

Unclassified

English - Or. English

24 May 2023

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

Working Party No. 2 on Competition and Regulation

**Assessing and Communicating the Benefits of Competition Interventions – Note by
Mexico**

12 June 2023

This document reproduces a written contribution from Mexico submitted for Item 6 of the 75th meeting of Working Party 2 on 12 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm>

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Federal Economic Competition Commission (COFECE or Commission)

1. Introduction

1. The Federal Economic Competition Commission (COFECE or Commission) strives to use its resources effectively, efficiently, and in a timely manner. To achieve the former, COFECE carries out its activities under a strategic plan which establishes objectives, actions, and outcomes that are periodically evaluated and made public.¹

2. This contribution will present the tools that COFECE uses to evaluate its results and assess the impact of its interventions, as well as its strategy to communicate the benefits from its actions to competition in the Mexican markets.

2. COFECE's Planning and evaluation.

3. COFECE has developed a follow-up system that favors the supervision of its actions and contributes to the evaluation of its performance. COFECE's Institutional Strategic Planning Model (MOPEI for its acronym in Spanish) has helped establish directives and implement strategies to achieve the Commission's objectives. Through this model, COFECE's interventions are more effective, since it prioritizes actions, efficiently allocates resources, monitors such actions, and evaluates the results. This allows to make the necessary adjustments, all in a framework of continuous improvement.

2.1. Planning

4. Based on MOPEI, COFECE conducts its planning considering different time horizons: long-term and short-term. On the one hand, COFECE implements long-term planning exercises that allow to review, every four years, whether the designed strategy for the fulfillment of its constitutional mandate has been effective. As a result of these exercises, COFECE has developed its 2014-2017, 2018-2021, and 2022-2025 Strategic Plans in which its mission, vision, objectives, and institutional values are defined and to guide the performance of its staff.² On the other hand, COFECE carries out short-term planning exercises where strategic actions and specific tasks are established and included in annual work programs to contribute to the accomplishment of the institutional objectives.

¹ COFECE's Strategic Plan for 2022-2024 can be consulted at:

https://www.cofece.mx/wp-content/uploads/2022/03/PE2022-2025_VF.pdf

² The competition regulatory framework does not provide for a strategic plan; however, based on international best practices, the Commission prepares this document that guides its actions for a period of four years and allows to fulfill its constitutional mandate effectively. The most recent Strategic Plan, 2022-2025, is available in English at: <https://www.cofece.mx/wp-content/uploads/2022/11/PE2022-2025-ing-VF.pdf>

2.2. Evaluation

5. COFECE has an internal performance assessment system with tools to monitor the fulfillment of its objectives and goals, such as the annual work program (PAT for its acronym in Spanish), quarterly reports of activities, the Institutional Performance Assessment System (SEDI per its acronym in Spanish), ex post and ex ante assessments, as well as the evaluations and audits conducted by internal and external bodies (which will not be covered in this contribution).

2.2.1. Annual Work Program and quarterly reports

6. Every year, COFECE evaluates its internal performance. Two core elements of this assessment are the: i) annual work review, where the Commission makes an assessment of the progress achieved and the fulfillment of goals set every year to meet COFECE's long-term objectives; and ii) quarterly reports that show the progress made in the activities established in the Annual Work Program.

7. The Annual Work Program is part of the transparency and accountability agenda of COFECE and contains the annual actions and projects that will contribute to the gradual achievement of the long-term objectives established in the Commission's Strategic Plan.

8. COFECE's Annual Work Program must be submitted to the Federal Executive and Legislative Powers;³ on January 31st of each year (at the latest) and the quarterly activities must be submitted within the first thirty natural days after the end of the corresponding quarter. These are published by the Commission on its website.^{4,5}

9. The Annual Work Program and the quarterly activities report refer, amongst others, to the following elements:⁶ i) an analysis of the Commission's administration, referring to its vision, mission and objectives, considering aspects of its performance and efficiency of its actions, the Commission's challenges, its general financial situation, the implementation of controls and internal measures and compliance with the Regulatory Provisions and its Organic Statute; ii) the Commission's performance in relation to its objectives and strategic goals, including an explanation of the manner in which the data presented is verified and validated, as well as the independent studies that assess the Commission's performance, and the advances in fulfilling its annual work program; iii) a summary of the opinions issued by the Commission and of any consultations submitted; iv) a report of the expenses corresponding to the previous period, including, if any, the relevant observations that were

³ In accordance with Article 28, twentieth paragraph, section VIII, of the Political Constitution of the United Mexican States that establishes the obligation of the Chair Commissioner of COFECE to present an annual work program and quarterly reports to the Executive and Legislative Powers. This is reiterated in Article 12, section XXV of the Federal Economic Competition Law and Section XV of Article 12 of the Organic Statute of the Federal Economic Competition Commission. The Political Constitution of the United Mexican States is available in Spanish at: <https://www.diputados.gob.mx/LeyesBiblio/pdf/CPEUM.pdf>; the Federal Economic Competition Law is available in English at: <https://www.cofece.mx/publicaciones/marco-juridico-y-normativo/federal-economic-competition-law-lfce/>; the Organic Statute of COFECE is available in English at: https://www.cofece.mx/wp-content/uploads/2022/01/ESTATUTO-ORGANICO-ENG_.pdf

⁴ In accordance with Article 190 of the Regulatory Provisions of the Federal Economic Competition Law.

