball Internacional Limited	65-2019

57-19-CE	Real estate for hotels	Islita SPV S.A., IFP Holding Costa Rica S.A., Cuatrocientos Noventa y Cuatro S.A., Forestales Punta Islita S.A., José Villafranca Sargent, Inversiones Karanik del Norte ZE S.A. Karin Zucher Esquivel, Roma Prince S.A. and Servicios Unidos S.A.	68-2019
63-19-CE	Construction equipment leasing and industrial services in Costa Rica	BCP Acquisitions LLC - Clayton, Dubilier & Rice Fund X, L.P. - Brand Industrial Holdings, INC.- Brookfield Asset Management INC.	69-2019
64-19-CE	Network security solutions (NSS), electrical and electronic solutions (EES)	CD&R Arrow Parent LLC. and Anixter Internacional INC.	70-2019
SUTEL			
Case File	Market	Parties	Vote
M0391-STT-MOT-CN-00693-2019	Mobile telephony service, subscription TV service, residential and commercial Internet access, fixed telephony	Millicom Cable Costa Rica S.A. and Telefónica de Costa Rica TC S.A.	RCS-221-2019
T0046-STT-MOT-CN-01327-2019	Subscription TV service, residential Internet access	Telecable S.A. and Cable Zarcero S.A.	RCS-331-2019

2.2.2. Summary of key cases

Farmacia Sucre S.A., Gfi Pharma Global S.A. and Inversiones Farmacéuticas Santa Lucía

50. By means of Vote 044-2019, COPROCOM reviewed the notified economic merger between the companies Kenshore Holdings Limited and Finalease Investment S.A. (sellers) and Farmacia Sucre S.A. (SUCRE) (buyer), whereby: 1. Sucre bought from Finalease Investment S.A. (sellers) 40% of the capital stock of Inversiones Farmacéuticas Santa Lucía, S.A., hereinafter referred to as “FSL” or “Company”, and 2. GFI Pharma exchanged with the sellers a percentage of shares not exceeding 49% of SUCRE’s shares for 60% of the company’s stock.

51. The economic transaction had both horizontal and vertical effects. First, the company owning a chain of pharmacies acquired an additional set of pharmacies. Second, the buying company was a provider of the company it had acquired and, in turn, as a second part of the transaction, a laboratory acquired shares in a major wholesale distributor.

52. From the horizontal viewpoint, the market was defined as the retail and direct supply of medicines to the public. It was concluded that the merger did not imply that the companies involved in the transaction – both pharmacy chains – were increasing their market power and that the merger did not have any anticompetitive effects in the retail and direct supply of medicines to the public in the specific cantons in the provinces of Heredia, Alajuela and San José.

53. From the vertical perspective, the relevant market was defined as the wholesale distribution of medicines subject to restricted sale in the national territory. To this respect, it was concluded that the transaction had no significant anticompetitive effects on the market due to the limited market share of the businesses being bought, which were already the buyer’s customers.

Ancor Limitada and Bemis Company INC

54. This transaction was notified in different countries, since it involved Amcor Limitada (buyer), a company incorporated and organized under the laws of Australia, and Bemis Company Inc. (object of the transaction), a company registered under the laws of the State of Missouri in the United States.

55. The relevant market was defined as the segment of flexible packages for the manufacture of medical devices. Moreover, the geographical market affected by the transaction was defined as the international territory for both manufacture and distribution of the marketed products, since neither the acquired company nor the buyer company has production plants in Costa Rica. Furthermore, only the Bemis Company has a presence in the national territory, through sales to companies located in the Free Trade Zone.

56. This transaction was conditioned in both the United States and Europe, and they were even forced to sell off several product lines. Nationally, COPROCOM concluded that the transaction had horizontal effects, but Amcor and Bemis did not hold substantial power in the domestic market and therefore the combined share resulting from the proposed merger did not increase or strengthen any position of substantial market power for Amcor or have any anticompetitive effect, especially, considering the remedies imposed by the European and U.S. authorities.

