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COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Argentina

-- 2021 --

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

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Argentina

1. Executive summary

1. This report addresses proceedings in the reporting year (1 January 2021 to 31 December 2021).
2. Section 2 explains some decisions adopted by the Argentine competition authority –the National Commission for the Defence of Competition (CNDC, for its acronym in Spanish) in 2021, both in terms of sanctions for anticompetitive practices and merger control. Act No. 27.422, also called the Defence of Competition Act (LDC, for its acronym in Spanish) regulates the main features of both types of proceedings.
3. In connection with anticompetitive practices, the report presents a summary of the major cases in which the CNDC took actions during 2021:
 - A fine for abuse of dominant position against the main local brewery in Argentina, an Anheuser Busch InBev subsidiary, Cervecería y Maltería Quilmes;
 - A fine for abuse of dominant position against the Association of Optometrists of the Province of Buenos Aires;
 - An interim measure against Meta Platforms to cease the actualization of WhatsApp’s new terms and privacy conditions for alleged abuse of dominant position;
 - An interim measure order for Telecom Argentina to cease any suspension, cutting or blocking in the provision of SMS packages to ATX;
 - An interim measure ordering Dow Química Argentina S.A. not to alter or modify the status of the productive assets it owned, after its announcement that the firm would close one of its plants.
4. This section also summarises the indictments that were released in 2021.
5. Concerning merger control, the report provides valuable statistics regarding mergers notified under the applicable competition regime (number, size and type). It also provides a summary of four major cases:
 - Syngenta/Nidera
 - Mirgor/Brightstar
 - Brink’s/Maco
 - Linde/Praxair
6. Section 3 shows the CNDC's human and financial resources and organisational structure.
7. Section 4 summarises market studies and pro-competitive recommendations the CNDC issued in 2021.

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

8. There have not been relevant changes to Argentina's competition law in 2021.

3. Enforcement of competition law and policies

3.1. Actions against anticompetitive practices, including agreements and abuses of dominant positions

3.1.1. Summary of activities of the competition authority

During 2021, the CNDC issued opinions on 33 cases related to anticompetitive conducts, both cartels and abuses of dominance. The CNDC imposed fines in two cases.

3.2. Description of major cases, including those with international implications

3.2.1. Fine against *Cervecería y Maltería Quilmes*

9. The leading case conducted and concluded by the agency in 2021 involved *Cervecería y Maltería Quilmes (CMQ)*, the principal Anheuser-Busch InBev subsidiary in Argentina.

10. The company engaged in several commercial practices—mainly tying, exclusivity and discount agreements—that unreasonably restrained competition in the retail beverage market.

11. The case began in 2016 when other brewers filed a joint complaint with the CNDC against CMQ for many commercial dealings that the complainants described as abuses of dominant position. These conducts had already been investigated and sanctioned by competition authorities from countries such as Brazil, México, Uruguay, Colombia, Chile, Dominican Republic, and Greece, among others.

12. CMQ is the leading participant in the industrial beer market in Argentina, with a market share of more than 70% in the production and commercialisation of beers at the national level and with a portfolio of more than ten beer brands. The CNDC thus considered it to hold a dominant position in the market under analysis.

13. In addition, CNDC corroborated that CMQ did develop a set of loyalty strategies to generate exclusive beer retail spaces, causing a vertical market foreclosure for current and potential competitors. The series of loyalty instruments that gave rise to the anticompetitive conduct reflected in the following practices:

- Exclusive sale of beers and other CMQ products in on-premise points of sale (bars, restaurants, etc.) in exchange for cash contracts, advertising, furniture and discounts on the portfolio of products marketed (beers, waters, flavoured waters, isotonic waters, soft drinks, energy drinks, etc.).
- Demands for exclusive and preferential shelf space in off-premise channels (supermarkets, self-service stores and department stores), surpassing their market share and, thus, their corresponding shelf space, in exchange for discounts and promotions.
- Exclusivity in refrigerators in the on-premise and off-premise segments.

