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Directorate for Financial and Enterprise Affairs  
**COMPETITION COMMITTEE**

## Annual Report on Competition Policy Developments in Costa Rica

-- 2020 --

This report is submitted by Costa Rica to the Competition Committee FOR INFORMATION.

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## *Costa Rica*

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

#### 1.1. Summary of the new legal provisions of the competition and related laws.

1. In 2020, there are no additional legal provisions to inform about.

#### 1.2. Other relevant measures, including new guidelines

##### *1.2.1. On Executive Regulations to Act N°9736*

2. On November 18, 2019, the Strengthening of the Competition Authorities of Costa Rica Act, N° 9736, came into force, and amended the Costa Rican legal framework governing competition law. This new law compiles regulations set forth in the Peer Review of the Competition Law and Policy in Costa Rica, jointly elaborated by the Organization for Economic Co-operation and Development (OECD) and the Inter-American Development Bank (IDB) in September 2014.

3. The main goal of Act N°9736 is to strengthen the national competition authorities and provide them with an updated legal framework that observes the best international practices on this subject.

4. To do this, article 142 of Act N°9736 states the following: *“The Executive Branch, with the participation of the competition authorities, shall issue the regulations governing this Act within twelve months of its publication”*.

5. Accordingly, at the request of the Ministry of Economy, Industry and Commerce (MEIC), an Inter-institutional Commission of work was formed to create a proposal for the Executive Regulations governing Act N°9736, which included the joint participation of officials from that Ministry, as well as from the Ministry of Foreign Trade (COMEX, by acronym in Spanish), the Commission to Promote Competition (COPROCOM) and the Superintendency of Telecommunications (SUTEL).

6. The proposed Executive Regulations Governing Act N°9736, drafted by the aforementioned Inter-institutional Commission, was subjected to a prior evaluation by both competition authorities and, thereafter, to a public consultation, to allow any interested citizen or company to scrutinize its contents (in accordance with the provisions of article 5 of Act N°9736). It is worth highlighting that during the term of the public consultation, the Inter-Institutional Commission participated in a series of discussion forums with experts, as well as in meetings with various economic agents that were identified as being of interest for the analysis of the proposed Regulations. This resulted in the active participation of about 26 different actors (including the World Bank, various external Competition Authorities, the General Controllorship of the Republic, the Superintendency of Pension and of Financial Institutions, the National Council for the Supervision of the Financial System, and several business chambers) and over 600 views of the proposed text.

7. Afterwards, the mentioned Inter-Institutional Commission compiled all the observations it received in a matrix and provided a criterion on the justification of whether or not they were included in the proposed Regulations. On November 23, 2020, the proposed text of the Executive Regulations governing Act 9636 was forwarded to the Counsel Office of the Minister of Economy, Industry and Commerce, which compiled

comments and concerns by the various actors that participated in this document’s public consultation process.

8. To date, the final text of the Executive Regulations governing Act N°9736, proposed by the Inter-Institutional Commission, is under review and subject to internal compliance processes by the MEIC.

### ***1.2.2. On the elaboration of some instruments for the implementation of Act N°9736***

9. As part of the process of accession of Costa Rica to the OECD, the country assumed the effective implementation of and compliance with Act N°9736 as part of its commitments.

10. In that sense, transitional provision XII of Act N°9736 states:

*“[...] the competition authorities shall have up to twelve months as of the conformation of the Governing Board of the COPROCOM to dictate, jointly or separately, the following technical guidelines: analysis of anti-competitive practices, analysis of mergers, penalizing procedures before the corresponding competition authority, and compliance programs. In addition, within such term, COPROCOM shall establish the mechanisms to coordinate with the following sectoral regulators: National Council for the Supervision of the Financial Sector (CONASSIF) and the Council of Public Transportation (CTP)”.*

11. In order to implement the transitional provision, a roadmap was created. It included three pillars for the Competition Authorities of Costa Rica to comply with. The first pillar covers the strengthening of the regulatory framework that governs both Competition Authorities. It includes the creation and issuance of a series of technical regulations, handbooks and guidelines. These documents will be developed between 2020 and 2022.

12. In order to comply with the assumed commitments, it was agreed to use SUTEL’s own resources, as well as those provided by the Inter-American Development Bank (IDB).

13. In the case of SUTEL, such decision was made considering that these instruments are required for the Superintendency to execute its competencies and functions; and are included as a target within the POI SUTEL 2020 [Institutional Operating Plan 2020, in English] (according to official letter 05194-SUTEL-UJ-2020 from June 12, 2020).

14. This is how SUTEL awarded the contract known as “Creation of Legal Instruments within the Plan of Strengthening of the Competition Authorities within the framework of the Process of Accession to the Organization for Economic Cooperation and Development (OECD)” through the Integrated Public Procurement System (SICOP, its Spanish acronym) (Abbreviated Procurement Process 2020LA-000011-00149000). This tender comprised the preparation of:

- Guidelines to analyze economic mergers
- Guidelines to impose fines
- Guidelines to notify economic mergers
- Internal procedures handbook
- Handling of confidential information handbook
- Protocol to analyze cases with authorities shared between SUTEL and COPROCOM
- Technical regulations
  - Early termination procedure

- Promotion and advocacy of competition
- Methodology for calculating fines resulting from violations of laws
- Mandatory prior notice of mergers
- Inspections procedure
- Leniency program
- Supervision of and compliance with resolutions issued by Competition Authorities.

15. Currently, all instruments are in process of elaboration by the consultants. Current progress is around 60% to 80%.

16. In regards to the investigation guidelines for the analysis of mergers, fine impositions, mergers notifications, internal procedures handbook, handling of confidential information handbook, and protocol to analyze cases with authorities shared between SUTEL and COPROCOM, contracted by SUTEL, the COPROCOM, in **article nine** of the minutes of Ordinary Session N° 40-2020, held on November 17, 2020, opted to separate from these guidelines and decided to prepare them using its own resources, or otherwise through international cooperation and in accordance to what the Implementation Plan with the OECD states:

“(…)

*ARTICLE 9: (...)*

*AGREEMENT 9: Due to the above, it has been agreed to serve a notice, as soon as possible, to the members of the SUTEL Council, declining the invitation to participate at this execution stage, whereas this Commission has not participated in any of the stages to procure the preparation of such guides; that is to say, no COPROCOM official has participated in the preparation of, accessed the, or communicated in relation to the terms of reference, expected products, or eventual candidate profiles, nor have they participated in relation to knowing the possible bidders or awarding the corresponding contract. Under such conditions, it is impossible for us to participate in the results, given that we were not part of its formulation process. Because of this, in spite of the initiative of developing instruments jointly, in this case, it is not possible for us to accept such guidelines, and therefore, the COPROCOM shall formulate them, for our performance, through other means. Final agreement adopted by the votes of Rodolfo Jiménez Solé, Fernando Montoya López and Víctor Pérez. Votes against it by Sergio Villalobos Campos and Luis Paulo Castro Hernández for the reasons contained in the discussion. -----*

(…)”

17. In spite of the above, in the procurement process that the SUTEL published to prepare the Technical Regulations: Leniency program, Promotion and advocacy of competition, Mandatory prior notice of mergers, Dawn Raids procedures, Methodology for calculating fines resulting from violations of laws, Early termination procedure, and Supervision of and compliance with resolutions issued by competition authorities; COPROCOM is willing to adopt these regulations and coordinate and work with the SUTEL in the review of deliverable and final products.

