

Unclassified

English - Or. English

23 May 2022

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Costa Rica

-- 2021 --

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

JT03495856

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Costa Rica

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

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

1. For the year 2021, there are no additional legal provisions to report.

1.2. Other relevant measures, including new guidelines.

1.2.1. On the Executive Regulation to Law 9736

2. On November 18, 2019 Law N° 9736, Competition Reform Act of Costa Rica, entered into force, which significantly reformed the Costa Rica regulatory framework on competition law and whose name reflects the central objective of that rule, which is to strengthen the national competition authorities and provide them with an updated legal regime in accordance with international best practices, in order to achieve said objective it took into account the recommendations set out in the Peer Review on Competition Law and Policy in Costa Rica, carried out along with the Organization for Economic Cooperation and Development (hereinafter OECD) and the Inter-American Development Bank (hereinafter IDB), in September 2014.

3. Article 142 of Law No. 9736 provided the following: *"The Executive Branch, with the participation of the competition authorities, will regulate this law within a period of twelve months from its publication."*

4. With the joint work of representatives of the Ministry of Economy, Industry and Commerce (MEIC), the Ministry of Foreign Trade (COMEX), the Commission to Promote Competition (COPROCOM) and the Superintendence of Telecommunications (SUTEL), a proposal for an Executive Regulation of Law No. 9736 was prepared and on December 3, 2021 it was passed through Executive Decree No. 43305-MEIC, published in Special Edition No. 246, Official Gazette No. 233.

1.2.2. On the elaboration of some instruments for the implementation of Law N° 9736.

5. As part of the accession process of Costa Rica to the OECD, the country assumed among its commitments the effective implementation and enforcement of Law N° 9736.

6. In this sense, transitional provision XII of Law No. 9736 provides:

7. "[...] the competition authorities will have a period of up to twelve months from the formation of the Superior Body of COPROCOM, to issue, jointly or separately, the following technical guidelines: analysis of anticompetitive practices, analysis of mergers, sanctioning procedures before the corresponding competition authority and compliance programs. Additionally, within this period, Coprocom must establish coordination mechanisms with the following sectoral regulators: National Financial System Supervision Council (Conassif) and Public Transport Council (CTP)".

8. To implement what was ordered in the aforementioned transitional provision, a Strategic Roadmap was prepared defining the next steps to be followed by the Costa Rican Competition Authorities for the years 2020 to 2023 and that included three pillars to be fulfilled by those authorities. The first of these pillars includes the strengthening of the

regulatory framework governing both competition authorities, including the elaboration and issuance of a series of technical regulations, manuals and guidelines.

1.2.3. Instruments by COPROCOM

9. According to the Strategic Roadmap, COPROCOM agreed to use its own resources, as well as technical cooperation with the IDB, as described below:

Instruments developed with COPROCOM's own resources

10. During the **year 2021**, COPROCOM developed the following instruments:

Ethics and conduct regulations for the personnel of the Commission to Promote Competition and establishment of the Ethics Committee

11. This regulation defines the ethical principles, values and rules of conduct that must govern the performance of COPROCOM officials and that constitute the foundation of proper conduct towards the members of the organization and other members of society. It was approved in Article eight, Agreement Nine of Minutes No. 3-2021 of the Ordinary Session of January 21, 2021.¹

COPROCOM's internal rules of organization and services

12. This regulation regulates the service relationships between COPROCOM and its servers on or after the work. It was approved in Article Eight, Agreement Eight of Minutes N° 13-2021 of the Ordinary Session of April 8, 2021, published in Special edition N° 240 of the Official Gazette N° 228 of November 25, 2021.²

Protocol for consultation, dissemination and implementation of Guidelines, Manuals

13. The Superior Body of COPROCOM approved through Agreement No. 5 of Ordinary Session No. 41-2021, held on October 21, 2021, the Protocol for consultation, dissemination and implementation of Guidelines and Manuals, the objective of this instrument is the continuous interaction between the State institutions and the stakeholders of society to whom the regulation is directed, so it is a way to consolidate the transparency, legitimacy and confidence of these sectors in the different actions of the public body, avoiding the adoption of arbitrary alternatives.³

Instruments developed with IDB resources for COPROCOM

14. On December 1, 2021, the Costa Rican Competition Authorities Strengthening Program sponsored by IDB, began. The objective of this program is to strengthen COPROCOM's and SUTEL's technical capacities to achieve better application of regulations, through the development of regulatory instruments: regulations, guidelines, manuals and market studies aimed to facilitate effective compliance with the policy and national competition legislation and in accordance with international best practices.

¹ Available at: https://www.coprocom.go.cr/Normas/REGLAMENTO_ETICA_CONDUCTA%20COPROCOM.pdf

² Available at: https://www.coprocom.go.cr/acerca_coprocom/ALC240_GAC228251121_ReglAutoServ.pdf

³ Available at: https://www.coprocom.go.cr/publicaciones/PT_ConsultasPublicas_120122.html

15. The technical cooperation program with IDB is set to last thirty months and includes three components: regulatory framework, market studies, and training in competition policy. In particular, the first component, called "Regulatory framework for the implementation of competition legislation", envisages developing the following instruments:

Technical regulation for mergers fees

16. Its objective is to define the methodology that COPROCOM will use to calculate the fee for the process of mergers notification, in accordance with the principle of service at cost in each phase of the procedure, in accordance with the provisions of article 17 paragraph c), of Law No. 9736.

Guidelines to conducting market studies

17. The purpose of this tool is to establish the main guidelines for the selection and development of market studies, as well as the implementation and assessment of the results derived from them.

18. Once this instrument has been completed, two market studies will be carried out in the sugar and medicines sector, which are also included in the technical cooperation project with IDB.

Guidelines to unilateral conduct and vertical agreements

19. These guidelines aim to establish the criteria used by COPROCOM to assess cases of relative monopolistic practices, whether initiated ex officio or by complaint made by any natural or legal person.

Guidelines to mergers (notification and analysis)

20. Its purpose is to provide information on the concepts, regulations and procedures associated with the notification filing of mergers, as well as the standard approach followed by COPROCOM for merger analysis, including the main criteria, analytical techniques (qualitative and quantitative), relevant information and indications that are used to evaluate the effects of a merger in the affected relevant market, or in other similar or substantially related markets, in application of articles 88 to 110 of Law No. 9736.

Ex post analysis guidelines of the decisions of the authority.

21. It aims to provide information on the methodologies that COPROCOM could apply to assess the impact of its decisions related to mergers, anticompetitive practices (abuse of dominant power and bidding conditions) and market studies, considering the benefits obtained by consumers in the markets affected by their decisions.

Guidelines on the voluntary compliance program (compliance)

22. The objective is to provide recommendations to economic agents (managers, representatives, advisors, employees) so that after carrying out an internal assessment they can design their own voluntary compliance program. Likewise, explain what these programs consist of and the benefits of implementing a compliance program, among which we should mention the generation of a stronger corporate culture and a commitment to comply with the obligations established in Law No. 7472 and Law No. 9736.

Regulation on the methodology, criteria and calculation of fines

23. The aim is to establish the methodology and provisions, for the calculation of fines to be imposed for infringements of competition rules, whether Law N° 7472 or Law N° 9736. This tool will develop the parameters and legal circumstances that support the imposition of a given fine, in order to provide transparency in the process of setting such sanctions.

Structure proposal for COPROCOM

24. The aim is to prepare an administrative reorganization proposal for COPROCOM that includes the formal organization, its hierarchical relationships, dependency lines and relationship with all the elements that make up the organization, in accordance with Transitional provision IX of Law No. 9736.

Tools developed with IDB resources for both authorities

Guidelines and manual for the implementation of the Leniency program

25. The purpose of this guideline is to provide economic agents and the general public with guidance on how COPROCOM and SUTEL will receive, analyze and resolve requests to grant the benefits of the leniency program.

26. The guide sets out the guidelines, requirements and procedures based on which the applications that enter the leniency program will be processed, describes the conditions that applicants must meet for exemption and reduction of sanctions and indicates how these benefits will be granted.

27. Meanwhile, the "*Manual of the program of benefits of exemption and reduction of administrative sanctions*" sets out the internal procedure to be followed by each competition authority when receiving a request for application to the program of benefits for exemption and reduction of administrative sanctions.

28. These instruments were approved by the Superior Body of COPROCOM in the Ordinary Session N°. 01-2021 of January 5, 2022.

29. The "**Guideline to the exemption and reduction of administrative sanctions benefits program**" was submitted to public consultation on January 25, 2022. The publication of the guideline and the implementation of the training workshops (for officials, judicial authorities, economic agents and other stakeholders) are planned for the first semester of the year 2022.

Manual to detect collusive tendering

30. The manual aims to guide officials in public procurement areas to reduce the risks of collusive tendering, by paying more attention to the design of the bidding process and collaborating with these officials in detecting patterns of collusion between bidders during these processes.

On the Process of Hiring Consultants

31. The contracting procedures for these instruments are in progress, in coordination with the IDB, for some instruments the consultants are already selected and awarded, others in the selection process. It is estimated that all instruments will be completed in the first semester of 2023.

1.2.4. Instruments by SUTEL.

32. In order to comply with the commitments assumed in the aforementioned Strategic Roadmap, it was agreed to use SUTEL's own resources, as well as resources provided by the IDB, as described below:

Instruments developed with SUTEL's own resources

Abbreviated public tender N° 2020LA-000011-0014900001

33. On May 12, 2020, SUTEL published on the platform of the Integrated Public Procurement System (SICOP) the abbreviated public tender N° 2020LA-000011-0014900001, called "Development of Regulatory Instruments within the Plan of Competition Reform Act in the Framework of the OECD Accession Process."

34. The abbreviated public tender No. 2020LA-000011-0014900001 was made up of a series of independent lines, for the preparation of:

- Internal procedures manual
- Guidelines to the calculation of fines
- Information confidentiality manual
- Guidelines to mergers analysis
- Guidelines to notification of mergers
- Technical Regulation, including the following topics:
 - Procedure for early termination
 - Promotion and Advocacy of Competition
 - Methodology for calculating fines for infringement of the Law
 - Mandatory merger notification
 - Dawn raid procedure
 - Leniency program
 - Surveillance and compliance with resolutions issued by the Competition Authority.

35. The status of development of each of these instruments⁴ is described below:

- Internal Procedures Manual.

36. On December 1, 2020, the adjudication of line 1 of the Abbreviated public tender No. 2020LA-000011-0014900001, that is, the preparation of an Internal Procedures Manual was notified.

