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

## Annual Report on Competition Policy Developments in Mexico

-- 2022 --

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

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## Table of contents

<b>Executive Summary COFECE</b> .....	<b>4</b>
<b>1. Enforcement of competition laws and policies</b> .....	<b>5</b>
1.1. Actions against anticompetitive practices, including agreements and abuses of dominant position .....	5
1.2. Antitrust cases in the courts .....	8
1.3. Significant cases .....	9
<b>2. Mergers and acquisitions</b> .....	<b>15</b>
2.1. Significant cases: mergers .....	16
<b>3. Competition Advocacy</b> .....	<b>16</b>
3.1. The role of competition authorities in the formulation and implementation of other policies .....	16
3.2. New reports and studies on competition policy issues .....	19
3.3. Online and In-Person Trainings.....	21
<b>4. Resources of competition authorities</b> .....	<b>21</b>
4.1. Annual Budget.....	21
4.2. Commission’s Leadership .....	21
4.3. Human Resources.....	22
<b>5. International Activities</b> .....	<b>22</b>
5.1. 2022 Antitrust Writing Awards .....	22
5.2. Regional Competition Center of the Americas.....	23
<b>6. Period covered by the above information</b> .....	<b>23</b>
<b>Executive Summary IFT</b> .....	<b>24</b>
<b>1. Changes to competition laws and policies, proposed or adopted</b> .....	<b>25</b>
1.1. Summary of new legal provisions of competition law and related legislation .....	25
1.2. Other relevant measures, including new guidelines .....	25
1.3. Government proposals for new legislation .....	26
<b>2. Enforcement of competition laws and policies</b> .....	<b>26</b>
2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions .....	26
2.2. Mergers and acquisitions.....	28
<b>3. The role of competition authorities in the formulation and implementation of other policies, e.g., regulatory reform, trade and industrial policies</b> .....	<b>30</b>
3.1. Public Auctions .....	30
3.2. Grant, renewal and transfer of licenses.....	30
3.3. Competition opinions on drafts and existing regulations, and modifications to asymmetric regulation for EAPs and holders of Substantial Market Power (SMP).....	31
3.4. Competition opinions on draft legislation .....	31
<b>4. Resources of competition authorities</b> .....	<b>32</b>
4.1. Resources overall (current numbers and change over previous year): .....	32
4.2. Human resources (person-years) applied to: Enforcement against anticompetitive practices; Merger review and enforcement; Advocacy efforts.....	33
4.3. Period covered by the above information:.....	33
<b>5. Summaries of or references to new reports and studies on competition policy issues</b> .....	<b>33</b>
5.1. Studies .....	33
5.2. Advocacy efforts .....	34
5.3. International activities .....	35

## Tables

Table 1. Anticompetitive practices and other restrictions to competition	6
Table 2. Fines imposed (Mexican pesos)	6
Table 3. Essential inputs and barriers to competition	7
Table 4. Effective competition conditions	8
Table 5. Defense of the Commission's decisions in matters of competition before specialized courts	8
Table 6. Mergers	15
Table 7. Mergers 2022: value of transactions (millions of Mexican pesos)	15
Table 8. M&A resolved by IFT in 2022	29
Table 9. Number of Cases Related to Licenses Reviewed in T&B 2022	31
Table 10. IFT's Annual Competition Budget by Administrative Units in 2022	32
Table 11. Number of Employees in 2022	32
Table 12. Number of IFT Employees by Administrative Unit and by Profession in 2022	32
Table 13. Number of IFT Employees Applied to Competition Practice in 2022	33

## Mexico

### Mexican Federal Economic Competition Commission (COFECE)

#### Executive Summary COFECE

1. In 2022, the Mexican Federal Economic Competition Commission (COFECE or Commission) undertook different actions to continue its work and achieve strong results for the Mexican economy and society.
2. Throughout this year, the Commission's Investigative Authority concluded a total of 4 investigation procedures into anticompetitive practices with a statement of objections; of them 3 are for absolute monopolistic practices (cartel agreements) in the markets of i) equipment for the use of industrial gases, ii) retail of gasoline and diesel at service stations, iii) retail of marine diesel, and 1 for relative monopolistic practices (abuse of dominance) in the market of liquified petroleum gas (LP Gas). All of these involve key sectors for the Mexican economy.
3. After the trial-like procedure stage, the Board of Commissioners imposed fines for absolute monopolistic practices in the LP Gas market and in the land passenger transportation market, that together amount 3,632,775,968 Mexican pesos,<sup>1</sup> and for relative monopolistic practices conducted by the Mexico City's International Airport of 848,888,633 Mexican pesos.<sup>2</sup>
4. The Board of Commissioners also imposed fines on economic agents who did not comply with commitments made before COFECE, and to economic agents who failed to notify a merger. In total, the Commission imposed fines amounting 4,859,741,050.15 Mexican pesos<sup>3</sup> for violations to the competition law.<sup>4</sup>
5. As for merger analysis, COFECE analyzed 161 operations. The value of these mergers amounted to approximately 1,951,154.51 billion Mexican pesos. More than half of these operations had an international scope.
6. Also, this year, the Commission opened 3 investigations to determine the existence of essential facilities in the markets of e-commerce, federal land passenger transportation and corn flour. Additionally, the Board of Commissioners concluded a Stage II procedure

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<sup>1</sup> 195,310,536 USD using an exchange rate of 18.60 Mexican pesos per US Dollar (from January to April 2023 according to data from the Bank of Mexico) hereinafter.

<sup>2</sup> 45,639,174 USD

<sup>3</sup> 261,276,400 USD

<sup>4</sup> More detail on the fine on economic agents who did not comply with commitments made before COFECE, see press release at: [https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-028-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-028-2022_ENG.pdf); and fines to economic agents who failed to notify a merger, see press releases: COFECE-017-2022 [https://www.cofece.mx/wp-content/uploads/2022/06/COFECE-017-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/06/COFECE-017-2022_ENG.pdf); COFECE-023-2022 [https://www.cofece.mx/wp-content/uploads/2022/08/COFECE-023-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/08/COFECE-023-2022_ENG.pdf); COFECE -025-2022 [https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-025-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-025-2022_ENG.pdf); and COFECE-026-2022 [https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-026-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-026-2022_ENG.pdf);

and declared the lack of effective competition conditions in the market of distribution of LP Gas to end users.

7. Relevant advocacy activities carried out this year included the issuance of opinions regarding proposed laws and regulations in markets related with electricity, natural gas, transportation services, the new Felipe Angeles International Airport, and financial technology institutions. Furthermore, the Commission issued a market study on medical expenses insurance and initiated studies in the beef market and digital financial services.

8. Finally, at the international level, COFECE was one of the winners of the 2022 Antitrust Writing Awards and assumed the role of Secretariat of the Regional Competition Center of the Americas.

## 1. Enforcement of competition laws and policies

### 1.1. Actions against anticompetitive practices, including agreements and abuses of dominant position

9. During 2022, the Investigative Authority (IA) concluded 7 investigation procedures, including:

1. Absolute monopolistic practices (cartel agreements):
  - a. 3 of which resulted in the notification of a statement of objections in the markets of i) equipment, accessories, and spare parts for the use of industrial gases, ii) retail of gasoline and diesel through service stations, and iii) retail of marine diesel.
  - b. 2 that were closed for lack of evidence in the markets of i) technology and systems used in road infrastructure, and ii) production, distribution, and commercialization of corn flour.
2. Relative monopolistic practices (abuse of dominance):
  - a. 1 that resulted in the notification of a statement of objections in the market of LP Gas.
3. Unlawful concentrations
  - b. 1 which derived in the notification of a statement of objections involving a merger in the market of commercialization and distribution of gasoline and diesel, as well as their retail through service stations.

10. Also, the Commission concluded the analysis of 27 complaints, all of which were dismissed for lack of elements or because they were deemed as not filed.<sup>5</sup>

11. As for trial-like procedures, the Board of Commissioners concluded 4 cases, of which 1 was closed without liability in the market of commercialization of oil products and the remaining 3 resulted in fines in the markets of i) LP Gas, ii) land passenger transportation, and iii) land passenger transportation with Mexico City's International Airport as origin or destination.

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<sup>5</sup> Article 69 of the LFCE provides that once a complaint is filed before the Commission, the Investigative Authority can either i) order the initiation of the investigation, ii) dismiss the complaint due to the lack of elements, and iii) deem the complaint as not presented since the complainant did not fulfill all the requirements of article 68 of the same law.

**Table 1. Anticompetitive practices and other restrictions to competition<sup>6</sup>**

	Complaints				
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Received complaints	4	8	6	7	25
Analysis concluded	7	6	7	7	27
Leading to investigations	0	0	0	0	0
Dismissed	7	6	7	7	27
Integrated to a case file	0	0	0	0	0
	Investigations				
Initiated	1	2	2	2	7
Concluded	2	1	0	4	7
No evidence of anticompetitive practice	0	2	0	0	2
Notification of statement of objections*	0	0	1	4	5
Early closure with commitments	0	0	0	0	0
	Trial-like procedures				
Concluded	1	0	0	3	4
Sanctions imposed	1	0	0	2	3
Closed without liability	0	0	0	1	1
Closure with commitments	0	0	0	0	0

Note: \* Pursuant to article 78 of the LFCE, after the Investigative Authority finishes its investigation, it shall present an investigative opinion to the Board of Commissioners proposing either the initiation of the trial-like procedure or the closure of the file due to a lack of elements. If the Board decides to initiate the trial-like procedure, the involved economic agents are notified of the Statement of Objections and this Stage formally begins.

Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

12. In 2022, COFECE imposed fines totaling 5,084,146,135.49 Mexican pesos.<sup>7</sup> It is worth mentioning that 74.7% of the fines for breaching the law imposed this year corresponded to cartel cases.

