

Unclassified

English - Or. English

6 May 2025

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

## **Working Party No. 2 on Competition and Regulation**

### **Assessing the Impact of Competition Authorities' Activities – Note by Costa Rica**

16 June 2025

This document reproduces a written contribution from Costa Rica submitted for Item 4 of the 79th meeting of Working Party 2 on 16 June 2025.

Federica MAIORANO  
Federica.Maiorano@oecd.org

**JT03565612**

## Costa Rica

### 1. Background

1. In Costa Rica, the Commission for the Promotion of Competition (COPROCOM) as the national competition authority and the Superintendence of Telecommunications (SUTEL) as the sectoral competition authority have legal functions and powers that allow them to intervene in the markets both to promote and defend competition.

2. In the case of COPROCOM, the functions and powers that correspond to it in matters of defense of competition are established in the Law on the Promotion of Competition and Effective Defense of the Consumer (Law No. 7472) and its regulations, and the Law on the Strengthening of the Competition Authorities of Costa Rica (Law No. 9736) and its regulations.

3. It is pertinent to establish that Article 3 of Law No. 9736 confers on COPROCOM the following powers:

"(...)

*(a) To prevent monopolies and monopsonies; to investigate, ex officio or by complaint, the monopolistic practices contemplated in Law No. 7472, Promotion of Competition and Effective Consumer Defense, of December 20, 1994 and its regulations, illegal concentrations and other restrictions on the efficient functioning of markets; and to impose the measures and sanctions provided for in this law, when appropriate.*

*b) To authorise or deny concentrations and to impose the conditions it deems necessary to counteract the possible anti-competitive effects arising from a concentration.*

*c) To request from any natural or legal person, de facto or de jure entity, public or private, national or foreign, the relevant and reasonable information and documentation that it requires to perform its functions.*

*(d) To authorize the officials of the corresponding technical body, with the prior well-founded authorization of the Contentious-Administrative and Civil Court of the Treasury, to inspect the industrial and commercial establishments and other movable and immovable property of economic agents, when this is necessary to collect or to prevent the loss or destruction of evidence useful for the investigation of absolute or relative monopolistic practices; provided for in Law No. 7472, Promotion of Competition and Effective Consumer Protection, of December 20, 1994, and its regulations.*

*(e) To challenge before the competent jurisdiction, with active procedural standing, acts, resolutions and administrative conduct and rules that are contrary to article 46 of the Political Constitution and the principles of Law No. 7472, Promotion of Competition and Effective Consumer Defense, of December 20, 1994 and its regulations. This power may be exercised by COPROCOM individually, so that the active standing of the Office of the Attorney General of the Republic will be limited to the filing and defense of labor and injury proceedings that it will exercise jointly with COPROCOM.*

*(f) To issue and execute precautionary measures in administrative proceedings to guarantee the protection of the rights and interests protected in article 46 of the Constitution;*

*g) To carry out activities to promote and advocate for competition.*

*h) To issue opinions and recommendations on matters of competition and free competition, with respect to laws, regulations, agreements, circulars and other administrative acts.*

*(i) To establish coordination mechanisms with entities of the Executive Branch, regulatory bodies and other public and private, national or international entities, in order to prevent monopolies, monopsonies and illegal concentrations, as well as to investigate anticompetitive practices and eliminate unnecessary restrictions on competition and free competition in the market;*

*(j) To recommend to the Public Administration the regulation or deregulation of prices, where appropriate, in accordance with Article 5 of Law No. 7472 of 20 December 1994 on the Promotion of Competition and Effective Consumer Protection and its regulations;*

*k) To manage and administer its resources and budget, for which it may approve works and services contracts, in accordance with the legal system in force.*

*(l) To request every five years, a specialized international body to conduct a peer review of competition law and policy in the country, as well as the functioning of COPROCOM.*

*(m) Any other duties that may be developed throughout this Act and those conferred on it by Act No. 7472 of 20 December 1994 on the Promotion of Competition and Effective Consumer Protection and its regulations, and other regulations governing the matter;*

*(...)"*

4. In the case of SUTEL, the functions and powers that correspond to it as a sectoral competition authority are established in Article 52 of the General Telecommunications Law, Law 8642, which indicates that:

*The operation of networks and the provision of telecommunications services shall be subject to a sectoral competition regime, which shall be governed by the provisions of this Law and, additionally, by the criteria established in Chapter III of Law No. 7472 of 20 December 1994 on the Promotion of Competition and Effective Consumer Protection, and by the provisions of the Law on the Strengthening of the Competition Authorities of Costa Rica.*

5. In this same article it is mentioned that SUTEL is responsible for a series of activities, among which are the following:

*(...) (g) To prevent and detect monopolies and to investigate cartels, monopolistic practices, illegal concentrations and other restrictions on the efficient functioning of the telecommunications market, and to impose the measures and penalties provided for in the legal system. (...)*

*h) To authorise or deny concentrations in the telecommunications sector and networks that support sound and television broadcasting services and to impose the conditions it deems necessary to counteract the possible anti-competitive effects arising from a concentration. (...)*

*k) To carry out activities to promote and advocate competition in the telecommunications and networks sector, which serve as support for sound and television broadcasting services. (...)*

*(m) Any other duties conferred upon it by the Law on the Strengthening of the Competition Authorities of Costa Rica and its regulations. (...). (Art. 52, Law 8642)*

6. As a result of the fulfillment of the functions and powers stipulated by law, COPROCOM and SUTEL carry out a series of actions that impact the markets. To evaluate the impact of the authorities' interventions, both institutions have guides that allow them to carry out impact analysis and also expo evaluations.

## 2. COPROCOM Guide

7. In October 2024, COPROCOM published the **Guide to the Ex-Post Evaluation of the Authority's Decisions**, with the purpose of establishing a methodological framework to assess the impact on the markets of its decisions on merger, anti-competitive practices (such as cartels and abuse of dominant power), and market research studies.

8. The Guide is aimed at economic agents, researchers and other authorities interested in understanding how COPROCOM's decisions generate benefits for consumers and how they contribute to achieving more efficient markets. The instrument offers technical guidelines for carrying out ex-post evaluations, understood as systematic exercises that allow the real effects of the authority's interventions to be verified with empirical evidence, improve competition policy and strengthen institutional accountability.

9. Key objectives of the Guide include:

1. diagnose the impact of COPROCOM's actions,
2. improve your processes and analysis tools,
3. promote advocacy and transparency through the publication of results, and
4. Build public trust based on rigorous evaluations.

10. The Guide is based on international standards promoted by the OECD and incorporates good practices from other jurisdictions such as the United Kingdom, the United States, Brazil and Mexico. It describes in detail different methodological approaches that can be used, including before-and-after methods, cross-sections, differences in differences, structural simulations, and surveys or interviews.

11. Recommendations are also established on the selection of cases to be evaluated, considering the availability of data, the time elapsed since the decision, the impact of the case, and the institutional objectives. In addition, governance principles are highlighted, such as the composition of the evaluation team (internal or external) and the publication of results under transparency criteria, respecting confidentiality when appropriate.

12. In short, this Guide constitutes a key tool for the continuous improvement of COPROCOM's institutional work and represents an important step in the consolidation of an evaluation culture that allows strengthening markets and maximizing the well-being of consumers in Costa Rica.

### 3. SUTEL Guide

13. In the case of SUTEL, during 2024 SUTEL published the *Expost Analysis Guide to the Impact of SUTEL's Decisions on Competition*<sup>1</sup>, which aims to detail the methodologies to be used by the sectoral authority to estimate the impact of its actions, at the same time, that this instrument complies with the principles of promoting transparency, predictability and legal certainty established in Article 22 of the Law on the Strengthening of the Competition Authorities of Costa Rica, Law 9736.

14. As recognized by the Expost Analysis Guide to the Impact of SUTEL's Decisions on Competition Matters, carrying out this type of analysis entails a series of benefits for the sectoral authority, such as:

*(...) Its results will allow SUTEL, externally, to be accountable through concrete data through the quantification of its interventions, increase transparency, measure its effectiveness; and internally, these inputs will be useful for the improvement of its future interventions through strategic planning in the use of resources and definition of tasks. as well as the assessment of improvements in the organization.( ...)* (2024, p. 6)

15. The guide indicates that this type of analysis is promoted by organizations such as the Organization for Economic Cooperation and Development (OECD) given the benefits that its performance entails for competition agencies; the guide is not only an instrument for carrying out ex-post evaluations, but also includes within its sections a section with guidelines for carrying out global impact assessments of SUTEL interventions in competition matters, specifically this section describes the methodology to be followed by SUTEL for the estimation of the global effect of the interventions carried out in the telecommunications market in the field of competence in a given period of time.