37. It is estimated that this procedure will be approved by the SUTEL Council during the year 2022.

⁴ It should be noted that the execution of this contract was suspended from March 2021 until November 3, 2021, as a result of the delay of the Executive Branch, in the publication of the Executive Regulation to Law No 9736, this in order to ensure consistency between the regulatory instruments associated with Law N° 9736.

- Guidelines for the imposition of fines for infringement of competition regulations
38. On October 23, 2020, the adjudication of line 2 of the Abbreviated public tender No. 2020LA-000011-0014900001, that is, the Guidelines for the imposition of fines for infringement of competition regulations, was notified.
39. On November 26, 2021, an external workshop was held to present the preliminary results of the Guidelines for the imposition of fines for infringement of competition regulations (Telecommunications Market); the following chambers participated in this workshop: INFOCOM, CAMTIC, AMCHAM, National Radio Chamber (CANARA) and CANARTEL.
40. On November 30, 2021, notice of receipt was received through SICOP, the procurement system for the last deliverable of Line 2 of the contract N° 2020LA-000011-0014900001.
41. According to internal timetable, these guidelines are expected to be officially published in 2023.
- Information confidentiality manual
42. On December 1, 2020, the adjudication of line 4 of the Abbreviated public tender No. 2020LA-000011-0014900001, that is, the development of an Information Confidentiality Manual was notified.
43. It is estimated that this procedure will be approved by SUTEL Council during 2022.
- Guidelines to merger analysis
44. On 23 October 2020, notification was given of the adjudication of line 5 of the Abbreviated public tender N° 2020LA-000011-0014900001, or the Guidelines to Merger Analysis.
45. On December 1, 2021, an external workshop was held to present the preliminary results of the Guidelines to Merger Analysis (Telecommunications Market); the following chambers participated in the workshop: Chamber of Infocommunication and Technology (INFOCOM), Chamber of Information and Communication Technologies (CAMTIC), Costa Rican-American Chamber (AMCHAM), and National Chamber of Radio and Television (CANARTEL).
46. On December 3, 2021, notice of receipt was received through SICOP's the procurement system for the last deliverable of Line 5 of the contract N° 2020LA-000011-0014900001.
47. According to internal timetable, these Guidelines are expected to be officially published in 2022.
- Guidelines to merger notification
48. On 1 December 2020, notification was given of the adjudication of line 6 of the Abbreviated public tender N° 2020LA-000011-0014900001, Guidelines to Merger Notification.
49. On 1 December 2021, an external workshop was held to present the preliminary results of the Guidelines to Notification of Concentrations (Telecommunications Market); the following chambers participated in the workshop: INFOCOM, CAMTIC, AMCHAM and CANARTEL.

50. On December 3, 2021, notice of receipt was received through SICOP the procurement system corresponding to the last deliverable of Line 6 of the contract N° 2020LA-000011-0014900001.

51. According to internal timetable, these Guidelines are expected to be officially published in 2022.

- Technical regulation

52. On August 26, 2020 was notified the adjudication of line 7 of the Abbreviated public tender N° 2020LA-000011-0014900001, that is the Technical Regulation of Law N° 9736.

53. On November 25, 2021, through SICOP, the procurement system, the contractor awarded presented the final version of the Technical Regulation of Law N° 9736 (application number 7122021000000193), which corresponds to the fourth deliverable of Line 7 of contract N° 2020LA-000011-0014900001, which was welcomed by the Directorate-General for Competition.

54. On December 7, 10, 15, 16 and 17, 2021, a series of in-house workshops were held with staff from the Directorate-General for Competition, the Legal and Advisory Unit of SUTEL Council, to present the main results of the proposal presented by the consultant.

55. This Technical Regulation is expected to be approved in 2022.

Abbreviated public tender N° 2021LA-000005-0014900001

56. On 20 August 2021, the abbreviated public tender N° 2021LA-000005-0014900001 entitled "Development of Regulatory Instruments within the Plan of Competition Reform Act in the Framework of the OECD Accession Process" was published.

57. The Abbreviated public tender No. 2021LA-000005-0014900001 was made up of two independent lines, for the development of:

- Guideline to Market Studies and Guideline to Assessing Regulation from a Competition Perspective (Line 1)
- Market study on pipeline infrastructure supporting telecommunications networks and its impact on market competition (Line 2).

58. The development of these guidelines is expected to be completed in the course of 2022.

Next instruments to be developed

59. On September 2, 2019, by note N° DM-1418-2019, the Ministry of Finance in relation to the "Request for Non-refundable Technical Cooperation Plan of Competition Reform Act", given its status as Governor before the IDB, in accordance with Article 13 of Executive Decree No 35056-PLAN-RE, requested the development of the following shared products for SUTEL and COPROCOM:

- Component 1: Anticompetitive practices
 - Guidelines for the analysis of unilateral conduct and vertical agreements and training workshops.
 - Internal manual for conducting dawn raids

- Internal Guideline and Manual for the implementation of leniency policy and training workshops.
- Guidelines to detecting collusive tendering and training workshops.
- Component 2: Promotion
 - Guidelines on compliance programs and training and outreach workshops.
 - Guidelines and manual for ex post analysis of authority decisions and training and outreach workshops.

60. On July 22, 2021, through official letter N° CID/CCR/ 772/ 2021 (NI-09224-2021), the IDB followed up on the project "CR-1212. Program to Strengthen Competition Authorities ", reported that they had allocated technical assistance resources to meet the competition needs of SUTEL in relation to the Internal Manual for Dawn Raids and the Guidelines to Detect Collusive Tendering (an instrument to be shared with COPROCOM). In addition, the Guidelines and the Internal Manual for the application of leniency policy, which is an instrument that is being developed with IDB funds and is shared by SUTEL and COPROCOM, were already in the process of preparation. These instruments are expected to be in force by 2022.

61. In this sense, SUTEL has seen the need to readjust its internal planning in order to incorporate the following guidelines within the projects to be developed in 2023:

- Guidelines to the analysis of unilateral conduct and vertical agreements
- Guidelines to compliance programs
- Guidelines and Manual of expost analysis of decisions of the authority.

Instruments to develop through IDB technical cooperation.

Internal manual to carry out dawn raids.

62. On 22 July 2021, by the aforementioned official letter N° CID/CCR/ 772/ 2021 (NI-09224-2021), the IDB reported that it had allocated technical assistance resources to meet the competition needs of SUTEL in relation to the Internal Manual to carry out dawn raids; technical cooperation that was formally approved by IDB as communicated on October 20, 2021 by that Bank.

63. On November 4, 2022, SUTEL forwarded to IDB the terms of reference requested in relation to the aforementioned Manual, as well as references from national consultants who could develop the project.

64. The IDB is awaiting the selection process and the execution of this project will take place during 2022.

Instruments with IDB resources for both Competition Authorities.

Guidelines and Internal Manual for the application of leniency policy and training workshops

65. Based on what was requested in the aforementioned note No. DM-1418-2019, in 2020 COPROCOM and SUTEL agreed with IDB to carry out a non-reimbursable technical cooperation for the preparation of a Guideline and the Internal Manual of the Program of exemption benefits and reduction of administrative sanctions.

66. IDB tendered the "*Consultancy for the Development of Capacities in Leniency and Strengthening of the Costa Rican Competition Authorities*"; for the development of the "*Guidelines to the program of benefits of exemption and reduction of administrative sanctions*" and the "*Internal Manual of the program of benefits of exemption and reduction of administrative sanctions*".

67. On November 19, 2020, a virtual meeting was held between the national competition authorities and IDB, for the launch of the consultancy contracted by that Bank for the development of the aforementioned Guidelines and Manual. It should be noted that, in collaboration with the Competition Authorities, both instruments were developed by an international.

68. The Guidelines provide economic agents and the general public with the guidelines, requirements and procedures based on which COPROCOM and SUTEL will process the applications for the leniency program, describing the conditions that these applications must meet and indicating how these benefits will be provided.

69. Meanwhile, the "Manual of the program of benefits of exemption and reduction of administrative sanctions" establishes the internal procedure that the corresponding competition authority will follow when receiving a request for application to the program of benefits of exemption and reduction of administrative sanctions. The Manual offers instructions and recommendations to COPROCOM and SUTEL officials to contribute to the effective implementation of the leniency program.

70. On December 10, 2021, the consultant sent the final versions of the Guidelines and the Internal Manual of the Program of exemption benefits and reduction of administrative sanctions, in order to start the public consultation process.

71. Both instruments are expected to be officially approved by COPROCOM and SUTEL in the course of 2022.

Manual for detecting collusive tendering

72. In accordance with the aforementioned official letter N° CID/CCR/ 772/ 2021 (NI-09224-2021), IDB reported that it had allocated technical assistance resources to meet the competition needs of SUTEL, specifically in relation to the Manual for detecting collusive tendering (instrument to be shared with COPROCOM); technical cooperation that was formally approved by IDB as communicated on October 20, 2021 by that Bank.

73. On October 26, 2021, a meeting was held between IDB, COPROCOM and SUTEL staff to coordinate the next steps. At that meeting they agreed that this Manual would be processed during 2022.

Government proposals for new legislation

74. There are no other legal provisions to report for the year 2021.

2. Enforcement of competition laws and policies

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

2.1.1. Bidding conditions (cartels) and agreements.

COPROCOM.

75. In 2021, the COPROCOM Research Unit launched three preliminary investigations into alleged absolute monopolistic practices, one of them because of an alleged agreement on the sale price of the flowers, and the remaining two relate to alleged collusive tendering in the construction of public works and the supervision services of those works. All of them are currently at the preliminary investigation stage.

76. In addition, progress was made in the investigation phase of the proceedings against nine rice manufacturers for an alleged absolute monopolistic practices that is currently in the decision-making phase. This case arises from an agreement to refuse to buy or sell goods or services allegedly with the intention of coercing the Government in order to obtain an increase in the fixed price of the grain.

77. In 2021, a preliminary investigation was concluded in the market for the television broadcast of men's soccer in the first division, dismissing the case for finding no evidence of collusive conduct, or of an omission of concentration. However, the investigation was very useful to study the changes that are occurring in sports broadcasts, as well as to determine the need to analyze whether the regulation of this market corresponds and to monitor it for the particularities it presents.

SUTEL

78. In 2021, SUTEL opened a special procedure ex officio (file No. GCO-OTC-PM-01538-2021), for the alleged execution of absolute monopolistic practices, in the figure of a collusive tendering, in a tender for the allocation of frequencies of the radio spectrum (narrow band). This special procedure is currently underway, in the investigation stage.