Tigo-Movistar

57. In January 2019, Telefónica S.A. (Spain) informed of its intention to abandon the Central American market, announcing that it would sell its operations in Guatemala and El Salvador to the company Claro and its operations in Nicaragua, Costa Rica and Panama to the company Millicom International Cellular Inc. The notified transaction was thus of a regional nature. The seller stated that said business transaction was part of the Telefónica Group's asset portfolio management policy.

58. In the specific case of Costa Rica, the Telefónica Group has operated under the Movistar brand since 2011 and is positioned as the second largest mobile phone operator in the market. This operator has a comprehensive offering of other complementary services, but the company's core line of business is mobile phone services.

59. For its part, the Millicom Group has been operating under the Tigo brand since 2008. As the fixed services operator with the largest market share, it provides an integrated offer of fixed services.

60. The transaction would give Tigo a comprehensive offer of fixed and mobile services, making it the second largest operator with the capacity to offer these services in an integrated manner.

61. SUTEL concluded that the merger could have horizontal and conglomerate effects. However, no negative unilateral or coordinated effects were detected, so the transaction was authorized without any kind of condition.

3. The Role of Competition Authorities in the Formulation and Implementation of other policies, e.g. regulatory reform, trade and Industrial Policies

3.1. Competition opinions

62. COPROCOM and SUTEL issued various opinions on bills of law, most of which were requested by their proposers. In each case, COPROCOM and SUTEL analyzed the draft to determine if it had the potential to limit competition. The opinions of the two authorities were nonbinding for the consulting parties or the public administration. Nevertheless, the new law states that all public institutions must expressly justify their reasons when they do not follow the recommendations issued by the authorities.

63. The following opinions were issued in 2019:

Table 4. Costa Rica: Opinions issued by COPROCOM and SUTEL on regulations, draft regulations and draft laws, 2019

Number	Matter	Result
OP-02-19	Barriers created by several public administrations by conditions imposed on the requirement of ISO certification.	Competition advocacy at different public entities. The opinion has been repeatedly used by companies to substantiate appeals against procurement requirements.
OP-04-19	Regulation RTCR497:2018: "Electrical Materials, Thermomagnetic Breakers and Panels, Switches for General Use, Outlets, Sockets and Cord Connectors for Use with Tensions of Up to 1000V: Specifications."	COPROCOM observations were adopted in the final version of the Regulation.
OP-06-19	Bill of Law 21.171, "Addition of a Final Paragraph to Article 2 and a Section (N) to Article 12 of the Law for the Promotion of Competition and Effective Consumer Protection, Law 7472 of January 19, 1995 and its Amendments: Prohibition of Gender-Based Sale Price Discrimination," seeks to amend Law 7472 to ban and sanction price differences in consumer gender-based goods and services.	The observations were considered by legislators.
OP-07-19	Bill of Law 21.177: " <i>Law for Determining Acquiring and Interchange Fees for Credit and Debit Card Purchase Transactions.</i> "	Some of COPROCOM's observations were considered in the bill of law which has already been approved in first hearing by the Legislative Assembly.
OP-08-19	<i>Bill of Law 20.641: "Fuel Law for Progressing toward Elimination of the Use of Fossil Fuels in Costa Rica and Declaring the National Territory Free of Petroleum and Gas Exploration and Exploitation."</i>	The bill of law is currently under discussion in the Legislative Assembly.
OP-09-19	" <i>Regulation of Barbershops, Hair Salons, Beauty Salons and Similar Establishments (Executive Decree 18329 of July 11, 1988).</i> "	Local governments have been using an old regulation for imposing entry barriers to these markets. COPROCOM issued a negative opinion and at present the executive regulation no longer applies.
OP-10-19	Implementation of the interbank reference rate (IRR) as the reference rate for loans in dollars as well as colones.	The authority's observations were followed for its implementation.
OP-11-19	Bill of Law 21.303: " <i>Law for the Strengthening of the Competition Authorities.</i> "	Bill of law approved in accordance with COPROCOM's recommendations.

