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Assessing the Impact of Competition Authorities' Activities – Note by Mexico

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1. Introduction

1. The Federal Economic Competition Commission (Cofece or Commission) conducts assessments to measure the economic impact of its interventions. These evaluations fall into two categories: (i) *ex ante assessments*, which estimate the monetary benefits that consumers gain from Cofece's interventions in the markets. These are conducted after the Board of Commissioners issues a resolution to suspend or prevent anti-competitive conducts; and (ii) *ex post assessments*, which analyze the dynamics of the intervened markets following Cofece's resolution. These assessments require that a period of two to four years has elapsed since the Board's decision and that sufficient and reliable statistical data is available for analysis.

2. Both types of evaluations not only allow Cofece to measure the economic benefits generated by its actions, but also to enhance accountability and improve decision-making in the implementation of competition policy, as their results can subsequently be used for future analyses. Specifically, their value lies in providing a clearer understanding of the achievements of the Commission's interventions, supporting evidence-based decisions, and transparently communicating the public value generated to society.

3. Assessing competition policy in Mexico presents unique challenges. Cofece does not interact directly with final beneficiaries, does not define a specific “target population,” and does not provide goods or services directly. Additionally, its relationship with regulated economic agents makes it difficult to obtain feedback from their perspective as “beneficiaries” of the Commission's actions. Moreover, the effects of market interventions—such as deterring anti-competitive behavior among other economic agents—take time to materialize. As a result, in many cases, the true magnitude of the impact can only be estimated several years after the intervention.

4. In the light of these challenges, Cofece has consistently promoted the development of methodologies aimed at generating evidence on the effectiveness of its interventions. As part of this exercise to quantify the benefits generated for consumers, Cofece published in 2014 its *Methodology for the Preparation of Ex-Ante Assessments*, based on the *OECD Guide for Helping Competition Authorities Assess the Expected Impact of their Activities*², published the same year.³ However, as part of its continuous improvement, Cofece identified the need to update this methodology to expand the scope of the analysis and incorporate new methods and techniques that allow for the identification of potential non-monetary benefits, where possible.

¹ Federal Economic Competition Commission (Cofece)

² Available at: <https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/evaluation-of-competition-interventions/Guide-competition-impact-assessmentENG.pdf>

³ The 2014 Methodology for the preparation of ex-ante assessments of Cofece is available (in Spanish) https://www.cofece.mx/cofeca/phocadownload/PlaneacionE/cofeca_metodologiaevaluacionesexante_vf.pdf

5. In this regard, in November 2023, Cofece approved the new *Methodology for preparing ex-ante assessments of Cofece's actions* (Methodology)⁴, following a review of its previous version. This updated Methodology allows for the assessment of a broader range of interventions by the competition authority in the markets and allows the identification and quantification of additional types of benefits, such as time savings, efficiency gains, quality improvements, and effects on upstream or downstream markets in the supply chain, among others.

6. As previously mentioned, Cofece also conducts ex-post assessments of its actions. These evaluations are designed to assess the impact of its interventions once sufficient time has elapsed for the market to internalize their effects. These evaluations provide a rigorous and independent measurement of the benefits that the Cofece's actions have generated for the population and public finances.

7. Overall, the Commission conducts evaluations based on technically robust methodologies to assess the added value that Cofece generates for society. Although the Commission is not legally required to develop and implement impact assessment methodologies, it does so as a proactive accountability exercise. This practice provides society with clear and accessible information on the relevance and effectiveness of competition policy in Mexico.

2. Ex-ante and ex-post assessments

8. Cofece quantifies the impact of its market interventions in relation to its attributions to prevent and sanction anticompetitive practices. These evaluation exercises intend to measure the effectiveness of the Commission's actions, provide evidence of the benefits generated for every peso allocated to the Commission's budget, and compare expected outcomes with those actually observed. They also serve as an accountability tool to inform society about progress in the implementation of competition policy. This is done through ex-ante and ex-post assessments, which are conducted based on their respective methodological frameworks.