**Table 2. Fines imposed (Mexican pesos)**

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Sanctions for breaching the law	860,332,929.68	9,748,587.20	356,883,564.18	3,632,775,969.09	4,859,741,050.15
Enforcement Measures*	29,787,284.70	7,697.60	167,907,291.30	26,702,811.74	224,405,085.34
Total Value	890,120,214.38	9,756,284.80	524,790,855.48	3,659,478,780.83	5,084,146,135.49

Note: \* These figures correspond to the quantified fines.

Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

13. Article 94 of the Federal Economic Competition Law (LFCE) empowers COFECE to open investigations regarding barriers to competition or the existence of essential

<sup>6</sup> The number of received investigations may not equal the number of concluded investigations since these could include inquiries that were initiated in another year or are pending from other periods.

<sup>7</sup> 273,341,190 USD

facilities, and if needed, order measures to mitigate possible anticompetitive effects or even regulate the access to the essential facilities that are identified. In 2022, 3 investigations were opened in the markets of i) e-commerce, ii) federal land passenger transportation, and iii) corn and corn flour.

14. Additionally, the Investigative Authority concluded 1 investigation which resulted in the issuance of a Preliminary Opinion regarding aircraft fuels. This case will now be referred to the Board of Commissioners who will analyze and resolve accordingly.

15. It is worth mentioning that 1 case related to barriers to competition in the card payments system market is pending resolution from the Board of Commissioners. In February, 2022, the Board suspended the timeframes on this matter since the LFCE requires at the vote of at least five commissioners for these procedures.<sup>8 9</sup>

**Table 3. Essential inputs and barriers to competition**

Stage I					
	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Total
Initiated	1	1	0	1	3
Concluded with the Issuance of a Preliminary Opinion	1	0	0	0	1
Pending for next period	1	2	2	3	3
Stage II					
Initiated	1	0	0	1	2
Concluded	0	0	0	0	0
Pending for next period	2	2	2	2	-

Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

16. Article 96 of the LFCE empowers the Commission to determine the existence of effective competition conditions in markets. If COFECE finds lack of these conditions, it must issue a resolution in this sense so that the corresponding sectoral regulators can exercise certain powers, such as setting tariffs or access terms, to improve competition in the market.

17. In 2022, the Board of Commissioners concluded a Stage II procedure and declared the lack of effective competition conditions in the distribution of LP Gas to final users. Also, the Investigative Authority initiated an ex officio investigation, i.e. a Stage I procedure, to determine the existence of effective competition conditions in the maritime passenger transportation service and roll-on/roll-off cargo services in cabotage navigation with origin or destination in the state of Baja California Sur. This is an ongoing investigation.<sup>10</sup>

<sup>8</sup> Article 18 of the LFCE.

<sup>9</sup> See Press Release COFECE-030-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-030-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-030-2022_ENG.pdf)

<sup>10</sup> See Press Release COFECE-041-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-041-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-041-2022_ENG.pdf)

**Table 4. Effective competition conditions**

	Stage I				
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Initiated	0	0	0	1	1
Concluded with the Issuance of a Preliminary Opinion	0	0	0	0	0
Pending for next period	0	0	0	1	-
	Stage II				
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Initiated	0	0	0	0	0
Concluded	0	0	0	1	1
Pending for next period	1	1	1	0	-

Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

## 1.2. Antitrust cases in the courts

18. In 2022, the Judiciary confirmed 66.19% of the Commission's decisions, which means that 47 out of 72 cases were upheld. The specialized courts ruled in favor of economic agents in 24 cases in which they filed appeals against the decisions of COFECE.

**Table 5. Defense of the Commission's decisions in matters of competition before specialized courts**

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Admitted/Received	103	24	17	79	223
Resolved by the Judiciary	20	21	13	18	72
<i>Amparos</i> * dismissed	6	7	4	9	26
<i>Amparos</i> denied	5	7	4	5	21
<i>Amparos</i> granted	9	7	5	4	25

Note: \*Amparos are appeals against the decisions of the Commission that are filed before the specialized courts. Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

### 1.2.1. Constitutional controversies and key decisions from the courts

19. During 2022, the Commission engaged in different actions before the courts. Notable among them are those related to the defence of its constitutional autonomy, the challenge against a strategy from the federal government in the natural gas market and one to establish its competence over certain markets regarding communications.

20. Back in December 2021, the Commission filed a constitutional controversy before the Supreme Court of Justice of the Nation (SCJN per its initials in Spanish) for the omission by the Head of the Federal Executive Branch to submit to the Senate the candidates to fill the two empty positions within the Board of Commissioners. It was until November 2022 that the SCJN ruled in favour of the Commission and deemed as unconstitutional said omission. Thus, the Federal Executive sent to the Senate the proposals for three Commissioners, one of which (Commissioner Andrea Marván) was confirmed by said legislative body in December 2022.

21. Also in 2022, the SCJN admitted a constitutional controversy filed by COFECE against the federal government's strategy for the supply and storage of natural gas. The Court ordered the suspension of this strategy to prevent harm to competition and society



until a final ruling is issued. COFECE also issued an opinion on this matter, which is further detailed in section 5.1.3 of this report.

22. Finally, a specialized court in competition, broadcasting and telecommunications unanimously granted COFECE jurisdiction over a merger involving the design, manufacturing and retail of desk phones, conference phones, speaker phones, headsets, conference solutions, and equipment such as webcams, speakers, microphones, videoconferencing systems, and related services. The ruling came after the telecom regulator, the Federal Telecommunications Institute, challenged the operation filed before the Commission and argued to have jurisdiction over said case. In its ruling, the specialized court concluded that the markets object of the operation did not involve public services of telecommunications and broadcasting, thus declaring COFECE as the competent authority to resolve on this matter and further contributing to providing legal certainty and clarity to economic agents.

### 1.3. Significant cases

#### 1.3.1. Food and Beverages

##### *Possible barriers to competition and essential facilities in the markets of corn and corn flour*

23. In November, the Investigative Authority initiated an investigation to identify and determine the probable existence of barriers to competition and essential facilities in the markets for the distribution and commercialization of corn, as well as for the production, distribution and commercialization of corn flour and related services in the national territory. This investigation is mandated by article 94 of the LFCE and was initiated due to the finding of elements by the IA, that suggested the lack of effective competition conditions in said markets.<sup>11</sup>

24. This investigation is important because corn and corn flour are key inputs to produce tortillas, which are an essential part of the Mexicans diet and are included in the basic food basket. Once the IA concludes its investigation, it will issue a Preliminary Opinion which will be sent to the Board of Commissioners who can resolve by ordering the elimination of the identified barriers, issue recommendations to public authorities, determine the existence of essential facilities and issue guidelines for their regulation or order the divestment of assets if necessary.

##### *Statement of objections in the market of corn tortillas in Huixtla, Chiapas*

25. In March, COFECE notified a statement of objections to various economic agents for their probable responsibility in collusion in the sale of tortillas in Huixtla, Chiapas. On its statement, the IA notes the possible existence of an agreement to manipulate the prices and supply of corn tortillas by establishing the obligation to produce, process, distribute or commercialize a restricted amount of the product. The case continues to the trial-like procedure stage in which the Board of Commissioners will have to resolve accordingly.<sup>12</sup>

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<sup>11</sup> Press Release COFECE-039-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-039-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-039-2022_ENG.pdf)

<sup>12</sup> Press Release COFECE-007-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-007-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-007-2022_ENG.pdf)

### 1.3.2. Financial services

#### *Possible cartel conducts in the market of credit cards in the modality of deferred payments at interest-free monthly installments*

26. In April, the Investigative Authority initiated an ex officio investigation for possible absolute monopolistic practices in the market for services related to credit card transactions in the modality of deferred payments in interest-free monthly installments. It is worth mentioning that this inquiry does not cover cardholders but rather the economic agents that participate in the investigated market, that is, financial institutions that offer credit lines. This is an ongoing investigation.<sup>13</sup>

### 1.3.3. Transport and Logistics

#### *Sanction to companies and directors for colluding in the market of land passenger transportation*

27. In October, the Board of Commissioners sanctioned 18 companies and 31 natural persons with fines totaling 1,218,724,013.55 Mexican pesos<sup>14</sup> for colluding to manipulate prices and segment routes in the land passenger transportation market in the Central, Central-South, South-Southeast regions of the country and in the state of Tamaulipas.<sup>15</sup>

28. In its resolution, the Commission concluded that *ADO, Estrella Blanca, Estrella Roja, IAMSA, Senda, Pullman*, and other 12 companies established six independent and distinguishable agreements, implemented with different periods of validity from 2000 to 2020. Through these, they manipulated and fixed the prices of the service and allocated routes through the segmentation of markets or arrangements between transporters to avoid competing amongst each other and, even in some cases, compensating income and expenses according to previously agreed percentages. Based on the foregoing, the Board of Commissioners estimated that these conducts caused an approximate harm to consumers, through the payment of overprices, of approximately 3,384 billion Mexican pesos.<sup>16</sup>

#### *Sanction to Mexico City's International Airport for relative monopolistic practices*

29. In March, the Board of Commissioners resolved to fine Mexico City's International Airport (AICM, per its initials in Spanish) for engaging in a relative monopolistic practice consisting in the refusal to deal, thus preventing an economic agent from providing the federal land passenger transport service in the modality of integral bus and/or van, with the AICM as an origin or destination.<sup>17</sup>

30. The Commission found that the AICM refused to provide *Transportación Terrestre UNE* with the service of access at the airport, thus preventing it from being able to provide

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<sup>13</sup> Press release COFECE-036-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-036-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-036-2022_ENG.pdf)

<sup>14</sup> 65,522,796.42 USD

<sup>15</sup> Press release COFECE-035-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-035-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-035-2022_ENG.pdf)

<sup>16</sup> Approximately 181,935,483.87 USD

<sup>17</sup> Press release COFECE-011-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-011-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-011-2022_ENG.pdf)

the land passenger transportation service from the airport to the city of Puebla and from Puebla to the airport. This conduct also allowed for the establishment of exclusive advantages in favor of two permit holders who maintained their position without facing competitive pressure to the detriment of consumers who were unable to access more options and lower prices.

