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

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More documentation related to this discussion can be found at: oe.cd/msmat.

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1. Introduction

1. The National Antitrust Commission (CNA, by its acronym in Spanish, or Commission)¹ may conduct market studies and market investigations to carry out in-depth analysis and assess the level of competition within specific markets.
2. This contribution outlines the methodological approach, key findings, and the actions derived from the market studies conducted by the CNA. It also examines the role of market investigations as enforcement mechanisms capable of addressing structural and regulatory issues that hinder competitive processes.
3. Finally, it discusses the challenges faced by the CNA in implementing these tools and highlights the importance of institutional collaboration to maximize their impact.

2. Market studies

4. Market studies² are advocacy instruments aimed at deepening the understanding of how markets operate and at identifying risks to competition that may stem from market failures, regulatory frameworks, structural conditions, or firms' conduct.
5. Market studies usually result in non-binding recommendations to authorities to address competition concerns identified in the markets. These recommendations may include proposals for liberalization or deregulation aimed at mitigating the detected risks and competition problems.
6. Market studies are prepared by the Commission, under the mandate of the Board of Commissioners, whenever there is a need to analyze market dynamics, whether due to their relevance for consumers or because potential competition concerns have been detected.
7. The selection of sectors or markets to be assessed is guided on a comprehensive set of criteria that has enabled the Commission to establish priorities. By identifying these priority sectors, the competition authority can concentrate its efforts where competition policy will have the greatest impact on economic growth and social welfare. The criteria include:
 - Contribution to the GDP: the sector's share in total output of goods and services, as well as its recent growth.

¹ The CNA was formally established on October 16, 2025, replacing the former Federal Economic Competition Commission (Cofece). The CNA officially began operations on October 17, 2025. However, given its recent creation, information from Cofece has been used as a basis for this contribution.

² Article 12 section XXIII of the Competition Law establishes that the CNA can “carry out, or order the conduct of studies, research, and general reports on issues of competition. When risks to the competition process are detected, a competition problem is identified, or when requested by other authorities, these may include proposals for liberalization, deregulation, or regulatory changes”. The current Competition Law is available in Spanish at: <https://www.antimonopolio.gob.mx/Micrositios/ley-federal-de-competencia-economica/>

- Generalized consumption: the extent to which the sector's goods and services are purchased or consumed by a broad proportion of households.
- Transversality: the degree to which the sector's goods and services are inputs for other economic activities.
- Impact on lower-income population.
- Regulated sectors, those because of their characteristics require government oversight.
- Prevalence of anticompetitive practices.
- International trends: sectors that have received particular attention from other competition authorities.

8. To date, the competition authority has published eight market studies³ covering the following sectors: (1) the financial sector; (2) the agri-food sector; (3) off-patent drugs; (4) the interurban passenger transportation sector; (5) the modern retail channel for food and beverages; (6) medical expenses insurance; (7) beef; and (8) digital financial services.

9. These studies have deepened the Commission's understanding of market dynamics and provided valuable inputs to support future law enforcement actions, including investigations into anticompetitive practices, merger control, and broader advocacy initiatives.

10. A particularly significant example is the market study of the financial sector, published by the former competition authority in 2014, which represented an important milestone in the analysis of that market. The study identified several competition concerns across different segments of the sector, including high market concentration, regulatory barriers that limited the entry of new competitors, low consumer mobility due to switching costs and lack of information, and regulations that appeared to favor traditional banking institutions. These conditions were found to potentially restrict effective competition, reduce incentives to improve services, and ultimately harm both consumers and financial inclusion.

11. As a result of this market study, several enforcement and advocacy actions were undertaken. The following examples highlight measures adopted in three key segments of the financial sector: (1) card payment processing systems, (2) credit information companies, and (3) fintech.