18. As initially proposed, in order to create the other instruments required to effectively enforce Act N°9736, Costa Rica proposed a cooperation project to the IDB, with non-refundable funds, to create:

- Handbook for the implementation of leniency policy.
- Internal handbook for the implementation of the leniency policy.
- Manual for the detection of collusive bidding
- Handbook for the analysis of unilateral behavior and vertical agreements.
- Internal handbook for dawn raids.
- Handbook for ex-post analysis of the Authority's decisions.
- Internal handbook for ex-post analysis of the Authority's decisions.
- Handbook for compliance programs.

19. Based on the above mentioned, the IDB started a process to procure the “Consultation for Developing Capacities: Leniency and Strengthening the Competition Authorities of Costa Rica”; and for the creation of the “Handbook for the Exoneration Benefits and Reduction of Administrative Sanctions program” and the “Internal Handbook for the Exoneration Benefits and Reduction of Administrative Sanctions program”. In collaboration with the Competition Authorities, both instruments are being created by a consultant.

20. In regard to the other mentioned instruments, the process is waiting for the IDB respective funding.

### 1.3. Government proposals for the new legislation

21. There are no other legal provisions to inform about.

## 2. Application of Competition Laws and Policies

### 2.1. Actions against anti-competitive practices, including agreements and abuse of dominant position

22. During the 2020 period, COPROCOM completed five preliminary investigations: four by the Investigation Sector and one as per an agreement by COPROCOM's *Governing Board*. These investigations were related to fuel transportation, document storage services, and broadcast of sport events. In addition, two investigations that were transferred to the Instruction Unit for continuing with the respective procedure were conducted.

#### 2.1.1. Cartels and agreements

23. In 2020, the COPROCOM conducted an ex officio investigation of a supposed agreement between competitors in which they refused to buy rice chaff. The investigation concluded with the recommendation of continuing with the procedure, as evidence of such behavior was found, reason for which it was transferred to the Instruction Unit.

24. There is also another investigation in process to determine if events that took place in relation to the broadcast of sports events between competitor companies corresponds to an anti-competitive practice to restrict the offering of sports programs and only offer them

through one outlet, or otherwise if this was an omission of an economic merger. This file is still in the investigation stage.

25. In SUTEL's case, complaint number GCO-OTC-PM-00298-2020 was filed by an alleged division, distribution, or assignment of land. However, the analysis that was conducted evidenced that the demographic, socioeconomic and geographic characteristics of the land in question could limit the growth of networks and the profitability of the involved companies. Since this situation could have possible implications in the business policies of the service providers, beyond an anti-competitive practice, the file was closed.

26. Therefore, the fact that a consumer can't choose their preferred service provider could be interpreted as an anti-competitive practice, the reasons could be unrelated to competition law instead be related to the nature of telecommunication services and business decisions.

### *2.1.2. Abuse of dominant position and vertical restraints*

#### *COPROCOM*

27. In regard to vertical restraints, in 2020, COPROCOM completed an administrative procedure through the early termination device, by means of which an analysis and assessment of the second commitments proposal, presented by the defendant company, was conducted. In this way, the company under investigation, which is engaged in the marketing of sugar, undertook to comply with certain defined commitments for a five-year term.

28. In addition, an investigation about a complaint filed by a company engaged in the transportation of hydrocarbons due to alleged relative monopolistic practices, was closed. Specifically, COPROCOM investigated alleged predatory pricing practices, although these were not confirmed.

29. Finally, an investigation for a complaint about alleged relative monopolistic practices in the first division soccer game television broadcast market was conducted. The alleged existence of exclusive rights for the broadcast of games of certain teams in favor of a cable company was investigated. The case was closed because no sanctionable behavior was identified.

#### *SUTEL*

30. The telecommunications market is an industry of networks, and it is not uncommon for complaints or inquiries about limitations or difficulties to engage a specific service provider or telecommunications service to be filed.

31. A scenario that evidences this is file E0068-STT-MOT-PM-01319-2019, in which, after a series of inquiries presented to SUTEL, an ex officio investigation on alleged exclusivity of a residential condominium was carried out. After gathering information, which included the verification of the supporting and telecommunications networks infrastructure, it was determined that such situation did not exist and that, internally, not only were different service providers more than able to provide the services within the property, but also several service providers were already providing their services, including to a client that had very recently engaged this type of services. Thus, the file was closed due to lack of evidence.

32. As opposed to the previous case, the investigations processed under files C0649-STT-MOT-PM-01070-2019 and C0649-STT-MOT-PM-01075-2019 refer to two residential condominium problems that do seem to be relate to the competition subject. This situation led to the starting of two procedures because there were signs of alleged exclusivity or a single branding agreement.

33. An investigation on the alleged establishment of crossed subsidies between various goods and services offered by a telecommunications service provider was conducted under file I0053-STT-MOT-PM-01634-2019. After analyzing the data, it was concluded that given the current characteristics of the landline telephone market, there is no evidence that the service provider could be leveraging eventual losses from other services by means of the regulated income obtained from such service.

34. Two operations that were not subject to the merger control structure were analyzed under file GCO-OTC-CGL-00015-2020. The foregoing resulted in the closing of such case.

35. Finally, file C0831-STT-MOT-PM-01341-2019 was also closed because the complaining party failed to remedy procedural defects identified in the complaint it filed.

### 2.1.3. Summary of activities

36. The following chart summarizes the work executed by COPROCOM and SUTEL on the application of competition law.

37. It is worth highlighting that with the coming into force of Act N°9736 on November 18, 2019, preliminary investigations are now confidential and led by the Technical Body's investigations department or by the officials to whom such works are assigned to. Consequently, investigations started under Act N°7472 are presented separately from those started under the new law.

**Table 1. Costa Rica Competition law implementation actions**  
COPROCOM AND SUTEL 2020

COPROCOM				
Preliminary investigations				
File	Markets	Behaviors	Companies	Resolution or vote
Started under Act N°7472				
44-19-IO	Door-to-door sales services (miscellaneous products)	Price agreements	Door-to-door sales companies	Drafting of final report
057-17-IO	Miscellaneous services for hospitals	Collusive bidding	Several suppliers of the Costa Rican Social Security (ex officio)	Additional information was requested to draft the final report.
081-18-IO	Exchange commissions	Price agreements	Financial entities (ex officio)	Drafting of final report
059-19-D	Hydrocarbon transportation	Predatory pricing	Ecatrans and Terminales Santamaría	21-2020, 47-2020, closed because no behavior-modifying elements were identified.
011-20-C	Costa Rican Institute of Aqueducts and Sewers	Imposition of unjustified barriers to entry		Fifth article of COPROCOM's agreement N°38 Closed due to lack of evidence of installation of barriers to entry for the using the sewage.