2.1. Ex-ante assessments

9. An ex-ante assessment refers to the estimation and quantification of the economic benefit that is generated or could potentially be generated as a result of Cofece's actions within the framework of competition policy enforcement. These evaluations are carried out using the information available at the time the Board of Commissioners issues a recommendation, opinion, or resolution, and before the market has internalized the decision.⁵

10. In this context, once all the assessments corresponding to a given year have been approved by the Cofece's Economic Impact Evaluation Committee (formerly the Competition Policy Evaluation Working Group), they are published in a consolidated

⁴ The 2023 Methodology for the preparation of ex ante-assessments of Cofece's actions is available (in Spanish) at: https://www.cofece.mx/cofece/phocadownload/PlaneacionE/Metodologia_evaluaciones_ex_ante.pdf

⁵ Ex-ante assessments may rely on information from public sources or on data obtained directly from the file analyzed.

document named *Economic Benefit of Cofece's Interventions*; a practice that has been in place since 2017.^{6,7}

11. The Methodology establishes that the Commission's actions are subject to evaluation based on their nature and under the criteria established in two methodological sections as follows:

- "Section A" establishes the methodological criteria for assessing actions aimed at investigating and sanctioning anticompetitive practices that violate the Federal Economic Competition Law (LFCE), analyzing mergers, or ordering measures to eliminate barriers to competition. For these types of actions, the direct economic benefit derived from the intervention will be estimated.
- "Section B" presents the criteria for estimating the potential economic benefit that could be generated if the recommendations resulting from special procedures⁸, opinions, and economic studies conducted by Cofece were implemented.⁹

12. The Methodology also considers the possibility of estimating qualitative or non-monetary benefits when other effects, identified during the analysis of a resolution, are found to result from the market restriction under analysis. These benefits are assessed when such effects are eliminated through the intervention.

13. For all assessments involving cartels, mergers, and abuse of dominance, case-specific information is used. This is achieved because the law requires an estimate of the harm caused by the conduct in the resolution of such cases. Likewise, when notifying mergers, economic agents are required to provide the necessary information to estimate the potential effects of the transaction.

14. However, in other assessments that analyze cases of opinions and recommendations issued by the competition authority to other authorities, the estimates are primarily based on general assumptions and publicly available data on the markets expected to be affected. The assumptions used are taken from Volume 3 of the OECD's *Competition Assessment Toolkit*.¹⁰

⁶ These annual documents are available in Spanish at: <https://www.cofece.mx/planeacion-y-evaluacion/>

⁷ Cofece's Economic Impact Evaluation Committee (Committee) is the collegiate body responsible for defining and implementing the methodologies used to assess the economic impact of the Cofece's resolutions on markets and society. It is also tasked with selecting the resolutions eligible for evaluation, analyzing the results, and approving them. This process aims produce documents that measure the effects of the exercise of the Commission's powers and ensure its professional, efficient, and effective performance. The Committee is chaired by a Commissioner and composed by the heads of Cofece's main units: the Investigative Authority, the Technical Secretariat, and the Planning, Liaison, and International Affairs Unit, as well as the general directorates involved in the investigation of anticompetitive practices.

⁸ Cofece is entrusted with the power to order the removal of barriers to competition, the divestment of assets and to identify and regulate essential facilities if a market investigation would justify the measures. These are known as special procedures.

⁹ This category assesses the potential benefits of recommendations derived from procedures such as the determination of essential facilities or barriers to competition, declarations of the existence of competitive conditions, studies, and opinions, under the provisions of Article 12 of the LFCE.

¹⁰ Available at: https://www.oecd.org/en/publications/competition-assessment-toolkit-principles-version-4-0-volume-3_1f253011-en.html

15. In preparing the assessments, Cofece analyzes cartel cases that result in sanctions, mergers that are challenged or approved with conditions, and abuse of dominance or monopolization cases that result either in sanctions or with the acceptance of commitments by the economic agents involved. In this regard:

- The current law does not provide for appeals or reconsiderations procedures carried out by the competition authority; therefore, such cases are not subject to evaluation.
- The current legal framework provides that notifiers of a transaction may withdraw a merger notification as long as the case has not been voted on by the decision-making body. As a result, withdrawn mergers do not have a resolution and are therefore not evaluated.
- Cases of abuse of dominance resulting in the acceptance of commitments by economic agents are evaluated, since such commitments are formalized in a resolution.

