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

**Balancing Prudential Regulation and Competition Considerations in Banking – Note by  
Paraguay**

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## Paraguay

### 1. Introduction

1. This paper aims to present cases in which the National Competition Commission of Paraguay (CONACOM) studied issues related to the banking sector.

### 2. Law and authority

2. Paraguay's 1992 Constitution sets out the guarantee for competition in the market<sup>1</sup>.

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)<sup>2</sup>. 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. 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 cases<sup>3</sup>.

5. 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 autonomy<sup>4</sup>.

6. On merger control, the Directorate for Investigation studies merger operations and issues technical opinions. Merger review is focused on whether the operation would significantly restrict competition due to the creation or reinforcement of dominance in the market.

7. 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.

8. The Law also provides for advocacy mechanisms such as regulatory opinions and market studies which are, in both cases, entrusted to the Board.

### 3. Enforcement action

9. In 2022, CONACOM of Paraguay initiated a disciplinary proceeding that culminated in a sanction against a major financial operator, Bancard S.A., for abuse of dominant position.

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<sup>1</sup> Constitution of the Republic of Paraguay, article 107.

<sup>2</sup> The LDC is available in Spanish at <https://www.bacn.gov.py/leyes-paraguayas/4775/ley-n-4956-defensa-de-la-competencia> (Accessed 21 Oct 2025).

<sup>3</sup> LDC, art. 17.

<sup>4</sup> LDC, art. 30.

10. The case started with a complaint filed by a bank, Banco Continental S.A.E.C.A, which had a card processing company in its economic group.
11. Bancard S.A. is the leading card processing company and it has most major banks as shareholders, including Banco Continental S.A.E.C.A.
12. The disciplinary proceeding concluded<sup>5</sup> in 2023 that Bancard S.A. incurred in the infringement of the prohibition of abuse of dominant position, specifically through:
- The limitation of production or distribution to the unjustified detriment of competitors or consumers.
  - The unjustified application of unequal conditions for equivalent services in commercial or service relationships, placing some competitors at a disadvantage.
13. The resolution of the Board concluded that:
- An exclusivity agreement applied by Bancard S.A. generated barriers to entry in the card processing and acquisition markets by stating out that financial institutions that signed it could only perform those services through Bancard S.A.
  - As Bancard S.A. had 19 shareholders who are financial institutions operating in the regulated market, it had most of the demand reserved.
  - The exclusivity applied by Bancard S.A. was subject to penalties due to termination which disincentivized financial institutions from switching providers.
  - Bancard S.A. applied unequal commercial or contractual conditions to Banco Continental S.A.E.C.A. and other market participants when they did not sign the exclusivity agreement, paying them lower commissions and benefitting Bancard S.A. for that difference, even though they were for the same services. This created an unfair disadvantage for financial institutions that did not sign the exclusivity agreement.
  - The application of said exclusivity created an anticompetitive closure of the processing and acquisition markets.
  - It was proven that the conduct was set out with the purpose of obtaining unfair advantages and to cause damage to other processing companies and consumers.
14. The penalty imposed amounted to approximately USD 1,100,000 and its collection is pending of the result of the judicial revision in the courts of the country.
15. Bancard S.A. was also ordered to implement corrective measures, including:
- Bancard S.A. must refrain from applying discriminatory conditions for equivalent benefits to Banco Continental S.A.E.C.A. and any other shareholder-issuer of credit and/or debit cards.
  - Bancard S.A. must refrain from any practice that has the purpose or effect of vertical restrictions, particularly through the application of exclusivity clauses, in the credit and debit card issuing, acquiring, and processing markets.
  - From the notification of this resolution, Bancard S.A., in cases where issuers (banks, financial institutions, or others) carry out promotions in stores at its expense, must refrain from imposing, directly or indirectly, formally or informally,

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<sup>5</sup> CONACOM: Resolución D/AL N° 59/2023, *Sumario de investigación N° 3/2022 “Bancard S.A. s/ supuesta infracción a la Ley N° 4956/2013”*.

exclusive use of its payment terminals or services (POS, platforms, links, among others).

- From the notification of this resolution, Bancard S.A. must continue to provide all the services it currently provides to Banco Continental S.A.E.C.A., under the same conditions as those provided to other shareholder-issuers, for equivalent services. However, this point may be reviewed by CONACOM at the request of a party, following the issuance of a regulatory provision by the Central Bank of Paraguay establishing full interconnection or interoperability between operators and companies that process and manage credit and debit cards.