Started under Act N°9736				
070-19-D	Document storage services	Omission of a merger notification	ADD Archivo Digital de Documentos S.A. and Document Management Solutions DMS S.R.L,	Closed because they did not meet the threshold.
072-19-IO	Rice	Absolute monopolistic practice as foreseen under article N° 11, paragraph e) of Act N° 7472	Several rice-processing companies	Investigation completed and sent to the instruction stage.
073-19-D	First division soccer game television transmission	Exclusive distribution	Tigo Sports	Closed due to lack of evidence of anti-competitive behavior.
074-19-D	Auto parts	Vertical restraints, subsections b), g), h) and m) of article 12 of Act N°7472	Magneto Diesel S.A., Robert Bosch Service Solutions Costa Rica S.A. (BOSCH)	Investigation term extended
001-20-D	Sale and marketing of drugs	Failure to notify a merger	Compañía Farmacéutica S.A. (COFASA) and others	The investigation was completed and sent to the instruction stage.
005-20-IO	First division soccer game television broadcast	Failure to notify a merger and others	Various television companies	Investigation term extended
014-20-D	First division soccer game television broadcast	Vertical restraints	Television and cable	Accumulated to already started ex officio investigation
029-20-D	Professional services	Collusive bidding	General Comptroller of the Republic, professional services companies in a public procurement process	Final report being drafted
075-20-IO	Sale and marketing of sugar	Failure to comply with commitments	Sugarcane Industry Association [LAICA, its Spanish acronym]	Under investigation
042-20-EM	Document storage services	Relative monopolistic practices	Several companies	Under investigation
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.	49-2020 (COPROCOM imposed sanctions to the companies)
005-16-IO	Rice	Violation of article 28, paragraph c) (false information)	Procesadora Global de Alimento Aligro- SRL	18-2020 (COPROCOM imposed sanction)
91-17-D	Sugar	Vertical restraints	Sugarcane Industry Association and La Maquila Lama S.A.	20-2020 (Procedure concluded due to early termination; commitments were imposed)
072-19-IO	Rice	Absolute monopolistic practice	Nine companies that represent the country's rice agribusiness sector	Currently in the instruction of procedure stage
001-20-D	Pharmacies	Failure to notify a merger	Compañía Farmacéutica S.A. (COFASA) and others	Currently in the instruction of procedure stage

SUTEL				
Preliminary investigations				
File	Markets	Behaviors	Companies	Resolution
GCO-OTC-PM-00298-2020	Subscription television and residential internet access	Cartel (distribution of territories)	Cabletica, S.A.; Telecable, S.A.; Millicom Cable Costa Rica, S.A., Costa Rican Institute of Electricity [ICE, its Spanish acronym]	ROTC-00007-SUTEL-2020
E0068-STT-MOT-PM-01319-2019	Subscription television, landline telephony, and residential internet access	Vertical restraints (exclusivity)	Empresa de Servicios Públicos de Heredia [Heredia Public Services Corporation, in English]	RCS-303-2020
I0053-STT-MOT-PM-01634-2019	Subscription television, landline telephony, residential internet access and mobile telephony	Vertical restraints (crossed subsidies)	Costa Rican Institute of Electricity [ICE, its Spanish acronym]	RCS -241-2020
C0831-STT-MOT-PM-01341-2019	Subscription television, landline telephony and residential internet access	Vertical restraints (exclusivity)	Cabletica S.A.	ROTC-00008-SUTEL-2020
C0649-STT-MOT-PM-01075-2019	Subscription television, landline telephony and residential internet access	Vertical restraints (exclusivity)	CONNECTA S.A.	Administrative proceeding
C0649-STT-MOT-PM-01070-2019	Subscription television, landline telephony and residential internet access	Vertical restraints (exclusivity)	CONNECTA S.A.	Administrative proceeding
GCO-OTC-CGL-00015-2020		Merger was not notified	Ediay-REICO	01659-SUTEL-OTC-2020
GCO-OTC-CGL-00015-2020		Merger was not notified	Transdatelecom-PRD	00875-SUTEL-OTC-2020
Administrative proceedings				
None				

#### 2.1.4. Judicial review

38. The following table summarizes the judicial reviews of competition-related resolutions.

**Table 2. Costa Rica: Judicial reviews of competition-related judicial resolutions. 2020**

COPROCOM				
Judicial resolution	Administrative resolution	Behavior	Companies	Judicial review
N°20-1006-1027-CA, issued by the Contentious Administrative and Civil Court of Finance	COPROCOM vote N° 91-2018	Vertical behavior, in accordance with article 12 of Act N° 7472.	Four companies in the drugs market	Has been heard by the Court
Judicial file N° 19-007808-1027-CA-9 Contentious Administrative Court	COPROCOM vote N° 93-2018	Merger was not authorized	Companies of the retail industry (supermarkets)	Has been heard by the Court

39. In the case of SUTEL, there were no judicial reviews to report.

### ***2.1.5. Description of significant cases, including those with international implications***

40. During the 2020 period, five preliminary investigations were completed, four by the Investigations Department and one by the *Governing Board* of COPROCOM. These investigations were related to fuel transportation, document storage services and transmission of sports events. Two of the investigations gave rise to the opening of two administrative proceedings in the instruction stage for the rice and pharmacies markets. None of the cases had international repercussions.

41. SUTEL did not report any cases with international implications in the telecommunications sector during the year 2020.

## **2.2. Mergers and acquisitions**

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

42. In 2020, COPROCOM settled 20 notifications prior to economic merger cases in markets such as: drugs; technological products; transportation; secured loans and financial leasing; textiles; production, sale, and marketing of spices, condiments, seasoners, or similar, and generic or specific packaged mixture preparation services for the industrial sector; electromechanical, electrical, and mechanical engineering professional services; among others.

43. Of all the analyzed merger notifications, only one of them was approved with commitments; two cases were closed, as they failed to satisfy the requisites set forth in the Act; and the remainder were authorized.

