

Unclassified

English - Or. English

11 September 2024

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Latin American and Caribbean Competition Forum

**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM - SESSION I:
COMPETITION, FINTECHS, AND OPEN BANKING**

- Contribution from the Central American Network of National Competition Authorities (RECAC) -

9-10 October 2024

This attached document from the Central American Network of National Competition Authorities (RECAC) is circulated to the Latin American and Caribbean Competition Forum (LACCF) FOR DISCUSSION under Session I at its forthcoming meeting to be held on 9-10 October 2024 in Santo Domingo, Dominican Republic.

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JT03549237

Session I: Competition, Fintechs and Open Banking

– Contribution from RECAC –

1. Introduction

1. **The Central American Network of National Competition Authorities (RECAC)** was established in March 2012 based on the Working Group on **Competition Policy in Central American Economic Integration**. Competition Policy in Central American Economic Integration as the permanent mechanism for coordination among national authorities in charge of competition issues, facilitating collaboration on relevant issues and streamlining communication.

2. The purpose of RECAC is to promote joint work between national authorities in charge of competition issues by creating mechanisms to strengthen the defense of competition promotion in Central American markets. It also seeks to develop relations between these authorities through cooperation and mutual assistance, ensuring the effective protection of competition in the region's markets.

3. **Members and participation:**

- Full members: Costa Rica (COPROCOM), El Salvador (SC), Honduras (CDPC), Nicaragua (PROCOMPETENCIA), Panama (ACODECO), and Dominican Republic (PROCOMPETENCIA).
- Observer members: Superintendencia de Telecomunicaciones de Costa Rica (SUTEL) and Dirección de Protección a la Competencia del Ministerio de Economía de Guatemala.

2. Regional Context

4. According to figures from the Central American Integration System (SICA), the region (which includes Costa Rica, Guatemala, El Salvador, Honduras, Nicaragua, Panama, and the Dominican Republic) had a population of approximately 61 million people as of 2021 (SICA, 2021)¹. According to data from the International Telecommunications Union (ITU), Internet access is relatively high. This access is distributed as follows among the countries, with Costa Rica leading with 85.1% of its population connected to the Internet, followed by the Dominican Republic with 84.4%, Panama with 73.6%, El Salvador with 62.9%, Guatemala with 54.4%, Nicaragua with 61.1% and Honduras with 59.7%².

5. These disparities in access reflect the challenges in digital infrastructure and technological development in Central America, highlighting the need for greater regional

¹ Secretariat for Central American Economic Integration (SIECA). (2021). *The region of Central America and the Dominican Republic in figures*.

² International Telecommunication Union (2022). *Statistics*. ITU. <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>

collaboration. Although some countries have made progress in digitizing their economies, the digital divide threatens regional cohesion and economic development.

3. Digital Economy and Fintechs

6. The growth of the digital economy is closely linked to developing digital infrastructure and adopting information and communication technologies (ICTs). However, there are still significant gaps in Central America compared to more advanced countries. For example, in the Organization for Economic Cooperation and Development (OECD) nations, approximately 84% of the population has access to the Internet. At the same time, in Central America, this figure is considerably lower, reaching only 47%.³

7. Countries must work together to bridge the digital divide so that Central America can fully take advantage of the opportunities offered by the Fintech sector. Integrating public policies that promote the expansion of telecommunications infrastructure and universal internet access is key to ensuring that all countries in the region can benefit equally from the growth of Fintechs.

8. In addition, a collaborative approach will enable the sharing of best practices, resources, and knowledge among countries, fostering a more robust and equitable Fintech ecosystem across the region. This will not only strengthen Central America's competitiveness in the global arena but will also contribute to the financial inclusion of millions of people who are currently excluded from the formal financial system.⁴

4. Regulatory Challenges and Harmonization

9. Disparities in digital infrastructure and the lack of regulatory harmonization between countries are some of the main challenges that RECAC seeks to address from a competitive perspective. Notwithstanding the region's challenges, the digital economy has gained significant relevance in Central America. In 2019, revenues generated by this sector in the region reached US\$21.7 billion⁵, which represented 6% of the GDP of all RECAC member countries. Guatemala leads in the region with the largest share of total revenues, contributing 23%, followed by the Dominican Republic with 19% and Costa Rica with 15%.⁶