16. Additionally, it is possible to estimate the effects that may occur in markets within the same production chain ("upstream" and "downstream"), as well as, the transmission of the effects across different levels of the supply chain (pass-through rate).

17. Some notable cases that illustrate the use and value of this ex-ante measurement exercise are:¹¹

- The evaluation of a sanction imposed on two airlines that colluded and shared information to determine the prices charged to users of air transport services. The estimated benefits of the intervention exceeded 3.3 billion Mexican pesos (approx. 152.61 million USD).^{12, 13}
- The assessment of the sanction imposed on LP gas distributors who divided the market and colluded to manipulate prices. The quantified benefits exceeded 2.4 billion Mexican pesos (approx. 111.03 million USD).¹⁴
- The assessment of the sanctions imposed on economic agents who colluded to participate in bidding processes for comprehensive laboratory testing and blood bank services. The estimated benefit was over 2.2 billion Mexican pesos (approx. 102.63 million USD).¹⁵

¹¹ The documents with the conducted ex-ante assessments can be consulted (in Spanish) at: <https://www.cofece.mx/publicaciones/documentos-de-planeacion-y-evaluacion/>

¹² The assessment can be found (in Spanish) in the document compiling the 2019 ex-ante assessments, available at:

<https://www.cofece.mx/wp-content/uploads/2020/07/Beneficio-econ%C3%B3mico-de-las-Intervenciones-de-la-COFECE-2019.pdf>

¹³ The average annual exchange rate (2024) used hereinafter: MXN\$1= USD 21.7194. Source: <https://www.banxico.org.mx/tipcamb/main.do?page=tip&idioma=sp>

¹⁴ The assessment can be found (in Spanish) in the document compiling the 2022 ex-ante assessments, available at:

<https://www.cofece.mx/wp-content/uploads/2023/05/Beneficio-economico-de-las-intervenciones-de-la-COFECE-2022.pdf>

¹⁵ The assessment can be found (in Spanish) in the document compiling the 2020 ex-ante assessments, available at:

18. Between 2014 and 2024, Cofece has conducted 57 ex-ante assessments. Their results show that Cofece generated over 38.969 billion Mexican pesos (approx. 1.8 billion USD) in benefits for consumers. During the same period, Cofece received a budget of 7,833.86 billion Mexican pesos (approx. 360.69 million USD). This means that for every peso (dollar) allocated to Cofece, an estimated 5 Mexican pesos (5 USD) were returned to society through the elimination and prevention of anticompetitive practices.¹⁶

2.2. Ex-post assessments

19. Ex-post assessments estimate the impact of suspending or preventing restrictions on the efficient functioning of markets, focusing on changes on equilibrium conditions (prices and quantities traded) of a market and, consequently, on consumer welfare, once the market internalizes the intervention by Cofece. These assessments are econometric exercises conducted with a high level of academic rigor, that seek to identify the causal relationship between Cofece's intervention and changes in market equilibrium conditions two to four years after the intervention, as well as the resulting effects on consumer welfare.

20. Ex-post assessments may be carried out by the Commission or as has been the case in recent years, by academics and competition experts, after the markets have incorporated the effects of Cofece's interventions. The Commission actively encourages these evaluations to be carried out by experts and academics, as this contributes to improving the quality of future interventions and provides external recommendations for improving competition policy, based on independent, objective, and impartial evaluations.

21. In ex-post assessments, estimates are calculated by analyzing the equilibrium conditions that a given market: i) reaches after Cofece's intervention (in cases involving the suspension of anticompetitive practices); and ii) could reach if Cofece had not intervened (in cases involving the imposition of preventive measures).

22. Following the *Methodology for the preparation of ex-post assessments of Cofece's interventions*¹⁷, the resolutions subject to ex-post assessment are: i) mergers that were blocked or approved with conditions that affect market conditions; ii) sanctioned cartels; iii) sanctioned abuse of dominance, or cases closed early due to the acceptance of commitments; and iv) procedures to determine barriers to competition.

23. The Committee selects cases for assessment based on a set of criteria, with particular emphasis on the availability of statistical information on prices and quantities traded, between two and four years after the intervention (resolution).