44. For its part, SUTEL received a merger notification that, to date, is on the first stage of analysis.

45. In regard to merger control, the following cases were seen to completion in 2020:

**Table 3. Costa Rica: Reviewed mergers and acquisitions**  
COPROCOM AND SUTEL. 2020

COPROCOM			
File	Vote	PARTIES	MARKET
66-19-CE	01-2020	Indecomm Corporation and Grupo Avantica, INC	Commercialization of software development and technology engineering services
067-19-CE	02-2020	Saudi Arabian Oil Company and Saudi Basic Industries Corporation	Commercialization of cork and polyethylene
52-19-CE	03-2020	China Road and Bridge Corporation, and Puentes y Calzadas Infraestructuras S.L.U.	Public infrastructure development and construction brought about as a result of public procurement processes by the government of Costa Rica.
77-19-CE	05-2020	Encantos del Mar Rojo, S.A. and Finca Frutas de Escocia S.A.	Fresh banana for export in national territory
75-19-CE	06-2020	Comeca Retail S.A.; Grupo Empresarial de Supermercados, S.A. and Grupo Empresarial De Retail, S.A.	Retail sales
03-20-CE	07-2020	Ole Communications Inc., HBO Latin America Group, HBO Latin America Holdings, LLC., and HBO Latin America Acquisitions LLC.	A) Bulk licensing of subscription television channels in Costa Rica B) Television advertising in Costa Rica
07-20-CE	09-2020	Cooperativa de Ahorro y Crédito de la Comunidad de Ciudad Quesada, R.L. and Cooperativa de Ahorro y Crédito de Empleados de la Asamblea Legislativa	Credit granting in the national territory
71-19-CE	11-2020	FD COFATRES S.A., Distribuidora Tres Quince L.C. S.A., Compañía Farmacéutica S.A., Laboratorio Compañía Farmacéutica LC S.A., GRP Libertad S.A.	Retail distribution of prescription drugs (pharmacies)
13-20-CE	12-2020	Toyota Financial Services Corporation and MITSUI & Co., Ltd., Kinto Brasil Servicios de Movilidad	Products that are marketed and sold in Costa Rica by third parties, and that are produced by foreign agents
10-20-CE	14-2020	Gencom Acquisitions LLC, PARKER COCO BEACH S. de R.L. and PARKER COCO, LLC.	Ownership, purchase, and sale of real estate for residential and commercial development purposes Ownership and development of infrastructure for hotels and related activities.
15-20-CE	15-2020	Venice Subsidiary LLC, AbbVie INC., Allegan PLC.	Manufacturing of medical devices and production of drugs
18-20-CE	17-2020	Cooperativa de Ahorro y Crédito de la Comunidad de Ciudad Quesada COOCIQUE, R.L. and Caja de Préstamos y Descuentos de los Empleados del Poder Judicial.	Credit granting
15-20-CE	16-2020	Termo Aire S.A. and Commissioning For Efficiency S.A.	Electromechanical, electric, and mechanical engineering professional services in the national territory
79-19-CE	10-2020 24-2020 26-2020	Baltimore Spice Central America S.A. and Global Spice S.A.	Production, sale, and marketing of spices, condiments, seasonings or similar; and generic or specific packaged mixture preparation services for the industrial sector, in the national territory
38-20-CE	36-2020	F21 OpCo, LLC., (tiendas Forever 21) and AR Retail, S.A.	Retail of new, affordable clothes in the Great Metropolitan Area
43-20-CE	40-2020	Banco BAC San José S.A.; Multibank INC MB	Secured loans and financial leasing in the Costa Rican territory

46-20-CE	42-2020	Scansource, INC; Computación Monrenca Panamá and Intcomex Global Investments Holdings, S.L.	Wholesale and distribution of technological products in the Costa Rican territory
44-20-CE	44-2020	Inversiones El Trueno S.A. and Purdy Motor S.A., Holding Quinientos Seis Marin y Rojas S.A. and others	Employee transportation and messenger services, both in the entire country
52-20-CE	45-20	Garda World Security Corporation and G4S PLC.	Closed for not satisfying the requisite established by paragraph b), article 89 of Act N°9736
054-20-CE	48-20	Cooperativa de Ahorro y Crédito Alianza de Pérez Zeledón R.L., and Caja de Préstamos y Descuentos de los Empleados del Poder Judicial	Personal and home loans in the Costa Rican territory
SUTEL			
File	Vote	PARTIES	MARKET
T0053-STT-MOT-CN-01697-2020	RCS-321-2020 (Stage I)	Liberty Latin America LTD and Telefónica de Costa Rica TC S.A	Mobile telephone service, subscription television services, residential internet, and landline telephony access

### 2.2.2. Summary of relevant mergers

#### *Baltimore Spice Central America S.A. and Global Spice S.A.*

46. In votes 024-2020 and 026-2020, COPROCOM analyzed the merger operation notified by Baltimore Spice Central America S.A. (as the purchasing company) related to the acquisition of shares of Global Spice Sociedad Anónima, corporate card number 3-101-540060, property of TecniSpice Internacional.

47. The relevant market under analysis corresponded to the production, marketing, and sale of spices, condiments, seasonings or similar; and generic or specific packaged mixture preparation services for the industrial sector, in the national territory.

48. COPROCOM considered that the operation presented anti-competitive effects; however, the commitments that the companies undertook were directly related to the identified anti-competitive effects. In that sense, COPROCOM established mechanisms to oversee and verify the compliance of the acquired commitments.

#### *FD COFATRES S.A., Distribuidora Tres Quince L.C. S.A., Compañía Farmacéutica S.A., Laboratorio Compañía Farmacéutica LC S.A., GRP Libertad S.A., and others.*

49. The transaction consisted in the acquisition of a total of seven pharmacies that are doing business as *Farmacias San Martín*, located between the province of Limón and Heredia, by the corporation Comercializadora FD COFATRES S.A.

50. The transaction had distinctive features, as it had characteristics of horizontal integration because it overlapped the **prescription drugs retail market (pharmacies)**, as Distribuidora Tres Quince and GRP Libertad participated in that market. It also had characteristics of vertical integration, because the purchasing company participates in the **prescription drugs wholesale market (pharmaceutical wholesalers)**.

51. In addition to the foregoing, the Costa Rican drug market is complex and sensitive, reason why third-party information was required in order to comprehensively assess the convergence zones in which the companies taking part in the operation participated. This information was necessary to discard that the notified merger would pose risks to competition, given its possible effects in the market.

52. According to the analysis that was carried out, it was decided that the operation would not have anti-competitive effects, neither for the retail of prescription drugs market (pharmacies), nor for the wholesale of prescription drugs market (pharmaceutical wholesalers), and that, on the contrary, there was a chance that efficiencies would be promoted, given the elimination of double marginalization between the agents.

53. In the case of SUTEL, the merger that was notified is particularly important for this institution, not only because it is the first analysis conducted under the new standard established after the approval of Act N° 9736, but also because it is the first transaction that moves on to the second stage. After the comprehensive evaluation of all the elements, it was determined that, at horizontal and vertical levels, the transaction did not pose possible adverse effects to competition. However, the possible effects of the conglomerate in terms of the mobile telecommunications and landline services motivated the start of the second stage.