31. In its resolution, the Board of Commissioners considered that the AICM had substantial power in the market and since it had previously sanctioned by the Commission for anticompetitive practices, it was also considered as a recidivist, for which a fine of 848,888,633 million Mexican pesos<sup>18</sup> was imposed.

*Possible relative monopolistic practices in the market of access to commercial spaces and the provision of commercial services in airports*

32. In May, the Investigative Authority initiated an ex officio investigation regarding possible relative monopolistic practices in the market of access to commercial spaces and the provision of commercial services at airports in the South-Southeast of Mexico. Airports function as provider companies of multiple services, in addition to providing aeronautical services, they offer commercial services directed at satisfying the needs of users who are in terminals. Thus, these commercial spaces are located in strategic public zones available for consumers in general, or in exclusive spaces for passengers before or after boarding a flight. This is an ongoing investigation.<sup>19</sup>

*Possible barriers to competition in the service of land passenger transportation*

33. In June, the Investigative Authority initiated an investigation to identify and determine the probable existence of barriers to competition and free market access, as well as the probable existence of essential facilities, in the national market for federal land passenger transportation that uses terminals for the boarding and disembarking of passengers. This inquiry will look into a service that is essential for the mobility of the population and has a cross-impact on other areas of the economy. This investigation is ongoing.<sup>20</sup>

*Effective competition conditions in maritime transport in Baja California Sur*

34. In November, the Investigative Authority initiated an ex officio investigation to determine the existence of effective competition conditions in the maritime transport of passengers and roll-on/roll-off cargo in the state of Baja California Sur. Said state has the longest coastline in the country and due to its geographic position roll-on/roll-off cargo and passenger transport are key services for moving goods and people to and from the state.<sup>21</sup>

35. In accordance with article 96 of the LFCE, once the IA issues a preliminary opinion on this case, after a trial-like procedure it will be referred to the Board of Commissioners who can resolve, if it is the case, to declare the lack of effective competition conditions in

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<sup>18</sup> 45,639,173.8 USD

<sup>19</sup> Press Release COFECE-016-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/05/COFECE-016-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/05/COFECE-016-2022_ENG.pdf)

<sup>20</sup> Press Release COFECE-019-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/07/COFECE-019-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/07/COFECE-019-2022_ENG.pdf)

<sup>21</sup> Press release COFECE-041-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-041-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-041-2022_ENG.pdf)

the market so that the corresponding authorities can implement regulations to eliminate the anticompetitive effects detected. This is an ongoing investigation.

### *1.3.4. Energy*

#### *Fines to a cartel in the market of LP Gas*

36. In November, the Board of Commissioners sanctioned 53 companies and 34 natural persons who acted on their behalf with fines totaling 2,414,051,954 Mexican pesos<sup>22</sup> for colluding to fix, raise, arrange and manipulate the distribution of LP Gas through plants and sale at service stations, as well as dividing, distributing, assigning or imposing portions of the market, through clients in the national territory.<sup>23</sup> LP Gas is the most widely used domestic fuel in the country, according to data from the National Institute of Statistics and Geography 8 out of 10 households use this energy source as their main fuel for cooking.

37. In its resolution, the Board of Commissioners concluded that the distributor groups *Soni, Nieto, Tomza, Simsa, Global, Uribe* and *Metropolitano*, engaged in a collusion covering Mexico City and some municipalities of the State of Mexico, Culiacán, Colima and Tamaulipas. Through the illegal agreement, the economic agents agreed to maintain their market shares and avoided competing amongst themselves, which translated into a deterioration in the supply conditions of LP Gas as well as in the charging of undue overprices. This conduct, according to estimates of the Board of Commissioners, caused a harm amounting to 13,392,498,798 Mexican pesos.<sup>24</sup>

#### *Lack of effective competition conditions in the LP Gas market*

38. In October, the Board of Commissioners determined the lack of effective competition conditions in 213 out of 220 relevant markets consisting of the distribution price of LP Gas to end users, through distribution plants and auto-tanks with a regional geographical dimension.<sup>25</sup> Derived from its analysis, the Commission found that:

1. High degrees of economic concentration were observed in which few economic interest groups have high shares in the defined markets.
2. There are high gross profit margins nationwide obtained by distributors.
3. There are significant economic and regulatory barriers to entry, as well as barriers to exit.
4. There is little or no entry of new distributors, despite the increases in profit margins.

39. The resolution was notified to the economic agents who proved to have an interest in the procedure and to the Head of the Federal Executive Power, the Ministry of Energy and the Energy Regulatory Commission for these authorities to be able to establish the corresponding regulation and measures in accordance with section X of article 96 of the LFCE.

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<sup>22</sup> 129,787,739.46 USD

<sup>23</sup> Press release COFECE-037-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-037-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-037-2022_ENG.pdf)

<sup>24</sup> 720,026,817.09 USD

<sup>25</sup> Press release COFECE-033-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-033-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-033-2022_ENG.pdf)

*Statement of objections in the market of public retail of marine diesel*

40. In December, the Investigative Authority notified a statement of objections to various economic agents and natural persons for their probable participation in a collusion to fix, raise, agree or manipulate the sale price in the market for the retail of maritime diesel at service stations in the national territory. This case, in which the notification was made public until January 2023, is relevant as marine diesel is a fuel used by different types of vessels, such as boats and ships, and is sold at service stations located in coastal areas or near the mouth of rivers. With this notification, the trial-like procedure was initiated after which the Board of Commissioners will resolve accordingly.<sup>26</sup>

*Statement of objections in the retail sale of gasoline and diesel*

41. In December, the Investigative Authority notified a statement of objections to various economic agents and natural persons for their probable participation in a collusion to fix, raise, agree or manipulate the sale price in the market for the retail of gasolines and diesel at service stations in the national territory.<sup>27</sup> Both fuels are fundamental for the Mexican economy since their availability, price and quality impact the welfare of families and, in a cross-cutting manner, all productive sectors. A trial-like procedure was initiated in which the Board of Commissioners will resolve accordingly.

**1.3.5. Public Procurement***Possible bid rigging in the acquisition of electoral materials*

42. In July, the Investigative Authority published the initiation of an ex officio investigation for possible absolute monopolistic practices in the market for the public procurement procedures for the acquisition of electoral material and documentation in the national territory. The investigation, which is ongoing, covers the procedures for the acquisition of electoral material (electoral ballots, indelible ink, booths, desk, labels, and any other goods acquired within the framework of an electoral procedure through tenders at the three levels of government and across the country. This is an ongoing investigation.<sup>28</sup>

*Possible bid rigging in the market of information and communication technologies*

43. In October, the Investigative Authority published the initiation of an ex officio investigation for possible absolute monopolistic practices in the market of public procurement procedures related to the acquisition, leasing, maintenance services and managed services of information and communication technologies in the national territory. The inquiry covers the purchase and/or leasing procedures of products such as desktop and laptop computers, televisions, photocopy machines, computer cameras, storage equipment and related products. Additionally, it will also look into transmission services, software

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<sup>26</sup> Press release COFECE-003-2023 available at [https://www.cofece.mx/wp-content/uploads/2023/01/COFECE-003-2023\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2023/01/COFECE-003-2023_ENG.pdf)

<sup>27</sup> The notification of this statement of objections was made public until January 2023, the press release COFECE-001-2023 is available at [https://www.cofece.mx/wp-content/uploads/2023/01/COFECE-001-2023\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2023/01/COFECE-001-2023_ENG.pdf)

<sup>28</sup> Press release COFECE-020-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/07/COFECE-020-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/07/COFECE-020-2022_ENG.pdf)

licensing, internet servers and any procedure of government contracting through tenders in the investigated market. The investigation is ongoing.<sup>29</sup>

### ***1.3.6. Digital Markets***

#### *Possible barriers to competition and essential inputs in retail e-commerce*

44. In March, the Investigative Authority initiated an investigation to identify and, if it is the case, determine the probable existence of barriers to competition and free market access, as well as possible essential facilities in the retail e-commerce market in the national territory. E-commerce is understood as the purchase and sale of goods over the internet through a method to receive or place orders. Currently, a growing number of consumers use it to purchase goods; thus, it is necessary to monitor that the market operates and develops under competitive conditions. It is worth mentioning that this investigation, which is ongoing, is the first probe in digital markets carried out by the IA.<sup>30</sup>

#### *Possible relative monopolistic practices in the market of payments of mobile applications and digital content*

45. In September, the Investigative Authority initiated an ex officio investigation for possible relative monopolistic practices in the market for the development, distribution and payment processing of mobile applications and digital content. The probe will analyze the developer's business models and the mechanisms through which payments are processed in App Stores, this is relevant considering the millions of Mexicans who download content from these stores and the increasing importance of looking into competition in digital markets. This investigation is ongoing.<sup>31</sup>

### ***1.3.7. Other Sectors***

#### *Statement of objections in the market of equipment for the use of industrial gases*

46. In November, the Commission notified a statement of objections to various economic agents and natural persons for their probable responsibility after finding evidence of a possible collusion in the market for the integration, installation, maintenance and commercialization of equipment, accessories and spare parts for the use of industrial gases in the national territory. The investigation is relevant as these gases are used in important sectors such as energy, health, agri-food, chemical, construction and production of advanced electronics, to mention a few. The case initiated a trial-like procedure in which the Board of Commissioners will resolve accordingly.<sup>32</sup>

#### *Possible relative monopolistic practices in the insecticides market*

47. In March, the Investigative Authority published the initiation of an investigation, derived from a complaint filed in 2021, regarding possible relative monopolistic practices

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<sup>29</sup> Press release COFECE-032-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-032-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-032-2022_ENG.pdf)

<sup>30</sup> Press release COFECE-013-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/04/COFECE-013-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/04/COFECE-013-2022_ENG.pdf)

<sup>31</sup> Press release COFECE-031-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-031-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/10/COFECE-031-2022_ENG.pdf)

<sup>32</sup> Press release COFECE-040-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-040-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-040-2022_ENG.pdf)



in the market for the production, distribution, and commercialization of household insecticides in the national territory. These products are relevant for households as they control or kill disease-carrying insects which are a major public health problem in Mexico. This investigation is ongoing.<sup>33</sup>

## 2. Mergers and acquisitions

48. This year, the Commission analyzed 161 mergers of which 150 were authorized and 11 were deemed as not presented, not admitted or abandoned by the parties.