2.1.2. Dominant position abuses and vertical restraints.

79. Regarding the abuse of a dominant position, in 2021 the competition authorities resolved some relevant cases, and initiated new ones, as follows:

COPROCOM.

80. In 2021, the COPROCOM Investigations Unit launched three investigations into alleged monopolistic practices. File N° 08-2021-D investigated whether a bank made credit benefits in exchange for the transfer of insurance services to that bank. The case was dismissed at the beginning of 2022 on the grounds that the defendant did not have substantial power in the relevant market.

81. The case in which it is sought to determine whether a leading company in the sale of paper products for personal hygiene, has allegedly signed contracts with public institutions supplying its products "for free" in exchange for acquiring its brand for several years continues in the investigation phase.

82. In addition, a case in which an investigation is being carried out into whether a state entity, abusing a rule that guarantees the supply of food and other items to all state entities,

has established exclusive advantages for a few suppliers to the detriment of the competition in that market.

83. In addition, it was recommended to initiate the instruction stage in the proceeding against the Liga Agrícola Industrial de la Caña (LAICA) [Industrial Sugar Cane Agricultural League] because of the alleged breach of commitments established in the early termination procedure for the alleged implementation of relative monopolistic practices.

84. Finally, it should be noted that file N° 074-19-D was closed and the case in which BOSH was accused of imposing conditions on the distribution of products to its former exclusive distributor was dismissed. It should be noted that the complaint is filed after the company eliminated the exclusive distribution of its products in the country.

SUTEL

85. The telecommunications market is a network industry and complaints or queries relating to limitations or difficulties in contracting a service from a particular telecommunications operator are frequently made.

86. The scenarios that demonstrate the above are files N° C0649-STT-MOT-PM-01070-2019 and N° C0649-STT-MOT-PM-01075-2019, in which, based on complaints filed by users allegedly affected, two preliminary⁵ investigations were ordered, because there are presumptions of an alleged exclusivity or unique brand agreement in two residential condominiums. Once that investigation phase was over, SUTEL Council ordered the formal commencement of two ordinary administrative procedures (resolutions N° RCS-240-2020 and N° RCS-278-2020) which ended in 2021 following requests for early termination with offers of commitments made by the investigated company and which were accepted by SUTEL Council (resolutions N° RCS-249-2021, N° RCS-110-2021 and N° RCS-161-2021).

87. Likewise, in 2021, the Investigations Unit recommended the beginning of the investigation phase of the special procedure of file No. GCO-OTC-PM-00695-2020 (resolution No. ROTC-SUTEL-00069-2021), as there are indications of a possible agreement refusal, narrowing of margins or exclusivity, in a residential condominium. Such recommendation was accepted by the Instruction Unit (N° ROTC-00076-SUTEL-2021) and the instruction phase is currently in process.

88. On the other hand, in 2021 the Investigations Unit ordered the initiation of three special procedures (Resolutions No. ROTC-00021-SUTEL-2021, No. ROTC-00075-SUTEL-2021 and No. ROTC-00001-SUTEL-2021) for possible relative practices in the wholesale market for access to poles, as well as in access to support infrastructure for the installation of telecommunications networks in condominiums (Files No. GCO-OTC-PM-00467-2021, No. GCO-OTC-PM-01488-2021 and No. GCO-OTC-PM-01346-2021). These files are currently under investigation.

89. In the same reporting period, SUTEL conducted the closure, without sanction, of three investigations regarding relative monopolistic practices in the shared telecommunications infrastructure market (files N° GCO-OTC-PM-01580-2020, N° GCO-OTC-PM-01233-2021 and N° GCO-OTC-PM-01339-2021), whereas in all three cases the formalities for the filing of complaints provided by Law N° 9736 were not complied with

⁵ Preliminary investigations under the regulations of the General Law of the Public Administration as ordered by Transitional provision V of Law N° 9736, since the complaints were filed before the validity of the same Law

(resolutions N° 03582-SUTEL-OTC-2021, N° ROTC-00061-SUTEL-2021 and N° ROTC-00070-SUTEL-2021).

90. In addition, a special procedure was opened in 2020 (Case N° GCO-OTC-CNN-00344-2020), following a complaint by the alleged execution of a non-notified merger in the market for radio and television broadcasting services, which was concluded without sanction in 2021 (resolution N° ROTC-00052-SUTEL-2021).

91. Finally, in 2021 a special procedure was opened ex officio (resolution N° ROTC-00023-SUTEL-2021), which is currently in the investigation stage, by the alleged execution of an unnotified merger in the market for internet, pay-tv and landline services (file N° GCO-OTC-CNN-00500-2021).

2.1.3. Summary of activities of the Competition Authorities

COPROCOM.

92. The following table summarizes the work of COPROCOM in the application of competition law.

Table 2. Costa Rica: Actions to apply competition law by COPROCOM. 2021

File N°	Markets	Conducts	Resolution	Status
FILES UNDER INVESTIGATION				
074-2019-D	Vehicles spare parts	Vertical Restriction (Imposition of conditions)	RES-INV-21-2021	Completed
007-2020-IO	Soccer broadcasts	Cartel (Production volume agreement/failure of merger notification)	RES-INV-19-2021	Completed
029-2020-D	Engineering services	Cartel (Collusive tendering)	RES-INV-16-2021	Completed
014-2020-D	Sports content for Pay TV	Vertical Restriction (Imposition of conditions)	RES-INV-10-2021	Investigation stage
075-2020-D	Sugar	Breach of conditions	N/A	Moved to instruction (pre-trial) stage
001-2021-IO	Vehicles	Merger execution	RES-INV-01-2021	Investigation stage
002-2021-D	Flowers	Cartel (Price agreement)	RES-INV-02-2021	Investigation stage
008-2021-D	Insurance	Vertical Restriction (Discount conditioned to the acquisition of another product)	RES-INV-08-2021	Investigation stage
022-2021-IO	Supermarkets	Failure of merger notification	RES-INV-11-2021	Investigation stage
041-2021-IO	Public works construction	Cartel (Collusive tendering)	RES-INV-14-2021	Investigation stage
051-2021-D	Pork meat	Cartel (Price agreement)	RES-INV-20-2021	Investigation stage
065-2021-D	Public works supervision	Cartel (Collusive tendering)	RES-INV-22-2021	Investigation stage
071-2021-D	Coffee	Cartel (Agreement to restrict production)	RES-INV-25-2021	Completed
072-2021-D	Agricultural products	Vertical Restriction (Imposition of conditions, entry restriction)	RES-INV-23-2021	Investigation stage
073-2021	Paper and cleaning products	Vertical Restriction (Exclusivity)	RES-INV-24-2021	Investigation stage
FILES UNDER INSTRUCTION				
075-20-D	Sugar	Breach of commitments		Instruction stage: pending

		imposed by anticompetitive behavior.		preparatory hearing.
FILES UNDER RESOLUTION STAGE				
Procedure with Law N° 7472				
08-2019-IO	Radio content and advertising space sales.	Merger not notified	Vote N° 049-2020	Pending resolution of appeals for reconsideration
Procedures with Law N° 9736				
072-2019-PO	Paddy rice	Cartel (Agreement to refuse to buy or sell goods or services)	RES-INSTRUCCIÓN-N° 01-2020	Pending oral and private hearing to issue final resolution.

SUTEL

93. The following table summarizes the work of SUTEL in the application of competition law.

Table 1. Costa Rica: Actions to apply competition law by SUTEL. 2021

Files under Investigation					
File N°	Markets	Conducts	Companies	Resolution	Status
GCO-OTC-PM-01538-2021	Narrow band spectrum	Cartel (Collusive tendering)	Confidential*	ROTC-00071-SUTEL-2021	Investigation phase
GCO-OTC-PM-00467-2021	Shared telecommunications infrastructure	Vertical restraints (agreement refusal /restrain competition)	Confidential*	ROTC-00021-SUTEL-2021	Investigation phase
GCO-OTC-PM-01488-2021	Shared telecommunications infrastructure	Vertical restraints (agreement refusal/exclusivity, restrain competition)	Confidential*	ROTC-00075-SUTEL-2021	Investigation phase
GCO-OTC-PM-01346-2021	Shared telecommunications infrastructure	Vertical restraints (agreement refusal/exclusivity, restrain competition)	Confidential*	ROTC-00001-SUTEL-2021	Investigation phase
GCO-OTC-PM-01580-2020	Shared telecommunications infrastructure	Vertical restraints (agreement refusal/exclusivity, restrain competition)	Eurohogar	03582-SUTEL-OTC-2021	Completed
GCO-OTC-PM-01233-2021	Shared telecommunications infrastructure	Vertical restraints (agreement refusal/exclusivity, restrain competition)	Fibernet- Conexus	ROTC-00061-SUTEL-2021	Completed
GCO-OTC-PM-01339-2021	Shared telecommunications infrastructure	Vertical restraints (agreement refusal/exclusivity, restrain competition)	Cabletica S.A.	ROTC-00070-SUTEL-2021	Completed
GCO-OTC-CNN-00344-2020	Radio and television broadcasting services	Unnotified merger	Representaciones Televisivas REPRETEL S.A. Televisora de Costa Rica S.A. Los XI Titulares del Domingo LXITD S.A.	ROTC-00052-SUTEL-2021	Completed
GCO-OTC-CNN-00500-2021	Internet, Pay TV, landline	Unnotified merger	Confidential*	ROTC-00023-SUTEL-2021	Investigation phase
Files under Instruction					
C0649-STT-MOT-PM-01070-2019	Pay TV, landline and home internet	Vertical restraints (Exclusivity/Single Brand)	CONECTA DEVELOPMENTS S.A.	RCS-249-2021	Completed
C0649-STT-MOT-PM-01075-2019	Pay TV, landline and home internet	Vertical restraints (Exclusivity/Single Brand)	CONECTA DEVELOPMENTS S.A.	RCS-110-2021 RCS-161-2021	Completed
GCO-OTC-PM-00695-2020	Common use telecommunications infrastructure, Pay TV, Landline and home internet	Abuse of dominant position (Margins narrowing) Vertical restraints (Agreement refusal, exclusivity)	ESPH	ROTC-SUTEL-00069-2021 ROTC-00076-SUTEL-2021	Instruction Phase

Note: Reserved data, as it is in the Investigation phase (according to article 38 of Law No. 9736).