16. The section on assessing the overall impact of SUTEL interventions in competition matters contained in the guide considers the recommendations defined in the OECD instrument published in April 2014 called: Guide to Help Competition Authorities Assess the Expected Impact of their Activities, as well as the comparative experience of similar and current instruments of other leading competition authorities in the field.

17. The global impact assessment section included in the Guide to Expost Analysis of the Impact of SUTEL's Decisions on Competition Matters includes a series of principles to be taken into account when carrying out an evaluation of this type, among which are:

- All interventions aim to generate a positive impact at the user level, improve productivity, introduce new market players, among others.
- The information contained in the files already processed, as well as SUTEL's own statistical compendiums, may be used in the impact assessment.
- The confidentiality duties established in the original files must be observed.
- Unauthorized and/or conditional concentration operations may be considered, in addition to decisions related to sanctions for anticompetitive practices adopted in the period under analysis; likewise, it is recommended that in the absence of data on specific cases, the parameters suggested in section 7.1 B of the guide be used, these parameters are related to the recommendation given in section 3.2 of the

---

<sup>1</sup> Guide available at the following link:  
<https://www.sutel.go.cr/sites/default/files/Guia%20Ana%CC%81lisis%20Ex-post%20Decisiones%20SUTEL.pdf>.

OECD instrument called: Guide to Help Competition Authorities Assess the Expected Impact of their Activities.

- Impact assessments should focus on static consumer benefits and, if possible, dynamic benefits should be identified.
- Sensitivity analyses should be used for each type of intervention, using conservative scenarios.
- A simple methodology may be used for the static estimation of the benefit of the interventions, where the size or volume of the affected businesses, the price increase avoided by the intervention, as well as the duration of the expected price effect are considered.

18. In addition, the SUTEL guide on the impact evaluation of its interventions indicates that "(...) global impact studies would focus on ex post analyses with direct effects, seeking to delimit the evaluation to a macroeconomic object related to the well-being of users of telecommunications services in Costa Rica." (2024, p. 26), in this same document, it is indicated that the disclosure of the impact assessments carried out by SUTEL as a sectoral competition authority will be valuable as it will give visibility to the work carried out and will allow it to obtain feedback that will improve its future interventions, however, the guide makes the caveat that at the time of the disclosure of the impact assessments, details of the methodologies used and the limitations obtained during the process.

#### 4. Assessments in process

19. As indicated, COPROCOM, in line with international good practices and as part of its institutional strengthening strategy, has developed the Guide for the Ex-Post Evaluation of the Authority's Decisions. This instrument is a fundamental step in providing the institution with methodological tools that allow it to rigorously measure the real effects of its decisions on Costa Rican markets.

20. Currently, COPROCOM is in the preparation phase for the practical implementation of the methodologies contained in the Guide, which includes the identification of possible relevant cases for evaluation, the systematization of internal data that allow their subsequent analysis, and the development of technical capacities to carry out these evaluations in a rigorous and replicable manner. In addition, in cases of sanctions for anticompetitive practices or conditional concentrations, COPROCOM has considered establishing in the resolution the obligation of the parties to provide information in the future to follow up on these cases. This means including, as part of the reports that economic agents have to prepare, the relevant variables to carry out the ex-post evaluation.

21. As a next step, the Commission plans to start pilot evaluations in 2026, prioritizing interventions with a high potential impact on consumer welfare and the functioning of markets, in strategic sectors for the national economy. These actions will allow COPROCOM to consolidate an institutional culture of evaluation and continuous learning, in line with the principles of accountability, regulatory improvement and competition advocacy

22. SUTEL, as a sectoral competition authority, has established as part of the 2025 annual work plan the development and publication of an ex-post analysis of interventions carried out in the telecommunications market during the period 2021-2024, which constitutes a first step as a sectoral competition authority for the implementation of the

methodologies established in the Expost Analysis Guide of the Impact of SUTEL's Decisions on Competition

23. The evaluation under development aims to analyze three interventions carried out by SUTEL during the years 2021, 2022 and 2023 for anticompetitive practices, by two telecommunications service providers in Costa Rica.