**Table 6. Mergers**

	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Total
Admitted	49	46	41	32	168
Analysis concluded	49	33	39	40	161
Authorized	44	31	38	37	150
Subject to conditions	0	0	0	0	0
Rejected	0	0	0	0	0
Other	5	2	1	3	11

Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

49. The value of the mergers analyzed by COFECE during 2022 amounted to approximately 1,951,154.51 billion Mexican pesos.<sup>34</sup> More than half of these operations had an international scope.

**Table 7. Mergers 2022: value of transactions (millions of Mexican pesos)**

	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Total
Total value	520,064.26	137,120.14	162,922.68	1,131,047.43	1,951,154.51
Number of cases	48	33	34	37	152
National scope (total value)	212,704.97	46,477.85	76,768.85	45,766.42	381,718.09
National scope (number of cases)	23	18	14	15	70
International scope (total value)	307,359.29	90,642.29	86,153.83	1,085,281.01	1,569,436.42
International scope (number of cases)	25	15	20	22	82

Source: Internal Statistics and COFECE. Quarterly reports 2022, available in Spanish at: <https://www.cofece.mx/category/planeacion-informes/informes-trimestrales/>

<sup>33</sup> Press release COFECE-010-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-010-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-010-2022_ENG.pdf)

<sup>34</sup> 104,900,752.71 USD

## 2.1. Significant cases: mergers

### 2.1.1. AT&T / Warner Bros. Discovery <sup>35</sup>

50. In September, the Commission fined *AT&T Inc.* and *Warner Bros Discovery Inc.* for failing to notify a concentration. The sanction related to an international operation in which the acquisition by *Discovery Inc.* of *AT&T's* business known as *Warnermedia* was originally proposed, including the Mexican business, as well as the purchase by the shareholders of *AT&T*, of 71% of the stock of the company resulting from that transaction, which would be rebranded as *Warner Bros. Discovery Inc.* However, before COFECE issued its authorization, the economic agents carried out a series of acts through which they separated only a part of *Warnermedia's* business in Mexico, and created market structures and legal relationships not considered in the notified operation, thus preventing COFECE from analyzing them. For this omission, the Board of Commissioners resolved to sanction both economic agents with fines totaling 51,573,910 million Mexican pesos.<sup>36</sup>

## 3. Competition Advocacy

51. The Commission actively advocates for the benefits of competition among several audiences. During 2022, COFECE issued several opinions, published and initiated 3 market studies and a document containing ex post assessments of the Commission's interventions in various markets.

### 3.1. The role of competition authorities in the formulation and implementation of other policies

52. In accordance with the LFCE, the Commission has the power to issue non-binding recommendations regarding laws and regulations and other legal frameworks that could have adverse effects on competition. In 2022, the following opinions were issued:

#### 3.1.1. Opinion regarding the constitutional reform in electricity matters

53. Since 2020, the Commission has actively advocated to ensure that the principles of competition and free market access prevail in the Mexican electricity sector. In March 2022, the Commission issued an opinion to the Congress of the Union recommending not to approve the Initiative with a Draft Decree by which Articles 25, 27 and 28 of the Political Constitution of the United Mexican States are reformed, in energy matters.<sup>37</sup>

54. In its opinion,<sup>38</sup> COFECE warned that the initiative would categorically resign to the model of competition in the generation and supply of electricity, by replacing it with a vertically integrated industrial model operated by an unregulated state-owned monopoly, a model which has been abandoned by many countries due to its inefficiency, inability to meet the demand, as well as for its high costs and negative impact on public finances.

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<sup>35</sup> Press release COFECE-026-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-026-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/09/COFECE-026-2022_ENG.pdf)

<sup>36</sup> 2,772,790.86 USD

<sup>37</sup> Press release COFECE-006-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-006-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-006-2022_ENG.pdf)

<sup>38</sup> The public and complete version of the opinion is available, in Spanish, at <https://www.cofece.mx/CFCResoluciones/docs/Opiniones/V192/2/5652781.pdf>



55. If approved, the model would represent a setback against social welfare, as it would imply:

- The establishment of a monopoly across the whole value chain of the sector.
- The creation of a monopsony in the purchase of electricity carried out by the Federal Electricity Commission (CFE, per its initials in Spanish and a state-owned company).
- The dismantling of the institutional framework that safeguards public interest, unduly transferring to CFE regulatory and public policy tasks.
- The elimination of several mechanisms which aim at ensuring the reliability of the system, the diversification of the generation mix, improving the service and motivating investments in more efficient and clean generation technologies.
- The cancelation of all generation permits and electricity purchase and sale contracts with the private sector, which would translate into a restriction of supply, idleness of assets and greater disincentives for investment.
- An increase in costs along the value chain of the electricity industry, thus increasing the rates that would harm the welfare of consumers and the competitive position of companies.

### ***3.1.2. Opinion on the Strategy of the Ministry of Energy regarding the natural gas market***

56. In July, the Commission issued an opinion warning of the risks to competition and free market access in the natural gas market derived from the Supply Guarantee Strategy for the Optimization of Capacity in the Integrated National Transport and Storage System of Natural Gas (Sistrangas, per its acronym in Spanish) established by the Ministry of Energy. Said Strategy established that users or those interested in receiving the service of natural gas transport at the points of entry of the Sistrangas must prove that they receive the supply from the state-owned companies Petróleos Mexicanos (Pemex), the CFE, or their affiliated or subsidiaries and that the provision of the services is ensured by contracting transport capacity in pipelines with any of the latter.<sup>39</sup>

57. In its opinion,<sup>40</sup> COFECE found that, if followed, the Strategy would severely and irreparably affect the competition conditions in the natural gas market by:

- Preventing users who decide not to contract with the state-owned companies from accessing on equal conditions to the capacity of the Sistrangas, artificially benefiting Pemex and CFE.
- Discouraging the entry of potential sellers of natural gas, thus nullifying the capacity to compete for the current participants of this link.
- Generating distortions for competitors of CFE in the market of the electric power production, as natural gas is an input to produce electricity and electricity producers require the gas service transport. The Strategy would force said producers to acquire natural gas through CFE, which is also their competitor.

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<sup>39</sup> Press release COFECE-006-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-006-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-006-2022_ENG.pdf)

<sup>40</sup> The complete opinion is available, in Spanish, at <https://www.cofece.mx/CFCResoluciones/docs/Opiniones/V192/2/5652781.pdf>

58. Consequently, the implementation of the Strategy would result in an increase in the price of natural gas that would be transferred to final consumers, as well as in the deterioration of supply conditions. In addition, energy security could be affected as instead of diversifying the supply sources the Strategy aims to protect the state-owned companies. Thus, COFECE urged the Ministry of Energy, the Energy Regulatory Commission and the National Center of Natural Gas Control not to implement the Strategy.

### ***3.1.3. Opinion on taxi and bus services at Felipe Angeles International Airport***

59. In March, per request of the Felipe Angeles International Airport (AIFA, per its initials in Spanish), the Commission issued an opinion on the access system proposed by the AIFA for the provision of land passenger transport services in the modality of taxis and buses. After its analysis, COFECE found that the proposed system would favor a greater supply of providers, as it would allow the entry of any interested party that met the applicable requirements; and would generate incentives for the participants to provide better price and quality conditions, by not imposing undue discriminatory treatment or unjustified requirements that grant exclusive advantages.<sup>41</sup>

60. To further guarantee and increase the benefits of competition for consumers, COFECE made the following recommendations to the AIFA:<sup>42</sup>

- Continuously maintain the validity of the proposed open system, as long as there is space availability in the facilities.
- Eliminate obligations for permit holders that could facilitate the conduction of anticompetitive practices.
- Facilitate schemes for the commercialization of tickets and implement a digital space in which consumers can compare prices.
- Establish the commission of absolute and/or relative monopolistic practices as a cause for rescission of the contract.
- Allow the provision of the service by digital platforms, as long as they meet the requirements.
- Eliminate clauses that grant discretion to the AIFA to terminate a contract regarding these services without justified cause.

### ***3.1.4. Opinion to promote competition in the Financial Technology Institutions sector***

61. In November, the Commission issued an opinion on several regulations governing Financial Technology Institutions (Fintech) that could hinder the process of competition and free market access in this sector to the detriment of users and suppliers. Thus, COFECE recommended the Ministry of Finance and Public Credit (SHCP, per its initials in Spanish), the Bank of Mexico (Banxico), the National Banking and Securities Commission (CNBV, per its initials in Spanish) and other supervisory commissions to evaluate the regulation

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<sup>41</sup> Press release COFECE-007-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-008-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/03/COFECE-008-2022_ENG.pdf)

<sup>42</sup> The complete opinion is available, in Spanish, at <https://www.cofece.mx/CFCResoluciones/docs/Opiniones/V192/2/5659145.pdf>

related to cloud storage, the role played by commission agents, and the protection of savings of Fintech users.<sup>43</sup>

62. Some of the main recommendations issued by COFECE were:<sup>44</sup>

- To review the proportionality of having another storage mechanism when using a cloud as a primary provider and evaluate the regulatory distinction with respect to limits on the use of commission agents or Electronic Payment Fund Institutions vis a vis credit institutions.
- That the SHCP, Banxico and the CNBV evaluate the regulatory alternatives to guarantee the protection of the funds of users, based on international best practices.
- That the CNBV and other supervisory commissions issue regulations on matters of open banking, as well as clear guidelines on the use of client information.
- That the CNBV evaluated the proportionality and distinction of the regulation regarding notice and authorization obligation to be complied by developers of programming interfaces for standardized read-only software applications from domestic and foreign suppliers.