⁵ www.cofece.mx

⁶ Article 49 of the Federal Economic Competition Law.

brought forth by the Internal Control Body, and v) a report, summary, justification and effects of the procedures and resolutions issued in accordance with the Federal Economic Competition Law (LFCE or competition law).

10. In addition to the two assessment instruments mentioned in paragraph 6, COFECE publishes monthly reports that contain the most relevant activities by COFECE for each period. These are published in COFECE's website the first ten working days of the month.

2.2.2. Institutional Performance Evaluation System (SEDI)

11. Another core element of internal assessment is the SEDI, (its acronym in Spanish) which is an element of control that comprises a set of methodological, regulatory and operational elements which make it possible to monitor and objectively quantify the institution's comprehensive performance. Through SEDI, it is possible to evaluate COFECE's compliance with its long-term objectives. This is done by means of strategic and management level indicators that provide relevant and timely information for the improvement of the institutional procedures.⁷

12. Results of the SEDI are communicated within COFECE among the General Directorate for Planning and Evaluation, the Board of Commissioners, and the executing areas of the processes. SEDI's results help to monitor performance, progress, report evaluation results, identify areas for improvement, and, if necessary, establish actions for its correction. Outside COFECE, SEDI's Results Report are shared annually with the Ministry of Finance and Public Credit. The report is also published in COFECE's website during the first quarter of the year.^{8,9}

2.2.3. Ex ante and ex post assessments

13. In addition, COFECE regularly quantifies the impact on the markets of its interventions in terms of prevention and sanctioning of anti-competitive practices. These evaluation exercises are intended to measure the effectiveness of the Commission's actions, provide evidence on the benefits generated for every Mexican peso destined to COFECE's budget, and compare the expected effects with those observed.¹⁰ This is done through *ex*

⁷ COFECE's Institutional Performance Evaluation System is issued in accordance with the Federal Budget and Fiscal Responsibility Law that provides in its Article 2, section LI, the definition of a Performance Evaluation System as the set of methodological elements that allow an objective evaluation of the performance of the programs, under the principles of verification of the degree of compliance with goals and objectives, based on strategic and management indicators that allow knowing the social impact of programs and projects; Article 110 that establishes that performance evaluation will be carried out through verification of the degree of compliance with objectives and goals, based on strategic and management indicators that allow knowing the results of the use of federal public resources, and Article 111, second paragraph that provides the obligation for those implementing public spending to have a performance evaluation system and in the case of autonomous bodies, such as COFECE, to issue their own provisions.

⁸ In accordance with Article 79 of the General Government Accounting Law that establishes the obligation of public entities to disseminate on their Internet pages their methodology, indicators, and evaluation programs, as well as their results.

⁹ The 2021 report on the results of the SEDI is available in Spanish at: <https://www.cofece.mx/wp-content/uploads/2022/03/Reporte-de-Resultados-SEDI-2021.pdf#pdf>

¹⁰ Ex post assessments are published based on Article 12, sections XXIII and XXIX, of the Federal Economic Competition Law, as well as articles 22, section V, and 41, sections IV and X, of the Organic Statute of the Commission

ante and *ex post* assessments. Both types of assessments are carried out based on their respective methodological documents.¹¹

Ex ante assessments

14. *Ex ante* assessments are those that quantify, in monetary terms, the benefit that consumers obtain from the suspension or prevention of an anti-competitive practice, or when COFECE challenges or asks for remedies in a merger. The benefit considered the harm avoided to consumers associated with the increase in prices. This is based on market information, observed prior to the intervention of COFECE, such as the duration of the practice, the size of the market, the distortion in prices, the expected price projection, and the quantity of goods and services commercialized analyzed in the absence of such anti-competitive practice or realization of the merger, as it is explained below.

15. In accordance with the corresponding methodology, COFECE's Board of Commissioners resolutions subject to *ex ante* assessments are: i) unlawful mergers, non-authorized mergers and those subject to remedies, ii) sanctioned absolute monopolistic practices (collusive agreements), and iii) sanctioned relative monopolistic practices (abuse of dominance), or those where the investigation concludes early due to the acceptance of commitments.

16. The Methodology is mainly based on the 2014 OECD Guide for helping competition authorities assess the expected impact of their activities.¹² It establishes four scenarios to conduct the assessments, subject to the availability of information:

1. Information is available on market demand parameters;
2. There is no information on demand parameters, but there is data to estimate them;
3. There is no information on demand parameters or data to estimate them, but there is an estimate of the markup; and
4. It is not possible to know the elasticity or an estimate of the markup.