24. Each of the interventions carried out by SUTEL considered in the ex-post evaluation under development is detailed below:

1. Intervention carried out by resolution RCS-074-2023<sup>2</sup> of March 27, 2023, in which the Public Services Company of Heredia (ESPH) was declared liable and creditor of a fine equivalent to 0.79% (zero seventy-nine percent) on the gross income of the fiscal period 2021 for engaging in relative monopolistic practices, through the use of the figures of exclusivity agreements and refusal of treatment, established as prohibited in Article 54 subsections b) and d) of Law 8642.
2. Intervention carried out through resolution RCS-102-2022<sup>3</sup> of May 5, 2022, in which SUTEL accepts the request for early termination of the administrative procedure with an offer of commitments presented by Conecta Developments S.A. for the possible commission of relative monopolistic practices.
3. Intervention carried out through resolution RCS-161-2021<sup>4</sup> of July 29, 2021, in which SUTEL accepts the early termination of the administrative procedure with an offer of commitments presented by Conecta Developments S.A. for the possible commission of relative monopolistic practices.

25. The objective of the ex-post evaluation of the three interventions mentioned above is to estimate the static effect of the direct economic benefits obtained from the reduction of consumer prices after SUTEL's intervention.

26. To carry out the ex post evaluation, a series of stages have been defined, the first stage being the collection of information and data analysis, for this, the information contained in the original files of each of the interventions has been used, this stage allows to define through information already available the real demand for telecommunications services as well as the market price during the period that The practice lasted, that is, it allows contextualizing the existing market conditions prior to the interventions carried out.

27. In addition, SUTEL's own information has also been used to analyze the behavior of market participants over time, for this, an analysis of the telecommunications infrastructure available from telecommunications operators and providers has been carried out before and after the intervened geographical locations. This information has subsequently been compared with each of the telecommunications providers identified by means of notes on which they have been asked to confirm their commercial presence in

---

<sup>2</sup> SUTEL (2023). Condominio Torres de Heredia y ESPH S.A. Retrieved on March 31, 2025 from the website: [https://www.sutel.go.cr/sites/default/files/rcs-074-2023\\_esph.pdf](https://www.sutel.go.cr/sites/default/files/rcs-074-2023_esph.pdf)

<sup>3</sup> SUTEL (2022). Monte Real Residential Vertical Condominium and CONECTA DEVELOPMENTS, S.A. Retrieved on March 31, 2025 from the website: [https://www.sutel.go.cr/sites/default/files/rcs-102-2022\\_se\\_ordena\\_archivo\\_procedimiento\\_administrativo\\_contra\\_conecta.pdf](https://www.sutel.go.cr/sites/default/files/rcs-102-2022_se_ordena_archivo_procedimiento_administrativo_contra_conecta.pdf)

<sup>4</sup> SUTEL (2021). Ayarco Real Residential Vertical Condominium and CONECTA DEVELOPMENTS, S.A. Retrieved on March 31, 2025 from the website: [https://www.sutel.go.cr/sites/default/files/rcs-161-2021\\_se\\_ordena\\_terminacion\\_anticipada\\_procedimiento\\_adm\\_conecta.pdf](https://www.sutel.go.cr/sites/default/files/rcs-161-2021_se_ordena_terminacion_anticipada_procedimiento_adm_conecta.pdf)

each of the locations in question, in addition to requesting a description of the services they offer, the year of the start of commercial activity, the number of associated customers and prices.

28. All the information described above is essential to determine the impact of the interventions, which derives from counteracting the market conditions (demand, supply and price) before and after the interventions by SUTEL in the three buildings; it is important to mention that it is assumed that the conditions prior to the interventions would continue in this way, that is, the behavior of the market in the three properties would have remained static if there had not been an action by SUTEL.

29. Therefore, the quantification of the direct economic benefits of consumers (the minimum savings obtained by the SUTEL interventions) in each of the properties corresponds to the differences between the model of behavior with restrictions proposed and the model of behavior with absence of restrictions because of the interventions.