14. The CNDC found evidence of all these practices and corroborated that they established barriers to entry in the beer production and distribution market—therefore proving the abuse of dominant position of an exclusionary nature. Although common in the beer market, the competition authority also verified that these practices made it impossible for competitors to engage and replicate this strategy, which became defintory for the capacity of competitors to remain in the market or be excluded of it.

15. Amid the investigation procedure, CMQ voluntarily submitted a commitment proposing to refrain from proactively offering discounts, promotions or other benefits to on-premise outlets on the condition that they did not sell beers of competing companies.

16. The CNDC decided to reject it, arguing it did not cover all of the alleged conducts—for example, completely ignoring the behaviours committed in the off-premise commercialisation channel. In these terms, the commitment offered did not achieve the primary purpose, which was to remedy the harmful effects of the alleged practices that were harming competition and the general economic interest.

17. Instead, the CNDC decided to sanction CMQ with a AR\$150 million fine and to impose a series of behavioural corrective measures on the undertaking, aiming to prevent the recurrence of all the sanctioned conducts.

18. The behavioural obligations imposed on CMQ were the following:

- To avoid implementing any formal or informal commercial agreement with points of sale—both on-premise and off-premise— whose purpose or effect is to generate vertical restrictions on commercialisation channels to: obtain the exclusivity of sale; make their products the first choice; eliminate competitors from menus or others; limit the display of competitors' products through exclusive space agreements on shelves; or require the exclusive use of refrigerators to refrigerate products in points of sale with limited space for the provision of more than a single refrigerator (such as kiosks and grocery stores).
- To maintain its beer brand's commercialisation strategy independently from the other beverages it distributes, avoiding cross-discounting between different products and tie-selling, making the marketing of one product conditional on purchasing another.
- To establish exclusive advertising and promotion agreements for their beer brands, through the provision of furniture, marquees or other means, only under the following conditions: with contracts for a maximum duration of three years with the possibility of early cancellation after the first year and no automatic renewals; with no clauses prohibiting the sale of competing products, no preference orders in the product offering, and no requests for exclusion of competitors' products from menus.

3.2.2. Fine against the Association of Optometrists of the Province of Buenos Aires

19. Towards the end of 2021, the CNDC imposed a fine for abuse of dominant position against the Association of Optometrists of the Province of Buenos Aires (COPBA, for its acronym in Spanish).

20. COPBA is a semi-public entity, created in 1993 by Provincial Act No. 10,646, based in the city of La Plata, in which optometrists who practice the profession in the jurisdiction of the said province must be registered. The COPBA grants and keeps track of the said professionals' practising certificate.

21. According to a complaint filed by a firm intending to commercialise its sunglasses in retail channels other than specialised eyeglasses stores, the COPBA was abusing its dominant position when demanding an "exorbitant" annual fee for the licence of the optometrist in charge of quality control.
22. The filing firm argued that it complied with all legal requirements necessary to market its products, including a research document presented by a Registered Optical Technical Director (DT, for its acronym in Spanish).
23. The firm reported that the situation arose when trying to obtain the optical technician's membership certificate to clear the authorisation process. It was then that COPBA demanded an exorbitant annual fee arguing the company needed to have in its payroll a Registered Optical Technical Director in Quality Control (DT CALIDAD, for its acronym in Spanish).
24. To have a reference, a DT practising certificate's annual cost was AR\$3.200, while a DT Calidad practising certificate's yearly cost was AR\$300.000.
25. It is worth mentioning that in professional associations, professionals usually pay license fees. However, in this case, the DT Calidad annual registration fee is not paid directly by the professional (the one who intends to work in the retail channel other than specialised eyeglasses stores) but by the company that wants to sell the glasses.
26. This practice would restrict competition in favour of COPBA's current members since commercialising its sunglasses in retail channels other than specialised eyeglasses stores was prevented. The firm noticed that members of the COPBA were also owners of specialised eyeglasses stores (exemplified by the case of COPBA's then-president and vice president).
27. Despite COPBA's explanations, CNDC identified an anticompetitive practice consisting of fixing discriminatory values for practising certificates. It aimed to restrict the development of an alternative retail channel to specialised eyeglasses stores for selling glasses without a medical prescription, significantly distorting the competition.
28. According to the information gathered by the CNDC, the legal requirements established by the Province of Buenos Aires leave certain relevant aspects to COPBA's will. Based on this, it abused its legal monopoly.
29. The CNDC concluded that while COPBA was entitled to set and receive a fee per optical technical director license, it did not have the prerogative to differentiate according to the commercialisation channel.
30. The province regulation did not provide minimum or maximum limits on licence fee amounts. Using this, COPBA set the annual fees for a DT Calidad license at excessive levels, unlike the yearly costs for registration of a DT (necessary for the retail sale of glasses in specialised eyeglasses stores), without a reasonable justification.
31. The CNDC decided to sanction COPBA with an AR\$3.392.154,84 fine and recommended the provincial government to establish specific regulations regarding paying fees.
32. According to CNDC, this regulation must provide for a maximum fee, be non-discriminatory, be based on the actual technical work performed by the optometrist and be transparent —meaning the methodology for determining the fee must be straightforward.