17. In the first three scenarios, the characteristics, and parameters of the analyzed market, such as elasticity and markup margin, are obtained from the resolution of the case and from public sources of information. On the other hand, if it is in scenario IV, the following criteria are used (see Table 1):

Table 1. Assumptions used by COFECE for the analysis of the impact of its interventions

	Absolute monopolistic practice (collusive agreements)	Relative monopolistic practice (abuse of dominance)	Mergers
Affected consumers	Size of the relevant market	Size of the relevant market	Size of the relevant market
Price effect	15%	15%	1%

¹¹ COFECE's methodology for conducting *ex ante* assessments is available in Spanish at:

https://www.cofece.mx/cofece/phocadownload/PlaneacionE/cofece_metodologiaevaluacionesexante_vf.pdf; while the methodology for conducting *ex post* assessments is available in Spanish at:

https://www.cofece.mx/cofece/images/informes/metodologia_ev_expost_cofece.pdf

¹² Available at: <https://www.oecd.org/daf/competition/Guide-competition-impact-assessmentEN.pdf>

Duration (years)	1	1	1
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18. Once the scenario has been, given the available information, COFECE determines the magnitude of the impact on consumer welfare by estimating and adding the loss in consumer surplus and, in cases where it is possible, irrecoverable loss of efficiency.

19. The assessments are submitted for review and approval by the Working Group for the Evaluation of Competition Policy, which is chaired by a Commissioner and in which the heads of the three COFECE's units - Investigative Authority, Technical Secretariat and the Planning, Liaison and International Relations Unit - and the general directorates related to the investigation of anticompetitive practices and merger analysis participate.

20. Currently, COFECE is carrying out a process of reviewing and updating the Methodology, so that, if it considers it relevant, some of the procedures and criteria described above could be modified in the next two years.

21. Since 2017, COFECE has annually published the document "Economic benefits from COFECE's interventions. *Ex ante* assessments", which shows the economic benefits derived from cases resolved by COFECE.¹³ Within the period 2017-2021, benefits to consumers amount to \$2,522,327,205.5 Mexican pesos.¹⁴ This represents six times the budget allocated to the Commission during such a period.

22. COFECE has also published the following: i) *Ex ante* assessment of an absolute monopolistic practice in the market of compressors in national territory, ii) *Ex ante* assessment of an absolute monopolistic practice in the market for the production, distribution and commercialization of sugar in national territory, iii) *Ex ante* assessment of the merger between supermarkets, iv) *Ex ante* assessment of an absolute monopolistic practice in tow-truck services in Acapulco, v) *Ex ante* assessment of a merger in the market of passenger air transportation market between Mexico and the United States of America through a Joint Cooperation Agreement, vi) *Ex ante* assessment of the imposition of remedies to the merger between Sanofi and Boehringer in the health sector, vii) *Ex ante* assessment of a sanction for an absolute monopolistic practice in the maritime passenger transportation market in Quintana Roo, and viii) *Ex ante* assessment of a relative monopolistic practice in the access service for the provision of taxi services.¹⁵

¹³ The *ex ante* assessments for 2021, 2020, 2019, 2018, and 2017 are available in Spanish at: <https://www.cofece.mx/beneficio-economico-de-las-intervenciones-de-la-cofece-2021/>; <https://www.cofece.mx/beneficio-economico-de-las-intervenciones-de-la-cofece-2020/>; <https://www.cofece.mx/beneficio-economico-de-las-intervenciones-de-la-cofece-2019/>; <https://www.cofece.mx/beneficio-economico-de-las-intervenciones-de-la-cofece-2018/>; <https://www.cofece.mx/beneficio-economico-de-las-intervenciones-de-la-cofece-2017/>.

¹⁴ In total, 45 cases on mergers and investigations were resolved.

¹⁵ Available in Spanish at: <https://www.cofece.mx/cofece/phocadownload/PlaneacionE/boe-io-001-2013-compresores-vf.pdf>; <https://www.cofece.mx/cofece/phocadownload/PlaneacionE/ex-ante-azucar-9dic16.pdf>; <https://www.cofece.mx/wp-content/uploads/2017/11/soriana-comercialmexicana.pdf>; https://www.cofece.mx/cofece/phocadownload/PlaneacionE/de-023-2013_boe_gruas_guerrero.pdf; https://www.cofece.mx/cofece/phocadownload/PlaneacionE/boe_cnt-050-2015_delta-aeromexico.pdf; https://www.cofece.mx/cofece/phocadownload/PlaneacionE/cnt-045-2016_boe_sanofi-boehringer.pdf; https://www.cofece.mx/cofece/phocadownload/PlaneacionE/de-002-2014_boe_navieras_cozumel.pdf; https://www.cofece.mx/cofece/phocadownload/PlaneacionE/de-015-2013_boe_taxi_aicm.pdf.

Ex post assessments

23. *Ex post* assessments estimate the impact of the suspension or prevention of restrictions on the efficient functioning of the markets, on the equilibrium conditions (prices and quantities commercialized) of a market and, consequently, on the welfare of the consumers. This type of assessments are econometric exercises with academic rigor that seek to identify the causality in the change in the equilibrium conditions of the markets between two and four years after the Commission has intervened in the market, and the effects on consumers welfare.

