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Assessing the impact of competition authorities' activities – Contribution from Costa Rica

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Costa Rica

1. Costa Rica has two authorities responsible for enforcing competition law: the Commission for the Promotion of Competition (COPROCOM), the national competition authority, and the Superintendency of Telecommunications (SUTEL), the sectorial competition authority for telecommunications.

2. The following sections outline both authorities' experiences and challenges in measuring the impact of competition policy in Costa Rica.

A. COPROCOM

1. Current situation and objectives

3. COPROCOM is the national authority responsible for enforcing and promoting competition in all sectors, except for telecommunications. It is currently developing its impact evaluation instruments and therefore preparing for their application and therefore does not have empirical results from their implementation. This contribution outlines progress in building this methodological and institutional framework, as well as the challenges faced and conditions required for its application.

4. That framework comprises two instruments: the Guide to *ex post* Evaluation of COPROCOM Decisions, dated October 2024 (hereinafter the "*Guide*"), and the Technical Methodology for Estimating the Social Benefit of COPROCOM Decisions (hereinafter the "*Methodology*").[1] These are complemented by the Market Studies Guide of October 2023 ("MS Guide"), which assigns a section to the *ex post* evaluation of such studies.[2] In its 2025 contribution to Working Party No. 2 of the OECD Competition Committee, COPROCOM described the preparatory work to incorporate impact evaluation into its institutional activity, including identifying cases, systematising information and strengthening technical capacity.[3] This contribution reports on the next step: the methodological and regulatory instruments intended to make such application possible.

5. The two instruments pursue different but complementary objectives. The *ex post* Evaluation Guide serves three purposes.[4] The first one, is to diagnose the impact of decisions: to document benefits for consumers, demonstrate the authority's results and justify the use of public resources. The second is to improve competition policy: to test the assumptions underlying its analyses actual market outcomes, provide feedback to the

[1]COPROCOM, *Technical Methodology for Estimating the Social Benefit of COPROCOM Decisions*, version 15-rev, 2026 (internal technical instrument, unpublished) ("Methodology").

[2]COPROCOM, Market Studies Guide, October 2023, published in Supplement No. 215 to La Gaceta No. 204 of 3 November 2023 ("MS Guide").

[3]OECD, DAF/COMP/WP2/WD(2025)17, Assessing the Impact of Competition Authorities' Activities – Summaries of contributions, 15 June 2025, pp. 7-8 (Costa Rica) ("Summaries 2025").

[4]Guide, pp. 5 and 8-11 (sections 1 and 4.1-4.3).

authority and guide the allocation of its resources. The third is to support advocacy with empirical evidence in order to strengthen public trust through transparency.

6. The Methodology has a narrower scope, geared towards institutional management. It is grounded in the constitutional mandate to evaluate results and ensure accountability,[5] and its results support strategic planning, accountability and public communication of COPROCOM's performance. Each instrument answers a different question: the Guide evaluates the effects that a decision produced in the market; on the other hand, the Methodology estimates the benefits that can be expected from the decision, based on the information available at the time.

7. COPROCOM is also preparing a draft regarding the Regulation on Monitoring and Compliance with Decisions, not yet approved, which governs the information that the authority will receive after deciding a case, although it is not an instrument for impact evaluation.[6]

2. The *ex post* evaluation Guide

8. The Guide covers decisions on mergers, anticompetitive practices (abuse of dominance and cartels) and market studies. It presents methodologies that COPROCOM may apply, offering criteria options, rather than a mandatory procedure.[7] It distinguishes three categories of evaluation – for accountability, *ex post* evaluation of specific interventions, and of the broader impact of competition policy – and is confined to the second.[8] The reason is that accountability evaluations, carried out shortly after the intervention, can only estimate probable effects on the basis of assumptions, whereas *ex post* evaluation observes actual effects once they are reflected in the market.