3.2.3. Interim measure against Meta Platforms

33. WhatsApp, Facebook and Instagram, controlled by the now-called Meta group, are hugely popular applications in Argentina.

34. WhatsApp, with almost 40 million users, is the number one instant messaging app in the country—a position it has maintained for years.

35. Currently, there is no specific regulation for digital platforms in Argentina, so these kinds of companies have no particular duties towards their users or competitors, even when they must comply with competition law.

36. When WhatsApp announced in mid-2021 its intention to update the terms of service and privacy policy for its messaging application, the CNDC opened an investigation for alleged abuse of dominant position against the Meta group.

37. These new conditions provided that if the user rejected them, the application performance would deteriorate until becoming unusable.

38. The investigation—still pending—is primarily focused on the consequences of this practice because, along with WhatsApp's dominant position, it may suggest that users have little choice but to hand over their data, no matter how comfortable they feel with the company's new privacy policy.

39. The investigation is also considering the implications of excessive data collection from users in online advertising, where Facebook and Instagram are prominent market participants.

40. Given the scope and proximity of the changes that WhatsApp intended to implement for its users in Argentina as of May 2021, the CNDC considered it decisive to issue an interim order compelling the company to refrain from:

- Updating the application terms of service and privacy policy that were supposed to enter into force.
- Exchanging users' data with other Meta companies or third parties.

41. The injunctions' goal was to prevent the exchange of user information amongst Meta companies or third parties.

42. Such an exchange, the CNDC believes, could lead to the formation of a database that cannot be replicated by other players and may allow future anticompetitive practices from Meta companies. Also, the authority understands that reversing such an exchange would be highly complicated.

43. The Court of Appeals that reviewed the order agreed completely with the CNDC analysis.

44. After the ruling upholding the injunction, CNDC decided to extend its duration until the agency can finally settle on the infringement case.

3.2.4. Interim measure against Telecom Argentina

45. In February 2021, upon a complaint filed by ATX S.A. (ATX), the CNDC issued an interim measure against Telecom Argentina S.A. (Telecom).

46. The interim measure ordered Telecom to cease the suspension, cutting or blocking of providing SMS packages to ATX so that the latter could send and exchange information with Telecom's clients.

47. ATX is an Argentine company licensed to provide various technology and telecommunications services, particularly software development, contact platforms centres and transactional services via SMS to corporate and institutional clients, both nationally and internationally.

48. Telecom provides mobile communications services and offers high-speed internet and fixed and mobile connectivity in voice and data. In Argentina, Telecom is one of the leading carriers for these services —along with Telefónica de Argentina S.A.

49. ATX's complaint arose due to a contractual change that Telecom would have tried to introduce in specific clauses referring to the termination of certain calls.

50. Telecom would have also notified ATX that the services between the companies should be contracted through "intermediary" companies located overseas. ATX reported that one of these "intermediaries" would be, through a subsidiary in Argentina, a direct competitor.

51. A month after filing the complaint, the complainant firm reported that Telecom unexpectedly cut off the services it provides to ATX.