³ These market studies are available in Spanish as follows: (1) financial sector: https://www.cofece.mx/cofece/images/Estudios/COFECE_trabajo_investigacion_prot.pdf#pdf; (2) agri-food sector: https://www.cofece.mx/cofece/images/Estudios/COFECE_reporte%20final-ok_SIN_RESUMEN_ALTA_RES-7enero.pdf#pdf; (3) off-patent drugs (in English): https://www.cofece.mx/wp-content/uploads/2017/11/Studies-drug-markets_vF-BAJA.pdf#pdf; (4) interurban passenger transportation: <https://www.cofece.mx/wp-content/uploads/2019/04/Estudiocompetenciaautotransportefederalpasajeros.pdf#pdf>; (5) retail of food and beverages: https://www.cofece.mx/wp-content/uploads/2020/11/EE_comercio-031120-FINAL-002.pdf; (6) medical expenses insurance: <https://www.cofece.mx/wp-content/uploads/2022/12/Estudio-Seguro-de-Gastos-Medicos.pdf>; (7) beef: <https://www.cofece.mx/wp-content/uploads/2024/03/EE23-CRN-estudio-carne.pdf>; and (8) digital financial services (in English): <https://www.cofece.mx/study-of-competition-and-free-market-access-in-digital-financial-services/>.

12. The card payment processing service is essential for electronic transactions between consumers and merchants. It is operated by clearinghouses that facilitate communication between banks and ensure the corresponding payment to merchants.

13. The market study found that Mexico's card payment system was not well balanced, as the number of establishments equipped with point-of-sale terminals to accept credit cards remained low compared to the volume of cards issued. This imbalance was largely attributed to the interchange fees charged to merchants by banks, along with the other costs associated with accepting card payments.

14. By 2018, the competition concerns identified in the study persisted, leading the competition authority to initiate a market investigation (IEBC-005-2018)⁴. Additional information on this enforcement action will be provided in the Market Investigations section later in this document.

15. Subsequently, within this same market, and in light of the persistent challenges to achieving widespread merchant acceptance of card payments in Mexico, the competition authority issued a non-binding opinion in 2023 (OPN-002-2023)⁵. This opinion complemented the recommendations made in the aforementioned market investigation and analyzed the competitive dynamics of card payment acceptance services, offering further insights into the barriers and conditions shaping the sector.

16. The opinion highlighted several key findings: (1) a significant increase in the number of point of sale (POS) terminals accepting cards, rising from 1.65 million in 2016 to 4.34 million in 2021; (2) growth in the share of aggregators, from 45% in 2016 to 66% in 2021; and (3) a ratio of POS terminals per 10,000 inhabitants comparable to that of highly developed countries. Nevertheless, the opinion also noted that, at the time, 55% of businesses in Mexico still did not accept card payments, and aggregators continued to face higher interchange fees, which were not differentiated by type of business.

17. In response, the opinion issued recommendations to the Central Bank (Banxico by its acronym in Spanish) and the National Banking and Securities Commission (CNBV by its acronym in Spanish), within their respective mandates, to: (1) make the implementation of the "natural rate by exception" more flexible, allowing lower interchange fees to be reflected in reduced discount rates for merchants and thereby encouraging greater adoption of card payments; (2) strengthen legal certainty for aggregators by ensuring that regulatory mechanisms provide effective protection against acquirers and other market participants in case of disputes, thus fostering their participation in the market; and (3) improve the dissemination of information on prices and benefits by creating mechanisms that facilitate access to clear, comparable, and useful information, enabling merchants to choose the payment acceptance service provider that best meets their needs.

18. The market study of 2014 also identified significant competition concerns regarding credit information companies.

19. Credit information companies, private firms that collect, process, and provide credit histories of individuals and businesses, were identified in the market study as facing limitations in the access to and use of credit data, particularly for new market entrants. These restrictions were considered potential barriers to competition. The study emphasized the importance of improving the quality, coverage, and availability of the data managed by

⁴ Press release on file IEBC-005-2018 is available in English at: https://www.cofece.mx/wp-content/uploads/2023/09/Cofece-025-2023_ENG.pdf

⁵ Press release on opinion OPN-002-2023 is available in English at: https://www.cofece.mx/wp-content/uploads/2023/12/Cofece-041-2023_ENG.pdf

these companies, as well as strengthening regulation to ensure that information is used equitably by all economic agents.

20. Due to these concerns, Cofece opened an ex officio investigation in 2015 (IO-001-2015)⁶ to assess whether practices in the credit information market infringed Mexico's competition law.

21. In 2019, as a result of this investigation, Cofece sanctioned Dun & Bradstreet, a Credit Information Company (CIC), with a fine of 27.4 million pesos for engaging in a relative monopolistic practice (abuse of dominance) known as refusal to deal. Dun & Bradstreet abused its market power when refusing to provide access to its primary database to its competitor Círculo de Crédito, thereby hindering the latter from participating in the market for the collection, processing, and commercialization of credit information on legal entities and individuals engaged in business activities. The Law Regulating Credit Information Systems compels CICs to share the information they collect among each other, precisely to prevent such barriers to competition.