## 3.2. New reports and studies on competition policy issues

### 3.2.1. Study of competition and free market access in insurance of medical expenses

63. In December, the Commission published the *Study of competition and free market access in insurance of medical expenses* in which it identified problems that reduce the competitive pressure to the detriment of consumers. Insurance of medical expenses (SGM, per its initials in Spanish) are financial instruments that allow to face expenses caused by damages or health risks, in a shared way with a group of people who contract these services.<sup>45</sup>

64. In the Study, COFECE found that, among other competition problems, the market for hospital services is not very transparent, consumers face high costs for switching insurers, the way in which insurers agents are remunerated hinders the entry of new companies and that there is legal uncertainty that could be discouraging the entry of insurtech companies. To address these concerns, the Commission recommended:<sup>46</sup>

- To promote transparency in the market of hospital services, for which it recommends the Office of the Federal Prosecutor for Consumers (PROFECO for its acronym in Spanish) to develop and publish indicators that measure the price-quality relation of private hospital services.
- To promote consumer mobility by mandating seniority portability.

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<sup>43</sup> Press release COFECE-038-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-038-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-038-2022_ENG.pdf)

<sup>44</sup> The complete opinion is available, in Spanish, at <https://www.cofece.mx/CFCResoluciones/docs/Opiniones/V197/1/5837843.pdf>

<sup>45</sup> Press release COFECE-042-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-042-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-042-2022_ENG.pdf)

<sup>46</sup> The complete study is only available in Spanish, an English translation will be published in the Commission's website soon. In the meantime, an executive summary of the Study is available in English at [https://www.cofece.mx/wp-content/uploads/2022/12/EE\\_SGM-web-ENG-ResumenEjec.pdf](https://www.cofece.mx/wp-content/uploads/2022/12/EE_SGM-web-ENG-ResumenEjec.pdf)

- To decrease search costs for consumers through the promotion, by regulatory authorities, of the establishment of minimum standards for websites of insurers and comparators.
- To reduce barriers to entry for new competitors by making mandatory for insurance agents to disclose to consumers information about the commissions and bonuses they receive from insurers and prohibit prices, bonuses, or contingent commissions so that entrants can distribute their products through the same agent networks that already exist.

### 3.2.2. *Market study on the beef market*

65. In May, the Commission approved to initiate a study of the markets of production, distribution and commercialization of beef and related markets. This sector is relevant as Mexican households allocated 19% of their food expenditure to the purchase of beef, so this sector is a priority for the economy, household expenditure and employment in the country.<sup>47</sup>

66. The study is aligned with COFECE's 2022-2025 Strategic Plan and will analyze the structure and regulatory framework of the beef market and its related markets and will present recommendations aimed at, where appropriate, improving its functioning and promoting competition and free market access.

### 3.2.3. *Market study on digital financial services*

67. In June, the Commission approved to initiate a market study on digital financial services and related markets. This study will focus on analyzing the services of electronic payments and crowdfunding services offered by companies commonly known as Fintech; as well as other financial services that are provided over the internet that have similar functionalities. It will also analyze the structure, functioning and regulatory framework of these services and, if it is the case, it will present recommendations to the sectorial authorities to improve their operation.<sup>48</sup>

### 3.2.4. *2022-2025 Strategic Plan*<sup>49</sup>

68. In March, the Commission presented its 2022-2025 Strategic Plan, a tool that will allow, through the focalization and prioritization of actions, to obtain better results and have a greater impact on the Mexican economy. In line with international best practices, strategic planning processes help organizations like COFECE to establish directives and formulate and implement tactics to achieve their objectives and create added value. As part of its Institutional Planning Model, the Commission conducts its long-term planning through the drafting and publication of every four years of a Strategic Plan, which defines the roadmap and strategy to guide its efforts toward fulfilling its constitutional mandate.

69. The 2022-2025 Strategic Plan includes: (1) a diagnosis of COFECE, which is a comprehensive analysis of the environment surrounding the Commission and the variables that could affect its performance, (2) the Commission's mission, vision, and institutional values, (3) the institutional objectives and strategic lines to achieve them, and (4) priority

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<sup>47</sup> Press Release COFECE-015-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/05/COFECE-015-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/05/COFECE-015-2022_ENG.pdf)

<sup>48</sup> Press Release COFECE-018-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/06/COFECE-018-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/06/COFECE-018-2022_ENG.pdf)

<sup>49</sup> The complete document is available at <https://www.cofece.mx/wp-content/uploads/2022/11/PE2022-2025-ing-VF.pdf>

sectors in which COFECE will focus to maximize the impact of its actions on markets functioning and consumers welfare. For the 2022-2025 period, COFECE defined the following sectors as priorities: health, food and beverages, financial services, transport and logistics, energy, construction and real-estate services, public procurement, and digital markets.

### 3.2.5. *Book: What does Mexico gain when there is competition?*

70. In September, COFECE published the book *What does Mexico gain when there is competition? Economic benefit of eight interventions of COFECE*, which presents eight ex post assessments made to interventions of the Commission and its predecessor, the Federal Competition Commission (CFC). In this book, the Commission highlights the importance of its interventions being evaluated by academics and competition experts once the markets have incorporated their effects. This contributes to improving the quality of future interventions and, at the same time, generates results that can be disseminated<sup>50</sup>.

71. The assessments presented in the publication are: i) a merger in the chemical industry, ii) an estimation of the benefits obtained by sanctioning a cartel in public tenders in the health sector, iii) the impact of collusive practices in freight transport market, iv) an assessment of the impact on consumer welfare resulting from cartel sanctions in the chicken market, v) a merger in the public service rail freight market, vi) a merger in the market of movie exhibition at theaters, vii) a merger between the airlines Aeromexico and Delta subject to conditions, and viii) the impact of a cartel in the Mexican market of sugar.

## 3.3. Online and In-Person Trainings

72. In 2022, the Commission launched new online training courses on its own platform, which reached 550 participants. The courses which are aimed at students, the private sector and the general public cover topics such as dawn raids, competition in digital markets and merger analysis. Furthermore, the Commission carried out the first edition of an in-person workshop on dawn raids aimed at private practitioners. In this training, participants conducted a “mock dawn raid” to identify the powers of the Commission during an investigation and the rights and obligations that economic agents have when presented with a raid or a requirement from the Investigative Authority.

## 4. Resources of competition authorities

### 4.1. Annual Budget

73. For 2022, the annual budget was 616,125,143 Mexican pesos.<sup>51</sup>

### 4.2. Commission’s Leadership

74. For most of 2022, the Board of Commissioners operated with four out of seven members, continuing under the leadership of Commissioner Brenda Hernández as Acting Chair since the Senate did not appoint a permanent Chair to preside over the Board. In November, after the Supreme Court of Justice ruled in favor of COFECE regarding its

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<sup>50</sup> The book is available at <https://www.cofece.mx/what-does-mexico-gain-when-there-is-competition/>

<sup>51</sup> 33,125,007.7 USD

constitutional controversy against the Federal Executive, the President submitted to the Senate a list of possible candidates to fill the vacancies.

75. In December, the Senate appointed Andrea Marván Saltiel as a new Commissioner of COFECE for a nine-year period.<sup>52</sup> Also, in December, the Federal Executive submitted to the Senate, the nominations of Rodrigo Alcazar Silva and Giovanni Tapia Lezama as Commissioners, who were appointed on the beginning of 2023.

### 4.3. Human Resources

76. In 2022, the Commission employed 449 people, of which:

- 318 are non-administrative staff working in competition law enforcement and advocacy, of which:
  - 136 work in the Investigative Authority (cartels, abuse of dominance, market intelligence and forensics)
  - 23 work on Litigation Affairs
  - 29 work in the Board of Commissioners
  - 86 work in the Technical Secretariat (including merger review and market studies)
  - 6 work in the Digital Markets Unit
  - 38 work in the Planning, Liaison and International Affairs Unit (which includes planning and evaluation and competition advocacy)

77. In terms of professions, of the total of non-administrative staff:<sup>53</sup>

- a) 147 are lawyers
- b) 106 are economists
- c) 21 are data scientists

## 5. International Activities

### 5.1. 2022 Antitrust Writing Awards

78. In April, COFECE won the 2022 Antitrust Writing Awards, which are organized by the Institute of Competition Law. The Commission was awarded, in the Best Soft-Law Cross Border Issues category, for its document *A converging competition agenda for the prosperity of Mexico and the United States* which was published on September 2021.<sup>54</sup> This document recounted the main recommendations of the Commission to promote competition in priority markets of the Mexican economy, that match with the Executive

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<sup>52</sup> Press release COFECE-044-2022 available at [https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-044-2022\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2022/12/COFECE-044-2022_ENG.pdf). Andrea Marván was appointed as Chair Commissioner in 2023, See press release COFECE-008-2023 at: [https://www.cofece.mx/wp-content/uploads/2023/03/COFECE-008-2023\\_ENG.pdf](https://www.cofece.mx/wp-content/uploads/2023/03/COFECE-008-2023_ENG.pdf)

<sup>53</sup> It is important to point out that some non-administrative staff works in more than one area of competition enforcement: therefore, numbers add up more than the number of total staff.