24. In this regard, the estimates are calculated by analyzing the equilibrium conditions that a certain market: i) reaches after COFECE's intervention (in the case of suspension of anti-competitive practices); and ii) could reach if COFECE did not intervene (in the case of establishing preventive measures).

25. In accordance with the corresponding methodology, the resolutions of the COFECE's Board of Commissioners subject to *ex post* assessments are: i) mergers that were not authorized and those subject to remedies that have any effect on market conditions; ii) sanctioned absolute monopolistic practices; iii) sanctioned relative monopolistic practices, or those where the investigation concludes early due to the acceptance of commitments; and iv) procedures to determine barriers to competition.

26. The Working Group for the Evaluation of Competition Policy decides the cases to be evaluated based on a set of criteria, among which are the availability of statistical information on prices and quantities commercialized, between two and four years from the intervention (resolution) of this authority.

27. COFECE has published the following *ex post* assessments:¹⁶ i) Estimation of the benefits obtained by the sanction of a cartel in public tenders of the IMSS in Mexico, ii) Assessment of the impact of a collusive practice in the cargo trucking market in Mexico, iii) Assessment of the impact on consumer welfare derived from the sanction of cartels in the chicken market, and iv) Ex post assessment of a concentration in the chemical industry of Mexico.

28. More recently, in December 2022, COFECE published the book “What does Mexico gain when there is competition? Economic benefit from eight interventions of COFECE” in which assessments conducted on interventions in several markets by COFECE and its predecessor, the Federal Competition Commission (CFC) are presented.¹⁷ These assessments were conducted by COFECE and renowned competition experts.

29. It is estimated that the benefits deriving from the Commission's interventions in the period of 2017-2021, totaled around \$2,000,000,000.00 Mexican pesos, being the merger subject to remedies between Aerovías de México, S.A. de C.V. and Delta Airlines, Inc. one of the most important interventions.

3. Communication

30. Mexican social communication regulations establish that public entities must develop an annual social communication strategy to disseminate messages about

¹⁶ Considering COFECE's Protocol to publish *ex post* assessments, available in Spanish at: https://www.cofece.mx/cofece/phocadownload/PlaneacionE/protocolo_ev_expost_cofece.pdf

¹⁷ Available in English at: <https://www.cofece.mx/what-does-mexico-gain-when-there-is-competition/>

government programs and activities or services they provide. Similarly, this regulation establishes that public entities must prepare the Annual Social Communication Program considering the thematic priority and chronology of the dissemination of the campaigns to comply with the social communication strategy. According to these regulations, COFECE issues its annual strategies and programs of social communication in line with its constitutional mandate, its Strategic Plan and Annual Work Program.¹⁸

31. COFECE's social communication strategy has evolved to adapt to changes and contexts over time.¹⁹ As part of a proactive effort in the elaboration of better materials to disseminate the principles of competition and free market access, in 2018 the Study on the perception of the Commission's communication for internal use was carried out. This study included a diagnosis based on several focus groups to know COFECE's audiences closely. The Study allowed the creation of campaigns to position the work of the Commission, its objectives, key messages and a graphic identity, along other aspects among a greater audience. The results of this study allowed COFECE to improve the annual social communication strategies and programs, adjusting the strategies and programs to promote greater awareness of the principles of economic competition and its benefits for society.

32. In addition, as it is mandatory by law and in respect of due process, all resolutions and agreements of the COFECE's Board of Commissioners, as well as decisions that by order of the Judiciary must be modified, are published in its website.²⁰ Accordingly, the Commission has a Protocol of Social Communication which establishes the mechanisms through which the Commission's interventions are made public to its target audiences and society in general,^{21,22} as well as the criteria that must prevail for the dissemination of such

¹⁸ Since 2019, COFECE publishes its Social Communication Strategy and Annual Program, in accordance with Articles 23, 24 and 26 of the General Social Communication Law, available at: <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGCS.pdf>

¹⁹ The social Communication Strategy is developed by the Commission's General Directorate for Social Communication, and its implementation is mainly supported by the General Directorate for Competition Advocacy.

²⁰ And not only the resolutions, but also the stenographic versions of the discussions and sessions of the Board are made public. However, in order to maintain the independence between powers and provide legal certainty, the Judicial Branch is responsible for the publication of its judicial proceedings.

²¹ Available in Spanish at: <https://www.cofece.mx/wp-content/uploads/2021/01/PROTOCOLO-ComSoc-v2-22enero2021.pdf>

²² Target audiences are divided into three circles:

- (a) Red circle: specialized audiences in the field, opinion leaders and decision-makers, as well as international institutions and organizations.
- b) Brown circle: people with university studies, who consume and follow the media's news coverage, have knowledge of what is happening in Mexico and the world. It refers specifically to practitioners, large companies, professionals, university students who are interested and can learn more about the topic of economic competition. This circle functions as a transmission belt of public opinion between the red circle (decision makers in the country) and the green circle.
- c) Green circle: people who are generally poorly informed. They are not aware of what is happening in Mexico and the world. They do not read or occasionally read the newspaper, but social and entertainment sections, they do not consume newscasts frequently. Specifically, this refers to formal and informal workers, housewives, students, parents. This is the majority of the population, people with schooling up to high school.