24. In December 2022, Cofece published the book *What Does Mexico Gain When There Is Competition? Economic Benefit from Eight Interventions of Cofece*¹⁸, which compiles eight assessments of interventions carried out in various markets by Cofece and its predecessor, the Federal Competition Commission (CFC). These assessments include:

<https://www.cofece.mx/wp-content/uploads/2021/02/Beneficio-economico-de-las-intervenciones-de-la-COFECE-2020.pdf>

¹⁶ Budget and economic benefit figures are expressed in constant 2024 prices.

¹⁷ The document *Methodology for the preparation of ex-post assessments of Cofece's interventions* is available (in Spanish) at: https://www.cofece.mx/cofece/images/informes/metodologia_ev_expost_cofece.pdf

¹⁸ The book is available in English at: <https://www.cofece.mx/what-does-mexico-gain-when-there-is-competition/>

1. An estimate of the benefits obtained from sanctioning a cartel in public procurement tenders by the Mexican Social Security Institute (IMSS).
2. An assessment of the impact of a collusive practice in the freight transportation market in Mexico.
3. An assessment of the impact of the consumer welfare impact resulting from the sanctioning of cartels in the poultry market.
4. An ex-post assessment of a merger in the chemical industry in Mexico.
5. An analysis of the impact of a cartel in the Mexican sugar market.

3. Publications on recent assessments by Cofece

25. Impact assessments have proven to be extremely valuable for Cofece, both as a tool for accountability and institutional learning, and as a means to communicate the value of Cofece's work to external stakeholders. As mentioned previously, the results of these assessments are published annually in the report Economic Benefit of Cofece's Interventions.

26. In the document Economic Benefit of Cofece's Interventions 2023¹⁹, the Commission reported that between 2014 to 2023, Cofece generated benefits totaling 36.27 billion Mexican pesos (approx. 1.67 billion USD), equivalent to returning 6 Mexican pesos (6 USD) to society for every peso (1 USD) allocated to Cofece's budget in that same period. In addition, the benefit generated in 2023 alone amounted to 117.98 million Mexican pesos (approx. 5.43 million USD).

27. A notable example of ex-post assessments, published in November 2024, is the Ex-post Assessment of Sanctions Imposed on Cartels in the Provision of Comprehensive Laboratory and Blood Bank Services to IMSS and the Institute of Social Security and Services for State Workers (ISSSTE).²⁰ The document details that, in 2016, the IMSS filed a complaint against several of its suppliers for possible collusion in the provision of comprehensive blood banking services, clinical laboratory tests, and related goods and services.

28. Following the investigation, Cofece determined that 11 companies and 14 individuals were responsible for colluding and benefiting from seven public tenders between 2008 and 2015, to the detriment of IMSS and ISSSTE.²¹ As a result, in 2020, those responsible were fined a total of 626.46 million Mexican pesos (approx. 28.84 million USD).

¹⁹ The document is available (in Spanish) at: <https://www.cofece.mx/beneficio-economico-de-las-intervenciones-de-la-cofece-2023/>

²⁰ The document is available (in Spanish) at: <https://www.cofece.mx/evaluacion-ex-post-por-sanciones-impuestas-a-los-carteles-en-la-provision-del-servicio-integral-de-laboratorio-y-banco-de-sangre-al-imss-e-issste/>

²¹ IMSS and ISSSTE are the two largest and most important public health and social security institutions in Mexico.

29. According to the assessment, following Cofece's intervention, the prices of comprehensive blood bank services decreased by 29.6%, while clinical laboratory tests prices dropped by 4.8%.²²

30. As a result of the ex-post assessment, and under a conservative scenario, the harm caused to IMSS and ISSSTE due to collusion in the seven tenders was estimated at least at 1.39 billion Mexican pesos (63.98 million USD). This amount would have been sufficient to purchase approximately 46,987 pacemakers or 927 type II transfer ambulances (at 2024 prices).

31. Findings from the reports Economic Benefit of Cofece's interventions are disseminated and communicated to a wide range of audiences, including the Executive and Legislative branches, the media, and civil society. This practice has contributed to institutional strengthening, accountability, and recognition of the value of competition policy.