2.1.4. Judicial review

COPROCOM

94. The following table summarizes the judicial reviews of jurisdiction resolutions.

Table 2. Costa Rica: Judicial reviews on jurisdiction decisions issued. 2021C

COPROCOM

Judicial Resolution	Administrative Resolution	Conduct	Companies	Judicial Review
No 20-1006-1027-CA, Administrative and Civil Court of Finance	Vote COPROCOM N° 91-2018	Vertical conduct, in accordance with article 12 of Law 7472.	4 companies in the medicines market	In the knowledge of the Courts of Justice, since the plaintiff companies presented a process of knowledge against Vote 91-2018, and extension of allegations of the main claim.
Judicial File No. 19-007808-1027-CA-9 and Accumulated 20-000569-1027-CA Contentious Administrative Tribunal	Vote COPROCOM N° 93-2018	Refusal of merger authorization.	Companies in the retail supply market (supermarkets)	In the knowledge of the Courts, the claim filed by COMECA RETAIL S.A. was answered and the accumulation of the processes was approved. A hearing was set for May 23, 2022.

SUTEL

95. In the case of SUTEL, there were no judicial reviews in 2021 to report.

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

COPROCOM

96. In 2021, 19 complaints were received, eleven of which were closed as inadmissible and five investigations were initiated in response to six of the complaints filed, one of which, because it referred to the same facts that were investigated in another, the file was accumulated to the investigation previously initiated. In addition, two complaints remained unresolved since they were filed in the last working days of December.

97. Among the most representative cases that managed to pass to the instruction (pre-trial) stage, the following are cited:

- Recommendation to start the instruction stage in investigation on alleged absolute monopolistic practice in the rice market.

98. The COPROCOM Investigations Unit began the investigation stage in the rice market, on the occasion of a journalistic note dated December 4, 2019, in relation to an alleged agreement between rice industrials to suspend the purchase of grain from national producers as a measure of pressure for the Government to increase the sale price of the product to the consumer. The investigation stage concluded that there were indications of the realization of an absolute monopolistic practice by a group of industrial competitors among themselves, therefore it recommended the beginning of the instruction stage.

99. According to the report of that Unit, two agreements of the Agroindustrial Assemblies and the subsequent agreement adopted by the Board of Directors of *Corporación Arrocera Nacional* (CONARROZ) [National Rice Corporation], would constitute the basis for filing charges to 9 companies dedicated to the processing of paddy rice, all representatives of the Agro-industrial Rice Sector of the country.

100. The recommendation of the Investigation Unit was accepted, so that currently the procedure has gone through the instruction stage and is in the decision-making stage. The Superior Body of COPROCOM has a maximum period of 7 months to issue the final resolution.

- Recommendation to start the instruction stage in the investigation on alleged breach of company conditions in the sugar market.

101. In order to bring an administrative procedure to an early end for allegedly engaging in relative monopolistic practices, the commitment procedures of Liga Agrícola Industrial de la Caña de Azúcar (LAICA) [Industrial Sugar Cane Agricultural League] to COPROCOM were to fulfil a set of commitments within certain deadlines. The conduct investigated in the proceedings related to exclusive contracts for the purchase of sugar and the granting of benefits to its customers for the same purpose. In the follow-up to those conditions, it was found that some of those commitments which had been accepted by the competition authority to conclude the proceedings had apparently been breached, leading to the initiation of the investigation stage.

102. After the investigation was carried out, it was determined that there were sufficient elements to initiate the investigation stage for an alleged breach of conditions by LAICA. Thus, on November 4, 2021, the recommendation for the beginning of that stage was carried forward. The alleged breach relates specifically to the content of the information to be made public in a national newspaper and in a note to all its customers, in relation to the commitments they made after the early termination of the procedure. The investigation appears to indicate a change in the wording of the commitments accepted by COPROCOM with the apparent intention of LAICA to confuse its wholesale customers, competitors and citizens, in relation to the terms under which the proceeding against this economic agent was filed.

103. The recommendation of the Investigation Unit was received and the case is currently under the instruction stage.

SUTEL

104. In 2019, several complaints were received from allegedly affected users, who live in two residential condominiums in which there appeared to be a single telecommunications service provider, the company CONECTA DEVELOPMENTS S.A. and the entry of new competitors was prevented, which led to two investigations⁶.

105. Once that investigation phase was over, the SUTEL Council ordered the formal initiation of two ordinary administrative procedures (Resolutions No. RCS-240-2020 and No. RCS-278-2020), as there were indications of alleged exclusivity or single brand agreement in those condominiums.

106. Both procedures (files No. C0649-STT-MOT-PM-01070-2019 and No. C0649-STT-MOT-PM-01075-2019) culminated in the year 2021 as a result of the investigated

⁶ Investigations stage under the regulations of the General Law of Public Administration as ordered by Transitional provision V of Law No. 9736, since the complaints were filed before the validity of that same Law

company submitting two requests for early termination with commitments procedure, which were accepted by SUTEL Council (Resolutions No. RCS-249-2021 and No. RCS-110-2021).

107. It should be noted that in compliance with the provisions of article 81 of Law No. 9736, in relation to resolution No. RCS-110-2021, SUTEL monitored the execution and compliance with the commitments ordered therein and confirmed its due performance by the requesting company, ordering the early termination of this procedure (Resolution No. RCS-161-2021). Regarding compliance with the commitments established in resolution No. RCS-249-2021, to date SUTEL is in the monitoring stage.

108. It should be noted that these two cases correspond to the first exercise by SUTEL in the application of the figure of commitments procedure, this being a novel tool introduced by Law No. 9736 and whose results to date have been considered satisfactory by the Sectoral Authority.

2.2. Mergers and acquisitions

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

COPROCOM.

109. During the year 2021, COPROCOM received 27 notifications of mergers, in accordance with the provisions of articles 88 to 101 of Law No. 9736; in this sense, it is important to indicate that in the case of the mergers notified, not all of them were resolved in the same year, mainly those that enter after the third week of November; therefore, from the year 2020 there were 7 mergers pending to be resolved in 2021. Similarly, in 2021, as of the cut-off date of this report, there are 5 mergers pending.

110. Thus, Table 4 shows the detail of the total mergers operations processed according to the resolution stage.

Table 3. Merger operations approved by COPROCOM in 2021.

RESULTS	2021
Approved in the First Stage	29
Approved in the Second Stage (without conditions)	2
Approved in the Second Stage (with conditions)	2
Prohibited	0
Withdrawn by parties	0
Filed (they did not meet notification requirements)	0

Source: COPROCOM Concentrations Unit

111. Also, in Table N° 5, detail of the cases of merger notifications approved in 2021:

Table 4. Merger Operations Approved: COPROCOM 2021.

File N°	COMPANIES INVOLVED	AFFECTED MARKETS	VOTE N°
055-2020-CE	Auto Subaru Costa Rica-Purdy Motor Costa Rica.	Automotive Sector	02-2021 07-2021
056-2020-CE	Coopelesca R.L and Compañía Hidroeléctrica Doña Julia S.R.L	Generation, Distribution and Marketing of Electric Power in the North Zone	01-2021
067-2020-CE	Track Link – Bac Credomatic (Cosic)	Technological Applications	03-2021
068-2020-CE	Allied Universal, Topco LLC, G4S PLC y otras.	Security and Related Services	04-2021
070-2020-CE	Navistar International Corporation and Traton SE	Automotive Sector	10-2021
072-2020-CE	Holcim Costa Rica S.A., 5 natural personas and Quebrador Ochomogo Ltda., and Concretera Nacional S.A.	Manufacture, Distribution and Marketing of Pre-Mixed Concrete	24-2021
073-2020-CE	Holcim Costa Rica, S.A., Agregados Guápiles, S.A. and Agregados Nacionales AN de Costa Rica, S.A.	Extraction, Manufacture and Marketing of Construction Aggregates	24-2021
015-2021-CE	Golden Fields International Services, Inc., Essilor Optica International Holding, S.L. and others	Production and sale of ophthalmic lenses of all kinds.	011-2021
016-2021-CE	Inversiones CH de Panamá, S.A., Latinamerican Hospitality Investment Holdings, Inc. and Inmobiliaria de Hospitalidad San Rafael S.A.	Tourist real estate developments.	014-2021
017-2021-CE	KKR, Telefónica Chile, S.A. and InfraCo SpA	Construction, operation and marketing of fiber optic network infrastructure for the provision of wholesale telecommunications services in Chile.	012-2021
018-2021-CE	Portafolio Inmobiliario Internacional, S.A., Nature Global Holdings, Inc. and Complejo Riverwalk RW, S.A.	Commercial real estate developments.	015-2021
020-2021-CE	Lucas Ingenieros S.R.L. and Lucas Ingenieros México, S de R.L. de C.V. and ADT Security Services, S.A.	Construction and electromechanical engineering. Design, installation and on-site inspection of air conditioning systems	013-2021
023-2021-CE	Agroindustrial Piñas del Bosque, S.A., 1 natural person and Inmobiliaria Nueva Veragua, S.A.	Fruit production and export in Costa Rica.	019-2021
024-2021-CE	Total Produce PLC and Dole	Marketing of fresh fruit and vegetables.	018-2021
025-2021-CE	Bain Capital Investors L.L.C. and Cinven Capital Management (VII) General Partner Limited, Lonza Group AG and Lonza Specialty Ingredients (LSI)	Biocidal products for final hygiene uses.	017-2021
027-2021-CE	Compañía Arrocería Industrial, S.A. and Comercios de El Barreal, S.A.	Groceries	016-2021
028-2021-CE	Almacenes El Colono S.A., Ferreterías Comaco del Norte S.A., and others	Retail marketing of construction materials, hardware and finishing materials.	25-2021 41-2021
031-2021-CE	Compañía de Galletas Pozuelo DCR, S.A., Compañía Americana de Helados, S.A., and others	Import, production and distribution of animal feed.	020-2021
033-2021-CE	Toyota Financial Services Corporation, Mitsui & Co. LTD. and MAF Colombia S.A.S.	Automotive loans for consumers in Colombia.	021-2021
034-2021-CE	Almacenes El Colono S.A. y F and F Ferretería, S.A.	Retail marketing of construction materials, hardware and finishing materials in Cartago.	026-2021 029-2021
035-2021-CE	Casanay Desarrollos, S.L.U., 3 personas físicas and Precision Concepts Costa Rica, S.A.	Assembly and export of medical devices for original manufacturers and to a lesser extent electrical assemblies for the automotive industry	027-2021