OP-13-19	Bill of Law 21.228: <i>"Reform of the Remunerated Passenger Transportation System and Regulation of Transportation Platform Companies."</i>	The bill of law was modified in accordance with COPROCOM's recommendations.
OP-15-19	Draft Law 21.211: <i>"Amendment to Article 7 of Law 7384."</i>	Bill of law currently under discussion in the Legislative Assembly.
OP-16-19	Opinion on the result of the investigation into the market of interbank rates in the credit card acquiring service.	COPROCOM recommended intervention to the executive branch exclusively in the market of interbank rates either through supervision or regulation of interchange fees in order to ensure its transparent and objective operation.
OP-17-19	Bill of Law 20.917: <i>"Law for the Promotion and Regulation of Distributed Generation with Renewable Sources for Self-consumption."</i>	Bill of law under discussion in the Legislative Assembly.
OP-19-19	Bill of Law 21.368: <i>"Law for Promoting Competition in the Medicine Market."</i>	Bill of law under discussion in the Legislative Assembly.
OP-20-19	Bill of Law 21.336: <i>"Public Employment Framework Law."</i>	Bill of law under discussion in the Legislative Assembly.
OP-23-19	Bill of Law 21.546: <i>"General Public Procurement Law."</i>	Bill of law under discussion in the Legislative Assembly.
OP-24-19	Replacement text for Bill of Law 21.177: <i>"Law on Maximum Fees for the Card System", previously called the "Law for Determining Acquiring and Interchange Fees for Credit and Debit Card Purchase Transactions."</i>	The observations were considered, and the bill of law was approved in the Legislative Assembly.
OP-25-19	Bill of Law 21.369: <i>"Amendment to the Law for the Promotion of Competition and Effective Consumer Protection, Law 7472."</i>	The observations were considered, and the bill of law is under discussion in the Legislative Assembly. The bill of law is not related to the enforcement of competition law.
OP-26-19	Bill of Law 21.250: <i>"Regulatory Law for the Cooperative Private Transportation Service."</i>	The observations were considered.
OP-27-19	Bill of Law 21.109: <i>"Transformation of the Costa Rican Fisheries Institute in the Ministry of Fisheries and Aquaculture."</i>	The bill of law is under discussion in the Legislative Assembly.
OP-28-19	Bill of Law 21.253: <i>"Law for Protecting the Basic Consumer Basket and National Production and for Stopping Administrative Abuses against Consumers."</i>	The observations made by COPROCOM were considered in the drafting.
OP-29-19	Request from the Ministry of Economy (MEIC) for COPROCOM's opinion on whether minimum export prices should be fixed on banana exports.	COPROCOM pronounced against the price fixing, but the MEIC did not follow the recommendation.
OP-30-19	Bill of Law 21.587: <i>"Regulatory Law for Passenger Transportation Services Using Technological Platforms."</i>	The observations made by COPROCOM were considered in the drafting.
OP-34-19	Bill of Law 21.501: <i>"Amendment to Article 1 and Article 4 of Law 6849, '5% Sales Tax on Cement Produced in Cartago, San José and Guanacaste,' of February 18, 1983 and its Amendments, to Establish a Five Percent Tax on the Sale Price of Cement Produced in the Province of Puntarenas."</i>	The bill of law was approved by the Legislative Assembly.
Number	Matter	Result
012-016-2019	Central American Competition Regulation	Regulation under discussion.
03584-SUTEL-CS-2019	Bill of Law 21.303: <i>"Law for the Strengthening of the Competition Authorities"</i> .	Bill of law approved in accordance with SUTEL recommendations.
OP-001-2019	Bill of Law 20.661 <i>"Law for Cinematography and Audiovisuals."</i>	Bill of law currently under discussion in the Legislative Assembly.