9. For case selection, the Guide proposes weighing the purpose of the evaluation, data availability, the time elapsed and other factors, such as learning opportunities or the share of lower-income household expenditure. On data, it recommends organising during the investigation, the information that will later be used, considering whether to include future reporting obligations in decisions. On the evaluation team and the publication of results, it sets out the advantages of internal, external or mixed teams and of different forms of dissemination, without endorsing any one of them.

10. The counterfactual as the core of methodology, must be plausible, comparable, specific, evidence-based, transparent and subject to sensitivity testing. The Guide describes comparator-based methods (before-and-after, cross-section and difference-in-differences), structural simulations, surveys and interviews, and other approaches such as event studies. It cautions that the before-and-after comparison assumes that, absent the intervention, the market would have maintained its trajectory, an assumption that does not hold if other shocks occurred simultaneously; that difference-in-differences depends on an appropriate choice of control market; and that surveys can help establish causality, but not the magnitude of the effects.

[5]Methodology, sections 0.2 and 0.4. Article 11, paragraph 2, of the Political Constitution is cited as transcribed in the Methodology.

[6]COPROCOM, Regulation on Monitoring and Compliance with Decisions, 2026 draft (version for consultation, not yet approved), arts. 1, 2 and 35.

[7]Guide, p. 2 (Presentation) and p. 6 (section 2).

[8]Guide, pp. 6-7 (section 3).

3. The social benefit estimation Methodology

11. The Methodology answers a different question: how much consumer welfare is preserved by a decision, estimated shortly after it becomes final and based on the information in the case file. It is defined as a technical instrument for internal application, grounded in the powers of the Superior Body to define its policy and to approve its plans and internal organisation, and in the duty to submit an annual activity report.[9]

12. Its scope covers final decisions imposing sanctions for absolute and relative monopolistic practices and final merger decisions that prohibit the transaction or clear it subject to conditions; unconditional clearances, early termination and advocacy recommendations are excluded from this version. The procedure provides for classifying the decision within thirty business days of it becoming final, preparing a Technical Impact Sheet within ninety business days (extendable), submitting it for review by a unit other than the one that prepared it, and consolidating the sheets into an Annual Social Benefit Report integrated into the annual activity report.

13. Benefit is defined as the consumer surplus loss avoided, calculated based on prices and quantities; in addition to the transfer resulting from the overcharge, it includes the deadweight loss. The counterfactual is estimated according to three levels of information in the case file: structural models (Level 1, used only exceptionally, due to lack of public and systematic databases of of elasticities), the overcharge established in the file (Level 2) or reference parameters (Level 3). Those parameters are a price effect of 10% for absolute practices—with 15% only as a sensitivity scenario—applied over the established duration of the practice and subject to a cap, and of 3% for two years for mergers, with a sensitivity range of 1% to 5%.[10] Each estimate receives a confidence rating (high, medium or low) and, where this is medium or low, sensitivity scenarios; the annual aggregate is presented by confidence tiers, together with its range, and never as a single figure.

14. The Methodology establishes several safeguards. The estimate does not constitute a determination of damages or restitution, does not form part of the evidence in the enforcement file and cannot be used to substantiate, increase or reduce the fine, which is governed exclusively by the technical regulation on fines. It considers only effects on prices and quantities and excludes quality, variety, innovation and deterrence as itself cautions, it therefore tends to underestimate the actual impact. In mergers, the parameters represent expected effects, not observed effects.

15. The instruments are designed to be complementary. The Methodology develops the accountability evaluation category, which the Guide does not cover; its systematic results can support case selection for an in-depth *ex post* evaluation, and the sheet is prepared without predisposition to the case being selected later under the Guide. A terminological clarification: the Guide labels accountability evaluations as *ex ante*, and the 2025 OECD paper refers to *impact assessments* as *ex ante* evaluations of activities and distinguishes

[9]Methodology, sections 0.1 and 0.2; Law No. 9736, art. 5, subparagraphs a), b), e), h) and l).