4. Methodological considerations

32. Cofece's Methodology has been recognized both nationally and internationally. In 2021, the National Council for the Evaluation of Social Development Policy (CONEVAL) awarded Cofece a recognition for "*Good Practices in the Use of Monitoring and Evaluation Results in the Public Policy Cycle*". This recognition aims to promote the use of evaluation findings and monitoring activities in the work of agencies and entities of the Federal Public Administration and autonomous constitutional bodies. The description of the good practice stated: "*Ex-ante and ex-post evaluations are exercises based on methodologies that allow for the monetary measurement of the probable effects of the Commission's interventions in the prevention and sanctioning of anticompetitive practices. They also constitute a proactive accountability effort.*"²³

33. At the international level, in 2022, the World Bank published a report identifying that the Commission's interventions contributed to a 0.5% increase per capita GDP growth, and that in sectors where Cofece intervened, sales and workers' wages increased.²⁴

4.1. Update of the OECD's Guide

34. Based on its experience, Cofece suggests that the assumptions contained in the OECD's *Guide for Helping Competition Authorities Assess the Expected Impact of Their Activities* could be updated to reflect current practices and ensure the Guide's continued

²² The OECD Guide notes that the expected price effect in cartel cases is an overcharge of 10%. However, it clarifies that: "These default assumptions are based on, but not equal to, the existing practices of the OECD competition authorities most active in performing impact assessments. Hence, the specific values used by these agencies can be higher or lower than the assumptions herein suggested. These assumptions are meant for use only when more specific information is not available."

²³ The document is available (in Spanish) at: https://www.coneval.org.mx/Evaluacion/BPME/GF/Documents/Resultados_BP_2021.pdf

²⁴ Reed, T., Pereira López, M., Urrutia Arrieta, A., Iacovone, L. (2022). Cartels, Antitrust Enforcement, and Industry Performance. No 10269, Policy Research Working Paper Series, The World Bank. Available in: <https://documents1.worldbank.org/curated/en/099455012222225128/pdf/IDU009a70f1c0ab620479f08661086cfcf04be88.pdf>

relevance. This update should preserve methodological flexibility, allowing each authority to adapt the framework to its specific national context.

35. One of the identified opportunities is the possibility of including other types of interventions by competition authorities, beyond cases of cartels, mergers, and abuse of dominance or monopolization. Specifically, this refers to opinions on regulatory frameworks and recommendations to other authorities, which are currently not considered. The potential benefits—if implemented—are, in many cases, greater than those derived from the interventions already included in the Guide. While these interventions cannot be directly attributed to a measurable benefit, estimating their potential impact is useful to persuade the authorities to whom they are addressed to implement them.

36. Furthermore, it is also identified that more specific criteria could be established for differentiated subcategories of collusive practices, abuse of dominance, or mergers, considering the severity or scope of the conduct, or the type or structure of the market. For example, the development of specific criteria for cases of collusion in public procurement or mergers involving digital platforms.

37. In revising the Guide, it may also be worth considering the inclusion of benchmarks parameters for cases where specific data are scarce or sensitive, as well as options to incorporate sensitivity analyses or alternative scenarios. It would also be useful to incorporate guidelines to maintain historical consistency in assessments when making methodological adjustments.

38. In this sense, modifying core assumptions, for example, such as overcharge ranges, could affect the comparability of historical series. Therefore, any changes should be made cautiously and accompanied by clear guidelines for their gradual implementation.

39. Additionally, it would be valuable for the updated guide to include criteria on:

- Measurement of deterrent effects. Cofece recognizes that its interventions generate significant indirect effects, particularly in deterring future anticompetitive behavior. A future line of research could strengthen the estimation of these benefits.
- Treatment of commitments, dismissals, or withdrawals: Including a dedicated section in the Guide for these types of cases would allow for the capture of non-monetized but relevant benefits, such as resource savings or the rapid correction of market failures.
- Common methodology for adjustments, such as discount rates: This technical aspect could contribute to greater comparability across jurisdictions, without compromising the autonomy of each authority.

40. Cofece acknowledges the Guide as a useful and valuable tool but also sees an opportunity to update it in light of accumulated experience, the advancement of international practice, and new demands for transparency accountability. Such an update would be positive, provided that the changes address the growing diversity of tools and contexts in which competition policy is enforced.