4. Resources of the competition authorities

4.1. Resources

4.1.1. Annual budget (in Colones and USD)

COPROCOM

64. In 2019, the budget allocated to COPROCOM was \$916,435.73, of which 92.02% was used for paying the salaries of the technical team (18 officials in 2019) and the commissioners' daily expenses, while 7.98% was used for purchasing materials and other goods and services needed for meeting the authority's strategic objectives.

SUTEL

65. SUTEL's annual budget for 2019 was US \$19,653,796.30, of which \$657,903.30 was the budget for the competition area.

4.1.2. Number of employees (person-years)

66. COPROCOM's technical body started out 2019 with eighteen professional positions distributed into three units.

67. SUTEL's personnel in 2019 consisted of one hundred thirty-one people, of whom six worked directly in the competition area – three of these being lawyers and three economists.

4.1.3. Human resources (person-years) applied to: Enforcement against anti-competitive practices, merger review and enforcement, and advocacy efforts

68. In the case of COPROCOM, in 2019 there were five people engaged in the merger analysis, five engaged in advocacy and investigation, four in the instruction department, and three in the technical body directorate.

69. In the case of SUTEL, in 2019 there were three people engaged in the enforcement of the law, two engaged in merger review, and one engaged in promotion and investigation.

70. With SUTEL, the division of personnel among these areas does not fully apply. Although there is a certain amount of specialization among the officers, the competition area staff works on enforcement of competition law as well as on merger review and in advocacy matters.

4.2. Period covered by the information

71. The foregoing information covers actions carried out from January to December 2019.

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

4.3.1. Market studies

72. Both competition authorities carried out market analyses and reports to achieve more competitive and more efficient markets. In addition, these studies included competition-promoting recommendations that other public entities could take into account.

73. In 2019, COPROCOM made progress on its market studies of maritime shipping and professional services, estimating that they would be ready in 2020. For its part, SUTEL concluded several reviews in different relevant sectors, as summarized in the following table:

Table 5. Costa Rica: Concluded market studies, 2019

SUTEL			
Number	Market	Main Conclusions	Recommendations
GCO-DGM-ESM-00692-2017	Residential access to Internet, subscription TV and fixed telephony in residential condominiums	<p>1. It has been found that, in condominiums located in the central planning region, there are entry barriers for telecommunications operators and providers in the internal telecommunications networks.</p> <p>2. The main entry barriers for telecommunications operators in the internal telecommunications networks in condominiums were identified as being of the following nature:</p> <ul style="list-style-type: none"> a. Construction; b. Aesthetics; c. Poor deployment practices; d. Infrastructure saturation; and e. Exclusivity. <p>3. Aesthetic limitations, as well as those resulting from poor deployment practices, exclusivity and construction problems, can be addressed through three strategic action areas: education, use of the applicable regulatory standards, and enforcement of the competition regime.</p> <p>4. The study shows a lack of knowledge of competition and its benefits for consumers on the part of the project developers, managers and owners, as well as of the rights of end telecommunications users to choose and freely change service providers.</p>	<p>1. Train condominium managers, developers and builders in competition so that they can avoid establishing or encouraging the establishment of unjustified entry restrictions to telecommunications operators.</p> <p>2. Inform users of their right to choose and freely change operators so that they can demand their rights. This prevents the establishment of rules or decisions in condominium meetings that restrict the entry of telecommunications operators to specific properties set up under the condominium regime, to the detriment of competition and the user's own wellbeing.</p> <p>3. Determine the viability of preparing and publishing a guide to good construction practices geared to condominium project developers.</p> <p>4. Determine the viability of preparing and publishing a guide to good management practices geared to condominium managers.</p> <p>5. Initiate investigations to determine potential telecommunications law violations with regard to the alleged existence of exclusivity agreements.</p>