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**Market Studies and other Market Analysis Tools for Competition Authorities – Note by
Argentina**

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1. In Argentina, Act No. 27.442 on the Defence of Competition (LDC, for its acronym in Spanish) grants the National Commission for the Defence of Competition (CNDC, for its acronym in Spanish) the power to carry out the market studies and investigations it deems relevant (Section 28, subsection f), as well as the power to issue pro-competitive recommendations of a general or sectoral nature regarding the modalities of competition in the markets (subsection i).
2. Based on these functions, the CNDC regulated two types of processes with similar objectives: market investigations and market studies.
3. The main objective of both procedures is to understand the functioning of certain economic sectors, production chains or markets and to obtain a comprehensive diagnosis of the conditions of competition that are developed in them, in order to formulate recommendations aimed at promoting competition in the market and improving its functioning. The core difference lies in the way the analysis is conducted: while market investigations are carried out internally by CNDC professionals, market studies are done by external consultants who are experts in the field of competition.
4. Essentially, market investigations and studies are not intended to punish individual conduct, but rather to promote more competitive markets by making recommendations, with the aim of suggesting changes to regulations that may be affecting competition, modifying current practices or preventing the emergence of potentially harmful practices, and improving the agency's knowledge of a specific sector that may be useful for the analysis of future cases.
5. Therefore, both market investigations and market studies carried out by the CNDC are similar to what is internationally known as *market studies*, in that they constitute a diagnostic and advocacy tool. On the other hand, they differ from the internationally known *market investigations* in that they do not generate proceedings in which there are procedural parties nor do they enable the imposition of direct remedies by the authority.
6. This contribution focuses particularly on the role of market investigations, in light of the experience accumulated by the CNDC. It seeks to offer a comprehensive view of how this instrument works, its procedure, the scope of its results and its value as a diagnostic and competition promotion tool.
7. In addition to this introduction, this document consists of three sections. The first one describes the institutional framework and the procedure by which the CNDC conducts market investigations in Argentina. The second section presents a summary of the CNDC's recent experience in conducting this type of studies, highlighting its scope, results, and challenges. The third section offers a more general reflection on international trends in the use of market studies and investigations, as well as on the main challenges and opportunities that these instruments present for competition authorities. Finally, the main conclusions of the document are summarised in the final remarks.

1. Institutional Framework and Procedure for Market Investigations in Argentina

8. Market investigations may be initiated on the initiative of the CNDC and the Secretary of Industry and Commerce, as a corollary to investigations into alleged anticompetitive conduct, or based on information obtained from the analysis of an economic concentration or other ongoing proceedings. They may also be initiated on the basis of information provided by public bodies, private entities, consumer associations or citizen complaints. In practice, the opening of an investigation usually responds to warning signs in the competitive functioning of a market, such as persistently high prices compared to other jurisdictions, episodes of scarcity or shortages, high levels of concentration, barriers to entry for new suppliers, or complaints from public or private actors.

9. The decision to prioritise certain sectors for market investigations is based on a series of criteria that combine economic relevance, social impact and competitive risk. For instance, the CNDC assesses the importance of the good or service for household consumption, in order to focus its resources on those markets where small improvements in competition can translate into significant benefits for consumers. For this reason, some studies have been conducted on mass consumer goods such as beef and dairy products, all of which have a strong weight in the basic basket of goods. Also, strategic sectors within value chains are considered, such as intermediate inputs or essential services, which can have multiplier effects on the overall competitiveness of the economy. Recent examples include studies on cement and liquid fuels. Moreover, priority is given to sectors where there are signs of competitive risk, either due to a history of anticompetitive practices or to indications arising from other investigations, such as parallel pricing patterns or restrictive contractual clauses, detected in anticompetitive conducts or merger cases.

10. Once the sector to be studied has been defined, the CNDC determines the scope of the investigation, establishing the components of the sector to be analysed, the work deadlines and the team responsible for doing it. The investigation is carried out by the Market Investigations Directorate, which reports to the National Directorate for Competition Advocacy. This is the area that draws up the work plan with stages, objectives and resources, depending on the complexity of the market and the objectives set.

11. In general terms, an initial economic characterisation of the sector is carried out, identifying the main variables that affect the supply and demand of its main products, the economic agents that form part of the value chain, the business chambers, the evolution of the main economic indicators, among other aspects considered important. Likewise, the relevant markets in the sector and the existence of market power and/or purchasing power of the participants must be determined. The analysis of competitive conditions in the relevant markets defined may focus on the most relevant of them, after considering the circumstances in which those markets operate, in order to evaluate and prioritise them. To this end, the level of concentration of the relevant markets considered and their evolution over a period of at least five years is estimated and analysed using internationally accepted indicators.