[10]OECD, Assessing the Impact of Competition Authorities' Activities, OECD Roundtables on Competition Policy Papers, No. 320, OECD Publishing, Paris, 2025, https://doi.org/10.1787/eaafdba8-en (DAF/COMP/WP2(2025)2) ("OECD 2025 Paper"), p. 14 (Box 2) and p. 18. The values of 10% for absolute agreements and of 3% and two years for mergers coincide with those of the 2014 OECD guide summarised there. The Methodology differs in that the duration for absolute practices is the established one, subject to a cap (section 5.3), and not three years, and in that it incorporates the deadweight loss, which most jurisdictions do not appear to account for.

them from *ex post* evaluations.[11] To avoid confusion, this contribution uses the terms "expected benefit estimation" and "*ex post* evaluation".

16. The Methodology is also distinct from the monitoring of compliance with decisions, which is governed by the draft regulation cited above and which the Methodology itself leaves unaffected. The Methodology estimates the benefits for consumers, whereas monitoring verifies compliance with the obligations imposed and, under the draft, verifies that they produce the competitive effects that motivated the decision. Although this latter function incorporates an assessment of those effects, its scope differs from that of benefit estimation and from a comprehensive evaluation of the decision's impact on the market. The procedures for carrying it out would be developed in a technical manual yet to be drafted.

4. Challenges in applying the instruments

17. **Documented challenges.** In 2025, COPROCOM identified three challenges: data availability and quality, institutional capacity and attribution of impact. The instruments allow these challenges to be defined more precisely. As regards data, the Guide requires information from before and after the decision and highlights the effort involved in organising it; the Methodology acknowledges that, without a database of elasticities, most cases will be estimated using the overcharge in the file or default parameters and with lower confidence, that some components may prove difficult to estimate and that its own repository will be built up progressively. As regards capacity, the Guide notes that internal teams must combine these tasks with their regular workload and that econometric skills should be strengthened.

18. As regards attribution, the Guide stresses the importance of isolating the effect of the decision from other market effects; for its part, the Methodology specifies that its duration convention is not intended to constitute causal inference and, as a matter of prudence, does not incorporate effects whose attribution cannot be established with sufficient robustness at the time the decision becomes final. As regards in the case selection, the Guide cites the experience of Norway, whose competition authority decided to abandon an annual evaluation, given the difficulty for a small authority in identifying cases with sufficient information.

19. **An area still to be developed: market studies.** The MS Guide provides that COPROCOM "*may request*" a subsequent evaluation of its market studies. It recommends carrying it out within 2 to 3 years after the study is published and, preferably, entrusting it to a team different than the one that prepared it, to ensure an independent perspective. That evaluation covers four aspects: the implementation degree of the recommendations, the evolution of the competition problems identified, the advisability of adopting additional measures and the lessons learned. The MS Guide also suggests constructing a counterfactual scenario, that is, estimating how the sector would have evolved had the recommendations not been adopted. However, it is an optional guidance, and does not yet have a dedicated quantitative method. Nor is it linked to the Methodology, because the latter excludes advocacy recommendations from its scope. The measurement of the impact of market studies is therefore an area that COPROCOM may develop at later stages.

20. **Additional considerations.** First, the decisions that can be evaluated, are a small pool and before becoming final depend on: decisions under appeal do not enter the Methodology until they become final, and in mergers, between 2013 and 2024, of the 340

[11] OECD 2025 Paper, p. 9.

notifications decided, 15 were cleared subject to remedies and 2 were prohibited.[12] Second, the timelines differ: the sheet is prepared within ninety business days of the decision becoming final, whereas the Guide suggests waiting until the effects stabilise (for mergers, a reference period of around 3 years);[13] the data gathered for the sheet should be retained for subsequent analysis, a use that the Methodology does not declare. Third, comparing expected estimates with observed effects will require recording them in a uniform manner; until cases have been evaluated, that comparison will not possible.