10. Among the sectors evaluated, Fintechs stands out as the main source of revenue in digital services, with more than \$12.8 billion in 2019, representing 59% of the sector's total revenue. It is important, followed by electronic commerce (e-commerce), which generates

³ International Telecommunication Union (2018). *Measuring the Information Society Report 2018* (Vol. 2). ITU. <https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2018/MISR-2018-Vol-2-E.pdf>

⁴ International Monetary Fund (2024). *Promise un-kept: Fintechs and financial inclusion*. <https://www.imf.org/en/Publications/WP/Issues/2024/06/28/Promise-Un-kept-Fintechs-and-Financial-Inclusion-550960>

⁵ U.S. dollars.

⁶ Del Carmen, G., Díaz, K., & Ruiz-Arranz, M. (n.d.). *A click away from transition: Digital economy in Central America and the Dominican Republic* (IDB Monograph No. 848). Inter-American Development Bank. Available at: <https://publications.iadb.org/es/publications/spanish/viewer/A-un-clic-de-la-transicion-Economia-digital-en-Centroamerica-y-la-Republica-Dominicana.pdf>

14% of revenues, online mobility services⁷ with 11%, and online travel bookings, which contribute 7%. This pattern is repeated at the country level in the region, where Fintechs represent from 37% of total revenues in Costa Rica to 84% in Panama.

11. In 2019, e-commerce was the second largest revenue market, contributing between 3% and 33% of each country's total revenue.

12. Regarding online mobility services, Panama, Nicaragua, and El Salvador account for 4%, 8%, and 21% of total revenues, respectively.

13. In detail, in 2019, Guatemala generated US\$4.9 billion in digital economy revenues, equivalent to 6.4% of its GDP. The Dominican Republic follows with revenues of US\$4.1 billion, representing 4.6% of its GDP. Costa Rica, meanwhile, achieved revenues of US\$3.3 billion, equivalent to 5.3% of its GDP. Other countries in the region presented revenues ranging from US\$81 million in Belize to US\$2.8 billion in El Salvador⁸. In addition, in 2019, digital sector revenues in the region grew by 16% annually, while the number of users increased by 13% in the same period.

14. As the digital economy continues to expand in Central America, the Fintech sector has emerged as one of the most dynamic and promising areas, accounting for 59% of total digital sector revenues in 2019⁹. However, this accelerated growth poses significant regulatory challenges, especially from a competition policy perspective. Disparities in digital infrastructure and the lack of regulatory harmonization among countries in the region are some of the main challenges that competition agencies can begin to address under the coordination of **RECAC**.

15. One of the biggest challenges is the lack of harmonized regulatory frameworks that address the Fintech sector's particularities in the region's different countries. According to the report *Ecosistema Fintechs en la Región SICA: Análisis de Barreras, Recomendaciones y Casos de Interés* (2022)¹⁰, while some countries such as El Salvador have implemented specific laws such as the Bitcoin Law, others still lack clear regulations, which creates an environment of uncertainty for both operators and investors. The lack of specific regulation could hinder new players' entry and limit competition, allowing large Fintechs to dominate the market without proper control.

16. Regulation is an essential factor for the sustainable development of the Fintech sector. A clear and consistent regulatory framework can provide the legal certainty to foster innovation while protecting consumers and maintaining financial market stability. Authors such as Tania Ziegler and Karsten Wenzlaff suggest that in emerging markets such as

⁷ Online mobility services are understood as transportation services managed through digital applications, such as Uber or online car rental.

⁸ Ibid.

⁹ Argüello Oviedo, M., & Romero Rizo, C. (2023). *Panorama Fintechs Centroamérica 2023: A look at regulation, legal risks, compliance and data protection* (2nd ed.). Argüello-Romero Consulting. Available at: https://www.uaf.gob.ni/images/Pdf/Documentos_ALA-CFT/PANORAMA-FINTECHS_CA-2023.pdf

¹⁰ Available at: <https://centrorecursos.cenpromype.org/documento/2128c141-9989-4986-a267-2832cb59685e/documento-ecosistema-Fintechs-en-la-region-sica/>

Central America, Fintech regulation should balance promoting innovation with mitigating risks such as fraud, money laundering, and data protection¹¹.