12. The analysis of barriers to entry focuses on legal, economic or technological restrictions that limit the entry of new competitors, such as patents, economies of scale, essential infrastructure or regulations that impose excessive costs. The study of the sectoral regulatory framework aims to identify whether current regulations generate distortions or disincentives to competition and whether there are regulatory alternatives that promote greater efficiency and transparency. It also assesses the incentives of

dominant companies to extend their market power to related activities or to coordinate behaviour that reduces competition, as well as the degree of contestability of the relevant markets identified, the role of companies and business chambers on competition in the sector, and the degree of horizontal and vertical integration of the economic agents participating in the sector.

13. Information gathering combines public and private, national and international sources. Common inputs include statistical data, sector reports, administrative records, information from companies and regulatory bodies, and consultations with business chambers or consumer associations. In some cases, the CNDC publicly announces the start or progress of the investigation to promote transparency and stakeholder participation. When the available information is insufficient, the CNDC may request additional data from companies, agencies, or individuals, who are required to respond within ten business days under penalty of sanction, according to Section 59 of the LDC. It may also convene testimonial or expert hearings in accordance with the provisions of the Code of Criminal Procedure, according to Section 79 of the same regulatory body.

14. The analysis of the information is adapted to the characteristics of the market under investigation. In general, market investigation combines qualitative and quantitative methods. The identification of the market structure is the starting point: business models, distribution channels, degrees of product differentiation and the existence of multilateral or digital markets are analysed. Consumption and substitution patterns between products are also considered, as well as conditions of access to inputs and openness to international trade. If there is available information to do it, a quantitative analysis of variables such as prices, margins, costs, and market share is performed, which helps to detect anomalous patterns or possible indications of market power.

15. The results of market investigations are set out in a final report summarising the findings, conclusions and recommendations. These reports may propose regulatory changes, public policy measures or voluntary commitments by economic agents to improve competitive conditions. Their publication serves a dual purpose: on one hand, to make the work of the competition authority transparent and, on the other, to promote debate and the dissemination of good regulatory practices. If, during the course of an investigation, reasonable evidence of a possible violation of the LDC is detected, the case is referred to the National Directorate for Anticompetitive Conduct, which may initiate a formal investigation on its own initiative. This mechanism allows the CNDC's analytical and sanctioning functions to be effectively coordinated without overlap or prejudice to the parties' rights of defence.

16. In this regard, market investigations and investigations into anticompetitive conduct are complementary tools that fulfil different functions within competition policy. While market investigations are preventive, exploratory and proactive in nature, aimed at identifying structural failures and formulating policy recommendations, investigations into alleged anticompetitive conduct are reactive and seek to determine responsibilities and sanction specific infringements. Market investigations offer greater scope for analysing systemic causes and solutions, engaging in dialogue with multiple stakeholders and evaluating alternative regulatory scenarios, while conduct investigations focus on specific facts and the application of corrective sanctions and/or the implementation of remedial measures.

17. Finally, although market investigations do not always include formal ex-post evaluations, the CNDC has begun to systematise the monitoring of suggested modifications, regardless of whether their implementation by the competent bodies has been directly or indirectly driven by the recommendation of the competition authority.

This type of monitoring is a necessary step in measuring the impact of analytical work and strengthening the competition advocacy function. The future establishment of the National Competition Authority, with greater institutional independence and its own resources, will make it possible to consolidate this practice and expand cooperation with sectoral regulators, multilateral organisations and competition authorities in other countries.

18. Overall, Argentina's approach to market investigations combines analytical rigour, methodological flexibility and competition promotion actions. Although the CNDC does not have formal market investigation powers with the authority to impose structural remedies, experience has shown that these studies are an effective tool for understanding the competitive dynamics of markets and guiding regulatory interventions.

2. CNDC Experience: Number, Scope and Effects of Market Investigation

19. In 2016, the CNDC began a new phase in the use of market investigation, after several years in which this power was exercised to a limited extent. Although this power was already provided for in Act No. 25.156 —the legislation that preceded the one currently in force— it was a less influential analytical tool, that was the responsibility of the anticompetitive conduct department.

20. The creation of an institutional organisational chart that incorporated a Market Investigations Directorate, a specialised area within the competition authority and, later, the development and publication of the *Guidelines for Market Investigations*, consolidated this type of study as a specific procedure within the CNDC.