21. Fourth, the draft monitoring regulation provides that, after each decision, the authority will receive information on a regular basis: periodic compliance reports, an auxiliary file for each decision, reports from independent monitors and an annual report. In addition to verifying compliance, that information could be used to evaluate *ex post* the conditions and remedies imposed, in line with the Guide's recommendation include future reporting obligations in decisions. To make use of it for that purpose, it would be advisable to adress three points: first, ensuring that the reports, designed for compliance control, also include the variables that the evaluation requires; second, ensuring confidentiality rules applicable to the adversarial phase and to the auxiliary file allow that use; and third, t the completition of the regulation´s approval process.

5. Intended use of the results

22. The instruments expressly provide for the following uses. The Methodology designated estimates for use in accountability, strategic planning and public communication; integrates the Annual Report into the activity report that COPROCOM submits to the Legislative Assembly; calculates their relationship ratio to the executed budget on the basis of the conservative aggregate and clarifies that it is not a cost-benefit evaluation; and provides for supporting *ex post* case selection, replacing the default parameters with its own values once there are sufficient cases, and being comprehensively reviewed every four years.[14] The Guide provides that evaluations should feed back into assumptions and analyses, guide resource allocation, support advocacy and, through their publication, allow external scrutiny.[15]

23. With regard to the prioritisation of investigation cases and the allocation of resources, topics of interest identified in the OECD call for contributions, the instruments do not yet specify how the estimates would bear on them.[16] Since the framework is at an initial stage, the uses described will take shape as the instruments are applied. If in the future, COPROCOM decides to orient the results towards those ends, it could consider defining this expressly and accompanying each estimate with its range and confidence level, consistent with the safeguards provided for in the Methodology.

24. The draft monitoring regulation also provides that the annual monitoring report should contain recommendations for improving the system and that the conditions imposed

[12]Methodology, sections 1.1 and 1.2; COPROCOM, "Notification of mergers decided 2013-2024", internal statistical record, 29 January 2025 (pre-merger notification control began in April 2013).

[13]Guide, p. 18 (section 6.2), which refers to the recommendation of "some authors".

[14]Methodology, sections 0.4, 0.6, 4, 5.2, 12, 12.1 f) and 13; Law No. 9736, art. 5 l); Law No. 9398.

[15]Guide, pp. 9-11 and 20-21 (sections 4.2, 4.3 and 7.2).

[16]OECD, DAF/COMP/GF(2026)3, 7 August 2026, Annex A, section 6, pp. 4-5.

in mergers may be reviewed when they cease to produce the expected effects. These would be channels for learning about remedies, not impact evaluations.

6. Lessons from the design stage

25. The following lessons derive from the design of the instruments and not from their application, which has not yet begun; they are working hypotheses that the first evaluations will have to test.

26. First, separate the questions: estimating the expected benefit of a decision and verifying its observed effects require different data, timeframes and degrees of confidence, and COPROCOM assigned them to different instruments, and the relationship is declared.

27. Second, build the limits into the instrument itself: information levels, confidence ratings, scenarios, a standard warning and aggregation by tiers are intended to ensure that no figure conveys more precision than the information supports.

28. Third, delimit the relationship with the enforcement function: the estimate is decoupled from the fine, from the evidence and from damages actions, so that an accountability exercise is not confused with a legal calculation.

29. Fourth, begin data traceability at the moment of the decision, rather than at the evaluation stage, as the Guide suggests and as the Methodology begins to provide through a separate technical file and a repository of parameters.

30. Fifth, limit the initial scope and schedule its review, as the Methodology does by excluding categories of decisions and providing its own review every 4 years.