17. In Central America, regulation of the Fintech sector is still incipient, and regulatory frameworks vary significantly between countries. Countries such as Costa Rica and Panama have begun to develop specific regulations for Fintechs. In contrast, others, such as Nicaragua, still rely on more general financial regulations that do not address the particularities of the sector. This lack of regulatory harmonization may hinder the sector's growth and limit the region's potential to become a Fintech hub.

18. In addition, the rapid evolution of financial technologies and the emergence of new business models, such as open banking and cryptoassets, present additional challenges for competition agencies. Current regulations are often not adapted to manage these new developments, resulting in an environment where the most innovative Fintechs face regulatory barriers. In contrast, others operate in a regulatory vacuum that allows them to operate without sufficient oversight.

5. Competition and Fintechs

19. From a competition policy perspective, RECAC faces several challenges in promoting a fair competitive environment in the Fintech sector. According to Cenpromype, barriers to entry, such as high regulatory costs and the lack of a common framework in the region, make it difficult for small and medium-sized Fintechs to compete on a level playing field with larger players in the market. In addition, the lack of trust in Fintechs by MSMEs (micro, small and medium-sized enterprises) limits the adoption of these services, which restricts the growth of new companies and perpetuates the dominance of a small number of large players¹².

20. Interviews conducted in 2021 and 2022 with several Fintech associations in the region reveal that many MSMEs still do not trust financial technologies and are unaware of the opportunities they offer to manage payments, access financing, and conduct digital marketing campaigns¹³. This highlights the need for greater awareness and education on the competitive advantages that Fintechs can offer smaller companies.

21. To address these challenges, RECAC proposes to work towards greater regional cooperation and dialogue and the homologation of regulatory frameworks. The public policy portfolio could include, for example, creating a regional regulatory *sandbox* that allows Fintechs to experiment with new technologies and business models in a controlled environment while facilitating national regulators to learn from each other and adopt common approaches.

22. In addition, governments in the region must promote Fintech laws that catalyze investment and collaboration between banks and Fintechs. A regional approach can also

¹¹ Ziegler, T., Shneor, R., Wenzlaff, K., Wang, B., Suresh, K., & Luo, D. (2021). *The Global Alternative Finance Market Benchmarking Report*. Cambridge Centre for Alternative Finance. doi:10.2139/ssrn.3898272.

¹² Cenpromype (2022). *Fintechs Ecosystem in the SICA region: Analysis of barriers, recommendations and cases of interest*. Observatorio Regional de Competitividad e Innovación Productiva y Sostenible de la Mipyme, Centro Regional de Promoción de la Mipyme (Cenpromype), Sistema de Integración Centroamericana (SICA).

¹³ Ibid.

help reduce regulatory compliance costs and increase MSMEs' confidence in Fintechs, thus enabling fairer competition and more inclusive sector growth.

6. State of the Region

23. In the region, we can mention El Salvador, which has been a pioneer in Fintech regulation, particularly with the adoption of the Bitcoin Law¹⁴, which made the country the first in the world to adopt Bitcoin as legal tender. The Superintendence of Competition (SC) has brought a competition vision to the financial sector using its powers to issue opinions and to carry out studies and reports. It takes advantage of agreements with the Central Reserve Bank (regulator) and the Superintendence of the Financial System (supervisor) to coordinate and to participate in activities that allow it to understand the evolution of the financial sector and to identify competition considerations relevant to it timely.

24. In Honduras, a Financial Innovation Roundtable has been established as a space for collaboration between the public and private sectors, led by the Central Bank of Honduras (BCH) and the National Banking and Insurance Commission (CNBS)¹⁵. This forum promotes innovation and healthy competition in the market for financial products and services, facilitating the adoption of technology and digitalization to support financial inclusion through technological solutions in the financial sector.

25. Within the region's framework, RECAC has developed an intense promotional campaign, which can be seen through the joint forums and activities. Such is the case of the XVII edition of the Central American Competition Forum, held in Honduras from November 16 to 17, 2023, with the theme "Digital Markets and Competition." Similarly, RECAC members fully participated in the XI meeting of the Latin American and Caribbean Working Group on Trade and Competition (WGTC) of 2023, held in the Dominican Republic, focused on Fintechs.

