

Unclassified

English - Or. English

6 November 2024

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

The Interaction between Competition and Democracy – Note by Paraguay

6 December

This document reproduces a written contribution from Paraguay submitted for Item 8 of the 144th OECD Competition Committee meeting on 5-6 December 2024.

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JT03554838

Paraguay¹

1. Introduction

1. This paper aims to present the ways in which the national competition system of Paraguay incorporates and promotes citizen participation.

2. Law and authority

2. Paraguay's 1992 Constitution sets out the guarantee for competition in the market².

3. Paraguay's competition law was enacted in 2013 under No. 4956 and the name of *Ley de Defensa de la Competencia* (LDC for its acronym in Spanish)³. In addition to setting the first legal framework in the country on matters of mergers and anticompetitive practices (abuse of dominance and anticompetitive agreements or cartels), it established a national competition authority for the first time: CONACOM. There was no prior institution or office that filled the role of a competition authority in the country.

4. The Law also provides for advocacy mechanisms such as regulatory opinions and market studies.

3. Election of Members of the Board and the Director of Investigation

5. CONACOM operates through two main bodies. The Board of Directors, comprised by three members, leads the institution on administrative matters, performs the role of competition advocacy and makes the decision on all enforcement cases⁴.

6. The enforcement cases, which could pertain to merger control, abuse of dominance or anticompetitive agreements, are all brought to the attention of the Board of Directors by the Directorate for Investigation, which has functional autonomy⁵.

7. On merger control, the Directorate for Investigation studies merger operations and issues technical opinions.

8. When it comes to anticompetitive practices, the Directorate is in charge of investigating and filing charges against the alleged infringers of the LDC before the Board of Directors.

9. The Members of the Board of Directors and the Director of Investigation are appointed by the President of the Republic after competitive processes result in shortlists with three candidates for each position. The candidates are chosen after a voluntary

¹ Document prepared by Pablo Ramírez Ayala, Head of Advocacy of CONACOM.

² Constitution of the Republic of Paraguay, article 107.

³ The LDC is available in Spanish at <https://www.bacn.gov.py/leyes-paraguayas/4775/ley-n-4956-defensa-de-la-competencia> (Accessed 25 Oct 2022).

⁴ LDC, art. 17.

⁵ LDC, art. 30.

application and an assessment of their academic background, experience and ideas for the future of CONACOM.

10. This competitive process, including its corresponding assessment, is carried out by a council that includes four members from the public sector, and four members from the private sector.

11. The members from the public sector are a representative each of the Presidency of the Republic, the Ministry of Industry and Trade, the Senate and the Chamber of Deputies⁶.

12. The remaining members come from the associations of companies operating in the industry, production, services and trade sectors⁷.

13. The inclusive participation of members of the private sector alongside those from the public sector, including two elected congresspeople, ensures diversity, transparency and accountability in the selection process of the Members of the Board and the Director of Investigation.

4. Transparency

14. Paraguay's public institutions are subject to national transparency regulations that require the publication of information on procurement, salaries and personal interests of staffers, procedures, among other topics. The agency is also bound to answer any requests for information, unless the data requested is confidential⁸.

15. National transparency regulations also require the agency to have specific sections on its website for the filing of suggestions and complaints (apart from those pertaining to specific cases), for which a procedure for the prompt response has been devised internally⁹.

16. In addition to the general provisions for transparency in the public sector, CONACOM has its own regulations that set out a higher standard for transparency¹⁰.

17. By the mandate of the competition law and regulation, the decisions from the Board and the final opinions of the Directorate for Investigation pertaining anticompetitive practices and merger control are published on the agency's website, within terms deemed reasonable by the Board¹¹.

18. All regulatory opinions, market studies and answers to specific enquiries on the application are also published on the agency's website within reasonable terms.

19. The website is also updated regularly and supported by social media¹², maximizing the potential for citizens to monitor the activities of the institution.

⁶ Decree No. 1490/2014, art. 99.

⁷ Decree No. 1490/2014, art. 99.

⁸ Laws No. 5189/2014 and 5282/2014.

⁹ Administrative Resolution of the Board No. 18/2021.

¹⁰ Decree No. 1490/2014, art. 74.

¹¹ The general term for publication is usually within 5 days of the formal notification to the corresponding party, as stated in Administrative Resolution of the Board No. 41/2022.