52. Within this context, the CNDC concluded that the situation brought by ATX met the requirements to issue an interim measure. The cut-off that TELECOM imposed on ATX in the provision of its services could lead to ATX leaving the market.

53. The CNDC then issued an interim measure order for Telecom to cease any suspension, cutting or blocking in the provision of SMS packages to ATX so that the latter could send and exchange information with Telecom's clients until it reaches a final decision on the main case.

3.2.5. Interim measure against Dow Química Argentina

54. In October 2021, the CNDC issued an order against Dow Química Argentina S.R.L. (Dow) to prevent the firm from shutting down the operation of a production plant in Puerto General San Martín, department of San Lorenzo, Province of Santa Fe.

55. This plant produces two chemical products: polypropylene glycols and glycol ethers made from propylene oxide. These products are critical inputs for major industrial sectors.

56. The probe began ex officio when Dow publicly announced it was closing the plant's operation derived from implementing a new strategy to rationalise and streamline its global production output. The said strategy involved foreclosing several production facilities. Among them was the Argentine production plant.

57. Dow said its Brazilian subsidiary would continue supplying the local market with polypropylene glycols and glycol ethers. Likewise, it implied it was not exploring the possibility of selling the plant to a third party.

58. It's worth noting that Dow had a significant position in the markets involved. It produced and marketed about 70% of the domestic supply of polypropylene glycol (50% local production and 23% exported to the country by Dow's subsidiaries). Regarding glycol ethers, it produced a total of 5,400 tons/year in 2018, equivalent to 100% of the national production of said product and 41.5% of the domestic supply of the same. The remaining 58.5% of the domestic supply was coming from imports.

59. The CNDC analysed the situation and concluded that, from an economic point of view, it was difficult to justify the closure decision based on arguments of rationality or cost minimisation. A firm that decides to leave a market has the objective of minimising

exit costs. A rational firm always tries to recover the highest costs or investments. However, according to the information gathered by the CNDC, Dow preferred to lose the possibility of recovering costs.

60. This behaviour and the market position Dow occupied led the CNDC to believe that the strategy implemented may have the objective of cementing Dow's position as the leading supplier in the Argentine market, even when that resulted in the loss of the investments made.

61. Dow's loss in value would be compensated by maintaining its position in the market. That would account for the refusal to sell the asset to a rival, as a competitor might endanger its dominant market position. This scenario could reinforce and pave the way for abuse of dominant position practices.

62. For the CNDC, the problem with implementing a strategy like the one described was that the loss of value would affect not only Dow's cost-benefit equation but also the local market. The loss of resources due to the unwarranted destruction of productive assets may lead to an increase in entry costs for new competitors, an increase in transaction costs for the acquisition of products that are no longer manufactured in the country, and a direct impact on the labour market.

63. Concluding there was no other viable alternative to prevent severe and irreparable harm to the markets involved and to general economic interest, the CNDC issued an interim measure ordering Dow not to alter or modify the status of the productive asset it owned until it reached a final decision on the main case.

Indictments

64. LDC's section 41 provides that once the discovery phase is over and evidence of anti-competitive practices has been found, the CNDC must indict the alleged wrongdoers. This stage allows them to respond to the accusations and bring any evidence they consider appropriate to prove their innocence before the agency.

65. During 2021, the CNDC release six different indictments.

66. The first was against companies involved in the entertainment sector in the city of Bariloche, in the Province of Rio Negro. The CNDC charged these firms with participating in a cartel to fix the price for the nightclub services market and to divide up the said market.

67. There was also an indictment involving the biggest mill company in Argentina and three wheat-related business associations. During the investigation, CNDC discovered a written agreement among these entities whose undisguised object was to set minimum prices and exchange sensitive information in the wheat milling and wheat flour trading market.

68. Involving closely related markets, the CNDC indicted two major food processors for participating in a cartel regarding wheat markets and dry pasta products.

69. There was also an indictment in the pay-tv programming signals market. The practice investigated consists of refusing to license TV signals by a major content creator.

70. Finally, there was also an indictment for predatory pricing practices that would take place in providing pay television services and residential internet access markets.