31. The first applications will make it possible to verify whether this design withstands contact with the data. The Guide itself acknowledges that the results of an evaluation will not always be favourable to the authority. Far from detracting from its value, that possibility is part of the usefulness of the exercise: an unexpected result makes it possible to test the assumptions on which the decision was adopted, identify opportunities for improvement in the analysis or in the design of remedies, and better guide future interventions. Likewise, the willingness to evaluate rigorously and to communicate results transparently, whatever they may be, strengthens COPROCOM's credibility and public trust in its work, in line with the purposes that the Guide assigns to *ex post* evaluation.[17]

B. SUTEL

1. Evaluation of the impact of SUTEL's activities

32. The Superintendency of Telecommunications (SUTEL), as the Sectoral Competition Authority , is responsible, among its main functions, for promoting conditions that foster competition in the telecommunications market. Accordingly, in addition to investigating and sanctioning potential anticompetitive practices, it is essential that it for SUTEL to evaluate the effects of its interventions, in order to determine the extent to which they improve competition conditions and generate benefits for consumers.

[17]Guide, p. 9 (section 4.1.b).

33. To this end, in 2024 SUTEL published the Guide to Ex Post Analysis of the Impact of SUTEL's Decisions on Competition[18], which establishes a methodology for evaluating the results of its actions.

34. The first application of this instrument comprised the analysis[19] of three interventions concerning restrictions on the entry of telecommunications service providers into condominiums, (Ayarco Real, Monte Real and Torres de Heredia Condominiums); in order to determine the effects of Resolutions RCS-161-2021, RCS-102-2022 and RCS-074-2023.

35. This analysis showed that the interventions had very positive effects. The qualitative benefits included more competitive markets and greater supply, availability and innovation in telecommunications services. The quantitative benefits, resulting from price reductions and elimination of cost, amounted to a minimum total economic benefit of USD 357,406; equivalent to a minimum average benefit of USD 3,227 per user[20].

36. To carry out this analysis, competitive conditions before and after each intervention were compared, and the economic effects on consumers were estimated based on information collected and available for each case.

37. The evaluation followed the methodology set out in the Guide to Ex-Post Analysis of the Impact of SUTEL's Decisions on Competition, based on the approach of the Spanish National Markets and Competition Commission (CNMC).

38. To estimate the economic impact, three variables were considered: the size of the affected market, price changes, and the estimated duration of the effects produced in each intervention.

39. Market size was estimated based on the number of consumers affected. Regarding prices, an attempt was made to compare the conditions before and after each intervention; however, telecommunications services underwent technological and commercial changes during the period analysed, which made a direct comparison of some offers difficult. Consequently, average prices per service were used to approximate consumer savings.

40. In parallel, changes in competitive conditions were analyzed, considering the number of providers, the variety and characteristics of the services offered, as well as the evolution of the Herfindahl-Hirschman Index (HHI).

41. To collect information on market conditions after the interventions, the telecommunications operators and/or providers present on site and condominium administrations were consulted. Where not all the requested information was obtained, site visits were conducted to complete the data.

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[18] SUTEL, Guide to Ex Post Analysis of the Impact of SUTEL's Decisions on Competition, Sutel, San José, 2024, available at: https://www.sutel.go.cr/sites/default/files/Guia%20Ana%CC%81lisis%20Expost%20Decisiones%20SUTEL.pdf [accesed: 05 october 2026].

[19] SUTEL, Ex post analysis of the interventions carried out by the Sectoral Competition Authority in the period 2021-2023, Sutel, San José, 2025, available at: https://www.sutel.go.cr/sites/default/files/Guia%20Ana%CC%81lisis%20Expost%20Decisiones%20SUTEL.pdf [accesed: 05 october 2026].

[20] All conversions of the economic benefit of the SUTEL interventions use of the US dollar selling exchange rate published by the Central Bank of Costa Rica for 8th October, 2026. For more information, please visit: https://sdd.bccr.fi.cr/es/IndicadoresEconomicos/Inicio/Contenedor/6?Cuadro=1

42. One of the main difficulties in the evaluation concerned the availability of information and the comparability of data between the periods before and after each intervention. In Torres de Heredia, for example, the condominium administration did not respond to the Sectoral Competition Authority's requests for information . For this reason, it was necessary to resort to on-site visits and requests for information from telecommunications service providers to reconstruct the conditions after the intervention.