30. To define the impact model of the three interventions, the methodology referenced on page 10 of the Guide to Expost Analysis of the Impact of SUTEL's Decisions on Competition Matters will be used, which corresponds to:

$$\text{Impacto}_t = \sum (\text{consumidores afectados}_{ni=1} * \text{Efecto precio} * \text{Duración efecto precio})$$

Where:

T: Corresponds to the year in which the evaluation is carried out.

ni: Corresponds to the consumers affected in the intervention analyzed.

Price effect: Corresponds to the savings obtained because of the intervention.

Duration of price effect: Corresponds to the assumed time in which there would be an impact on the price.

31. Currently, the development of the ex-post evaluation of the three SUTEL interventions is in the first stage (Information collection and data analysis) it is scheduled that the completion of the evaluation will take place in September 2025 and that after this completion the promotion and dissemination activities of this work will be carried out during the month of October 2025.

## 5. Preliminary advances, challenges and next steps

32. Although formal ex-post evaluations are still under development, COPROCOM has been taking several preliminary actions aimed at strengthening its institutional evaluation capacity and preparing the ground for their effective implementation. These actions include:

- **Identification of priority cases for evaluation:** A preliminary selection of past interventions that could be subject to ex-post analysis has been initiated. These cases have been chosen based on their economic relevance, regulatory impact or potential deterrent effect. Among them are decisions in sectors such as rice, pharmaceuticals, administrative concessions, and the automotive market.
- **Systematization of internal information:** COPROCOM has begun the process of consolidating historical data on files, technical reports and market studies that will serve as input for future evaluations. This exercise has highlighted the need to strengthen internal data management and digital archiving systems.

- **Establishment of impact criteria:** Through the support of international cooperation and the use of the Guide for Ex-Post Evaluation, key criteria have been defined for impact measurement, such as changes in prices, improvements in entry conditions, reduction of structural barriers and levels of regulatory compliance after the intervention of the Commission.
- **Obligation to report future data:** In the case of anticompetitive practices or conditional concentrations, it has been considered to incorporate within the resolution itself the obligation of the economic agents involved to submit periodic reports with the necessary variables for the ex-post evaluation.

## 5.1. Challenges identified

33. The implementation of impact assessments of the authority's decisions presents, however, important challenges:

- **Data availability and quality:** There is limited availability of up-to-date sectoral information, especially in sectors where sectoral regulation is weak or non-existent.
- **Institutional capacity:** Despite the advances, the need to strengthen the technical capacities of the evaluation team, through training in public policy evaluation methods, behavioral economics and applied econometrics.
- **Attribution of impact:** In contexts of high regulatory complexity and multiplicity of actors, it becomes challenging to isolate the effects directly attributable to the Commission's intervention.

## 5.2. Next steps

34. COPROCOM is committed to making progress in the following areas of work:

1. **Structure a pilot evaluation in 2026**, with the support of international cooperation and in coordination with the academic sector.
2. **Strengthening of information systems and traceability of files**, in order to improve the capacity for retrospective analysis.
3. **Publication of the results of the evaluation** under principles of transparency and accountability, promoting institutional learning and public dialogue on the effectiveness of competition policies.
4. **Establishment of strategic alliances with universities and research centres**, for methodological validation and the dissemination of good practices.

## 6. Conclusions

35. The implementation of methodologies for the evaluation of the impact of decisions on competition matters by COPROCOM and SUTEL represents a significant step towards a more transparent, effective and evidence-based management in competition matters. Through their respective Guides, the authorities not only seek to quantify the economic effects of their interventions, but also to improve their strategic planning and accountability.

36. The approach adopted, aligned with international recommendations such as those of the OECD, allows COPROCOM and SUTEL to identify concrete benefits for

consumers, such as price reductions and increased competition in local markets. This effort marks a milestone in the consolidation of a culture of public policy evaluation aimed at the well-being of consumers and the institutional strengthening of competition authorities in Costa Rica.

37. The experience of both authorities shows that ex-post evaluation is not only a diagnostic tool, but also a valuable instrument of institutional learning. In the case of SUTEL, the practical application already underway will allow the generation of concrete inputs to validate and adjust its methods; while in COPROCOM, the methodological design established in its Guide lays the foundations for initiating pilot evaluations in the short term. This complementarity strengthens the process of competition and free competition in Costa Rica, by positioning both institutions as technical references in the evaluation of public policies aimed at the efficient functioning of markets.