036-2021-CE	Three, Four, Five, S.R.L. and Thule de Centroamérica, S.A.	Accessories for Transfer of Sports equipment and General Cargo, Backpacks, Bags and Luggage (Packs, Bags & Luggage) and Active with children.	022-2021
046-2021-CE	Sky Parent Inc, KKR & Co. and Clayton, Dubilier & Rice Fund XI, L.P. (CD&R).	IT Services	028-2021
058-2021-CE	Sistemas Logísticos Caribeños, S.A. (Sislocar) and Almacenes Generales Quirós, S.A. (AGQ)	Warehousing of goods of different customers with diverse economic activities (Bonded warehouses)	032-2021
060-2021-CE	Azko Nobel Coatings International B.V. and Grupo Orbis	Paints and coatings, polymers and retail in hardware stores and specialized stores.	035-2021
061-2021-CE	KKR Alhambra Aggregator L.P. (KKR), Colombia Telecomunicaciones S.A. ESP BIC (Telefónica Colombia) and InfraCo SAS (InfraCo)	Operation and marketing of fiber optic network infrastructure to supply wholesale telecommunications services in Colombia.	030-2021
066-2021-CE	Zurich Hotel Investments BV, Casablanca Global Intermediate Holdings LP, Casablanca Global GP Limited and Hyatt Hotels Corporation	Hotel accommodation	033-2021
067-2021-CE	Whole Foods Markets S.A., Distribuidora Florex Centroamericana S.A. and Florex Productos de Limpieza S.A.	Cleaning and disinfection products intended for use in homes, institutions, offices and shopping centers, hotel business, hospitality, restaurants and associated services, laundry, and industrial, in the food and health industry segments..	034-2021
069-2021-CE	Discovery Inc., AT&T and Warner Media	Production and supply of audiovisual content; cinematographic distribution of films; Licensing of audiovisual content; Production and distribution of video games; and others.	039-2021
070-2021-CE	Chariot Buyer LLC, The Duchossois Group, Inc., Duchossois Real Estate LLC and others	Residential and commercial entry automation systems: garage door openers; Leveling systems for loading platforms and Access control systems and their accessories	036-2021
083-2021-CE	Ionesco Bidco Pte. S.L., Slater Pte. Limitado and Interplex Holdings Pte. S.L.	Advanced application development and manufacturing solutions for complex precision mechanical and electromechanical components and assemblies.	040-2021
085-2021-CE	Troy Corporation and Arxada AG	Dry film biocides.	043-2021
090-2021-CE	Assa Compañía de Seguros, S.A. and Triple -S-Blue, Inc I.I.,	Insurance market in Costa Rica, specifically in the life and health insurance segments.	044-2021

Source: COPROCOM Concentrations Unit

SUTEL

112. In 2021, SUTEL completed the processing of merger review that was notified in 2020, as shown in the following Table:

Table 5. Costa Rica: Mergers and acquisitions revised by SUTEL. 2021

File N°	Market	Parties	Vote N°
T0053-STT-MOT-CN-01697-2020	Mobile telephone service, pay-tv services, residential internet access and landline	Cabletica S.A. (Liberty) and Telefónica de Costa Rica TC S.A. (Movistar)	RCS-321-2020 (I Phase) RCS-106-2021 (II Phase)

2.2.2. Summary of important cases

COPROCOM

113. Two of the most relevant ones are indicated below and they were conditioned for approval.

- Almacenes El Colono S.A. mergers (Administrative Files N° 028-2021-CE y N° 034-2021-CE)

114. On May 14, 2021, a merger notification was received for examination by means of which Almacenes El Colono, S.A. (Buyer), acquires through a purchase and sale agreement for the sale of a commercial facility, three commercial premises called Ferretería Comaco (Target company), dedicated to the retail sale of hardware products, construction materials, products and finishes for the home in the Guanacaste province, Santa Cruz county, in the districts of Tamarindo (Cruce Villarreal), Tempate (Huacas) and Cabo Vela (Flamingo).

115. With the closure of the operation, the Seller (companies that own the hardware stores) quits the hardware and finishing business for construction and Almacenes El Colono acquires control of the hardware stores. This transaction was registered under Administrative File N° 028-2021-EC. This transaction was classified as horizontal and the market of interest defined in the First Phase of analysis was the “*Marketing of construction materials and hardware goods in the county of Santa Cruz in the province of Guanacaste.*”

116. Subsequently, on June 2, 2021, Almacenes El Colono, S.A. notifies COPROCOM of another operation, registered under Administrative File N° 034-2021-CE, which consists in the acquisition, through a purchase and sale agreement of a commercial facility, of a hardware store located in the province of Cartago called F y F Ferretería (Target company).

117. This second transaction, like that of the Administrative File N° 028-2021-CE, was classified as horizontal given that the commercial activities of the Buyer and Seller economic group (FyF Ferretería, S.A.) overlap in the marketing of construction materials and hardware.

118. The geographical dimension in this case differed from the one established for Administrative File N° 028-2021-EC, since the Seller only had premises in the province of Cartago and the distances were considered significant, so that the market of interest in this transaction was defined in First Phase as the “*Marketing of construction materials and hardware in the counties of Downtown Cartago, Paraíso, La Unión, Alvarado, Oreamuno, El Guarco and Jiménez (Juan Viñas and Tucurrique districts) in the province of Cartago, as well as the counties of Vasquez de Coronado, Goicoechea, Montes de Oca, Moravia, Curridabat, Desamparados and Downtown San José (districts Carmen, Catedral, Zapote, San Francisco de Dos Ríos and San Sebastián) in the province of San José.*”

119. Regarding the analysis of the effects derived from both transactions, although the existence of substantial power by the entity resulting from the merger was not determined, it was considered that the only point that could be contrary to competition was the

establishment of a five-year non-competition clause, which was deemed unreasonable and disproportionate mainly because both transactions did not incorporate goodwill or loyal customers, among other aspects analyzed.

120. Due to the foregoing, the transaction analyzed under Administrative File No. 028-2021-CE was approved in the Second Phase by Vote No. 041-2021, contained in Article Seven of the Minutes of Ordinary Session No. 45-2021, on November 19, 2021, subject to the commitment to reduce the non-competition clause to two years, which was deemed reasonable and proportional because the conditions of competition in the Guanacaste region were considered more restrictive.

121. Regarding the transaction analyzed under Administrative File No. 034-2021-CE, it was approved in the Second Phase by VOTE No. 029-2021, contained in Article Five, of the Minutes of Ordinary Session No. 38-2021, dated September 14, 2021, subject to the commitment to reduce the non-competition clause, to period of three years, considering mainly the number of current and potential competitors present in the area defined as being of interest.

- Holcim Costa Rica, S.A mergers (Administrative Files N° 072-2020-CE y N° 073-2020-CE)

122. On December 23, 2020, Merger Notifications were received for examination, consisting of:

- The acquisition of 51% of the share capital of the entity Concretera Nacional, S.A. (Target company) by Holcim Costa Rica, S.A. (Buyer) to five natural persons and Quebrador Ochomogo, Limitada (Sellers); under Administrative File N° 072-2020-EC.
- The acquisition of 11% of the share capital of Agregados Guápiles, S.A. (Target company) by Holcim Costa Rica, S.A. (Buyer) to Agregados Nacionales AN de Costa Rica, S.A. (Seller), with which Holcim Costa Rica, S.A., would hold 51% of the share capital of Agregados Guápiles, S.A.; under Administrative File N° 073-2020-CE.

123. These transactions were analyzed jointly because of the links between the parties, since Holcim Costa Rica, S.A. owned shares in the company Agregados Guápiles, S.A. and a part of the economic group of the latter had shares in Concretera Nacional.

124. The transaction between Holcim Costa Rica, S.A. and Concretera Nacional was classified as vertical, because the main commercial activity of the Buyer in the country revolves around the manufacture and marketing of cement, which is the main input for the production of premixed concrete, main activity of the Target company, which was founded in the year 2016 by a group of former collaborators of the Buyer, when the latter decided to separate the pre-mixed concrete operation from its line of business.

125. In a First Phase of analysis, two markets of interest were determined: “*Manufacture and marketing of cement in Costa Rica*” and “*Manufacture, distribution and marketing of pre-mixed concrete in Costa Rica*”.

126. Meanwhile, the transaction between Holcim Costa Rica, S.A. and Agregados Nacionales, S.A., was classified as conglomerate since the aggregates for construction, which constituted the commercial activity of the Target company were not part of the cement production process or vice versa, and both were inputs in the production of pre-mixed concrete. In addition, it was determined that the transaction showed an increase in the shareholding within the Target company.

127. In this case, two markets of interest were determined in a First Phase of analysis: *“Manufacture and marketing of cement in Costa Rica”* and *“Extraction, manufacture and marketing of aggregates for construction in Costa Rica.”*

128. From the First Phase analysis, COPROCOM considered that there were indications that Holcim Costa Rica, S.A. could have a position of power in the cement manufacturing and marketing market at national level, since it is one of the two largest producers in the country (this market has oligopolistic conditions), with a share of approximately 50%, with the possibility of strengthening this position by integrating itself in a downward fashion into the manufacturing market, distribution and marketing of pre-mixed concrete.

129. In addition, the presence of significant entry barriers in that market, as well as the existence of few competitors with limited ability to exert competitive pressure on the Buyer, granted Holcim Costa Rica a relevant position in the market for manufacturing and marketing cement, which could allow it to block, even partially, access to this input for Concretera Nacional’s competitors in the downstream market.

130. Additionally, it was considered that since there was another vertically integrated company upstream (CEMEX) in the pre-mixed concrete manufacturing, distribution and marketing market, in the event of vertical integration between Concretera Nacional and Holcim Costa Rica, the risk of coordinated effects could increase because there would be two participants in this market vertically integrated upstream, which would contribute to a greater symmetry between the activities of the companies.

131. Moreover, in the case of the transaction analyzed under Administrative File N° 073-2020-EC it was considered that portfolio effects could eventually arise, due to the relationship of complementary goods between the cement produced by Holcim Costa Rica, S.A. and the aggregates for construction elaborated by Agregados Guápiles, S.A., and could generate incentives for the realization of anti-competitive strategies like tying and bundling sales or mixed tying sales.

132. In the second Phase, COPROCOM redefined the relevant markets, narrowing the geographical scope in the markets of aggregates for construction and pre-mixed concrete. For the first one, the Central and Atlantic Huetar regions were delimited, while for the second one, the area of interest was defined as the Greater Metropolitan Area.