<sup>54</sup> The complete document is available at <https://www.cofece.mx/a-converging-competition-agenda-for-the-prosperity-of-mexico-and-the-united-states/>

Order, issued by the President of the United States in July 2021 to address the lack of competition in the American economy.

## 5.2. Regional Competition Center of the Americas

79. Also in April, by unanimous vote of its members, COFECE assumed the Secretariat of the Regional Competition Center of the Americas (CRC, per its initials in Spanish). This is a mechanism that seeks to strengthen international cooperation among competition authorities in the Americas and increase their technical and operational capacities. By the end of 2022, the CRC brought together 20 competition agencies from all over the continent.<sup>55</sup>

## 6. Period covered by the above information

80. The information provided in this report covers from January 1<sup>st</sup> to December 31<sup>st</sup>, 2022.

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<sup>55</sup> As of February 2023, the CRC changed its name to Group of Competition Agencies of the Americas (GrACA, per its initials in Spanish).



## Federal Telecommunications Institute (IFT)

### Executive Summary IFT

81. In 2022, the IFT updated its Guidelines for Merger Control in the Telecommunications and Broadcasting Sectors (T&B) and the Technical Criteria for the Assessment of Economic Concentration in Markets and Services Belonging to the T&B Sectors; and issued the Guidelines for the Substantiation of Legal Procedures and Formalities under the Responsibility of the Economic Competition Unit through IFT's Electronic One-Stop Window. In addition, the Guidelines for the Substantiation of Investigations, Procedures, and Formalities under the Responsibility of the Investigative Authority of IFT, through electronic means entered into force.

82. The IFT conducted eight investigations. One of them regarded the possible existence of barriers to entry, six regarded unilateral conducts, and one involved an unlawful merger. The investigations initiated in 2022 addressed a complaint for probable commission of a relative monopolistic practice in the app stores market for mobile operating systems and their related markets; and, ex officio, an unlawful concentration in the production, licensing, distribution and marketing of commercial broadcasted audiovisual content, pay TV service, as well as through OTT platforms; commercialization of advertising times or spaces in pay TV programming channels service; and distribution of audiovisual content on internet platforms (OTT) by advertising.

83. The IFT resolved on five proceedings related to mergers and acquisitions, including the Acquisition by Discovery, Inc. (Discovery) of the Warner Media business, owned by AT&T, and subsequent acquisition by AT&T shareholders of approximately 71% of Discovery shares.

84. In the matters of competition assessments and opinions, the IFT issued 494 opinions related to the grant, renewal and transfer of licenses to provide T&B services; opinions on the Biennial revision of the asymmetric regulation for the Broadcasting Economic Preponderant Agent; opinions on the proposed asymmetric regulation for the Economic Agent that was declared to hold Substantial Market Power in pay TV services; an opinion on draft legislation related to the deployment of telecommunication infrastructure in poles and underground ducts; and several others.

85. The IFT published three market studies: Study on Audio-visual and Audio OTT services in Mexico; Study on infrastructure competition, dynamics and evolution, for fixed telecommunications services; and Study on Online Advertising. Also, a Methodology for the elaboration of Market Studies; and a Study on Audiovisual OTT market strategies and relations with fixed telecommunications services operators in Mexico.

86. The IFT hosted its 8<sup>th</sup> annual advocacy event "Challenges of Competition in the Digital Environment" and conducted other advocacy efforts. In addition, it signed Memoranda of Understanding with the competition authorities of Argentina, Peru and Chile.

87. Finally, IFT's annual budget amounted to \$80.07 million USD; it had a total staff of 1292 employees, out of which 68 were dedicated to enforcement against anticompetitive practices, 30 to merger review and other enforcement, 16 to advocacy efforts, and 352 to support; for a total of 466 officials involved in competition activities.



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

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

88. No changes to competition law or related legislation were adopted in 2022.

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

89. During 2022, the IFT updated the Guidelines for Merger Control in the T&B Sectors and the Technical Criteria for the Assessment of Economic Concentration in Markets and Services Belonging to the T&B Sectors. The IFT is legally mandated to review its guidelines every five years, as established in the last paragraph of article 138 of the Federal Economic Competition Law (LFCE, by its acronym in Spanish) and, prior its final publication, to conduct a public consultation process. The new versions of both documents reflect the current and prospective competition conditions in the T&B sectors and consider the evidence analyzed by the IFT in several relevant markets in recent years. Also, the IFT considered the OECD's recommendations included in Mexico's Peer Review of Competition Law and Policy (2020).

90. In addition, in 2022 the IFT issued the Guidelines for the Substantiation of Legal Procedures and Formalities under the Responsibility of the Economic Competition Unit through IFT's Electronic One-Stop Window; while the Guidelines for the Substantiation of Investigations, Procedures, and Formalities under the Responsibility of the Investigative Authority of IFT, through electronic means entered into force.

#### *1.2.1. Guidelines for Merger Control in T&B Sectors (updated version)*<sup>56</sup>

91. The most important changes addressed the following issues: (i) adjustments to the analysis of economic interest groups and criteria considered for the assessment of control and influence; and (ii) three new sections on the analysis of: (1) co-investments or joint ventures and agreements between economic agents; (2) investment funds; and (3) the failing firm defense during economic crisis.

#### *1.2.2. Technical Criteria for the Assessment of Economic Concentration in Markets and Services Belonging to the T&B Sectors (updated version)*<sup>57</sup>

92. The most relevant changes included modifications to Herfindahl-Hirschman Index (HHI) thresholds. In particular, (i) for moderate levels of concentration, the maximum threshold decreased from 3,000 to 2,500 points; and (ii) for high levels of concentration, it was set above 2,500 HHI points. Additionally, for the broadcasting sector it was established that any operation (merger or acquisition) that would result in a market share higher than 30% would be considered to potentially pose risks to competition and free entry access, hence further analysis would be required by the IFT; for the telecommunications sector no amendments were made (it remained in 35%).

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<sup>56</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/modificacionalaguiaaparaelcontroldeconcentraciones-pift23022263compressed.pdf>

<sup>57</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/modificacionalcriteriotechnicoparacalcularelniveldeconcentracionenmercadosdetir-dof23022262compressed.pdf>

***1.2.3. Guidelines for the Substantiation of Legal Procedures and Formalities under the Responsibility of the Economic Competition Unit through IFT's Electronic One-Stop Window.<sup>58</sup>***

93. The guidelines provide information regarding: (i) how economic agents (undertakings), public authorities, the IFT's Investigative Authority, and the public, who participate or have legal interests in a legal procedures can access the platform, upload information, check updates, etc.; (ii) the requirements to register and to obtain an Electronic Signature; (iii) explain and establish the process through which each procedure will be conducted electronically (i.e. digital means); (iv) explain how digital files and traditional files will be compiled and processed; (v) how the submission of evidence and notifications will be conducted; among others.

***1.2.4. Guidelines for the Substantiation of Investigations, Procedures, and Formalities under the Responsibility of the Investigative Authority of IFT, through electronic means.<sup>59</sup>***

94. The guidelines entered into force on November, 2022. They establish the operational terms and conditions of the Electronic System, based on principles of digital government and open data. During the first year of the validity of the Guidelines, the economic agents, public authorities, and other users may choose to present complaints, requests and promotions through the use of traditional means or through the Electronic System.

### **1.3. Government proposals for new legislation**

95. No government proposals for new economic competition legislation were issued in 2022.

## **2. Enforcement of competition laws and policies**

### **2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions**

***2.1.1. Summary of activities of: competition authorities; and courts;***

96. During 2022, the IFT processed eight investigations. Two of them were initiated in 2022; two were initiated in 2019; two in 2020 and two in 2021. One of them regarded the possible existence of entry barriers, six of them regarded unilateral conducts, and one involved an unlawful merger.

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<sup>58</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/lineamientosparalasustanciaciondeprocedimientosacargodelaueatravesdeventanillaelectronica.pdf>

<sup>59</sup> Available in Spanish at: [https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/acuerdoliga/extractodof031121596acc\\_0.pdf](https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/acuerdoliga/extractodof031121596acc_0.pdf)

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

#### Investigations Started

97. An investigation initiated by a complaint for probable commission of a relative monopolistic practice in the app stores market for mobile operating systems and their related markets.<sup>60</sup>

98. An investigation of an unlawful concentration initiated ex officio in the production, licensing, distribution and marketing of commercial broadcasted audiovisual content, pay TV service, as well as through OTT platforms; commercialization of advertising times or spaces in pay TV programming channels service; and distribution of audiovisual content on internet platforms (OTT) by advertising.<sup>61</sup>

#### Investigations in Progress

99. In 2019, the IFT initiated an investigation by a complaint for probable commission of a relative monopolistic practice in the retail markets of mobile telecommunications services and of commercialization of mobile terminal equipment.<sup>62</sup>

100. In 2020, the IFT initiated an investigation by a complaint for probable commission of a relative monopolistic practice in the market of the wholesale services of leasing of local dedicated links and between localities.<sup>63</sup>

101. In 2020, the IFT initiated and ex officio investigation in the markets of online search services, social networks, mobile operating systems, cloud computing services and related services to determine the possible existence of barriers to competition and free market access or essential facilities that can generate anti-competitive effects.<sup>64</sup>

102. In 2021, the IFT initiated an investigation by a complaint for probable commission of a relative monopolistic practice in the distribution of mobile terminals and commercialization of mobile telecommunications service market, in the States of Colima, Guanajuato, Jalisco and Michoacán.<sup>65</sup>

103. In 2021, the IFT initiated an investigation by a complaint for probable commission of a relative monopolistic practice in the distribution and commercialization, through chain