The former, according to Commission's Communication Perception Study conducted in 2018.

information. The Protocol establishes communication routes –understood as the tools and means of dissemination used by COFECE to inform– based on the type of matter in question,²³ some of the most relevant decisions / resolutions of COFECE. Among the former are cases related to: i) challenged or mergers subject to remedies; ii) initiation and conclusion of investigations and trial-like procedures for monopolistic practices and unlawful mergers; iii) the issuance of opinions whose impact on the markets is significant; iv) the resolutions of the Judiciary whose relevance has a significant impact on COFECE's actions, amongst others.

33. Communication of COFECE's work may be: i) proactive, that is, through its own initiative and in accordance with the legal framework, COFECE makes public information, data, events, as well as its resolutions and relevant actions; and ii) reactive, when it responds to requests for information, interviews or questions issued by the media or users of social networks.

34. The means and tools that COFECE uses for communicating its main activities, results and relevant acts, cases, and opinions regarding laws, regulations, agreements, draft provisions or other administrative acts, are:^{24,25,26}

- COFECE's website: focused on informing economic agents, public officials, consumers, academics, students, various organizations, journalists, and society in general, about the notifications, resolutions of the Board, as well as the activities, results, and other relevant acts by COFECE.
- Press releases: produced specifically to inform and explain a specific act or event of the Commission. These are sent by email to the press. All the bulletins are listed in the Press Office section of the Commission's website.²⁷
- Social Networks: the Commission issues messages in social networks, such as Twitter, Facebook, Instagram, LinkedIn and YouTube channel in which users may interact. These are administered by the Directorate General of Social

According to the Protocol, COFECE's target audiences are practitioners, businessmen, chambers and business associations, academics and students of economics, law, business and other subjects and sciences related to economic competition; Congress of the Union, authorities and regulators, media and other audiences related to the Commission's activity.

²³ That is merger analysis, investigation of monopolistic practices or unlawful concentrations, investigations to determine the existence of essential inputs and/or barriers to competition, resolutions on conditions of effective competition, opinions, publication of studies, research papers on a market, follow-up on judicial processes, public consultations, publication of technical criteria, guides and guidelines, transparency and accountability documents, as well as any other activity that derives from COFECE's powers, always in compliance with the corresponding regulation to ensure the protection of reserved and confidential information.

²⁴ Opinions issued by COFECE on any program, public policy, draft law, or regulations in force (at the federal, state, and local level) that may have anticompetitive effects, within the framework of Article 12, sections XII, XIII, XIV and XV of the Federal Economic Competition Law and Articles 148 and 149 of the Regulatory Provisions of the Federal Economic Competition Law.

²⁵ www.cofece.mx

²⁶ In addition to the power to issue opinions, Cofece actively participates in various inter-institutional spaces for regulatory discussion, such as the Foreign Trade Commission, Standardization Advisory Councils, and the National Council for Regulatory Improvement.

²⁷ Available in English at: <https://www.cofece.mx/publicaciones/news-office/?lang=en>

Communication to disseminate in a timely and immediate manner the main activities and relevant acts of the Commission.

- Press conferences: when COFECE's Chair Commissioner requests so, national and/or international journalists, as well as special guests, are convened to meetings with the purpose of informing, explaining, announcing, or clarifying one or more of the Commission's activities.
- Interviews: The Chair Commissioner is responsible for the Social Communication policy; therefore, she is for COFECE's spokesperson, except for those that take place during the investigation stage in which the interviews will be in charge of the Head of the Investigative Authority. She can designate any other official to act, according to their functions, responsibilities, and attributions, as a spokesperson in interviews with the media or press conferences on a particular topic.

35. In addition to social communication tools, COFECE complements its efforts to reach out to different audiences with advocacy actions, with whom it seeks precisely to promote the culture of competition through activities such as training, contests with prizes, issuance of documents, workshops, conferences, seminars and various events in collaboration with representatives of the public, private and academic sectors.

36. Finally, different studies about awareness and knowledge of competition policy in Mexico have been conducted. These studies have been carried out to improve COFECE's communication strategy and to convey relevant messages and provide useful materials to each of the target audiences in ways they consider it attractive, useful and which favor engagement.

37. For example, in 2015, the "Estudio para identificar el nivel de conocimiento y percepción de la competencia económica en México" [Study to identify the level of knowledge and perception of economic competition in Mexico] was financed by the United States Agency for International Development (USAID), which resulted in a document for internal use to detect which groups (consumers or producers) that were less familiar with competition policy.

38. In 2018, COFECE published the "Estudio y análisis de la percepción sobre temas de competencia económica y la labor de la COFECE" [Study and analysis of the perception on economic competition issues and the work of COFECE] elaborated by the consultancy firm McKinsey Mexico which proposed recommendations on how to tailor advocacy messages and materials to achieve a more effective dissemination and usage.²⁸ This study prompted an adaptation of the language used in advocacy materials to convey ideas better to non-specialized audiences and explain in simple terms what COFECE does and how it directly benefits Mexican consumers.