¹² CONACOM is active in the following social networks: Facebook, Instagram, LinkedIn, X and Youtube.

5. Public consultations

20. Decree No. 1490/2014, that regulates Law No. 4956/2013, provides for a procedure for public consultations for any guidelines to be issued by the institution.
21. Public consultations, as provided by the decree, involve the publication of the draft of the guideline on the agency's website, so that citizens can propose changes or comment on its provisions in writing.
22. Public consultations can be accompanied by a public hearing, at the discretion of the Board.
23. After a term of fifteen (15) days, all comments and suggestions are compiled and considered by the Board and could lead to changes in the final document¹³.
24. The public consultation procedure has been used successfully every year since 2021, resulting in the *Guidelines for the Confidentiality of Documents*, the *Guidelines for the Determination of the Relevant Market*, the *Guidelines on the Topic of Collusion in Public Procurement*, the *Guidelines for the Preparation of Compliance Programs*, the *Guidelines for Competitive Regulation* and the *Guidelines for Competitive Municipal Regulation*. As of October 2024, there is an ongoing public consultation for the *Guidelines for the Notification of Mergers*¹⁴.

6. Annual Report

25. CONACOM is bound to prepare an annual report of its activities, covering its actions on anticompetitive practices, merger control, advocacy and administrative affairs and future plans and priorities¹⁵.
26. In addition to the preparation and the publication of the report on the agency's website¹⁶, the regulatory decree of Law No. 4956/2013 provides that CONACOM shall attend hearings on its annual report.
27. One of the hearings is open to the general public and organized by CONACOM, so any person can attend and ask questions to the Members of the Board and the Director of Investigation¹⁷.
28. The Regulatory Decree also provides for hearings before the commissions for matters of industry, trade, tourism, economy and finance of the Senate and the Chamber of Deputies¹⁸. These are held upon the call from and as organized by the respective commissions.

¹³ Decree No. 1490/2014, art. 70.

¹⁴ The website for public consultations is www.conacom.gov.py/consultas.

¹⁵ Decree No. 1490/2014, art. 72.

¹⁶ The reports are published at www.conacom.gov.py/memoria.

¹⁷ Decree No. 1490/2014, art. 73.

¹⁸ Decree No. 1490/2014, art. 73.

7. Annual Forum on the National Competition Day

29. In addition to the regulatory mandate for a hearing on the annual report, CONACOM includes a special *ask me anything*-like forum on the annual National Competition Day.

30. The Forum, named *CONACOM Answers*, is a direct way in which citizens can ask questions and make suggestions to the Members of the Board and the Director of Investigation on any number of topics pertaining to the institution¹⁹.

31. Through the years since its launch in 2021, the Forum has been an open space of respectful dialogue that even provided ideas for the improvement of services in CONACOM, like in 2024 when the agency started a public consultation process on the guidelines for the notification of mergers, that was specifically requested in the 2023 Forum.

8. National Competition Award

32. One of the initiatives for the promotion of competition in the country that was approved by the Board encourages the participation of the public in the identification of regulatory barriers to competition.

33. The National Competition Award is a contest that allows members of the public to prepare an essay identifying a piece of regulation that restricts competition and arguing for its removal. Monetary prizes for winners in the contest are provided by sponsors. An international jury comprised by experts from other competition agencies, distinguished professors and professionals decides the winners.

34. Since 2022, the National Competition Award has been held annually with the participation of lawyers, economists, engineers, administrators and even college students²⁰.

35. In addition to the promotion of competition, the contest aims to serve as a channel for the Advocacy Unit to gather data that could be used in future regulatory opinions, as it happened when an essay filed for the 2022 edition on the topic of competition in the gambling sector provided background information for a formal opinion from the Board on the topic.

9. Final considerations

36. Democracy is strengthened by the participation of the general public in the decision-making process of public institutions.

37. The national competition system in Paraguay provides for several instances of public participation, either due to regulatory mandate (election of authorities, publication of activities, public consultations, annual reports), or by the own initiative (annual forum and award) of CONACOM, the national competition agency. It is important to note that CONACOM has showcased an increased level of transparency and openness than the one provided for in the current legislation.

¹⁹ Information on the forum can be found on the micro website of the National Competition Day: www.conacom.gov.py/dianacional.

²⁰ Information on the award can be found at www.conacom.gov.py/premio.

38. Public participation has improved the standing of CONACOM, which is seen by stakeholders as an open and reliable institution.