### **3. The role of competition authorities in the formulation and implementation of other policies, e.g. Regulatory reform, commercial and industrial policies**

#### **3.1. Opinions on competition**

54. COPROCOM and SUTEL issued various opinions on bills that were, for the most part, requested by those who proposed them. In each case, COPROCOM and SUTEL analyzed if the consulted proposal had the potential of restricting competition. Note that the opinions issued by both authorities are non-binding for the requesting party or the public administration.

55. The following opinions were issued in 2020:

**Table 4. Costa Rica: Opinions on regulations, regulatory projects, and bills issued by COPROCOM and SUTEL 2020**

COPROCOM		
Number	Subject	Result
OP-01-20	Project 21213: "Law for the Defense of Consumers of Financial Services and Products".	The bill is currently under discussion at the Legislative Assembly.
OP-02-20	Opinion on the government's decision to sell or concession the <i>Fábrica Nacional de Licores</i> [National Liquor Factory, in English]	COPROCOM's observations were considered by various public authorities.
OP-03-20	Technical criterion on administrative barriers to entry in the procurement of hydrometers.	The observations were considered by the procuring institution and the results were sent to COPROCOM.
OP-04-20	Criterion about the Export License of materials deemed essential to face the COVID-19 pandemic.	COPROCOM issued a favorable criterion for imposing the measure but warned that such restrictions should only be maintained <b>during the term</b> of the national emergency, and with a review of the measure every two calendar months as of the day of its implementation. The goal of such reviews being to determine if the local and international shortage that justified the adoption of the measure continued.
OP-05-20	Criterion for establishing an alcohol export license to face the COVID-19 emergency.	Institutions were warned that the favorable criterion was issued as long as such restrictions would only be maintained <b>during the term</b> of the national emergency, with a review of the measure every two calendar months as of the day of its implementation. The goal of such reviews being to determine if the local and international shortage that justified the adoption of the measure continued.
OP-06-20	Bill N° 21 862, which authorizes the production, marketing, and sale of alcohol-based antiseptics in case of a national emergency.	COPROCOM issued an <b>unfavorable</b> criterion on the basis that it did not solve the problem presented by the pandemic: the scarcity of alcohol-based cleaning products. Even if the companies are free to produce these kinds of articles, the truth is that it doesn't eliminate the greater, existent restriction that results from the obligation of acquiring raw material from FANAL, the only legally authorized distributor.
OP-07-20	Bill N° 21 863: "Demonopolization of the <i>Fábrica Nacional de Licores</i> ".	A <b>favorable</b> criterion was issued on the basis that it is in accordance with COPROCOM's recommendations in regard to there not currently being any justification for the existence of an alcohol production monopoly in the country. On the contrary, the crisis generated by the COVID-19 virus has evidenced the need for an increased competition in this market. Bill under discussion in the Legislative Assembly.
OP-08-20	Bill N° 21 872: "Law for Establishing Strategic Alliances between FANAL and LAICA".	An unfavorable criterion was issued, and a rejection was requested on the basis that a partial demonopolization of the alcohol market would lead to a duopoly for alcohol production that would later result in a monopoly favoring LAICA, given its role as the supplier of raw materials that the state entity requires. Project under discussion in the Legislative Assembly.

OP-10-20	<i>Project N° 21 546: "General Public Procurement Act".</i>	Some changes were recommended for the substitute text project, in order for such law to be in accordance with the principles of free and open competition, as well as with the principle of competitive neutrality that, among others, must guide public procurement. Bill under discussion in the Legislative Assembly.
OP-12-20 OP-23-20	<i>Project N° 20 838: "Law for the Creation of the Drug Price Control Office for Consumer Protection".</i>	The recommendation was to reject and close the bill. Project under discussion in the Legislative Assembly.
OP-13-20	<i>Bill N° 21 464: "Law that Authorizes the Liquidation and Closure of the National Production Council (CNP, its Spanish acronym), and the Relocation of the National Liquor Factory (Fanal, its Spanish acronym)".</i>	Congressmen were recommended to reject and definitively file this project. Bill under discussion in the Legislative Assembly.
OP-14-20	<i>Opinion on the "Interpretation of the fifth paragraph of Article 89 of Law No. 9736". ("successive transactions")</i>	COPROCOM jurisprudence that may serve as a guide for the market's economic agents.
OP-16-20	Opinion about the current price of rice and the government's agreement with the rice sector.	COPROCOM reiterated its recommendation of eliminating the regulation of the price of rice at all commercialization levels. The Ministry of Economy, Industry and Commerce and the Ministry of Agriculture and Livestock explained the reasons for upholding the regulation, in compliance with article 21 of Law N°9736. At present, the COPROCOM is studying the legal tools to continue fighting for the liberalization of the price of rice.
OP-18-20	Bill N° 22 055 "Law to Foster the Participation of Candidates for the Council of the SUTEL and the Governing Board of the COPROCOM".	COPROCOM gave a negative recommendation of the project as it is currently drafted, and for it to be closed, the reason being that it is not convenient to amend laws that contradict commitments assumed by the country within the process of accession to the Organization for Economic Co-operation and Development (OECD). Bill under discussion in the Legislative Assembly
OP-21-20	Technical criterion requested by the National Council for the Supervision of the Financial Sector (CONASSIF, its Spanish acronym) in regard to the project named "Regulations of the National Financial System's Merger Regime".	CONASSIF was given recommendations so that the Regulations of the Merger Regime of the Financial System would finally adhere to the principles of Act N°9736 and best international practices, such as commitments assumed by the country before the OECD for strengthening the competition principles in all markets. The recommendations were not looked after by CONASSIF.
OP-22-20	Bill N° 22.279: "Incorporation of the Mechanism of Homologation of Sanitary Certificates of Agrochemicals that are part of the Organization for Cooperation and Economic Development that have Equal or Superior Sanitary Standards than Costa Rica's".	A favorable criterion was issued, given that the bill seeks to speed up the process of registration of agrochemicals in Costa Rica, thus reducing the barriers to entry into that market for new participants. Bill under discussion in the Legislative Assembly.



OP-24-20	Inquiry presented by Congressman Otto Roberto Vargas Viquez, from the Republican Party, in relation to certain clauses of the Regulations for the Acquisition of Auto Parts by the National Insurance Institute (INS, its Spanish acronym).	The INS was recommended to consider the observations about possible unjustified barriers to entry, and to review the requirements established by such regulations, in order to allow the greatest possible number of suppliers, thus guaranteeing that no unjustified advantages were being given to a few suppliers within the business model it wants to implement.  Observations are being considered to incorporate them into the regulations.  The INS was advised of their duty to justify any refusal to follow such recommendations, in accordance with article 21 of Act N° 9736.
OP-25-20	Bill N° 22.074 "Law for the Control of Drug Prices".	It was recommended to close this bill. The bill is under discussion in the Legislative Assembly.
OP-26-20	Bill N° 22108 "Law of Incentives for Business Continuity and the Promotion of Business Formalization in the face of COVID-19".	The COPROCOM was not able to determine that the measures included in the proposed bill would result in market distortions. Likewise, elements that could promote the exchange of strategic information between the agents were pointed out. The bill is under discussion in the Legislative Assembly.
OP-27-20	Bill N° 22128. "Law for the rescue, recovery, and strengthening of companies and mortgages in vulnerable situations and the stimulus situation of vulnerability and to drive production"	An unfavorable criterion was issued, and various observations were given, as the bill must adhere to the principle of competitive neutrality. The bill is under discussion in the Legislative Assembly.