39. In 2022, the General Directorate for Competition Advocacy worked on the planning, development and implementation of an "Evaluation of the perception of COFECE's advocacy actions". The purpose of this diagnosis, for internal use, was to evaluate the perception of competition advocacy actions and to define, based on the results obtained, new lines of work in this area. To this end, eight focus groups were formed with: i) representatives of business chambers, entrepreneurs and/or private sector executives familiar with the Commission's work, ii) lawyers specializing in competition matters, iii) opinion leaders specialized in economic issues, iv) members of academia, v) public officials linked to the Commission's activities, vi) international competition agencies, vii)

²⁸ Available in Spanish at: <https://www.cofece.mx/wp-content/uploads/2018/01/Estudio-labor-COFECE-17.pdf#pdf>

former participants in advocacy initiatives, and viii) COFECE's officials participating in its Ambassadors program.²⁹ As a result of this exercise, new lines of work were developed, allowing COFECE to improve the following competition advocacy components: i) advocacy documents; ii) regulatory opinions, iii) workshops, awards and competitions; iv) and to develop a comprehensive advocacy strategy whose results will materialize in the following years.

²⁹ The Ambassadors program is a project led by the General Directorate for Competition Advocacy which allows COFECE's staff to voluntarily enlist as "ambassadors" of competition policy. That is, through this program COFECE staff can serve as speakers to disseminate competition principles and benefits among diverse audiences. This is the second year of the Ambassadors program.

Contribution by the Federal Telecommunications Institute (IFT)

4. Introduction

40. The IFT is the Mexican competition authority and regulator of the Telecommunications and Broadcasting (T&B) sectors. It regulates, enforces and promotes economic competition, free market access, and the efficient development of these sectors. The IFT also evaluates, monitors, and releases reports on the competition evolution of these sectors, and on its actions to promote competition.

41. This contribution will explain how the IFT assesses its competition interventions and the evolution of competition in the T&B sectors. In particular, this document includes: (i) the statutory duties of IFT to report, monitor and assess competition policy interventions and activities; (ii) the communication tools and strategies it has used; and (iii) a case example.

5. Legal Framework

42. IFT's report, assessment and communication duties are established in the Federal Economic Competition Law (LFCE) and the Federal Telecommunications and Broadcasting Law (LFTR).

43. The IFT is not legally required to perform "impact assessments"³⁰ of its competition interventions. Nonetheless, it does have legal duties to report and communicate its competition and regulatory activities to guarantee IFT's accountability and transparency; and to order *ex post* evaluations³¹ of its competition interventions, which shall be performed by independent academics and competition policy experts –the IFT has not yet ordered any–.

44. The LFCE establishes the following activities to report, inform and communicate about IFT's competition interventions:

- **Annual and Quarterly reports on competition and regulatory activities:** Article 12, section XXV, and article 49, second paragraph, sections I to V, establish that the IFT shall prepare and present to the Federal Executive and Legislative branches, an Annual Work Programme (*Programa Anual de Trabajo*, PAT) and Quarterly Reports (*Informes Trimestrales de Actividades*, ITA).³² These duties are also established in the LFTR article 177, section XIII.

³⁰ This contribution considers the definition provided in the OECD's "Guide for helping competition authorities assess the expected impact of their activities": "Impact assessments, instead, refer to all the decisions taken by the authority over a period of time, or a subset of them (e.g. all cartel decisions) and are performed soon after these decisions are made, hence they can only estimate their likely effects on the basis of assumptions."

³¹ LFCE, Article 12, section XXIX.

³² PATs and ITAs can be consulted in the following link: <https://www.ift.org.mx/transparencia/programa-anual-de-trabajo-e-informe-de-actividades-del-ift>. Also, according to LFTR, articles 177, section 1 and paragraph XIII, and 178, PATs and ITAs should be registered in the Public Register of Concessions, and accessible for public consultation on the following link: <https://rpc.ift.org.mx/vrpc>.

- **Information regarding IFT's Boards resolutions, agreements and sessions:** Article 49, first paragraph, establishes the duty to provide public versions³³ of the following: (i) stenographic version of Board Commissioner's sessions, and (ii) Board's decisions and agreements, which shall be available on IFT's website. These duties are also established in the LFTR, articles 46, 47 and 48.

6. Assessment and Communication

45. The following paragraphs will provide a brief overview of the most important assessment measures conducted by the IFT to monitor the impact of its competition policy activities, as well as the most relevant communication tools it uses.

6.1. Assessment of competition interventions in T&B sectors

46. Given its dual mandate, some IFT's competition interventions include: (i) *ex ante* merger control, antitrust, decisions on SMP, barriers to entry and essential facilities; and (ii) economic regulation activities, such as: asymmetric regulations and *ex ante* economic analysis for public bidding procedures (for example, spectrum public tenders),³⁴ modifications of concession titles, stakeholders' changes and modifications, among others established in the LFTR.