22. The investigation concluded that Dun & Bradstreet had abused its market power, thereby harming competition in a sector characterized by a high concentration of information.

23. In terms of opportunities within the fintech sector, the market study found that opening the market to more participants meant that users could benefit from a broader range of innovative products and services, enhancing both consumer choice and financial inclusion.

24. Many recommendations to increase competitive pressure pointed to regulatory changes or the need to have new regulation. The study also found that the structure, performance, and levels of competition in the sector could improve substantially with the introduction of new technologies (such as electronic platforms for consumer or housing loans) that would reduce costs and increase productivity. These findings gave rise to specific actions by the competition authority.

25. During the past decade, the fintech sector expanded rapidly in Mexico through innovative business models and the use of digital platforms, creating new channels for the provision of diverse financial services.

26. In 2017, the Executive Branch submitted a draft law to the Senate to regulate some of these services. Drawing on the knowledge gained from the market study, the Commission issued a non-binding opinion (OPN-007-2017)⁷ on the proposed Fintech Law, making key recommendations to foster competition in the sector.

27. Among these recommendations were: ensuring legal certainty in the authorization process for new fintechs and innovative models; guaranteeing non-discriminatory access to financial services provided by banks; and establishing a technology-, infrastructure-, and business-model-neutral legal framework.

⁶ Press release on file IO-001-2015 is available in English at: <https://www.cofece.mx/wp-content/uploads/2019/02/COFECE-011-2019-English.pdf>

⁷ Press release on the opinion OPN-007-2017 is available at: <https://www.cofece.mx/wp-content/uploads/2018/02/COFECE-049-2017.pdf#pdf>

28. In March 2018, Mexico's first Fintech Law was enacted⁸, incorporating several of the competition authority most relevant recommendations. Notable improvements included the explicit recognition that users are the owners of their financial information, and that authorities must define compensation mechanisms for its transmission. The law also guaranteed fintechs access to such information, preventing discretionary terms and conditions for interrupting data flows, thereby strengthening competition and fairness in the digital financial ecosystem.

29. Although some of the Commission's recommendations were included in the 2018 Fintech Law, subsequent secondary regulations raised new competition concerns. In 2022, the Commission issued opinion OPN-009-2022⁹, identifying several regulatory issues:

- Use of cloud services: Fintechs face stricter requirements than banks, particularly regarding potential interventions by foreign governments, creating regulatory asymmetries and higher costs.
- Cash operations: Fintechs are subject to tighter limits when using external agents, restricting their ability to serve customers, especially given their limited access to ATM networks.
- Protection of client funds: Funds held by fintechs in bank accounts are not individually protected by deposit insurance, unlike those of bank customers.
- Foreign API providers: Rules impose heavier requirements on foreign providers, even for read-only APIs, which could discourage investment and reduce competition.

30. The Commission also noted the lack of regulation on open banking. Rules have only been issued for public data, leaving aggregated and transactional data out, hindering the development of a competitive financial ecosystem.

31. Accordingly, the competition authority recommended that the Ministry of Finance, Banxico, and CNBV review the proportionality of current regulations, adopt international best practices to protect client funds, ensure regulatory neutrality between domestic and foreign API providers, and accelerate the implementation of clear rules on open banking.

32. This experience shows that the findings of a single market study can trigger a wide range of actions within the competition authority, from enforcement procedures that address specific anticompetitive practices and deter future misconduct to advocacy initiatives that help shape the regulatory environment and promote long-term structural changes.

33. Together, these instruments reinforce each other, generating more profound and sustainable impacts on markets. In the case of the financial sector, this dual strategy not only corrected harmful practices but also contributed to building a more open, innovative, and inclusive financial ecosystem in Mexico.

34. A key distinction between market studies and other investigatory tools available to the Commission is that studies are conducted without prejudice to the actions of specific economic agents. As a result, they do not define relevant markets or assess substantial market power. Instead, they examine entire sectors to identify competition issues. Market

⁸ Press release on the Fintech Law is available at: <https://www.cofece.mx/wp-content/uploads/2018/03/COFECE-010-2018-English.pdf>

⁹ Press release on the opinion OPN-009-2022 is available at: https://www.cofece.mx/wp-content/uploads/2022/11/COFECE-038-2022_ENG.pdf

studies are also more flexible than formal investigations, which allows the Commission to detect a broader range of competition problems.