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<sup>60</sup>Initiation decision available in Spanish, File AI/DE-002-2022, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5667529&fecha=07/10/2022#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5667529&fecha=07/10/2022#gsc.tab=0)

<sup>61</sup> Initiation decision available in Spanish, File AI/IO-001-2022, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5670913&fecha=09/11/2022#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5670913&fecha=09/11/2022#gsc.tab=0)

<sup>62</sup>Initiation decision available in Spanish, File AI/DE-003-2019, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5578364&fecha=11/11/2019](https://www.dof.gob.mx/nota_detalle.php?codigo=5578364&fecha=11/11/2019)

<sup>63</sup> Initiation decision available in Spanish, File AI/DE-001-2020, at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5589097&fecha=11/03/2020](http://dof.gob.mx/nota_detalle.php?codigo=5589097&fecha=11/03/2020)

<sup>64</sup> Initiation decision available in Spanish, File AI/DC-001-2020, at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5603327&fecha=22/10/2020](http://dof.gob.mx/nota_detalle.php?codigo=5603327&fecha=22/10/2020) Derived from an administrative jurisdictional conflict, the First Collegiate Circuit Court Specialized on Economic Competition, Broadcasting and Telecommunication matters determined that the analysis of the investigation corresponds to both competition authorities. On one hand, COFECE will resolve in the markets of online search services, social networks, cloud computing services and related services; and on the other, the IFT will resolve in the market of mobile operating systems. COFECE decided to close the investigation in those markets. The IFT carried on with its investigation, which is currently open.

<sup>65</sup> Initiation decision available in Spanish, File AI/DE-006-2020: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5624004&fecha=15/07/2021#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5624004&fecha=15/07/2021#gsc.tab=0)

stores of convenience, of SIM cards to offer mobile telecommunication services in national territory.<sup>66</sup>

*Investigations that concluded with a preliminary or a probable responsibility statement, as applicable*

104. During 2022, the Investigative Authority issued the statement of probable responsibility of an investigation for probable commission of a relative monopolistic practice in the market of the provision of wholesale services of disaggregation of the local network of the preponderant economic agent in the telecommunications sector.<sup>67</sup>

*Investigations Closed*<sup>68</sup>

105. All investigations by the Investigative Authority are in progress.

*IFT's Board of Commissioners Resolutions on Competition Issues*

106. On June 21, 2022, the IFT's Board of Commissioners issued a resolution confirming that the practice of Telcel and América Móvil of granting the Claro Video service for free in conjunction with some mobile phone plans constitutes a cross-subsidy. However, they concluded that there are not enough elements to demonstrate that said subsidy had the effect or purpose of displacing Telcel's competitors in the mobile service market, therefore such commercial practice does not constitute a relative monopolistic practice prohibited by the LFCE, leading to the resolution to close the file.<sup>69</sup>

## 2.2. Mergers and acquisitions

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

107. The IFT reviewed five proceedings related to mergers and acquisitions (M&A). The following table provides a brief description of the transactions reviewed. The total estimated value of these transactions was USD \$575 million (EUR \$539 millions), and the average value was USD \$115 million (EUR \$108.87 million).<sup>70</sup>

<sup>66</sup> Initiation decision available in Spanish. File AI/DE-004-2021: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5638397&fecha=15/12/2021#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5638397&fecha=15/12/2021#gsc.tab=0)

<sup>67</sup> IFT's Third Quarterly Activities Report, available in Spanish, [https://www.ift.org.mx/sites/default/files/ita3\\_2022.pdf](https://www.ift.org.mx/sites/default/files/ita3_2022.pdf)

<sup>68</sup> Even though in 2022 no files were closed, it is worth mentioning that at the end of 2021 the following files were closed: File AI/DE-001-2018, available in Spanish at: <https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/acuerdoliga/pift011221737vp.pdf> and File AI/DE-003-2018, available in Spanish at: <https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/acuerdoliga/vp220921463.pdf>

<sup>69</sup> File AI/DE-002-2017, available in Spanish at: <https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/acuerdoliga/vpext2106225.pdf>

<sup>70</sup> The exchange rates considered for this estimation were the closed market value at 31 December, 2022, taken from the following websites: <https://www.banxico.org.mx/tipcamb/main.do?page=tip&idioma=sp> and [https://www.ecb.europa.eu/stats/policy\\_and\\_exchange\\_rates/euro\\_reference\\_exchange\\_rates/html/eurofxref-graph-usd.en.html](https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofxref-graph-usd.en.html)

Table 8. M&amp;A resolved by IFT in 2022

Parties	Relevant markets	Decision	Dimension
Operation through which Bancomext, Banobras and Nafin (Mexico's Development Bank) became a majoritarian stockholder of Altán Redes (Red Compartida's private investor, provider of upstream mobile telecommunication services).	Wholesale telecommunication services.	Authorized	National
Joint venture between Equinix and Euro Rowan for the construction and operation of a data center in Mexico.	Data center infrastructure and related services.	Authorized	International
Acquisition of Warner Media business, owned by AT&T, by Discovery, Inc..	Provision and licensing of audio-visual content and advertising for pay TV providers; in particular, 4 categories of audio-visual categories of channels for pay TV providers, related markets of advertising and OTT services.	Authorized, conditioned to behavioural remedies	International
Acquisition of Baring Private Equity Asia Group (BPEA Group) <sup>71</sup> by EQT AB, both private equity undertakings but which hold direct and indirect participations in undertakings that provide telecommunication services.	Satellite services, GPS tracking for transportation route services, and telecommunications services (data transmission and Internet access).	Authorized	International
Increase in the shareholding stake of Grupo MVS Capital, S. de R.L. de C.V., in Dish Mexico Holdings, de R.L. de C.V. (DMH), a company in which DMH already hold a tenure and through the operation gave it control.	Provision of pay TV services through satellite technology; production, provision and licensing of audio-visual content for open and pay TV satellite services; support services; and fixed Internet access.	Authorized	National

Source: IFT

### 2.2.2. Summary of significant cases

*Acquisition by Discovery, Inc. (Discovery) of the Warner Media business, owned by AT&T, and subsequent acquisition by AT&T shareholders of approximately 71% of Discovery shares.*<sup>72</sup>

108. On August 22, 2022, the IFT authorized the transaction conditioned to behavioural remedies. The transaction notified by Discovery, Inc., Drake Subsidiary, Inc. and AT&T, Inc. (AT&T), included the acquisition by Discovery, Inc. (Discovery), of the Warner Media business, owned by AT&T, and subsequent acquisition by AT&T shareholders of approximately 71% of Discovery's stock value, as well as a name change from Discovery to Warner Bros. Discovery, Inc.

109. The analysis of the operation did not find competition risks in the four relevant markets analyzed for the provision and licensing of audio-visual content and advertising in which the parties concurred in Mexico. However, the IFT identified that, given the international scope of the operation, AT&T had accumulated a market share that would entail some competition risks for the provision and licensing of audio-visual content for pay TV providers in the children's category, one of the fourth relevant markets analyzed.

<sup>72</sup> Decision available in Spanish at: <https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/acuerdologia/vpext22082213.pdf>

Consequently, the IFT authorized the operation subject to behavioural remedies and these were accepted by the parties.

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

110. Given IFT's dual mandate, as a regulator and exclusive competition authority in the T&B sectors, the IFT has the statutory duty to perform competition assessments of its regulatory decisions, as well as to perform competitive analysis on grants, modifications and transactions related to concession titles. Through the statutory duty it is guaranteed that the synergies between regulation and competition decisions are enhanced, in order to improve the benefits for consumers' welfare.

111. In 2022, the IFT performed several competition assessments on the following regulatory procedures: (i) public bidding auctions (radio spectrum); (ii) grant, renewal and transfer of licenses (concession titles); (iii) opinions on drafts and existing regulations, and drafts to the biennial revision of asymmetric regulation imposed to the economic preponderant agents (AEPs, by its acronym in Spanish); finally, (iv) opinions on legislations that could affect competition or market entry in the T&B sectors. The UCE is responsible for issuing these competition assessments to the regulatory procedures proposed by other units within the IFT.

#### 3.1. Public Auctions

112. The UCE reviewed the IFT-11 Public auction for the allocation of radio spectrum frequencies for specialized mobile radio services in the bands 410-415/420-425 MHz, analyzing the minimum reference values for the auction, the auction procedure, the spectrum cap limits, and the points-based incentive system for new participants. As part of the bidding process, the UCE analyzed and issued competition opinions regarding the participation of economics agents, regarding their belonging economic interest group and their radio spectrum holdings. The bidding auction processes will finalize in 2023.

113. Also, for the Public auction for the allocation of 319 frequency bands for the provision of Audio Radio Services", the UCE made a competition assessment of the interested bidders, and issued 41 certificates of participation to the eligible undertakings which allowed them to participate in the bidding procedure.

#### 3.2. Grant, renewal and transfer of licenses

114. In 2022, the UCE issued 494 opinions related to grants, renewals and transfers of licenses (concessions) to provide T&B services. The analysis of these opinions are akin to that of mergers, where an economic group is identified, a relevant market is defined and indicators of market concentration are assessed. The following table provides a summary of the number of cases related to these procedures, per type:

**Table 9. Number of Cases Related to Licenses Reviewed in T&B 2022**

Type	Number
Grant	233
Renewal	50
Transfer	211
Total	494

Source: IFT

### **3.3. Competition opinions on drafts and existing regulations, and modifications to asymmetric regulation for EAPs and holders of Substantial Market Power (SMP)**

115. In 2022, the UCE issued:

- Competition opinions on The Biennial revision of the asymmetric regulation for the Broadcasting AEP (AEPR, by its acronym in Spanish).
- Competition Assessment of the Proposed asymmetric regulation for the Economic Agent that was declared to hold SMP in pay TV services.
- Five competition opinions to five broadcasting providers who were declared in 2014 as part of the economic interest group of the AEPR. In 2022, the undertakings requested a revision by the IFT to stop being considered as part of that economic interest group.
- Six competition opinions regarding changes in conditions included in concession titles.
- 45 competition opinions regarding access to multiplexing for Digital Broadcasting TV.