21. This process has succeeded in establishing market investigation as a systematic practice of sectoral analysis, with an approach that combines structural market assessment and the formulation of pro-competitive recommendations. This paradigm shift allowed the CNDC to deepen its role as a technical authority, not only as a sanctioning body for violations of the law, but also as a generator of economic and regulatory knowledge relevant to other State agencies and society as a whole.

22. Market investigation conducted in recent years covers strategic sectors that have a high impact on consumer welfare and the competitiveness of the Argentine economy. Among the most relevant studies are those on the beef market, dairy products, liquid fuels, aluminium, medicines, supermarkets and the medical oxygen market. All of them share a focus on understanding the structural factors that affect competition, detecting possible regulatory failures and formulating concrete recommendations to promote a more competitive environment.

23. In terms of results, market investigations conducted by the CNDC can be grouped into four main categories. First, there are cases in which no competition problems or opportunities for regulatory improvement are detected. In these situations, the value of the investigation lies in the information it provides on the competitive dynamics of the market, enabling consumers, businesses and regulators to better understand how it works and detect any warning signs for the future.

24. The second category (the most frequent) corresponds to studies that culminate in pro-competitive recommendations. More than 60% of recent market investigations fall into this category, in which regulatory or institutional barriers that restrict competition are identified and whose removal or modification could improve the functioning of markets. These recommendations may include modifying existing

regulations, reviewing administrative practices or adopting public policies aimed at reducing barriers to entry, increasing transparency and promoting demand mobility.

25. Third, a smaller group of investigations has led to the detection of indications of possible infringements of the LDC. In these cases, the CNDC recommends opening ex-officio proceedings to determine the existence of anticompetitive conduct by the parties involved. In recent years, only two of the thirteen investigations concluded have led to such proceedings, demonstrating that, although market investigations are not sanctioning procedures, they can act as preventive mechanisms that strengthen the early detection of illegal conduct. Finally, although the regulations provide for the possibility that a market investigation may lead to the opening of new investigations into related markets, this situation has not yet been verified in recent practice.

26. Market investigations have proved to be versatile tools for addressing different types of competition problems. Some of them focus on consumer goods, where competition failures directly impact the prices paid by households, while others focus on strategic inputs or intermediate services, whose structure can have multiplier effects on productivity and costs throughout the economy. This dual approach maximises the impact of available analytical resources and strengthens the preventive dimension of competition policy.

27. A notable example of the interaction between market investigation and sector regulation is the case of medical oxygen. In the course of this investigation, the CNDC identified that the market was highly concentrated, with three companies controlling around 90% of sales. The investigation revealed that current health regulations established a purity threshold of 99.5% for oxygen to be considered a medicine, which excluded more accessible technological alternatives, such as on-site production systems using the pressure swing adsorption (PSA) method. Based on these findings, the CNDC made a recommendation to the Ministry of Health and the National Administration of Medicines, Food and Medical Technology of Argentina (ANMAT, for its acronym in Spanish) to review the purity requirements and allow the use of PSA oxygen with levels between 90% and 96%, in line with international standards. Although the change was not implemented at the national level, some provinces, such as Buenos Aires and La Pampa, made changes to their regulations, reducing the purity threshold to allow medical oxygen produced using the PSA method, thereby promoting greater competition and reducing costs in health services. This case illustrates how market investigation can detect regulations that are overly restrictive and out of step with international standards and propose reforms with positive effects on competition.

28. Another relevant precedent is the case of the electronic payment market and the investigation into the company Prisma, which operated exclusively in the Visa brand acquisition and processing markets. Based on a study of the sector, the CNDC found that Prisma's dominant position limited the entry of new operators, affecting competition in processing services and the provision of electronic terminals. As a result, the CNDC issued pro-competitive recommendations to the Central Bank of Argentina (BCRA, for its acronym in Spanish), urging it to review the regulation of payment methods to encourage the entry of new acquirers. At the same time, the CNDC launched an investigation into anticompetitive conduct, which culminated in a divestiture commitment by Prisma's shareholder banks. This process, which concluded in 2024 with the sale of the entire company to a new operator, is a successful example of the complementarity between the advocacy and enforcement functions of the competition authority.

29. These experiences reflect the interaction between the LDC and sectoral regulations. Although the LDC establishes that regulatory bodies have no powers in the

area of competition defence —a change that was introduced in 1999, by Act No. 25.156—, collaboration between the competition authority and regulators is essential to ensure that regulations promote, rather than restrict, competition.