26. In the case of the Dominican Republic, the defense of Fintechs has gained relevance, especially in cases where possible anti-competitive practices affecting the operation of these innovative companies have been denounced. A prominent case is Resolution No. DE-004-2023 and DE-002-2024 issued by the Executive Directorate of the National Commission for the Defense of Competition (PRO-COMPETENCIA)¹⁶. This resolution addresses a complaint filed by DEMERGE República Dominicana, S.A.S. against VISA International Dominicana, S.A. and Mastercard República Dominicana, S.R.L. for alleged anticompetitive practices and abuse of collective dominant position, in violation of the General Law for the Defense of Competition, No. 42-08.

27. The complaint alleges that the companies complained of have imposed unjustified barriers that prevent DEMERGE from operating as an international payment aggregator in the country. This situation affects DEMERGE's ability to process payments from foreign

¹⁴ Legislative Assembly of El Salvador (2021). *Law for the creation of the Fintech ecosystem*. Legislative Decree N° 75F. Retrieved from <https://www.jurisprudencia.gob.sv/DocumentosBodega/D/2/2020-2029/2021/06/E75F3.PDF>

¹⁵ Central Bank of Honduras (2023). *Mesa de Innovación Financiera*. Retrieved from <https://www.bch.hn/acerca-del-bch/ Mesa-de-innovacion-financiera>

¹⁶ National Commission for the Defense of Competition (2023) (2024). Resolution No. DE-004-2023 and DE-002-2024. Executive Directorate of the National Commission for the Defense of Competition (PRO-COMPETENCIA). Dominican Republic.

merchants locally through the Local Withholding Agent model. After reviewing the complaint and the elements presented, the Executive Directorate of PRO-COMPETENCIA determined sufficient evidence to initiate a formal investigation into the possible anti-competitive practices of VISA and Mastercard.

28. This investigation will evaluate the allegations of abuse of dominant position and concerted practices by these card brands. In addition, the resolution also analyzes the request for injunctive relief filed by DEMERGE, discussing the proportionality and necessity of these measures in the context of economic competition. PRO-COMPETENCIA's decision to initiate an investigation highlights the Dominican Republic's commitment to protecting a competitive environment, particularly in sectors as dynamic as Fintechs.

29. The competition authorities that are part of RECAC have focused their strategic efforts on combating anticompetitive behavior within the Fintech sector in their respective jurisdictions and on promoting competition, especially in markets that significantly impact access to financial services for the most vulnerable households in the region. To achieve this, these authorities have developed specific monitoring and follow-up mechanisms applicable to the Fintech market, allowing them to identify and anticipate alerts or problems related to anti-competitive practices or conducts, adjusted to the particularities of their respective competence areas.

30. As for Costa Rica, it has experienced significant growth in its Fintechs ecosystem, highlighting the integration of these companies in the National Electronic Payments System (SINPE) since 2018, which has allowed them to participate in fund transfers and payments to merchants. In 2021, the Central Bank strengthened regulations for payment service providers, and in 2022, the Financial Innovation Center was inaugurated to support Fintechs innovation within the regulatory framework¹⁷. However, Fintechs in Costa Rica still face challenges due to the lack of specific regulation and the need for greater regulatory clarity, which could affect their competitiveness and innovation in the sector.

31. Similarly, the Commission to Promote Competition (COPROCOM) has played a crucial role in monitoring and promoting competition in the payment card market, directly impacting the Fintech sector. An emblematic case is the investigation that culminated in 2013, which determined the existence of anti-competitive practices by Credomatic Costa Rica in the credit card acquiring service. The investigation revealed that Credomatic imposed on affiliated merchants the obligation to reach certain sales volumes to access lower commissions. If they did not get them, higher rates were applied. These requirements, which were not congruent with the commissions charged, resulted in the exclusion of competitors and the closing of the market to other acquirers. For its part, the Superintendence of Telecommunications (SUTEL) has recently made efforts in terms of promotion and advocacy of competition during the year 2024 on the topic of "Digitalization and Convergence" where, among other topics, the issue of Fintechs was addressed at the round table "The cell phone as a means of payment: new forms of competition in financial markets", in an activity focused on the training of judicial personnel.