3.3. Mergers and acquisitions

3.3.1. Statistics on the number, size and type of mergers notified under competition law

71. The LDC, in its section 9, establishes the obligation to notify the competition authority of all operations of mergers or acquisitions for which the total turnover of the affected companies is above 100 million mobile units.¹

72. The value of the mobile unit is updated at the beginning of each year. In 2021 it was set at AR\$55,29. At the end of 2021, this was equal to USD 0.51 and EUR 0.46.

73. The LDC also provides for some conditions for those economic concentrations (as defined under section 7)² that, even when the abovementioned threshold is met, will be exempted from the obligation to notify. They can be classified into two groups:

74. a) Operations involving companies carrying economic activities outside Argentina whenever said activities do not have “effects” on the Argentine market (section 4 of the LDC);³ b) Exemptions to the obligation to notify (section 11 of the LDC), in particular, cases in which:

- The purchaser already holds more than 50% of the shares of the acquired company;
- The acquisition comprises bonds, debentures, certificates of indebtedness or shares without voting rights;
- The acquisition of a domestic company by a foreign company that does not own any shares or assets of another domestic company;
- The acquisition of a business under liquidation, which has not conducted business during at least the last year;
- The amount of the transaction or the assets acquired does not exceed 20 million mobile units unless there has been more than one acquisition in the preceding 12 months and their total value exceeds that amount or the value of the total of such acquisitions in the prior 36 months exceeds 60 million mobile units. The transactions subject to the 12- and 36-months accumulations must have occurred in the same market.

75. During 2021 the CNDC received 58 merger notifications, compared with 46 merger notifications in 2020. In addition, the CNDC issued 48 clearing merger opinions in 2021. Out of the 48 mergers cleared, 19 referred to conglomerate operations, 24 were operations with only horizontal effects, 2 were operations with only vertical effects and 3 had both horizontal and vertical effects.

¹ As established in section 9 of the LDC, total turnover is understood as the amounts resulting from the sale of products and the provision of services performed by the acquiring and target companies.

² Under section 7 of the LDC, a concentration could be achieved either through the merger of companies; bulk transfers; acquisition of ownership of an interest in a legal entity that amounts to legal control or enables the purchaser to obtain substantial influence thereof; or by any legal action that either transfer the assets of a business or grants a “substantial” influence or “determining influence” in the government and administration of the of the business.

³ To determine whether an operation involving companies that perform their business activities outside Argentina affects the domestic market, CNDC's case law has established the criterion related to "substantiality, frequency and predictability of exports to Argentina."

3.3.2. Summary of some major cases

76. Among other innovations, the LDC put into force in 2018 added to the competition agency toolkit a legal device called Objection Report (IO, for the acronym in Spanish of Informe de Objeción).

77. Under Argentina's current competition law, the CNDC must release a public Objection Report whenever it finds that a transaction might potentially restrict or damage competition. Its purpose is to carry out a preliminary analysis of the operations that generate some type of concern from the point of view of the competition.

78. The companies involved in these transactions are then called to a special hearing to review potential remedies to lessen the transaction's impact on competition.

79. The first IO was issued in 2020. During 2021 the CNDC issued four Objection Reports and conditionally approved one of the objected transactions. These cases are commented below.

Syngenta/Nidera

80. As part of a global transaction, Syngenta Crop Protection AG (Syngenta) acquired sole control of Nidera Seeds Argentina SAU (Nidera), a local subsidiary of Cofco International Protection AG specialised in seeds and crop development.

81. Both companies were active in the research and development of soybean, wheat, corn and sunflower varieties and hybrids, as well as in the production and commercialisation of seeds.

82. In Argentina, Syngenta is the leading company in research and development, production and commercialisation of sunflower seeds (holding a market share between 40% and 45%), while Nidera is the second player of the market with a share of between 15% and 20%.

83. The IO issued by the CNDC in May 2021, highlighted that if the transaction received unconditional clearance, Syngenta and Nidera would reach a share of around 60% in the sunflower seeds market, significantly increasing the market power of the combined entity.