133. As a result of the analysis of the proposal of commitments, submitted by the parties, by Vote No 024-2021, contained in Article Six, of the Minutes of the Ordinary Session No 27-2021, of July 15, 2021, the Superior Body ruled:

- Approve without conditions the transaction analyzed under Administrative File No. 073-2020-CE between Holcim Costa Rica, S.A. and Agregados Nacionales, S.A., since no incentives were identified by the Buyer to engage in practices such as tying sales.
- Approve the transaction analyzed under Administrative File No. 072-2020-CE that involved Holcim Costa Rica, S.A. and Concretera Nacional, S.A. subject to compliance with the following commitments:
 - Express commitment not to generate a policy of discounts, agreement refusal, or treatment that could be considered discriminatory.
 - Implementation of a compliance policy in free competition by Concretera Nacional.
 - Obligation to carry out training for personnel in matters of free competition, delivering certifications thereof to COPROCOM.

- For the valuation of the previous commitments, reports were requested (with exclusive access to COPROCOM), every six months for five years, containing information on variables of interest to monitor the effects of the transaction on the market.

SUTEL

134. During the years 2020 and 2021, SUTEL only processed the merger between the companies Telefónica de Costa Rica TC S.A. (Movistar) and Cabletica S.A. (File No. T0053-STT-MOT-CN-01697-2020), which corresponded to an acquisition of 100% of the share capital of the second operator in the mobile telecommunications market, by the second operator in the fixed residential internet access market.

135. The transaction was determined to have horizontal, vertical and conglomerate effects. However, the concerns of the sector authority that led to the opening of the second phase focused on the conglomerate effects at the level of mobile telecommunications and fixed services, according to resolution No. RCS-321-2020.

136. This merger was resolved in the second phase by resolution No. RCS-106-2021, without the imposition of remedies.

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

3.1. Opinions on competition

3.1.1. COPROCOM

137. COPROCOM issued 34 opinions throughout 2021 on various topics. Of these, 80% (27) were issued at the request of a party, which shows the importance of the competition authority as a consultation body for users. It is of interest to analyze the change experienced in 2021 in relation to the nature of those who request criteria from COPROCOM. In 2021, the number of public entities, as well as the number of professional or business associations requesting the opinion of the Competition Authority, is significantly higher than in the previous year. However, inquiries from sector regulators fell sharply in 2021.

138. The following table shows a comparison of the opinions issued by COPROCOM according to the legal instrument analyzed.

Table 6. Opinions Issued according to the Legal Instrument Analyzed 2021

LEGAL INSTRUMENT	2021
Bills of Law	9
Draft Regulation	7
Prevailing Regulations	4
Competing Markets	3
Administrative Acts	2
Sectoral and Market Studies	2
Draft Guideline	1
Export Licenses	0
Tenders	0
Regulated Sectors	1

Others	5
Total	34

Source: Promotion and Investigations Unit

139. The opinions issued by COPROCOM during the year 2021 covered the most diverse topics from digital platforms, liquefied petroleum gas, advertising agencies, hardware stores and telecommunications, among others. However, it should be noted that on some issues that are especially relevant to the country, the competition authority issued various opinions. These markets are detailed in the following table.

Table 7. Markets with the highest number of opinions issued. 2021

Market	Opinions issued
Rice	3
Public Transport (Buses)	3
Administrative Procurement	3
Vehicle technical review	2

Source: Promotion and Investigations Unit

140. Below is the detail of the opinions issued during the year 2021:

Table 8. Opinions on regulations, draft regulations and bills of law issued by COPROCOM 2021

OPINION N°	ISSUE OR CASE	RESULT
01-2021	Bill of Law N° 22.142, "Law for the Regulation of the Commissions Charged by the Digital Platforms of Delivery Services".	An unfavorable opinion was expressed and the bill has not advanced in the Legislative Assembly and is about to expire.
02-2021	Modifications to the General Regulation for the Regulation of the Supply of Liquefied Petroleum Gas and the General Regulation for Sanitary Operating Authorizations and Permits Granted by the Ministry of Health.	COPROCOM's comments were considered by different public authorities.
03-2021	Bill of Law N° 20.681, Reform Bill in the Organic Law of Professionals in Nutrition.	Unfavorable judgement was issued and the bill was filed.
04-2021	Exceptions to ordinary procurement procedures and their impact on commercial communication activity	COPROCOM's observations were considered in the drafting of the new Administrative Procurement Law.
05-2021	Parallel imports.	Recommendations are issued.
06-2021	Compulsory medical insurance proposal for receptive tourism.	An unfavorable judgement was issued and the proposal was filed by the consulting institution.
07-2021	Bill of Law N° 22.417: Modification of Law No. 8285, Law for the Creation of the Rice Corporation to guarantee the participation of consumers.	Recommendations are issued to be included into the proposal. It is still under discussion in the legislative agenda.
08-2021	SUTEL Request: Merger notification filing submitted by Telefónica de Costa Rica TC S.A. and Cabletica S.A.	A favorable judgement was issued and the operation was authorized by SUTEL.
09-2021	Commercial practice called "push money" in the hardware sector.	As it is an eventual relative monopolistic practice, it is recommended to file a complaint if the legal requirements are met.
10-2021	Amendment to Executive Decree No. 37899-MEIC regarding the regulation of the price of rice.	It was considered that the reform exceeded the provisions of the law and it was intended to introduce discretionary, subjective and unclear precepts that benefit the maintenance of the regulation. The reform has not been approved by the Executive.
11-2021	Draft Executive Decree updating the pricing of rice.	The MEIC is once again recommended to eliminate the price of rice, as it has done on many occasions in the past.
12-2021	Regulations governing International Liner Shipping in Costa Rica	Recommendations were made to the Executive to annul the "Code of Conduct for Maritime Conferences. It is still being studied by the Executive Branch.
13-2021	Proposal to reform the "Regulation to Art.12 of the Law on Incentives for Industrial Production (Law No. 7017)" to grant additional points to SMEs in public procurement.	The filing of the proposal was recommended, however, the Executive Branch continued and approved the reform.
14-2021	Fixing the Minimum Price of the Banana Box	What was indicated in 2019 was reiterated, regarding the fact that the conditions for the establishment of the minimum price measure do not exist and the MEIC is therefore requested to eliminate it.
15-2021	Regulation of articles 68, 69 and 70 of the General Law of Administrative Procurement No. 9986.	Recommendations were made to improve the proposed regulation.
16-2021	"Guideline for the constitution and application of operating consortiums in accordance with article 14 of Law 3503" issued by the Public Transport Council.	The CTP was asked to desist from issuing the instrument. An agreement between the two authorities is currently being worked on.
17-2021	Regulation on Barbershops, Hairdressers, Beauty Parlors and the like (Decree No. 42942-S).	To eliminate an unjustified barrier was recommended and it was finally derogated.
18-2021	Bill of Law called N° 22280 "Incorporation of the figure of homologation of sanitary records of medicines, supplements, cosmetics, food and equipment and biometric material from countries that are part of the Organization for Economic Cooperation and Development (OECD) with health standards equal to or higher than those of Costa Rica".	A favorable opinion was issued regarding the project that is about to be approved.

19-2021	Public Tender 2020LN-000002-0009100001, "Framework Agreement for Infrastructure Services with Own Funds".	The Administration in charge of this framework agreement was requested to reconsider its execution. - Given this, the Minister of Finance ordered the procedure that limited competition in public procurement to be reversed.
20-2021	Import of Used Cars.	It was considered that the legislation in question did not introduce unjustified barriers to the importation of used vehicles.
21-2021	Regulation to Law N° 2762, Law on the Regime of Relations between Producers, Millers and Exporters of Coffee.	Recommendations were made to improve the text in accordance with the principles of competition and free competition. The regulations have not yet been issued.
22-2021	Competition regime of the National Liquor Factory (FANAL) and the Institutional Supply Program (PAI) of the National Production Council (CNP), for the purposes of the application of the tax rule.	The competition regime in which they operate was indicated, it is up to the Ministry of Finance to determine the application of the tax rule.
23-2021	Bill of Law No. 22306: Amendment to the Law on Patents for Inventions, Industrial Designs and Models and Utility Models No. 6867 to Update the Regulation on Compulsory Licenses for the Benefit of Public Health.	The bill of law is currently under discussion in the Legislative Assembly.
24-2021	Public Transport Bus mode.	It was indicated that the consecutive renewal of concessions for the provision of the service harms the process of free competition in the "competition for the market" and it was requested to establish a limit to the successive renewals of concessions, as well as to carry out public tender processes for the granting of concessions for the provision of these services.
25-2021	Competition Regime of Empresa Hidroeléctrica Los Negros S.A. for the purposes of applying the tax rule.	The competition regime in which it operates was indicated, it is up to the Ministry of Finance to determine the application of the tax rule.
26-2021	Bill of Law N° 22540 amending the Act regulating the paid transport of people in motor vehicles.	A number of adjustments were recommended to the Legislative Assembly. The bill of law is in the legislative agenda.
27-2021	Price of the transport service of hydrocarbon derivatives for the supply of public entities.	It was recommended to raise the consultation with the Regulatory Authority of Public Services, since transport of hydrocarbons is a regulated public service.
28-2021	Compliance with thresholds and duty of notification-by an enterprise.	It was determined that the transaction consulted did not meet the notification requirements.
29-2021	Bill of Law N° 22335, amendment to Law N° 7472.	A series of recommendations were sent to the articles. The bill is in the legislative agenda.
30-2021	Competition Regime of the Empresa de Desarrollo de Servicios Inteligentes S.A. (INNOVE S.A.) for the purposes of the application of the Tax Rule.	The competition regime in which it operates was indicated, it is up to the Ministry of Finance to determine the application of the tax rule.
31-2021	Bill of Law No. 21,847, called "Creation of Institutional Commissions for Accessibility and Disability."	A favorable opinion was issued, since from the perspective of competition there were no principles contrary to the regulations.
32-2021	Regulation of the vehicle technical inspection service pursuant to the termination of the existing contract for the provision of that public service.	A series of recommendations are made to the MOPT for the transition of the vehicle technical inspection service from a single provider to one that promotes competition. The government is still defining how this transition will take place.
33-2021	Consultation regarding an alleged "disproportionate" increase in the premiums of the Unemployment Credit Protection Insurance provided by the "INS".	It was determined that, since there were no indications of the conduct punishable under Law 7472, it was not appropriate to take action on the facts consulted.
34-2021	Bill of Law No. 21,492: "Termination of the Vehicle Technical Inspection Monopoly and Creation of a Solidarity Economic Fund to Promote Professional Technical Schools".	Legislators were recommended to archive the bill of law, given that it lacked technical studies and showed gaps and inconsistencies.