32. Similarly, ACODECO in Panama has demonstrated a continued commitment to consumer protection and the promotion of competition in the financial sector, including Fintech services, through inter-institutional collaboration. An example of this effort is the Cooperation Agreement signed on January 30, 2023 between ACODECO and the Superintendency of Banks of Panama (SBP), whose objective is to continue publishing the

¹⁷ Central Bank of Costa Rica (2023). *National System of Electronic Payments (SINPE) - General Information*. Retrieved from <https://www.bccr.fi.cr/en/payments-system/general-information>

"Comparative Study of Credit Cards and Financing"¹⁸. This study, published quarterly, is a fundamental tool to provide consumers with transparent and accessible information on interest rates, commissions and other charges associated with credit cards.

33. The signing of this agreement reaffirms ACODECO's commitment to continuous monitoring of the financial sector, including the growing field of Fintechs. This will ensure that Panamanian consumers can access financial services with a clear understanding of their costs and benefits. These initiatives are key to maintaining a competitive and fair financial market, where Fintechs can operate in a regulated environment that favors both innovation and consumer protection.

34. As can be seen, in Fintechs, RECAC has joined efforts to develop spaces for advocacy and debate on competition conditions that allow for a better understanding of this sector from a regional perspective. At the national level, these meetings have provided a comprehensive understanding of fintechs' functioning and greater clarity on the regulatory capacities that could be strengthened to ensure fair competition.

35. This shared approach has allowed Central American countries to acquire greater knowledge about public policies that could favor competition and the growth of Fintechs, contributing to the homogenization of the sector in the region. As in other strategic sectors, such as fertilizers or air transportation, it has been identified that a healthy competitive environment in Fintechs is key to economic growth and financial inclusion, especially in areas where access to financial services is limited.

7. Interoperability in the RECAC Zone: Boosting Competition and Financial Inclusion

36. Fintechs offer innovative solutions such as digital payments, loans and insurance accessible from mobile devices, promoting **financial inclusion**. However, the lack of interoperability between these services can generate **technological islands**, where users can only use services from a single platform, limiting competition and freedom of choice.

37. Interoperability can facilitate access to financial services for the unbanked, allowing them to use different Fintech platforms and applications without the need to be linked to a single entity. This is crucial in countries where a large part of the population is excluded from the formal banking system. When users can migrate easily between Fintech platforms, providers are forced to compete on **quality of service, cost, and transparency**. Without interoperability, users can be trapped in systems with high fees and poor service, especially in rural or low-income areas.

38. Local Fintechs often struggle to compete with large international players or conglomerates in developing countries. Interoperability allows small Fintechs to offer complementary and specialized services, collaborating rather than competing directly with large players. This creates a more equitable and diverse environment.

8. Strategies and Solutions to Promote Interoperability in Developing Countries:

- **Establishment of Open Standards:** Develop and adopt open technical standards that facilitate integration between Fintech platforms.

¹⁸ Acodeco & Superintendency of Banks of Panama (2023). *Cooperation Agreement for the publication of the Comparative Study of Credit Cards and Financing*. Retrieved from <https://www.superbancos.gob.pa/acodeco/acuerdo-de-cooperacion>

- **Promoting Public-Private Collaboration:** Encourage cooperation between governments, regulators and Fintechs to create a regulatory framework that supports interoperability.
- **Digital Infrastructure Investments:** Improve the existing technological infrastructure to support interoperable systems, including telecommunications networks and reliable internet services.
- **Implementation of Regulatory Sandboxes:** Create test environments where Fintechs can experiment with interoperable solutions under the supervision of regulators, facilitating innovation while managing risks.

39. Interoperability between Fintech platforms is fundamental to promoting **competition, financial inclusion** and **innovation** in the RECAC area. While significant challenges exist, especially regarding infrastructure and regulation, the benefits outweigh the obstacles. A coordinated approach between governments, regulators, and the private sector can unlock the potential of Fintechs to improve the quality of life for millions of people in these countries.