84. To date, the companies and the CNDC are still negotiating potential remedies to lessen the transaction's impact on competition.

Mirgor/Brightstar

85. Mirgor S.A.C.I.F.I.A. (Mirgor) acquired sole control of Brightstar operations in Argentina (Brightstar Argentina S.A. and Brightstar Fueguina S.A.).

86. Both companies mainly manufacture mobile phones in Tierra del Fuego under a special tax and custom regime created by Act No. 19.640.

87. According to the information gathered by the CNDC, 96% of the phones commercialised in Argentina are manufactured under the promotion regime mentioned above, which establishes customs and tax exemptions to encourage production and the location of companies in that province.

88. In June 2021, the CNDC issued an IO indicating that, the transaction, if cleared unconditionally, would reduce the number of major players in the market for the production and marketing of mobile phones from three to two.

89. As a result, Mirgor would consolidate its position as the leading manufacturer with 58% of the production and marketing of mobile handsets, 51% of the maximum authorised production capacity, and as the supplier of almost 100% of Samsung branded mobile phones in Argentina.

90. In addition, the CNDC identified substantial regulatory barriers to the entry of new competitors into the sector, a situation that worsened the transaction effects.

91. The CNDC understood the transaction would potentially restrict or distort competition to such an extent that it would harm the general economic interest, primarily concerning the markets for the manufacture and commercialisation of mobile phones in Argentina.

92. In December 2021, the CNDC gave conditional approval to the proposed acquisition, after Mirgor committed to implement a set of behavioural remedies.

93. The obligations imposed on Mirgor were:

- To sell mobile phones to carriers and retailers under non-discriminatory market conditions with its own retailer;
- Not to tie the sale of mobile phones to the acquisition of other products;
- Not to unjustifiably deny the sale of their products;
- Not to narrow the margins in the retail segment based on wholesale price increases;
- To guarantee the maintenance and development of the human and productive resources incorporated as a result of the operation;
- To report the monthly wholesale prices charged by Mirgor to mobile phone retailers;
- To report the monthly retail prices charged by its own retailer;
- To inform new contracts with national or international mobile phone brands
- To carry out a competition compliance program for all Mirgor managers, including directors appointed in other companies;
- To make the imposed conditions public to their clients and the general public.

Linde/Praxair

94. The last transaction the CNDC objected to in 2021 was the merger between Linde and Praxair, two of the leading suppliers of medical and industrial gases in Argentina and worldwide.

95. Both companies are mainly active in producing and marketing gases and have a global operating network.

96. German-based Linde has established itself as the world's second-largest industrial gas supplier in terms of turnover. Praxair, a United States based firm, is the third company in terms of turnover in the supply of industrial gases.

97. In Argentina, the two companies are active in the production and commercialisation of medical gases, industrial gases, special gases, helium supply and associated services—specifically home respiratory care services.

98. According to the information gathered by the CNDC, with the exception of some specific markets, the supply of most of the medicinal, industrial and special gases in

Argentina was in the hands of only four companies, all subsidiaries of gas suppliers operating worldwide. These were Linde and Praxair, Air Liquide, and Indura (the local subsidiary of Air Products).

99. In December 2021, the CNDC issued an IO indicating that, if the transaction was to be cleared unconditionally, in 22 of the 33 defined relevant markets for medical and industrial gases, the number of firms capable of producing and distributing gases on a national basis would be reduced from four to three or three to two—even in some cases from two to one.

100. In many of these markets—such as the medical markets for bulk oxygen, bulk and cylinder nitrogen and cylinder carbon dioxide—Linde and Praxair would have a combined market share of more than 55%.

101. Considering the concentrated structure of these markets, dominated by a few competitors, and the existence of high barriers to entry, the CNDC found that the competition concerns of this transaction arise from both unilateral and coordinated effects.

102. To date, the companies and the CNDC are still negotiating potential remedies to lessen the transaction's impact on competition.

Brink's/Maco

103. It is also worth mentioning that during the same period, the CNDC granted a conditional clearance under the Act No. 25.156, the former competition law.

