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Case Prioritisation and Prosecutorial Discretion – Note by Mexico

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1. Introduction

1. Mexico's constitutional and legal reforms have reshaped the framework for competition policy, establishing the National Antitrust Commission (Antitrust Commission or Commission) as country's competition authority in alignment with national development objectives. This institutional redesign embeds competition enforcement into national planning, strengthens accountability, and ensures greater coherence between safeguarding competition and advancing national economic priorities.

2. This contribution examines the foundations of institutional reform and the role of strategic prioritization, outlining the Commission's organizational priorities and planning instruments, and presenting the medium- and short-term programs that guide enforcement. It then turns to the interaction between case prioritization and prosecutorial discretion, highlighting how these elements combine to create an enforcement framework that is both principled and adaptive, and better equipped to respond to Mexico's evolving economic challenges.

2. Foundations of reform and prioritization

3. In December 2024, Mexico enacted a constitutional reform aimed at strengthening coherence, reducing administrative complexity, and embedding competition policy more firmly within the State's development strategy.

4. Building on this foundation, the Federal Economic Competition Law (LFCE per its initials in Spanish or Competition Law) was amended in July 2025 to establish the Antitrust Commission as a decentralized body under the Ministry of Economy, with its own assets and full technical independence in decision-making, organizational, and operational functions.

5. Within this framework, antitrust enforcement is implemented in a manner that remains consistent with national economic priorities, while preserving the institutional independence of the Commission. This design reinforces coherence between the objective of safeguarding effective competition and the country's broader development goals.

6. Within this framework, coherence does not mean subordinating competition policy to other State actions. Rather, it requires that the Commission's procedures, enforcement choices, and technical interventions interact constructively with broader public action, ensuring that regulatory, industrial, and enforcement measures do not work at cross-purposes. In this way, the protection of effective competition is preserved while allowing competition policy to contribute, through its own legal mandate and procedures, to the State's broader development goals.

7. The framework also envisages preventive action and targeted coordination with sectoral authorities so that competition concerns to be addressed early, before distortions become entrenched. This includes technical engagement in regulatory or policy design processes, the exchange of non-confidential market intelligence, and the use of market studies, advocacy opinions, and merger review to identify immediate adjustments capable of improving market functioning. Properly designed, these mechanisms do not add bureaucracy or duplicate mandates; on the contrary, they help align sectoral interventions

with competition principles from the outset, reduce friction across authorities, and enable quicker, more coherent decisions that support both market efficiency and broader national economic growth objectives.

8. This institutional design is operationalized through the 2026–2030 Institutional Program and the 2026 Annual Work Program,¹ which translate those broader policy objectives into mechanisms for planning, implementation, and evaluation. In this way, the integration of competition policy into national planning is not merely formal: it is expressed through instruments that guide priorities, structure action, and preserve accountability through clear metrics and performance assessment.

3. Organizational priorities and policy alignment

9. To strengthen both planning and accountability, the Antitrust Commission relies on two complementary instruments that establish its organizational priorities and provide strategic guidance for their implementation: 1) the Institutional Program and 2) Annual Work Program. Together, these instruments serve as core mechanisms through which prioritization is structured and aligned with broader policy objectives.

3.1. Medium-term roadmap: 2026-2030

10. The 2026–2030 Institutional Program,² serves as the Commission’s medium-term roadmap. It defines organizational priorities and strategic actions for the next four years, ensuring consistency with the 2025-2030 National Development Plan and the Sectoral Program of the Ministry of Economy, so that competition is embedded within the State’s objectives of balanced growth, innovation, and market formalization.

11. Within this framework, the Commission undertakes a systematic analysis of markets that, due to their economic and social significance, are designated as strategic and therefore require particular attention. This ensures that prioritization is not arbitrary or discretionary but grounded in objective criteria and measurable impact.

12. In identifying strategic markets, the Commission draws on best international practices. Its methodology goes beyond traditional sectoral classifications, emphasizing areas of high economic and social impact. Quantitative factors are considered, including contribution to GDP, household expenditure shares, and population coverage. The underlying premise is that markets with clear rules and competitive conditions enable more efficient resource allocation, allowing household spending to go further and contributing to family welfare.

13. For the 2026–2030 period, the Commission has designated six strategic priorities the agri-food, health, financial, transportation and logistics, telecommunications and broadcasting, and public procurement sectors. This focus enhances the effectiveness of interventions in areas that are particularly relevant to consumer welfare, inclusive

¹ The 2026 Annual Work Program is available at: <https://gaceta.diputados.gob.mx/PDF/66/2026/feb/Prog.Anual.AntiMonop-20260201.pdf>

² Following the conclusion of the public consultation phase, the document will be published shortly in the Official Gazette of the Federation. See Press Release of the Public consultation of the 2026-2030 Institutional Program available at: <https://www.gob.mx/antimonopolio/prensa/programa-institucional-2026-2030-la-cna-impulsa-una-politica-antimonopolio-con-vocacion-social>

development, and economic growth, while also supporting greater participation by small and medium-sized enterprises (SMEs).

14. The identification of strategic sectors serves as a framework for planning, prioritization, and accountability rather than as a limitation on the Commission's mandate or enforcement activities. While these sectors guide the allocation of resources and the design of advocacy and enforcement initiatives, the Commission retains full independence to intervene in any market where competition concerns arise, in accordance with its legal powers and evidence-based assessment.

15. The prioritization exercise does not imply that all interventions must be concentrated within the designated sectors; rather, it provides greater transparency regarding institutional objectives, facilitates the measurement of outcomes, and strengthens accountability to stakeholders and the public. For example, although digital markets are not identified as a standalone strategic sector, their cross-cutting nature means that competition issues in digital ecosystems may affect several priority sectors and other areas of the economy. The Commission therefore remains able to address competition concerns in digital markets and other non-priority sectors whenever warranted by the evidence.

3.2. Translating priorities into action

16. Complementing the medium-term vision of the Institutional Program, the Annual Work Program provides the Commission's yearly operational roadmap. It translates strategic objectives into specific actions and measurable deliverables, aligning competition policy with broader national development priorities while ensuring that enforcement, market oversight, and advocacy activities are implemented in a coordinated manner

17. The Program sets out ten strategic actions that encompass investigations into collusion and abuse of market power, the review of mergers and concessions, the detection of barriers to competition, and the monitoring of compliance with resolutions. It also includes initiatives to remove barriers to competition, apply asymmetric regulation in strategic sectors such as telecommunications and broadcasting, and impose limits on concentration and cross-ownership in media markets.

18. Through these measures, the Commission consolidates its role as both a proactive enforcer and a responsive institution. The Annual Program serves as the bridge between the medium-term priorities established in the Institutional Program and their practical implementation, providing a transparent framework for accountability while preserving the flexibility needed to respond to emerging competition concerns across all sectors of the economy.

4. Prioritization and enforcement discretion

19. Prioritization and prosecutorial discretion are complementary pillars of the Commission's enforcement strategy. Prioritization provides a clear framework for directing resources toward matters of greatest relevance to consumer welfare, economic development, and strategic objectives, while discretion ensures the flexibility to address emerging risks, novel market dynamics, and unforeseen anticompetitive conduct.

20. This approach allows the Commission to maximize the impact of its interventions, adapt to evolving market conditions, and allocate resources efficiently. Transparent decision-making reinforces accountability, institutional legitimacy, and predictability for market participants.