**SUTEL**

Number	Subject	Result
Agreement 003 -084 - 2020	Bill N° 22.206 "National Digital Literacy Program"	The bill is under discussion in the Legislative Assembly.
Agreement 029 -071 - 2020	Bill 22055: "Law to Foster the Participation of Candidates for the Council of the SUTEL and the Governing Board of the COPROCOM".	The bill is under discussion in the Legislative Assembly.
Opinions 01-2020 and 06-2020	"Report Addressing the Comments Made During the Public Consultation of the Proposal to Define the Relevant Market Associated to the Landline Telephony Retail Service - Analysis of Degree Of Competition, Definition of Significant Suppliers And Service Providers in Such Markets, and Imposition of Obligations For Suppliers And Service Providers."	The comments made by the General Directorate of Competition in relation to the proposed regulation were addressed.
Opinions 02-2020 and 08-2020	"REPORT ADDRESSING THE COMMENTS MADE DURING THE PUBLIC CONSULTATION OF THE PROPOSAL TO REVIEW THE WHOLESALE MARKET OF ORIGINATION SERVICES: ANALYSIS OF DEGREE OF COMPETITION, DEFINITION OF SIGNIFICANT SUPPLIERS AND SERVICE PROVIDERS IN SUCH MARKETS, AND IMPOSITION OF OBLIGATIONS FOR SUPPLIERS AND SERVICE PROVIDERS"	The comments made by the General Directorate of Competition in relation to the proposed regulation were addressed.

Opinions 03-2020 and 07-2020	"REPORT ADDRESSING THE COMMENTS MADE DURING THE PUBLIC CONSULTATION OF THE PROPOSAL TO DEFINE THE RELEVANT MARKETS ASSOCIATED TO THE WHOLESALE TERMINATION SERVICES FOR FIXED-LINE INDIVIDUAL NETWORKS - ANALYSIS OF DEGREE OF COMPETITION, DEFINITION OF SIGNIFICANT SUPPLIERS AND SERVICE PROVIDERS IN SUCH MARKETS, AND IMPOSITION OF OBLIGATIONS FOR SUPPLIERS AND SERVICE PROVIDERS."	The comments made by the General Directorate of Competition in relation to the proposed regulation were addressed.
Opinions 04-2020 and 09-2020	"REPORT ADDRESSING THE COMMENTS MADE DURING THE PUBLIC CONSULTATION OF THE PROPOSAL TO REVIEW THE MARKET OF WHOLESALE TERMINATION SERVICES FOR INDIVIDUAL MOBILE NETWORKS: ANALYSIS OF DEGREE OF COMPETITION, DEFINITION OF SIGNIFICANT SUPPLIERS AND SERVICE PROVIDERS IN SUCH MARKETS, AND IMPOSITION OF OBLIGATIONS FOR SUPPLIERS AND SERVICE PROVIDERS".	The comments made by the General Directorate of Competition in relation to the proposed regulation were addressed.
Opinion 05- 2020	Tender 2020LN-000006-0006900001: "Execution of agreement to engage telecommunication services through fiber optic links for the technological infrastructure of the Ministry of Justice and Peace".	The analysis did not show that the Tender would adversely affect the right to free and open competition. The issued opinion was notified to the respective Ministry, for its information.

## 4. Resources of the competition authorities

### 4.1. General resources (current amounts and change in relation to the previous year):

#### 4.1.1. Annual budget (in its currency and in USD)

##### *COPROCOM*

56. In the year 2020, COPROCOM's assigned budget was USD 882 096.00; of which 93.83 % was used to pay for the compensation of the members of the *Governing Board* (three permanently appointed commissioners) and of the Technical Body (17 officials), and for the allowances of the commissioners that held weekly sessions, this being their last year; while the remaining 6.17% was used to acquire the supplies and other goods and services required to fulfill the authority's strategic objectives.

57. In regard to budget, it is worth highlighting that, in order to guarantee that COPROCOM has the necessary financial resources to fulfill its duties, Act N° 9736 establishes a minimum annual amount that the Government must transfer each year. Such transfer equals 5,309.05 base salaries (this is the equivalent to \$ 4,009,547 dollars).

58. In spite of what the law states and the efforts made by past commissioners of COPROCOM, the Ministry of Finance only agreed to include in its annual ordinary budget for 2021, the amounts to cover the salaries of the three permanent commissioners of the COPROCOM and the budget lines for substitutes and IT equipment.

59. COPROCOM continues working to attain the necessary budget to address its obligations under the new law, trying to get the Ministry of Finance to understand that, in spite of the health and economic crisis that the country is experiencing, it is indispensable to obtain those resources in order to fulfill its statutory obligations.

*SUTEL*

60. SUTEL's annual budget for 2020 was ¢ 28,999,055 449.0 Costa Rican colones (USD\$ 49,289, 929.73). From that amount, the budget allocated to the Technical Competition Body (today called General Directorate of Competition) was ¢ 94,190,151.0 Costa Rican colones (USD \$ 160,095.76).

**4.1.2. Number of employees (person-years):***COPROCOM*

61. COPROCOM's Technical Body started operating in 2020 with a headcount of 17 professionals distributed in three units. However, towards the end of 2020, the three full-time commissioners were appointed.

*SUTEL*

62. For its part, in 2020, the Technical Body of SUTEL had a headcount of 132 professionals, of which six worked directly in the competition area and included three lawyers and three economists.

**4.1.3. Human resources (person-year) allocated to: execution against anti-competitive practices, review of and compliance with concentrations, defense efforts**

63. In regard to COPROCOM, during 2020, five persons were engaged in merger analysis, five in promotion of competition and investigations, four in the Instruction Department and two in the directorate of the Technical Body. Likewise, towards the end of 2020, the three permanent commissioners that make up the *Governing Board* joined the team.

64. In relation to the above mentioned, the new commissioners of the COPROCOM are currently formulating an organizational chart proposal, in conjunction with the Ministry of National Planning and Economic Policy (MIDEPLAN), in accordance with transitional provision IX of Act N°9736.

65. In the case of SUTEL, during the first semester of 2020, and based on agreement 002-074-2019 voted by the Council of SUTEL during extraordinary session number 074-2019, November 19, 2019, three persons were appointed to investigation duties, and three others were assigned to work on instruction. However, even if there is a certain degree of expertise among the officials, the personnel of the competition area works both in mergers cases and in the promotion and advocacy of competition.