Source: Developed by COPROCOM Technical Body.

3.1.2. SUTEL

141. In 2021, SUTEL issued several opinions on bills of law, sectoral regulations and term of reference in tenders process, most of which were requested by the person who proposed them. In each case, SUTEL analyzed whether the proposal consulted had the potential to restrict competition.

142. The following opinions were issued in 2021:

Table 9. Costa Rica: Opinions on regulations, bills of law and others issued by SUTEL. 2021

umber	Issue	Type of measure	Outcome
Agreement 005-021-2021 (document 02471-SUTEL-SCS-2021)	Bill of law File N° 22.333 Law on the Protection of Citizens from Excessive Requirements and Administrative Procedures	Action on request.	The consultation regarding the proposed law was addressed, determining that it does not have the potential to generate barriers to competition among market agents; therefore, the opinion issued was notified to the applicant for his knowledge.
Agreement 002-067-2021 (document 08886-SUTEL-SCS-2021)	Bill of law File N° 22520 Law to Encourage and Promote the Construction of Telecommunications Infrastructure in Costa Rica	Action on request.	The consultation regarding the proposed law was addressed, determining that it does not have the potential to generate barriers to competition among market agents; therefore, the opinion issued was notified to the applicant for his knowledge.
Agreement 014-042-2021 (document 04734-SUTEL-SCS-202)	Espacios Conectados Coto Brus (Coto Brus Connected Public Spaces Program).	Action on request.	The consultation regarding FONATEL public tender No 002-2017 was addressed, determining that the terms of reference in the bidding process do not generate distortions or barriers to competition between market agents; so the opinion issued was notified to the applicant for information.
Agreement 019-056-2021 (document 07564-SUTEL-SCS-2021)	Circular from the General Prosecutor's Office 14-ADM-2020 Cable Theft.	Ex officio action	The General's Office made an addendum to circular N° 14-ADM-2020, under number N° 29-ADM-2020 "Circular Addendum 14-ADM-2020 Procedure for the attention of investigations related to complaints of theft and reception of cable owned by the Costa Rican Electricity Institute (ICE) and other telecommunications operators", extending the scope of that circular to any other telecommunications operator affected by this criminal practice.
Agreement 031-046-2021 (document 05926-SUTEL-SCS-2021)	Tender N° 2021CD-000030-0002700001 "Internet leased line through fiber optic" of the Municipality of Alajuelita	Ex officio action	The comments made to the terms of reference in the bidding process by the Directorate-General for Competition were not followed up, and the Mayor of the Municipality gave the respective motivation for this.
Document 06562-SUTEL-OTC-2021	Public tenders proposal of the Central Region (Alajuela, Cartago, Heredia and San José) promoted by FONATEL	Action on request.	The observations made by the General Directorate of Competition on the bidding conditions promoted by FONATEL were addressed.

Agreement 031-041-2021 (document 04548-SUTEL-SCS-2021)	Spectrum allocation for future deployment of 5G networks from a competition perspective	Ex officio action	In response to the comments made by the Directorate-General for Competition on the proposed regulation, it was stated in Note N° MICITT-DM-OF-554-2021 that: "actions are being taken to recover spectrum, in order to make available to the market the scarce resource available in the registry, through the bidding mechanisms provided for in Law N° 8642, General Law of Telecommunications, for which the recommendation set out in point "VI" of this technical opinion N° 04525-SUTEL-DGC-2021 dated 19 May 2021 would be assessed, as regards the setting in the tender specifications of the respective spectrum caps in future deployments of 5G networks".
Document 03177-SUTEL-OTC-2021	Joint Declaration on e-commerce-WTO	Action on request.	In response to the consultation, it was determined that the articles of the declaration do not contravene national legislation on the promotion and protection of competition; on the contrary, they favor the development of economic and productive capacities aimed at expanding the Costa Rican commercial scope. The opinion was notified to the applicant for information.
Document 04185-SUTEL-OTC-2021	Draft of executive decree on "Technical considerations for the installation of telecommunications infrastructure in the process of construction, improvement, maintenance or rehabilitation of the national road network and railway works"	Action on request.	The observations made by the General Directorate of Competition by the applicant were addressed.
Document 06819-SUTEL-OTC-2021	Proposal for the Regulation of Access and Interconnection of Telecommunications Networks	Action on request.	The consultation regarding the regulatory proposal was addressed, determining that it does not have the potential to generate barriers to competition among market agents; therefore, the opinion issued was notified to the applicant for his knowledge.

4. Resources of competition authorities

4.1. General resources (current amounts and change from previous year):

4.1.1. Annual budget (in your currency and USD)

COPROCOM

143. The budget content for the year 2021, Law No. 9926 allocated was ₡ 699,459,114 (six hundred ninety-nine million four hundred fifty-nine thousand one hundred fourteen colones), equivalent to \$1,084,013 (one million eighty-four thousand thirteen US dollars) to Program 224 "Promotion of Competition".

144. It should be clarified that the amount, allocated for the year 2021, barely covered the remuneration of existing personnel, and was insufficient to meet their new obligations under Law No. 9736. This amount represented approximately 30% of the budget originally determined by the Legislative Assembly through the aforementioned Law.

145. COPROCOM continues to make efforts to obtain the amount of budget necessary to meet the obligations imposed by the new regulations; making it clear to the Ministry of Finance that, while understanding the country's health and economic crisis, it is essential to obtain these resources in order to meet the duties imposed by the current law.

SUTEL

146. SUTEL's annual budget for 2021 was twenty-six thousand five hundred and thirty-two million nine hundred and seventy-three thousand one hundred ninety-eight colones and thirteen cents (C 26.532.973.198,13) which is equivalent to forty-one million one hundred and twenty thousand four hundred and fifty-four dollars and thirty-nine cents (\$41,120,454.39) of which the budget of the Directorate-General for Competition was five hundred forty-three million one hundred ninety-two thousand two hundred forty-one colones (543,192,241.00) , which is equivalent to eight hundred and forty-one thousand eight hundred and thirty-two dollars and twenty-two cents (\$ 841,832.22).

4.1.2. Number of employees (person-years)

COPROCOM

147. COPROCOM, as in the previous year, in 2021 continues with seventeen professional positions, distributed in the three units. Additionally, three full-time commissioners were appointed.

SUTEL

148. In 2021 SUTEL's staff was one hundred and thirty people, of which seven worked directly in the General Directorate of Competition; being three of them lawyers, two economists and an engineer.

149. It should be noted that during 2021 the 2 positions established in the comprehensive restructuring proposal presented by SUTEL to the ARESEP Board of Directors through Agreement 009-014-2020 were hired, one corresponding to the position of Director of the DGCO (Directorate General for Competition) and the other corresponding to a telecommunications engineer.

4.1.3. Human resources (person-year) applied to: enforcement against anticompetitive practices, merger review and enforcement, defense efforts.

COPROCOM

150. COPROCOM, for the 2021 period, four people dedicated to the mergers analysis, five people dedicated to promotion and investigation, three people dedicated to the Department of Instruction and two officials in the Directorate of the Technical Body were assigned. Likewise, the three proprietary commissioners that make up the Superior Body.

SUTEL

151. In the case of SUTEL, during 2021, there were four people dedicated to investigative work, two people dedicated to instruction and an official who holds the position of Director of the Directorate General for Competition. However, although there is specialization among officials, the staff of the Directorate General for Competition, when required, work both in merger cases, as well as in matters of promotion and advocacy. In the case of the tasks associated with the special procedure in relation to the investigation

and instruction stages, the independence and separation of tasks of the officials required by Law 9736 is maintained.

4.2. Period covered by the above information.

152. The information above covers actions implemented from January to December 2021.

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

5.1. Market Studies

5.1.1. COPROCOM

Taking into account the powers granted to COPROCOM by law for the preparation of market studies that will allow a deeper understanding of its operation; to detect distortions or barriers in terms of competition and free competition, and to promote their elimination, It should be added that the studies carried out in relation to **Postal Services** and **Maritime Freight Transport** were updated to 2021, and the **Study on Competition and Free Competition in Professional Services of Costa Rica** was completed.

Study on Regulation and Competition in the Postal Sector in Costa Rica

153. The "Regulation and Competition Study in the Postal Sector in Costa Rica", approved in Ordinary Session No. 29-2021 of July 29, 2021, presents an analysis of the regulations that govern the postal services sector, review of the regulatory regime, market structure.

154. As a result of the study, COPROCOM recommended that the Executive Branch adapt the national regulations, in relation to the postal communication social service, to the reality of the market and give greater freedom to the state company when offering its services. To this end, this Commission urges it to assess:

- The relevance of maintaining the obligation of universal service in the postal communication social service, as well as the delimitation of the services that this range must include, given the changes that the market has experienced.
- The convenience of relieving the State Enterprise of certain restrictions which prevent it from competing more efficiently on the market and which in turn enable it to adopt new ways of providing the regulated service and;
- The need to establish a financing mechanism for the service, in accordance with international experiences and best practices, that will enable it to ensure a service of sufficient quality and at an affordable price, and that, at the same time, the means used to achieve this objective leave as much flexibility as possible for the provision of specialized services as the market may require.

Study on Regulation and Competition in Maritime Transport in Costa Rica

155. The study "Regulation and Competition in Maritime Transport", approved in Ordinary Session No. 27-2021 of July 15, 2021, presents an analysis of the regulations that govern the maritime transport sector in Costa Rica, a delimitation of the service that is exempted or regulated, a description of its market structure and an international comparison of the sector under study.

156. As a result of the study, COPROCOM issued recommendations to the Executive Branch, represented in this case by the Ministry of Foreign Affairs. Specifically, it requested the Government to carry out the pertinent legal and diplomatic actions, in order to annul two provisions of the "Convention of the Code of Conduct of Maritime Conferences", which allow the distribution of the market and pricing between competitors, behaviors that if carried out in other markets would be illegal and punishable. Other recommendations included in the study are the following:

- COPROCOM has the power to review and sanction acts that may be classified as anticompetitive. In this regard, there should be no differences or exceptions between the different economic agents that make up the market, that is, the application of the competition law should be of general observance.
- It is a challenge for the country to ensure that the practices present in the International Liner Shipping Market can be governed by competition laws, considering that there have been no formal changes to submit to investigation the Agreements on price fixing and market distribution carried out by shipping companies. However, the export sector and other agents interested in changing this situation have told other government authorities about the need to generate reforms on this issue.
- It is essential to avoid, through legal and accurate procedures, the operation of price and market distribution agreements in the International Liner Shipping sector, given that this type of international agreement generates damages for the users of these services, through the increase in costs that must be covered for the transport of goods and that will be reflected in the price of the products that consumers acquire. This is because the international treaty under consideration still remains in force
- The reasons that originally justified the adoption of the "Code of Conduct Convention for Maritime Conferences", tending to the need to satisfy economic and political requirements within the International Liner Shipping sector, have been overcome, at least regarding the agreements to set rates and market distribution, for other types of commercial alliances and cooperation instruments that are not so openly harmful to the legal framework of competition.