35. Over time, market studies have proven to be a cornerstone of the competition authority's work, serving both as diagnostic tools and as catalysts for action. By identifying barriers, analyzing competitive dynamics, and issuing recommendations, these studies have triggered enforcement proceedings, informed regulatory reforms, and guided advocacy efforts. Their impact has been further amplified through institutional collaboration: the Commission maintained 33 national collaboration agreements that facilitated access to valuable information and created effective channels for detection, investigation, and joint action.

36. Partnerships with institutions such as the Mexican Social Security Institute, the Institute for Social Security and Services for State Workers, the CNBV, Banxico, the Ministry of Infrastructure, Communications and Transportation, and the Regulatory Agency for Rail Transport have enabled the Commission to obtain the data necessary to analyze market dynamics more comprehensively.

37. Taken together, these elements demonstrate how market studies, reinforced by enforcement, advocacy, and collaboration, can generate deeper and more sustainable impacts on competition policy and on the functioning of markets.

3. Market investigations

38. Market investigations serve as a powerful enforcement mechanism within the Mexican competition system. Established under Article 94 of our Competition Law, the CNA can examine markets in order to identify barriers to competition or the existence of essential facilities that may be restricting the competitive process.

39. Unlike traditional antitrust investigations, market investigations are broader in scope: they analyze structural features, regulatory frameworks and commercial practices that can distort competition across a sector.

40. Market investigations may be initiated through two mechanisms: *ex officio* or at the request of the Executive Branch, in both cases there must be sufficient elements to presume that effective competition conditions are lacking. During the investigation, the Investigative Authority, an independent body within the competition authority, must gather evidence to determine whether structural characteristics of the market, the conduct of market participants, or regulatory provisions limit or distort competition, thereby constituting barriers to competition. With respect to essential facilities, the Investigative Authority must assess whether sufficient elements exist to demonstrate, under Article 60 of the Competition Law, that the facility under review qualifies as an essential facility and that its access should be regulated.

41. If sufficient evidence is found, the Investigative Authority issues a preliminary opinion that includes a proposal of remedies designed to restore competitive conditions. These measures may include recommendations to public authorities; orders requiring a market participant to eliminate a barrier to competition; the designation of an essential facility along with guidelines to regulate its access, price, and/or quality; or even a more costly and disruptive structural remedy such as divestiture or structural separation. This last option is only applicable in cases in which any other remedy is insufficient to solve the competition issues identified.

42. Once the preliminary opinion is issued, the process advances to a trial-like procedure in which individuals who can demonstrate a legitimate legal interest may present

arguments, evidence, and can also present a proposal for alternative remedies. This proposal must demonstrate how the remedies offered are suitable and economically feasible to eliminate the competition concerns identified. The Board of Commissioners then evaluates whether to accept the proposal or continue the procedure. If the proposal is denied, then the procedure continues its course, and the Board will issue a final decision once the procedure is completed.

43. The decision must establish the remedies required to restore competitive conditions in the market. Each measure must effectively resolve the identified competition problems; and achieve this objective in the least restrictive manner possible for the market participant to whom it is directed.

44. Since its introduction in the Competition Law of 2014, seventeen market investigations¹⁰ have been conducted across diverse sectors, ranging from telecommunications, transportation, agriculture, to finance and digital markets, demonstrating their versatility and impact. By addressing not only behavioral issues but also structural and regulatory barriers, market investigations complement traditional enforcement tools and create more opportunities for innovation, entry, and consumer choice.

45. A clear example is the market investigation into the card-payment processing market in Mexico (IEBC-005-2018), mentioned above. In this investigation, the Commission identified that the market was highly concentrated, with only a few clearinghouses, primarily PROSA and Global Payments, controlling the infrastructure for processing card payments. The regulatory framework in place had unintentionally created anticompetitive outcomes that favored incumbent clearing houses. The result was a payment system that lacked innovation, charged very high fees, and excluded thousands of businesses. These barriers to entry prevented new clearing houses from operating effectively in Mexico.