43. The price comparison also posed difficulties. During the period under analysis, telecommunications services underwent changes in their characteristics and commercial conditions, which made it impossible to establish direct equivalences between some offers available before and after the interventions. Finally, to approximate the economic benefit to consumers, average prices per service were used; moreover, the analysis assumes that, in the absence of SUTEL's intervention, existing competitive conditions would have remained unchanged.

44. In the Ayarco Real Condominium, the procedure was terminated early following commitments offered by the undertaking concerned. The agreed measures included the transfer of the passive infrastructure to the condominium, the elimination of certain charges associated with the exclusivity arrangement, and committed not to establish any new exclusivity arrangements.

45. In the Monte Real Condominium, the special procedure was also terminated early following commitments offered by the undertaking concerned. These commitments included the transfer of the passive infrastructure to the condominium, so that it could be used by any service provider; the waiver of fees stipulated in the exclusivity agreement; the formal delivery of the agreement terminating the contract to the condominiums; and a commitment to refrain from entering into exclusivity agreements in any type of property in the future.

46. In the case of the Torres de Heredia Condominium, SUTEL's intervention concluded with Resolution RCS-074-2023, in which it determined that the respondent had engaged in relative monopolistic practices, including, among other conduct, exclusivity arrangements and refusals to deal, which had the effect of excluding potential competitors and reducing inter-brand competition, resulting in higher prices and lower speeds for consumers of residential internet services. All SUTEL's interventions in the Ayarco Real, Monte Real and Torres de Heredia properties produced positive qualitative and quantitative effects.

47. In the Ayarco Real Condominium, the case analysis found that the conduct of the undertaking under investigation affected the relevant markets for fixed telephony, subscription television and residential internet services. SUTEL's intervention resulted in a 200% increase in the supply of subscription television and fixed internet services, and a 100% increase in the supply of fixed telephony services. The resulting improvement in competitive conditions was reflected in an average decrease of 5,652 points in the Herfindahl-Hirschman Index (HHI) across these markets.

48. The ex post assessment found that the intervention led to lower prices, greater service variety and availability, and increased innovation in the markets for fixed telephony, subscription television and residential internet services. Furthermore, SUTEL's intervention resulted in the elimination of a monthly charge imposed on all residents of the property for the administration of its IP network. The economic benefit attributable to SUTEL's intervention through Resolution RCS-161-2021 was estimated at USD 77,046.

49. In the case of the Monte Real Condominium, in 2022 SUTEL intervened to facilitate the entry of new telecommunications operators and/or service providers into the property. As a result, the supply of fixed telephony, subscription television and internet

services increased by 200%. The intervention also led to improvements in service variety, availability and innovation, as well as lower prices. In addition, monthly charges associated with the administration of the property's IP network were eliminated. The overall economic benefit resulting from this intervention was estimated at USD 175,966.

50. The third case analyzed involved the Torres de Heredia Condominium, where the qualitative and quantitative effects of SUTEL's intervention were similar to those observed in the previous two cases. Competitive conditions in the affected market (residential internet services) improved following the elimination of the anticompetitive conduct engaged in by the undertaking concerned. This led to a 200% increase in service supply, greater service variety and innovation, and lower prices. Based on the assessment of these quantitative effects, SUTEL estimated the economic benefit of the intervention at USD 104,394.

51. Taken together, these three interventions carried out by SUTEL between 2020 and 2023 demonstrate significant improvements in competitive conditions, service diversity and pricing in the telecommunications sector. They also illustrate the effects of eliminating exclusivity arrangements that restricted the entry of new telecommunications operators into the market.