30. Overall, recent experience shows that market investigations in Argentina play a key role as a tool for diagnosis, prevention and competition advocacy. Through these investigations, the CNDC has been able to identify and propose solutions to structural problems, promote consistency between regulation and competition, and strengthen the link between competition policy and sectoral public policies. Although there is still room for improvement in ex-post impact assessment mechanisms, the results obtained show an increasingly strategic use of market investigation as a tool to improve the overall functioning of markets and consumer welfare.

3. General Reflections on Trends and Challenges

31. The future of competition policy faces increasingly complex challenges in a context characterised by the digitalisation of the economy, the globalisation of markets and growing interdependence between sectors. Technological transformations in recent years have deeply altered the structure and dynamics of competition, giving rise to new business models, multilateral platforms, and digital ecosystems that raise questions about the adequacy of traditional antitrust analysis frameworks. In response, competition authorities must balance the incorporation of new tools with the preservation of proved principles and methodologies that remain valid for understanding power relations and competitive barriers in markets.

32. Addressing digital markets requires sustained investment in highly specialised human resources. Analysis teams must have advanced training in industrial economics, competition law, data science, and programming. Understanding algorithmic dynamics, platform economics, and the strategic use of data requires interdisciplinary profiles and constant updating. To this end, it is essential to consolidate training programmes, technical cooperation networks and mechanisms to ensure the preservation of trained professionals. In turn, access to appropriate technological tools —big data analysis software, secure IT infrastructure and commercial information licences— is a prerequisite for improving the depth and speed of investigations.

33. Along with internal capacities, it is essential to strengthen international and regional cooperation. Digital markets operate on a transnational scale, so practices that affect competition in one country often have effects in others. In this regard, joint market studies between competition agencies in the region represent a valuable opportunity to generate shared knowledge, reduce duplication, and formulate coherent recommendations. Recent experiences within Mercosur, through Technical Committee No. 5 on Competition Defence, have shown that coordination is possible and beneficial. Joint training activities, such as those organised by Brazil's CADE on digital markets, and exchanges on specific sectors, such as means of payment or consumer products, show that technical cooperation can translate into collective institutional strengthening.

34. However, coordinated market studies face practical limitations. The first is the alignment of agendas, given that each authority has its own priorities and timelines. The second is the availability of human and financial resources, which conditions the possibility of developing simultaneous projects with comparable methodologies and databases. Overcoming these difficulties requires establishing stable cooperation protocols, memoranda of understanding, and information exchange schemes under shared confidentiality standards. In the medium term, moving towards a common pool

of regional knowledge on market analysis would make it possible to consolidate analytical capacities on issues of growing relevance, such as energy transition, digital platforms, and agri-food chains.

35. Finally, from a broader perspective, the challenges facing competition policy in this new stage are not limited to the digital economy. They also involve the ability of authorities to identify structural failures that transcend individual behaviour and to formulate regulatory proposals that promote more competitive and inclusive markets. In this regard, market investigations are a flexible, preventive and collaborative tool that allows economic analysis to be linked to public policy design. Strengthening this function, together with cooperation between agencies and the training of specialised human resources, will be key to enable competition authorities in the region to respond to the demands of increasingly interconnected, dynamic and complex markets.

4. Final Remarks

36. The recent experience of the CNDC shows that market investigations are a valuable tool not only for detecting possible infringements of the LDC, but also for promoting a deeper understanding of sector dynamics and formulating pro-competitive public policy recommendations. Their preventive nature and methodological flexibility make them particularly useful in contexts of structural transformation, where competition failures do not always manifest themselves in explicit conduct, but rather in regulatory distortions, barriers to entry, or information asymmetries that limit the efficient functioning of markets. In this sense, the work of the competition authority goes beyond traditional enforcement, contributing to the design of regulatory frameworks that favour more open, innovative and inclusive markets.

37. Looking ahead, the challenges posed by the digitalisation of the economy, the energy transition and the growing interdependence between markets require strengthening the institutional, technical and cooperative capacities of competition agencies. This involves investing in specialised talent, promoting knowledge sharing at the regional level and consolidating spaces for international coordination to address cross-border phenomena. Competition policy, understood as a central public policy for economic and social development, requires a strategic approach that combines technical rigour with a long-term vision. In this regard, market investigation will continue to be a crucial tool for anticipating risks, generating evidence and developing policies that strengthen competition for the benefit of consumers and economic development.