104. This case consisted of the acquisition of the firms Maco Caudales and Maco Litoral (both comprising Maco) by Brink's Argentina (Brink's).

105. The acquiring company and the target companies offer cash management and transportation services and other associated services (ATM management, cash counting, payroll and treasury, among others) in Argentina. In addition, the acquiring group also offers physical security, electronic security and security consultancy services through its subsidiary Brink's Seguridad Corporativa.

106. Considering the economic activities of the companies involved, the CNDC analysed the horizontal effects generated by the operation in the cash management and transportation services market. Considering that these are predominantly local and urban services, the focus was placed on the geographical areas in which overlaps were observed between the companies in terms of their coverage: Brink's, with almost national coverage, with presence in the main urban centres of the country, and Maco with regional coverage, limited to the Metropolitan Area of Buenos Aires (AMBA, for its Spanish acronym), the north of the province of Buenos Aires and the provinces of Santa Fe and Entre Ríos. Based on these overlaps, the relevant geographic markets of AMBA, Mar del Plata and Rosario were defined.

107. When analysing the supply structure of the cash handling services market in the country prior to the operation under analysis, it was observed that only two companies in Argentina had national coverage. On the one hand, Prosegur (which was not involved in the transaction), is the main supplier in the market, with a market share of around 55%. On the other hand, the acquiring company, Brink's, with a market share of around 20%. Maco was positioned as a third competitor at a national level in terms of share (around 14%) but had a regional geographic scope. The remaining competitors were characterised by being small in terms of market share and with very limited coverage of one or two urban centres.

108. In this respect, the cash management and transportation services market already showed a high degree of concentration before the transaction under analysis. Given the

concentrated market structure and the predominance of only two competitors, with a clear leadership of Prosegur, the investigation was oriented towards the analysis of the coordinated effects that would be generated by the disappearance of Maco as a competitor and the consolidation between the second and third provider nationwide.

109. In fact, in the decision issued by the CNDC, it was pointed out that, as of the present operation, Brink's would consolidate as the second provider of cash handling services, reaching a 35% market share, following Prosegur, which already was the leading provider of this type of services throughout the country. At the same time, it was noted that in the three local markets analysed —AMBA, Mar del Plata and Rosario— it was verified that more than 93% of the supply would remain in the hands of Prosegur and Brink's. At the same time, high barriers to entry were identified, the main ones being linked to the armouring and licensing of the transport trucks —an essential asset to carry out the activity of cash transportation.

110. In sum, the CNDC found that the acquisition of Maco by Brink's raised competition concerns in the local supply of cash management and transportation services. In an attempt to mitigate the harm arising from the transaction, the National Commission agreed with Brink's on the compliance of a series of structural and behavioural measures. As mentioned, given that the case had been notified when the previous LDC was still in force, the harmful effects of the transaction were informed at the last stage of the investigation process. The former Act did not set out any formal hearing to initiate negotiations aimed at reaching a compromise with the parties, so these talks, although they took place within the framework of the case file, did not have a defined procedural stage. Once the remedies were agreed upon, the CNDC issued an approval decision subject to the compliance of the commitment, as established by section 13.b of Act N° 25.156.

111. The structural measures included the divestiture of 40 operational transport trucks corresponding to the AMBA fleet and one corresponding to the Mar del Plata fleet to an actual or potential local competitor other than Prosegur, as well as the relocation of 20 operational transport trucks corresponding to the AMBA fleet to other geographical areas of Argentina where Prosegur provides cash management and transportation services. In addition, the behavioural measures consisted in the request of a semi-annual report by Brink's to the CNDC that should contain information regarding: the prices submitted to the Central Bank of Argentina; the status of compliance of the divestment commitments, including the offers received, the units sold and the units pending; and the status of compliance of the relocation of the armoured trucks from AMBA.

112. As required by the previous LDC, the decision to approve the transaction was conditioned upon the compliance of the commitment. Although the transaction was approved three years after its notification, the agreement was feasible to implement and was able to address the competition concerns in the local cash handling services markets. Indeed, the structural remedy focused on the divestiture and relocation of assets essential to the cash transport business —the armoured trucks. This made it possible to mitigate the effects of the operation, without incurring in impracticable solutions.