#### 4. Initial advocacy recommendation

16. The resolution that imposed the penalty also recognized<sup>6</sup> regulatory problems arising from regulation issued by the Central Bank of Paraguay, the financial regulator, which set out the terms for the crediting of amounts of sales from businesses operating with credit and debit cards.

17. The Central Bank of Paraguay regulation was issued when most banks were connected to the same processing company, but as the market evolves, there should be an analysis of whether they remain appropriate for the current conditions of the market.

18. The regulatory intervention aimed to have a positive impact for consumers, as it allowed them to have a quick confirmation and availability of funds after credit and debit card operations.

19. Although the obligation is aimed at card issuing companies, its practical implementation generated a barrier in the processing market, as the authentication, registration and settlement of the transactions is carried out through processing companies.

20. Bancard S.A. benefited from being connected to most entities that operate in the credit and debit card market and therefore, it can set out a three-party system and comply with the regulation in terms of times for payment using its own network, without the intervention of the network/brand.

21. Companies without direct access to banks operated with a four-party system that required the authorization of the network/brand, reducing their ability to comply with the terms stated in the regulation, raising costs of participation as they used their own funds to comply.

22. As a recommendation, CONACOM stated that the Central Bank of Paraguay could seek to implement the interconnectivity and interoperability of payment systems.

#### 5. Competition Advocacy: the National Payment System Bill

23. The findings from this enforcement action provided concrete evidence of a structural market barrier that concluded that regulation could ensure interconnectivity and interoperability among the different card processing companies operating in the market to promote competition.

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<sup>6</sup> CONACOM: Resolución D/AL N° 59/2023, *Sumario de investigación N° 3/2022 “Bancard S.A. s/ supuesta infracción a la Ley N° 4956/2013”*.

24. The goal was to remove the barriers created by the dominant firm's conduct and structurally promote a more competitive environment in the payments sector.
25. Following CONACOM's recommendation, the Central Bank of Paraguay prepared a new regulatory framework<sup>7</sup>, the National Payment System Bill, which included, at its core, the obligation of interconnectivity and interoperability of payment systems.
26. CONACOM subsequently issued two official opinions on the bill<sup>8</sup>. The opinions emphasized the positive goal of recognizing the regulatory authority of the Central Bank of Paraguay in the payment sector, particularly its focus on promoting interconnection and interoperability of payment systems. This allowed the regulator to issue specific provisions on the payments sector that could extend beyond banks and financial institutions, including card processing companies.
27. CONACOM became one of the most significant supporters of the bill, as the findings of the enforcement case provided clarity of its importance.
28. To ensure the future regulations are pro-competitive, CONACOM specifically recommended that the Central Bank of Paraguay, in exercising its regulatory role, analyze any proposal using the principles of necessity, proportionality, and neutrality.
29. These principles are formalized in CONACOM's own *Guidelines for regulation with competition criteria*, a document largely based on the OECD's *Competition Assessment Tools* and other guidelines from competition authorities.
30. The bill was approved by Congress and then enacted it into law by the Presidency of the Republic, recognizing the Central Bank of Paraguay's authority on the payments sector<sup>9</sup>.
31. The Central Bank of Paraguay is currently working on preparing the secondary regulation needed to implement the law.

## 6. Conclusion

32. The Paraguayan experience demonstrates a model of effective cooperation and sequence of events, with enforcement action leading with the identification and penalization of anticompetitive practices that harmed the payments market.
33. Then, advocacy efforts promoted regulatory change after the finding of regulatory barriers, leading to remedies such as the implementation of regulation from the financial regulator requiring interoperability and interconnectivity.
34. The competition authority continues its advocacy role by formally recommending that the financial regulator adopt core competition principles (necessity, proportionality, and neutrality) to prevent the new regulation itself from imposing unjustified barriers to access or innovation inadvertently.

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<sup>7</sup> Congreso Nacional: *Mensaje del Poder Ejecutivo N° 252. Ministerio de Economía y Finanzas, de fecha 25 de abril de 2025, por el cual remite el proyecto de ley "Sistema nacional de pagos"* <<https://silpy.congreso.gov.py/web/expediente/142202>> (Accessed 27 October 2025).

<sup>8</sup> CONACOM: Opinión del Directorio N° 3/2025, *Anteproyecto de ley del sistema nacional de pagos*; y Opinión D/05/2025, *Proyecto de ley del sistema nacional de pagos*.

<sup>9</sup> Ley N° 7503/2025 *Sistema Nacional de Pagos*.

35. This case underscores the need for regulatory frameworks to be necessary, proportional and neutral to balance prudential goals with competition and innovation, especially in rapidly evolving markets like digital finance and payments.