66. In this respect, it is worth highlighting that Act N°9736 introduced a series of amendments to the legal framework for the defense of free competition, to be implemented by SUTEL, including:

- Establishment of a special process with three stages, independent from each other.
- Introduction to mechanisms for the early termination of proceedings to investigate anti-competitive practices.
- Increase of the amount of sanctionable conducts in terms of violations to the competition regime.

- Inclusion of a program for exoneration and fine-reduction (leniency) and for the detection of absolute monopolistic practices (cartels) that adversely affect consumers.
- In regard to the analysis of mergers, a two-stage procedure is introduced. Likewise, a new merger assessment standard was established to direct the focus of the analysis on the possible effects of the market concentration.
- Legal authorities, including the authority to issue opinions and recommendations, guidelines, and market studies, are strengthened.
- Integration of the tools needed to participate in trans-border investigations with other authorities by establishing cooperation agreements.
- New investigation that allow officials to carry out site dawn raids, prior authorization granted by a judge, when these are deemed necessary to gather evidence, or avoiding its loss or destruction, to investigate anti-competitive practices.

67. The changes introduced by Act N° 9736 imposed a legal obligation on SUTEL to adjust its institutional organizational structure to adapt to its newly vested authorities and, in particular, to the independence of each stage of the special competition proceeding demanded required Act N° 9736. This need to partially restructure SUTEL's structure was even provided for by congress under transitional provision IX of Act N° 9736, which states the following:

*“The Superintendency of Telecommunications (SUTEL), within the three months following the approval of the law, shall prepare the organizational study to determine the ideal organizational structure for complying with what this law states. The Board of Directors of the Regulatory Authority of Public Services (ARESEP, its Spanish acronym) will have up to three months, as of the remittal of the structuring study, to process and approve it” (the formatting is intentional).*

68. Based on the aforementioned, SUTEL's Council, during ordinary session 014-2020, held on February 18, 2020, voted agreement 009-014-2020, under which it received and approved the "Report on the Partial Restructuring of SUTEL to Implement Act 9736", furnished by the General Directorate of Operations and the Human Resource Unit. This same agreement ordered the remittal of the report to the Board of Directors of the Regulatory Authority of Public Services (ARESEP) for its approval. Basically, the restructuring proposal stated the following:

- The creation of a Directorate General of Competition (DGCO, its Spanish acronym): in order to guarantee the separation of ex-ante and ex-post regulatory duties that SUTEL carries out, as recommended by the Organization for Economic Cooperation and Development (OECD), and as provided for in article 14 of Act N°9736.
- The DGCO would be presided by a Director that would serve as the Technical Director of Competition, in accordance with article 16 of Act N° 9736. The person appointed for this position has to comply with the requirements established in article 8 of Act N° 9736.
- The DGCO would have two Administrative Units, one Investigations and Merger Unit, and one Instruction, Promotion and Advocacy of Competition Unit. These units would be led by two professional head who would be in charge of the work performed by the Investigation; Instruction; Mergers; and the Promotion and Advocacy of Competition units, pursuant to the provisions of article 16 of Act N° 9736.

- The transfer of officials of the competition area that were at that time working for the General Directorate of Markets, to the new DGCO, as well as the reassignments required to render such proposal functional and operative.
- The creation of six new positions that strengthen the DGCO and that allow compliance with the actions established in the Roadmap to Implement Act N°9736, as stated in article 14 of Act N° 9736 and the country's competition-related commitments with the OECD. Also, the creation of two new positions for five professionals in the Legal Unit, which will reinforce SUTEL's Council in terms of the duties that it will have to assume under the new competition law. To that end, it was foreseen that this structure should be implemented gradually, scheduling the entry of new professionals, spreading these through time based on institutional necessities, in accordance with the provisions of the Plan to Implement the Strengthening of the Competition Authorities of Costa Rica Act (2020-2023).

69. Based on SUTEL's Council request, the Board of Directors of the ARESEP issued Resolution RE-0170-JD-2020 on July 7, 2020, thus ordering the partial amendment of the internal Regulations governing the organization and authorities of ARESEP and of its deconcentrated body (RIOF), to implement the Strengthening of the Competition Authorities of Costa Rica Act, N° 9736. This resulted in the formal creation of the DGCO and of its two auxiliary units.

70. Likewise, the Board of Directors of the ARESEP then agreed upon the "Approval of the changes to the Descriptive Handbook of Classes and the Descriptive Handbook of Positions remitted by the Council of the Superintendency of Telecommunications under agreement 009-014-2020" (agreement 08-066-2020, included in the minute of ordinary session number 66-2020, held on August 4, 2020); as well as upon the "Approval of the restructuring of human resources to assign staff to the Directorate General of Competition, as remitted by the Council of the Superintendency of Telecommunications under agreement 009-014-2020" (agreement 07-71-2020, included in the minute of extraordinary session number 71-2020, held on August 20, 2020).

71. Based on the aforementioned, SUTEL is formally aided by the DGCO and its two auxiliary units (and the respective positions that were reassigned or appointed and are required for the correct performance of its duties). All of this enables the SUTEL to guarantee the separation of the ex-ante and ex-post regulatory duties, per the recommendations of the OECD.

#### **4.2. Period covered by the previous information.**

72. The previous information covers actions carried out from January to December 2020.

## 5. Summaries of or references to new reports and studies on competition policies

### 5.1. Market studies

73. Both competition authorities prepared reports and conducted market analyses with aims of achieving more competitive and efficient markets. Likewise, those reports included recommendations for promoting competition that other public entities could consider.

74. In 2020, COPROCOM completed the market study on sea transportation and made progress on the professional services one.

**Table 5. Costa Rica Completed market studies. 2020**

COPROCOM			
Number	Market	Main conclusions	Recommendations
32-2020-C	Sea transportation	<p>The exemption of certain acts that liner companies are allowed to do is based on the Convention on a Code of Conduct for Liner Conferences of 1974, which was ratified by the country.<sup>1</sup></p> <p>The Constitutional Court pointed out that such convention does not violate the country's constitution and therefore, behaviors resulting from its implementation are not sanctionable.</p>	<p>Even though the Technical Body already conducted the study, the analysis thereof by the Governing Board, in which the latter shall issue any recommendations it considers relevant, is still pending.</p>

75. Regarding SUTEL, there are no market studies to report as completed for the year 2020.

## 6. Other relevant actions by the competition authorities

### 6.1. Cooperation agreements with other Competition Authorities

76. In accordance with the provisions of article 25 of Act N°9736, and recognizing that international technical cooperation plays a fundamental role in increasing institutional capacities and effectiveness in the implementation of competition laws, the COPROCOM and the SUTEL entered into the following agreements in the year 2020:

#### 6.1.1. SUTEL-COPROCOM-COFECE

77. In September 2002, SUTEL-COPROCOM and the Mexican Federal Economic Competition Commission (COFECE) entered into a Technical Cooperation Agreement. The objective of this agreement is to: *establish the collaboration bases between the Parties to strengthen and develop institutions through technical cooperation and the exchange of experiences on the application of competition laws, as well as through the promotion of competition policies in their respective jurisdictions*".