113. It should be noted that the Brink's/Maco case was the first concentration in the history of the CNDC that received conditional approval exclusively because of the existence of coordinated effects.

4. Resources of competition authorities

4.1. CNDC's new headquarters

114. In 2021, the CNDC moved its headquarters to a newly renovated building in downtown Buenos Aires.

115. Even though some agency divisions remain at the headquarters of the Ministry of Productive Development, it is expected that shortly, all of them will carry out their activities at the new offices.

4.2. Resources overall

116. The CNDC is composed of four members: one president and three commissioners.

117. According to the LDC, at least two commissioners must be lawyers, while the other should hold a degree in economics.

118. In addition, the CNDC is structured in three National Directorates –Economic Concentrations, Anticompetitive Conducts, and Competition Advocacy– and a General Directorate of Economic and Legal Studies. At the same time, each Directorate is structured in two additional Directions. There is also a Direction of Registry.

119. The CNDC's total budget for the period from 1 January 2021 to 31 December 2021 was ARS 190 million, equal to USD 1,763,341 and EUR [1,576,763].

120. The staff of the CNDC (excluding the president and commissioners) as of December 2021 was 96 people, composed of 28 economists, 37 lawyers, 8 hold other degrees and 23 were support staff.

121. The evolution of human resources is shown in Table 1. Number of employees (2019-2021)

Profession	2019	2020	2021
Economists	32	24	30
Lawyers	35	31	40
Other professions	14	13	9
Support staff	20	16	19
Total	101	84	98

122. below.

Table 1. Number of employees (2019-2021)

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Lawyers	35	31	40
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Support staff	20	16	19
Total	101	84	98

4.3. Human resources by activity

123. The allocation of professionals across the different Directorates is shown below in Table 2.

Table 2. Allocation of professionals across the different areas. Year 2021

	Lawyers	Economists	Other Professions	Support staff	Total 2021
Anticompetitive Practices	13	11	0	0	24
Economic Concentrations	10	9	1	1	21
Advocacy	4	5	2	1	12
Economic and Legal Studies	7	0	1	1	9
Registry	2	0	0	12	14
Administration	2	3	5	4	14
Authorities	2	2	0	0	4
Total	40	30	9	19	98

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

5.1. Market studies and pro-competitive recommendations

124. The CNDC conducted a market study on competition conditions in cargo storage and logistics at airport terminals. The CNDC issued the corresponding report in October 2021.

125. Air cargo transport necessarily requires access to the airport infrastructure, which is the physical place within an airport where the import and export cargo that enters or leaves by plane is received, classified, prepared, handled, consolidated/unconsolidated and stored in fiscal warehouses.

126. At Ezeiza International Airport—which handles more than 90% of the cargo transported by plane in the country—cargo terminal services are provided by Aeropuertos Argentina 2000 S.A. (AA2000) through its Cargo Terminal unit (TCA).

127. The current concession agreement between the National State and AA2000 gives the firm a monopoly on managing the airport—including the cargo business.

128. Indeed, all cargo entering or leaving the airport must use the TCA facilities. Consequently, the cargo terminal can be classified as an essential facility or "bottleneck"

since it is an essential and unavoidable input for the provision of said services, and duplicating or substituting this input is not feasible from a legal or economic perspective.

129. The CNDC noticed several problems with the effectiveness of the terminal's operation and the pricing structure of the many services that were charged and affected its consumers. TCA's nature as an essential facility enables these practices because users cannot avoid contracting its services.

130. Based on the analysis conducted, the CNDC recommended that the National Airport System Regulatory Agency (ORSNA, for its acronym in Spanish) evaluate the feasibility and convenience of allowing multiple cargo terminals to compete within the Ezeiza International Airport.

131. Additionally, the CNDC stated that if ORSNA decided to continue operating the cargo terminal as a monopoly, it should establish regulations addressing the rates charged for fiscal deposits and air cargo services, quality standards, and the roles and obligations of ORSNA in each case.