6.1.1. Assessment of competition interventions related to merger control

47. In merger control decisions, the IFT provides quantitative and qualitative information on how the merger is expected to impact the relevant and related markets identified. This information is provided in the final decision of IFT's Board, and public versions are available on IFT's website.

48. When the merger is approved, information regarding its expected benefits can include information on the aggregate turnover, IHHs, potential benefits for consumers, and potential benefits on market dynamics.

49. When the merger's approval is subject to remedies, along with the decision, the IFT presents how risks to competition are expected to be prevented or reduced. In particular, it explains how the remedies prevent harms to competitive process and consumers.

6.1.2. Assessment of competition interventions related to *ex ante* regulation for EPAs

50. The IFT conducts biennial assessments on the performance in terms of competition of the measures imposed to Economic Preponderant Agents (EPA) in the T&B sectors

³³ Publicly available versions comply with the secrecy of the investigations and procedures, and do not include neither confidential nor reserved information.

³⁴ Information regarding public biddings, available at: <https://www.ift.org.mx/espectro-radioelectrico/licitaciones>; ITAs also present information on the expected benefits for competition and consumers.

(latest revisions, available here: AEPT³⁵ and AEPR³⁶). These assessments are used to determine whether *ex ante* regulation needs to be modified, either by implementing new measures or lifting existing ones. The assessment includes:

- **General diagnosis on the provision of services**, an economic analysis of the evolution of key market indicators. For the telecommunications sector, the following have been considered: (i) number of providers and characteristics of their offers; (ii) market shares and concentration rates (IHH); (iii) mobility and user acquisition; (iv) penetration of services; (v) coverage of services; (vi) final consumption patterns; (vii) prices (nominal and promotions) and characteristics and attributes of services and bundles; (viii) average revenue per user -ARPU-; (ix) profitability and investments. In the case of the broadcasting sector, the following have been considered: (i) number of suppliers; (ii) audience ratings; (iii) market shares and concentration indices (IHH); and (iv) coverage of services.
- **Regulatory considerations (motivation and object)**, this analysis includes a qualitative assessment of the economic *raison d'être* of the regulatory measures, and whether they are adequate enough to accomplish its purpose. It includes some of the following: (i) quantitative indicators of overall compliance; (ii) qualitative indicators on the access services available, whether if they have been requested and provided in timely fashion; and (iii) qualitative and quantitative indicators to measure if the conditions for the provision of regulated services have been enough to improve competitive conditions.
- **Competition assessment**: it includes expected benefits from the regulation. In general, it is presented how overall regulation is expected to modified current trends or conducts of AEPs within each sector, and how it will support the competitive process. Most of the indicators used are qualitative.

6.2. Communication strategies

51. The IFT has focused its communication strategies in three particular stakeholders: (i) general public; (ii) Executive and Legislative Branches; and (iii) regulated undertakings. Most of IFT's communication strategies have focused in improving the awareness on the benefits of competition interventions.

52. Communication actions to promote the awareness on the benefits of competition interventions

- **Press releases, infographics and informational brochures**: The IFT provides information to the general public through press releases;³⁷ in 2022, it presented an

³⁵ IFT (2020). Resolución mediante la cual el Pleno del Instituto Federal de Telecomunicaciones suprime, modifica y adiciona las medidas impuestas al agente económico preponderante en telecomunicaciones mediante Acuerdos P/IFT/EXT/060314/76 y P/IFT/EXT/270217/119. Available in Spanish at: <https://www.ift.org.mx/node/17142>.

³⁶ IFT (2017). Resolución mediante la cual el Pleno del Instituto Federal de Telecomunicaciones suprime, modifica y adiciona las medidas impuestas al agente económico preponderante en el sector de radiodifusión mediante resolución de fecha 6 de marzo de 2014, aprobada mediante Acuerdo P/IFT/EXT/060314/77. Available in Spanish at: <https://www.ift.org.mx/node/9701>.

³⁷ Available in Spanish at: <https://www.ift.org.mx/comunicacion-y-medios/comunicados-ift>.

infographic³⁸ addressing the benefits of the competition interventions. These strategies are designed to provide information on these decisions in plain language, so that the public can understand the general aspects of its decision, as well as potential qualitative benefits for consumers' welfare and competition.

- **Interviews in mass media:** Staff members of the IFT have made presentations on mass media regarding the most important decisions. Transcriptions of these interviews are available on the IFT's webpage.³⁹ These interviews contribute to a better understanding of the decisions taken by the IFT and how they are expected to benefit the final consumers and the competition dynamics in a market.
- **IFT's YouTube channel:** Staff members of the IFT made presentations on the current work performed by the IFT. For example, several sessions have been dedicated to present market studies.⁴⁰
- **Mass media campaign "Competir conecta a México":**⁴¹ The IFT launched a national campaign in mass media channels, online advertising, and physical spots, during 11 weeks, in 2022, to promote, among the public, awareness of IFT's as a competition authority.
- **Spotify's podcast "Conecta al Futuro":**⁴² in March 2021, the IFT launched a podcast to improve its communication strategies regarding several topics related to T&B sectors and competition activities. The IFT expects to address younger audiences and inform them regarding what the IFT does and why it is relevant for their daily lives.⁴³
- **Webinars:** The IFT conducts webinars to discuss its activities and decisions with the public. For example, "Charlas de jueves por la tarde"⁴⁴ that are published on the IFT home page.