### **3.4. Competition opinions on draft legislation**

116. In 2022, the UCE issued five non-binding competition opinions regarding State level legislations related to the deployment of telecommunication infrastructure in poles and underground ducts. In all of them, the IFT warned on the constraints and increased costs that the requirement of mandatory underground laying of telecommunications infrastructure would imply for telecommunication providers (especially for entrants and small participants). The IFT stressed the importance to give reasonable choice to telecommunication providers for their deployment, in order to prevent unduly measures that could hinder competition in the provision of telecommunication services, especially broadband access.



## 4. Resources of competition authorities

### 4.1. Resources overall (current numbers and change over previous year):

#### 4.1.1. Annual budget (in MXN and USD):

**Table 10. IFT's Annual Competition Budget by Administrative Units in 2022**

Administrative Unit	Amount <sup>73</sup>	Percentage from total budget	% Change over 2021 <sup>74</sup>
Budget of the Economic Competition Unit (UCE) in 2022	\$56,508,130 MXN \$2,900,708 USD	3.62%	-8.43%
Budget of the Investigative Authority (AI) in 2022	\$69,695,317 MXN \$3,577,641 USD	4.47%	-2.03%
Competition Activities in Other Units	\$430,138,965 MXN 22,080,148 USD	27.57%	+4.11 %
<b>Total budget of the IFT in 2022</b>	<b>\$1,560,000,000 MXN \$80,078,846 USD</b>	<b>100%</b>	<b>+3.31 %</b>

Source: IFT

#### 4.1.2. Number of employees (person-years):

**Table 11. Number of Employees in 2022**

Year	Employees
2022	1292
Change over 2021 <sup>75</sup>	+2.86%

Source: IFT

**Table 12. Number of IFT Employees by Administrative Unit and by Profession in 2022**

Administrative Unit	Economist	Lawyer	Other Profesional	Total Staff Combined by Unit
AI	27	32	7	66
UCE	24	20	7	51
Total Staff Combined by Profession	51	52	14	117
Change over 2021 by Profession	+6.25%	-3.70%	+7.69	+1.73%

Source: IFT



## 4.2. Human resources (person-years) applied to: Enforcement against anticompetitive practices; Merger review and enforcement; Advocacy efforts

**Table 13. Number of IFT Employees Applied to Competition Practice in 2022**

Practice	Staff
Enforcement against anticompetitive practices <sup>a</sup>	68
Merger Review and Enforcement <sup>b</sup>	30
Advocacy Efforts <sup>c</sup>	16
Support <sup>d</sup>	352
<b>Total</b>	<b>466</b>

Note:

a. This includes the staff of the AI from the General Directorate (GD) of Monopolistic Practices and Unlawful Mergers; GD of Economic Analysis and Assistant GD of Legal Analysis; the staff of the UCE from the GD of Competition Procedures; and the Heads of the AI and the UCE.

b. This includes the staff of the AI from the GD of Market Conditions; and the staff of the UCE from the GD of Mergers and Concessions.

c. This includes the staff of the UCE from the GD of Economic Consultation and 2 advocacy officials; and 1 advocacy official at the AI.

d. This includes 30% of the total staff of the IFT, excluding the AI and the UCE, supporting with competition analyzes in ex ante regulation.

Source: IFT

## 4.3. Period covered by the above information:

117. January 1, 2022, to December 31, 2022.

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

118. In 2022, the IFT published three market studies, a methodology, and a report. Relevant details of each are presented below.

### 5.1. Studies

#### 5.1.1. Study on Audio-visual and Audio OTT services in Mexico<sup>76</sup>

119. This market study includes a description of the conceptual and legal frameworks for the provision of OTT services and provides relevant information on: (i) the characteristics and evolution of the supply and demand of Audio-visual and Audio OTT Services; (ii) it identifies relevant inputs for its provision; and (iii) a description of the competition dynamics in this market.

#### 5.1.2. Study on infrastructure competition, dynamics and evolution, for fixed telecommunications services<sup>77</sup>

120. This market study presents detailed information on recent developments and the current state of infrastructure competition for fixed telecommunications services in

<sup>76</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/estudiosdeserviciosottaudiovisualesydeaudio.pdf>

<sup>77</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/analisisdecompetenciaeninfraestructuraparaserviciosdetelecomunicacionesfijos.pdf>

Mexico. In particular, it analyses information at regional scale (state and municipal levels) and considers in depth the regional differences (at municipal level) regarding: number of providers, broadband access and e-literacy gaps.

### ***5.1.3. Study on Online Advertising***<sup>78</sup>

121. This market study presents the economic conceptual framework and the legal framework for the provision of online advertising in Mexico. It presents information and statistics on: (i) the characteristics and evolution of the demand and supply of online advertising; (ii) it identifies relevant inputs for its provision; (iii) a description of the competition dynamics; and (iv) it identifies the main anticompetitive practices that have been sanctioned by other jurisdictions.

### ***5.1.4. Methodology for the elaboration of Market Studies***<sup>79</sup>

122. This document presents the methodological framework and the process that the IFT will follow for the elaboration of market studies, as recommended by the OECD Mexico's Peer Review of Competition Law and Policy (2020). Hence, it includes information regarding the main steps in its design and elaboration, such as: preparation, launch, information gathering, competition analysis, recommendations, conclusions, and follow-up steps. Specifically, it explains: (i) criteria to determine the scope and the elements to be considered in its case selection; (ii) information gathering procedures; (iii) elements that will be included in the competition analysis, among others.

### ***5.1.5. Study on Audiovisual OTT market strategies and relations with fixed telecommunications services operators in Mexico***<sup>80</sup>

123. This study analyzes the packaging of audiovisual content through the assessment of OTT commercial strategies of services and their relationship with the strategies of fixed telecommunications operators. It is possible that the bundling of these services is partly due to operators' strategies whose main objective is to limit the negative effect of the contraction in the demand for traditional services.

## **5.2. Advocacy efforts**

### ***5.2.1. Forum "Challenges of Competition in the Digital Environment 2022"***<sup>81</sup>

124. The digital ecosystem continues to grow and impose challenges. At the international level, there is a debate about the need to make changes in competition and regulation policies in order to consider a broader and more complex range of concentrations and potentially anti-competitive conduct. The expansion of the objectives and focus of said policies drives the evaluation of competition dynamics of T&R markets considering the users' privacy rights, international cooperation, ex-ante and ex-post regulation, a gender perspective, among other dimensions. This Forum highlights the steps taken by the IFT in these matters.

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<sup>78</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/pat2022serviciosdepublicidadenlinea.pdf>

<sup>79</sup> Available in Spanish at: <https://www.ift.org.mx/sites/default/files/contenidogeneral/competencia-economica/metodologiaestudiosdemercadoenmateriadecompetenciaeconomica.pdf>

<sup>80</sup> Available in Spanish at: <https://www.ift.org.mx/industria/autoridad-investigadora/estudios>

<sup>81</sup> Forum web page: <https://centrodeestudios.ift.org.mx/seminario.php?id=30> and Summary available in Spanish at: <https://centrodeestudios.ift.org.mx/admin/files/detevento/1675357925.pdf>

### **5.2.2. Institutional media campaign**

125. In order to promote the IFT's powers as the competition agency in the T&B sectors, an institutional dissemination campaign was designed and executed in the mass media, digital media and social networks, as well as in complementary media. The campaign was carried out in 2 stages: from August to September 2022 and from October to November 2022.

## **5.3. International activities**

126. The IFT formalized existing technical cooperation ties with the competition authorities of Argentina, Peru and Chile, by signing a Memorandum of Understanding (MoU) on economic competition in areas of common interest, which include the detection of anti-competitive behavior, investigation procedures, analysis of market conditions and concentrations, market and regulatory studies, as well as competition policy and law, and free concurrence.

### **5.3.1. MoU with the National Commission for the Defense of Competition (CNDC) of Argentina.<sup>82</sup>**

127. On January 27, 2022, the IFT and the CNDC signed a Memorandum of Understanding regarding technical cooperation in matters of economic competition.

### **5.3.2. MoU with the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI) of Peru.<sup>83</sup>**

128. On February 28, 2022, the IFT and the INDECOPI signed a Memorandum of Understanding regarding technical cooperation in matters of economic competition.

### **5.3.3. MoU with the National Economic Prosecutor's Office (FNE) of Chile.<sup>84</sup>**

129. On December 7, 2022, the IFT and FNE signed a Memorandum of Understanding regarding technical cooperation in matters of economic competition.

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<sup>82</sup> Available in Spanish at: [https://www.ift.org.mx/sites/all/themes/bootstrap/templates/ift-cgai/pdfs/acuerdos/memorandum\\_de\\_entendimiento\\_cndc.pdf](https://www.ift.org.mx/sites/all/themes/bootstrap/templates/ift-cgai/pdfs/acuerdos/memorandum_de_entendimiento_cndc.pdf)

<sup>83</sup> Available in Spanish at: [https://www.ift.org.mx/sites/all/themes/bootstrap/templates/ift-cgai/pdfs/acuerdos/memorandum\\_de\\_entendimiento\\_indecopi.pdf](https://www.ift.org.mx/sites/all/themes/bootstrap/templates/ift-cgai/pdfs/acuerdos/memorandum_de_entendimiento_indecopi.pdf)

<sup>84</sup> Available in Spanish at: <https://www.ift.org.mx/industria/asuntos-internacionales/acuerdos/memorandum-de-entendimiento-fne>