### **6.1.2. SUTEL- SUPERINTENDENCY OF COMPETITION OF EL SALVADOR**

78. In 2020, the SUTEL and the Superintendency of Competition of the Republic of El Salvador signed an Inter-institutional Cooperation Agreement on competition. The objective of this agreement is to *“set the general institutional cooperation bases for establishing permanent technical cooperation mechanisms in order to foster competition and coordination between both authorities, so as to, among other things, help prevent and identify possible anti-competitive practices and execute possible coordinated actions to ensure competition in the telecommunications sector and guarantee that the benefits of commercial liberalization shall not be diminished by anti-competitive practices; as well as exchange perspectives, institutional policies, knowledge and experience”*.

#### **SUTEL-IFT**

79. On November 26, 2020, the Mexican Federal Telecommunications Institute (FTI) and the SUTEL signed a Memorandum of Understanding on Technical Cooperation on the subject of competition. The objective of this MOU is to: *“set a cooperation framework between «the Parties» to carry out technical cooperation activities and exchange experiences on the application of economic competition laws for the telecommunications and broadcasting sectors, as well as those related to the advocacy of competition policies, that supports the Parties’ efforts to strengthen and develop institutions on the subject of competition”*.

#### **COPROCOM’s negotiation of cooperation agreements**

- COPROCOM negotiated a cooperation agreement with Ecuador’s Superintendency for the Control of Market Power (SCPM). The agreement proposal was already drafted and is being reviewed by the two competition authorities before it is signed.
- Likewise, a cooperation agreement with the National Competition Commission (CONACOM) of the Republic of Paraguay also exists. This text is currently being reviewed by both authorities.

## **6.2. Integration to Regional Competition Centers**

### **6.2.1. Regional Center for Competition in Latin America and the Caribbean**

80. On September 30, 2020, within the framework of the 2020 Annual Meeting of the Regional Center for Competition in Latin America and the Caribbean (CRC), twelve member countries of the CRC voted unanimously for SUTEL’s integration into this Center.

81. As per agreement 028-071-2020, adopted by SUTEL’s Council during ordinary session 071-2020, held on October 15, 2020, the SUTEL confirmed receipt and gave thanks for the confirmation issued by the Secretariat of the CRC in relation to the incorporation of SUTEL into this Center.

### **6.2.2. Central American Network of Domestic Authorities in Charge of Competition (RECAC)**

82. On November 1, 2019, through note 09893-SUTEL-CS-2019, SUTEL formally expressed its will to adhere to RECAC as a member of that network.

83. On December 22, 2020, Mrs. Yolanda Martínez, President of the Directive Council of the National Competition Commission (Pro-Competencia) of the Dominican Republic, acting as RECAC's *pro tempore* President, informed SUTEL, through the legal paper PR-IN-020-0815, dated October 29, 2020, that "*during a virtual meeting including all of the full members of the RECAC, the addenda modifying the operating regulations of the Network was approved, thus opening the possibility of adding sectoral competition authorities and regulators with "competition authorities" to RECAC's work.*" Because of the aforementioned, on that same date "*the full members of the Network approved the incorporation of SUTEL to RECAC as an observer member*".

84. As per agreement 005-001-2021, adopted by SUTEL's Council during ordinary session 001-2021, held on January 7, 2021, the SUTEL confirmed receipt and gave thanks for the confirmation to Miss Yolanda Martínez, *pro tempore* President of RECAC, in relation to SUTEL's integration as an observer member of that Network.

### 6.3. COPROCOM's participation in international competition networks

- During 2020, COPROCOM participated in the Young Agencies Program (Bridging Project) of the International Competition Network (ICN) with the support of the Mexican Federal Economic Competition Commission (COFECE). The project's objective is to guide competition agencies that are not actively participating in the Network so that they can familiarize themselves with the network's contents: the various committees, documents, and guides, among others.
- During 2020, COPROCOM actively participated in the Central American Network of Domestic Authorities in Charge of Competition (RECAC). The following activities were cited as some of the most relevant ones:
  - Reviewing the redaction of the "Central American Competition Regulations", which was finally approved by the Council of Ministers of Economic Integration and that comes into force on May 10, 2021. The foregoing, in compliance with the Association Agreement between Central America and the European Union (AACUE).
  - Review and approval of the modifications to the "*Central American Network of Domestic Authorities in Charge of Competition's Operating Regulations*".
  - Execution of the technical cooperation project named "*competition conditions diagnostic for aerial transportation of Central American passengers and proposal of application of national public policy derived from the diagnostic*", with the Inter-American Development Bank (IDB).

### 6.4. Competition dissemination activities

85. COPROCOM carried out various dissemination activities during 2020. It participated in international forums and press conferences and issued press releases about its resolutions and criteria. Among the most relevant ones:

- Virtual Forum to Present the Report of the OECD Competition Committee, named: "Assessment of Competition Law and Policies in Costa Rica", in coordination with the Ministry of Foreign Trade and the SUTEL.
- Participation in the Forum on "Monopolies and Oligopolies in Costa Rica" organized by the news outlet, La Nación.



- Annual Conference of the 2020 International Competition Network, in which COPROCOM's President participated as a panelist.
- Cartel Detection Workshop by the OECD's Regional Center for Competition in Latin America and the Caribbean, in which COPROCOM's President presented the experience of Costa Rica on the subject matter.
- 2020 Regional Forum on Commerce and Competition, "Central American Regional Economic Integration (INTEC)" project, funded by the European Union and executed by SIECA.

86. In addition, during 2020, the COPROCOM maintained an active media presence by disseminating the principles of competition:

- The disadvantage of maintaining the monopoly of FANAL after selling or awarding a concession over it.
- FUTV investigation and the supposed agreement between TELETICA and REPRETEL.
- Complaint filed by various cable companies against FUTV.
- Precautionary measure requested by cable companies to access FUTV.
- Precautionary measure requested by TIGO to access FUTV.
- COPROCOM's budget as of the enactment of Law N° 9736 and the OECD's commitments.
- Early termination between LAICA and Maquila Lama.
- Urging the Government to accept insurance policies providing coverage against COVID issued by foreign companies.
- Appointment of new commissioners.
- Rejection of the government's rice regulation agreement.

87. Finally, in 2020 two bulletins containing information about COPROCOM's activities were issued and sent to hundreds of national and foreign users. Those bulletins are also available on the website: [www.coprocom.go.cr](http://www.coprocom.go.cr) .