³⁸ IFT (2022). IFT, al servicio de México. Available at: <https://www.ift.org.mx/comunicacion-y-medios/informate/infografias>.

³⁹ Available in Spanish at: <https://www.ift.org.mx/conocenos/pleno/entrevistas>.

⁴⁰ Available in Spanish at: https://www.youtube.com/watch?v=1zWf36QZkkQ&list=PLIqBI3nQhIH5_L_DQ3GoUfteRn3GYbIWM&index=10.

⁴¹ "Competition connects Mexico". General information, available in Spanish at: <https://www.ift.org.mx/comunicacion-y-medios/multimedia/campanas>.

⁴² "Connect to the Future". IFT (2021). "El IFT presenta su podcast "Conecta al Futuro". (Comunicado 24/2021) 16 de marzo. Available in Spanish at: <https://www.ift.org.mx/comunicacion-y-medios/comunicados-ift/es/el-ift-presenta-su-podcast-conecta-al-futuro-comunicado-242021-16-de-marzo>.

⁴³ For example, in 2022 staff members of the Economic Competition Unit presented the topic "Competition in Telecommunications and Broadcasting sectors". Available in Spanish at: <https://open.spotify.com/episode/2UbrwRIePWJrmqJo4FQjL>.

⁴⁴ "Thursday afternoon chats".

7. Case study on Walt Disney and Twenty First Century Fox, economic assessment and communication strategy

53. In 2018, TFCF Corporation (formerly Twenty-First Century Fox, Inc., hereinafter Fox) and The Walt Disney Company (hereinafter Walt Disney, and jointly Fox, the Parties) notified the IFT of Disney's acquisition of Fox assets, which included film and television studios, pay TV channels and international TV businesses. In the competition analysis risks were identified in the markets for the provision and licensing of audio-visual content (programming channels and channel packages) to restricted television providers in the programmatic categories of Sports and Facts. Hence, structural and behavioural remedies were imposed prior its approval; in particular, the divestiture of Fox Sports Mexican business.

54. In 2019, the IFT issued its decision, it presented a public version⁴⁵ to be consulted with all the relevant information on the merger, how the competition analysis was carried out, which were the structural and behavioural remedies imposed, and which were the main competition concerns tackled by the authority.

55. As part of the communication strategy, the IFT made available a press release which included the most relevant information of the case, so that the public could consult it;⁴⁶ as well as the stenographic version of the IFT's Board discussion was made available.⁴⁷

56. Also, Board Members⁴⁸ were interviewed by mass media channels. These interviews helped the IFT to explain why and how the divestiture of Fox Sports Mexico could foster competition in the relevant market, how it was designed and how the process of divestiture would take place.

8. Conclusions

57. The IFT is the Mexican competition authority and regulator of the T&B sectors, as part of its statutory duties, the IFT regularly assesses, monitors, and publishes reports on the competition evolution of these sectors. The IFT's assessment and communication duties are established in the LFCE and the LFTR.

58. Given its dual mandate, IFT's competition interventions include those established in the competition law and in the regulatory law. Hence, the IFT uses several tools to estimate the potential benefits of its decisions on indicators that directly benefit consumers (i.e. prices, coverage of services, new services available, etc.) and indicators regarding the

⁴⁵ IFT (2019). Resolución mediante la cual el Pleno del Instituto Federal de Telecomunicaciones resuelve la concentración radicada bajo el expediente No. UCE/CNC-001-2018, notificada por The Walt Disney Company y Twenty-First Century Fox, Inc. Available in Spanish: <https://www.ift.org.mx/conocenos/pleno/sesiones/viii-ordinaria-del-pleno-11-de-marzo-de-2019>.

⁴⁶ Available in Spanish at: <http://www.ift.org.mx/sites/default/files/comunicacion-y-medios/comunicados-ift/comunicadodisney-foxxv.pdf>.

⁴⁷ Available in Spanish at: <https://www.ift.org.mx/sites/default/files/conocenos/pleno/sesiones/ordinaria/viii-ordinaria-del-pleno-11-de-marzo-de-2019/vpesten08aord110319-fe.pdf>.

⁴⁸ For example, links are available here: <https://www.ift.org.mx/conocenos/pleno/entrevistas/arturo-robles-rovalo/entrevista-arturo-robles-comisionado-del-ift-en-imagen-empresarial-con-rodri-gopacheco-sobre-fusion>; <https://aristeguinoticias.com/1303/entrevistas/que-ocurrira-con-la-fusion-disney-fox-que-se-juega-video/>.

competitive dynamics in the T&B sectors (IHH, number of participants, market shares, etc.).

59. The communication activities and strategies of the IFT are designed to comply with its statutory duties, but also are designed to improve its accountability and to better inform the public on the expected impacts of its decisions.