46. The Commission concluded that these barriers limited competition, reduced innovation, and restricted consumer choice. As a result, the Commission issued recommendations to Banxico and CNBV to amend the applicable regulations and foster greater competition. It also ordered the incumbent clearinghouses to adopt measures that would eliminate the barriers identified, such as improving interoperability and ensuring fair access to the infrastructure.

47. Following the Commission's findings and recommendations, Banxico and CNBV responded by drafting new general provisions for card-payment networks. According to the press release from Banxico¹¹, these proposed regulations aim to:

- Reduce the costs of card-payment operations, making it easier for more merchants to accept card payments.
- Promote wider acceptance of card payments in Mexico, thereby benefiting both consumers and businesses.

¹⁰ The Federal Institute of Telecommunications (IFT by its acronym in Spanish), the former authority responsible for investigating competition in telecommunications markets, carried out four market investigations, while the former competition authority (Cofece), mandated to oversee all other markets, conducted thirteen.

¹¹ Press release available in Spanish at: <https://www.banxico.org.mx/publicaciones-y-prensa/miscelaneos/%7B976B09C2-7D30-6F00-F99F-23F67278FA68%7D.pdf>

- Establish state-defined operational rules for interoperability between networks, aligned with international ISO standards, ensuring that users can make and receive payments regardless of the network used.
- Prevent private entities from unilaterally setting rules, reinforcing transparency, and fairness in the system.

48. In essence, the regulatory changes seek to increase the number of businesses accepting non-cash payments, lower transaction costs, and improve conditions for cardholders.

49. This regulatory response illustrates how the Commission's market investigation not only identified barriers but also triggered institutional collaboration and regulatory reform, leading to a more open, competitive, and inclusive financial ecosystem while embedding competition policy as a state priority. The direct result is greater competition in payment systems, but the broader impact is equally significant: thousands of businesses will gain access to modern financial services, expanding opportunities for innovation, efficiency, and consumer choice.

50. The case stands as a landmark example of how market investigations can extend beyond sanctioning anticompetitive practices to tackle structural and regulatory challenges, thereby opening markets to new participants and strengthening the overall financial ecosystem.

4. Challenges of Market Studies and Market Investigations

51. One of the main challenges in conducting market studies and investigations is the limited access to information, particularly in sectors that are still in the process of consolidation. To address this, the Commission works in coordination with sector regulators and other government agencies. For the market study on digital financial services, the Commission obtained payment systems data directly from Banxico, Mexico's Central Bank, thereby avoiding the need to request information from individual companies.

52. Another challenge is that recommendations from market studies are non-binding, which can reduce their immediate impact, as adoption depends largely on the willingness and priorities of regulators, policymakers, or industry stakeholders. To address this limitation, the Commission has developed a structured follow-up process. For up to three years after a study is published, it requests updates every six months from the relevant authorities, asking them to report on the degree of adoption of each recommendation, whether fully adopted, partially adopted, in progress, or about to start. This mechanism increases transparency, generates public accountability, and helps maintain pressure for implementation, even in the absence of binding force.

53. Ultimately, while the non-binding character of recommendations can limit their immediate effect, the follow-up process and the visibility of these studies often create soft pressure that encourages gradual adoption and fosters dialogue between regulators, policymakers, and market participants.

54. In market investigations, the central challenge lies in designing remedies that fulfill their intended purpose without introducing new distortions. Achieving this requires a careful balance: interventions must be sufficiently robust to eliminate barriers to competition, yet calibrated to avoid unintended consequences such as discouraging investment, generating inefficiencies, or imposing undue burdens on firms.

55. To achieve this balance, final recommendations are guided by the following principles: effectiveness, ensuring that each remedy directly addresses the competition issue at stake; efficiency, confirming that the benefits of the measure outweigh its associated costs; minimum restriction, aimed at avoiding undue constraints on market participants while preserving innovation; and proportionality, which requires tailoring the scope of the remedy to match the magnitude of the problem.

56. Close collaboration with sector regulators is also essential. Their specialized expertise ensures that proposed measures are feasible, both legally and economically, and aligned with industry realities, while also increasing the chances of successful implementation through their role in translating recommendations into practice.

57. Market studies and market investigations are key instruments for fostering innovation, facilitating market access, and enhancing consumer choice, while embedding competition policy within the broader architecture of state policy. By concentrating on markets that affect both households and companies, and by engaging in close collaboration with regulatory authorities, competition policy generates benefits that transcend efficiency, reinforcing inclusion, and sustainable long-term economic development across the economy.