Professional associations study

157. The "Study on Competition and Free Concurrence of Professional Services in Costa Rica" was approved by Agreement number Four of Ordinary Session No. 50-2021, dated December 22, 2021. Its purpose is to analyze the restrictions to competition and free concurrence that characterize the provision of professional services in the country and to assess the effects on social welfare that derive from such restrictions.

158. COPROCOM recommended the Executive Branch to carry out a global reform of the regulation that governs professional associations, in order to issue regulations that, in a consistent manner, regulate all these public-law corporations, in terms of their purposes, powers, rights and obligations of members. This reform must be carried out from the point of view of consumers and not of professionals, since it is the existence of a public interest that justifies the granting of powers to such public law corporations.

159. The main recommendations of the study are as follows:

- Eliminate the possibility for professional associations to establish minimum rates for professional services, subjecting them, like the rest of the sectors of the economy, to the provisions of the competition regulations, Law No. 7472 and Law

No. 9736. Minimum rates limit the autonomy of professionals, favor collusion, limit citizens' access to services and sustain higher rates that additionally make a large number of goods and services that use such services as inputs more expensive.

- Redefine the purposes and functions of professional associations. The essential public purpose that must guide the actions of professional associations is to ensure serious, honest, dignified and quality professional action for the benefit of individuals who use the services. The foregoing, because the work of professional associations is essential to control the exercise of liberal professions. In those professions that are not exercised liberally, it does not seem necessary for a professional association to guarantee the suitability of a professional or their ethics, since companies or employers have mechanisms for this.
- Limit compulsory fees to professions that are exercised liberally, that are relevant to the exercise of public functions and that are highly qualified due to their social impact, since it is in the exercise of these professions that the public function of the professional association results essential.
- Regulate the preparation of internal rules by professional associations in terms of their content, in such a way that they are aimed at establishing ethical and general operating rules, stripping them of any remnant of corporate defense. The internal rules of operation must not contain provisions that make it difficult for a professional to join a professional association, when being associated is necessary to practice the profession, or that restrict the ability of professionals to determine, freely and autonomously, the prices they charge to users, as well as the way in which they provide their professional services, in aspects other than price.
- Grant powers to the Administration to review the performance of professional associations with compulsory fees, in relation to the organization of the profession, in particular, through the possibility of initiating ex officio the review of the General Rules, the prior control of the internal regulations and other acts that may affect associates. Likewise, participate together with the Academy, in the preparation and review of the exams to access the compulsory membership.
- Finally, the regulation that is established -as well as the one that remains in force- must be: necessary and proportional to the objective it intends to achieve; cause the Minimum possible Distortion; effective, in that it has the ability to achieve the desired or expected effect; transparent and predictable.

5.1.2. SUTEL

Market study on access to common telecommunications infrastructure in business condominiums and all commercial properties, which have common facilities necessary for the provision of telecommunications services.

160. The object of this study is related with the access to shared infrastructure that allows the development and deployment of networks and the provision of telecommunications services, including: poles, pipelines, gutters, access rooms to internal networks, general distribution boxes, etc., in the field of corporate, commercial, corporate condominiums, offices, free zones and other related properties (product dimension), or that without being subject to the Condominium Property Regime, defined in Law N° 7933, have common facilities necessary for the provision of telecommunications services at the national level.

161. In this way, the objective of this study is to determine the existence or not of obstacles, barriers and/or distortions related to the principle of free competition, in access

to common telecommunications infrastructure in business condominiums and all those properties for commercial use, which have shared facilities necessary for the provision of telecommunications services within the national territory.

162. The foregoing was defined because within the scope of business connectivity services, resolution No. RCS-266-2018 establishes the access to infrastructure as the fundamental element required for the entry of operators into this market, the expansion of its installed capacity and the development of the coverage of its networks; however, the records of SUTEL show signs of a potential execution of commercial practices that dissent from the principles of free competition and concurrence, related to access to essential infrastructure facilities for the deployment of networks and/or the provision of telecommunications services in the context of business condominiums and related commercial facilities. The commercial practices in question could be materialized through the figures of refuse to deal, irregular charges and exclusivity agreements; constituting possible limitations of access to networks and/or telecommunications services for economic agents with operations located in commercial real estate of a condominium nature.

163. The preparation of this study was approved by the SUTEL Council, through Agreement No. 013-062-2019 of October 7, 2019.

164. By the end of 2021, the necessary information had already been collected, so the preliminary report of the study was presented to the SUTEL Council through document No. 11152-SUTEL-OTC-2021 dated November 26, 2021 and approved to start the process of public consultation through Agreement No. 010-082-2021 of December 9, 2021.

165. According to internal schedule, this market study is expected to end in 2022.

Market study regarding the public procurement of telecommunications services.

166. The object of this study is the telecommunications public procurement sector, a specialized commercial subgroup of the national telecommunications services industry, which serves and supplies the demand of the Costa Rican State for telecommunications goods and services at the national level.

167. The aim of this market study is to determine whether or not there are obstacles, barriers and/or distortions outside the principle of free competition in the public procurement processes of the State of telecommunications services, as well as in the supply by operators and/or active suppliers within the Costa Rican jurisdiction, in response to the demand of the State for such services.

168. The foregoing was defined because public procurement of telecommunications services covered by the exception provided in article 2 subparagraph c) of Law No. 7494, as well as similar rules and/or procedures, could result in an inefficient allocation of resources by the Costa Rican State and in a distortion of the level of competition in the telecommunications sector, in cases where they would deprive the service provider of the ability to contract, due to considerations unrelated to the satisfaction of specific technical demands for telecommunications services by governmental economic operators.

169. The development of this study was approved by SUTEL Council, through Agreement No. 013-062-2019 of October 7, 2019. However, due to the obstacles faced during the 2020-2021 period, mainly public health due to the COVID-19 emergency, this market study could not be published in 2021; despite this, by the end of that year the necessary information had already been compiled and the development of the preliminary study report began.

170. According to internal schedule, this market study is expected to end in 2022.

Market study on pipeline infrastructure and its impact on market competition.

171. This study has as its object of analysis the pipeline infrastructure that allows supporting telecommunications networks; In particular, it aims to analyze the construction and sharing (deployment and access) of the passive infrastructure of ducting that support the telecommunications networks belonging to telecommunications and municipal operators, at the national level.

172. This study aims to understand the comprehensive panorama on the competitive dynamics associated with an essential input in the development of public telecommunications networks, as is the case of the ducting, which is of great value for the future deployment of fiber optic networks in the Costa Rican market. This was defined by the challenges identified as essential for the deployment of new telecommunications networks, for the implementation of 5G technology at the national level.

173. The preparation of this study was approved by Agreement No. 016-063-2021 of September 9, 2021 of SUTEL Council. By the end of 2021, the award ceremony for the contracting of the preparation of this market study was already firm and according to the internal schedule it is expected to be completed in 2022.

6. Other relevant actions of the competition authorities

6.1. Cooperation agreements with other Competition Authorities and participation in International Organizations.

6.1.1. COPROCOM.

174. During the year two thousand and twenty-one, COPROCOM has had an active participation in:

- The Central American Network of National Authorities in Charge of Competition Issues (RECAC).
 - During the year 2021 the presidency was given to COPROCOM.
 - The implementation of the technical cooperation project, entitled "Diagnosis of conditions of competition in the air transport of passengers in the Central American region and proposal for a public policy of national application derived from the diagnosis", with IDB.
- The Central American Competition Committee, in which the delegations of the six Member States of the Central American Economic Integration Subsystem (Economic Subsystem) participate.
- The International Competition Network (ICN).

175. Furthermore, in accordance with the provisions of Article 25 of Law N° 9736 and recognizing that international technical cooperation is a fundamental element in enhancing institutional capacities and effectiveness in the application of competition matters, COPROCOM has signed the following cooperation agreements in 2020 and 2021:

- The National Competition Commission (CONACOM for its Spanish acronym) of the Republic of Paraguay.
- The Superintendence of Industry and Commerce of Colombia

176. At the national level, COPROCOM developed partnerships to carry out events and training activities with entities such as: the National Commission for the Improvement of the Administration of Justice, hereinafter CONAMAJ; Lead University, the Technological Institute of Costa Rica, the Judicial School, the Office of the Attorney General of the Republic, and initiated discussions to conduct training with the University of Costa Rica, the University of Science and Technology, hereinafter ULACIT and the Free School of Law.

6.1.2. SUTEL

177. On SUTEL side, there are no cooperation agreements with other Competition Authorities to report as completed by 2021. However, negotiations on cooperation agreements were initiated with the Peruvian competition authorities, namely INDECOPI and OSIPTEL.

6.2. Other actions in terms of promotion and advocacy

6.2.1. SUTEL

Guidelines to promote competition and avoid distortion of competition in the deployment of neutral networks financed with public funds.

178. Guidelines for promoting competition and avoiding distortion of competition in the deployment of neutral networks financed with public funds, to which an open network vocation is intended, were issued with the aim of ensuring that such networks not only contribute to promoting greater competition in the telecommunications market, but also to preventing possible state intervention from harming market competition. These guidelines can be considered by any entity in the telecommunications sector involved in the process, design or implementation of projects associated with the deployment of such networks

179. These guidelines were issued by the SUTEL Council through Agreement No. 044-078-2021 of November 18, 2021 (according to document No. 10968-SUTEL-SCS-2021).

Guidelines to good practices in the management of shared infrastructure of telecommunications networks. Aimed at managers of condominiums, apartment buildings and closed residential buildings

180. The Good Practice Guidelines for shared infrastructure management of telecommunications networks was issued with the aim of providing guidance to residents and managers of condominiums, apartment buildings and closed residential buildings, good administrative practices associated with the management of shared infrastructure for the deployment, maintenance and expansion of telecommunications networks.

181. This Guideline was approved by Agreement N° 014-063-2021 from September 9, 2021 (according to document N° 08605-SUTEL-SCS-2021).