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Competition and Regulation in the Healthcare Sector – Note by Paraguay

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Paraguay

1. Introduction

1. This paper aims to present experiences of the National Competition Commission of Paraguay in which it studied issues related to the healthcare sector.

2. Law and authority

2. Paraguay's 1992 Constitution sets out the guarantee for competition in the market¹.

3. Paraguay's competition law was enacted in 2013 under No. 4956 and the name of *Ley de Defensa de la Competencia* (LDC for its acronym in Spanish)². In addition to setting the first legal framework in the country on matters of mergers and anticompetitive practices (abuse of dominance and anticompetitive agreements or cartels), it established a national competition authority for the first time: CONACOM. There was no prior institution or office that filled the role of a competition authority in the country.

4. CONACOM operates through two main bodies. One of them has sole responsibility as to issuing opinions regarding regulatory issues, which is the Board, comprised by three members³.

3. Market study on the pharmaceutical sector in public procurement proceedings

5. In 2021, CONACOM decided to include both the pharmaceutical sector and the public procurement sector as priority areas for market studies⁴.

6. In 2025, through a collaboration with the Inter-American Development Bank, it published a market study carried out by a team of contractors led by José Molinas and Luis Ríos. The study unveiled data from the public procurement of pharmaceuticals and medical supplies between the years 2012 and 2022⁵.

7. The study aimed to understand the regulatory framework, the level of industry concentration, the risks associated with collusion, and potential market failures, as well as to propose recommendations that will help improve competition in the sector.

8. Two institutions accounted for an average of 85% of procurement proceedings between 2012 and 2022. The Social Security Institute (IPS) was responsible for 41.5% of the proceedings, and the Ministry of Public Health and Social Welfare (MSPyBS) accounted for 43.5% of the proceedings during the period under consideration.

9. The supply of pharmaceutical products and medical supplies to the public sector is less concentrated than the demand. Between 2012 and 2022, the five largest bidders

¹ Constitution of the Republic of Paraguay, article 107.

² The LDC is available in Spanish at <https://www.bacn.gov.py/leyes-paraguayas/4775/ley-n-4956-defensa-de-la-competencia> (Accessed 21 Oct 2025).

³ LDC, art. 17.

⁴ CONACOM, Resolución D/AD N° 52/2021 *Por la cual se aprueban los sectores prioritarios determinados por el Área de Estudios Económicos de la CONACOM*.

⁵ IDB (2025) *Estudio de Mercado del Sector Farmacéutico y de Insumos Médicos en Contrataciones Públicas: periodo 2012-2022*.

accounted for 22.9% of the total awarded amounts, reflecting their market share and ability to capture a significant proportion of public procurement. When the analysis is expanded to include the ten largest bidders, their combined share amounts to 37.6% of the awarded amounts during that period, further consolidating their market position.

10. The term "aggregate level" refers to the analysis of the market as a whole, considering all submarkets or product groups as a single sector. At this level, i.e., without disaggregation, there is no evidence of high concentration. However, when applying statistical tools such as the Hirschman-Herfindahl market concentration index, it is seen that, as submarkets are disaggregated into more homogeneous groups, concentration increases significantly in a large proportion of submarkets or product groups.

11. When pharmaceutical and medical supplies procurement is broken down into 33 submarket groups, the results are less encouraging. Of these 33 submarkets, (i) eight submarkets are highly concentrated (24%), (ii) 13 submarkets are moderately concentrated (39%), and (iii) 12 submarkets (36%) are lowly concentrated. Among the eight highly concentrated submarkets, the most frequent supplier firms have a market share of 53–95% in five of them.

12. Using machine learning techniques, the study analyzes patterns of collusion, such as market sharing or non-compete agreements. The observation of concentration indices in specific submarkets and evidence of collusion through market sharing highlight the importance of monitoring at more disaggregated submarket levels and establishing a watch list to assess the need for measures that promote greater competition for the better functioning of markets for the benefit of Paraguayan citizens. Monitoring companies at the submarket level could promote better market functioning, which would translate into more competitive prices for public procurement of medicines, supplies, and medical equipment.

13. As for regulatory hurdles, many stakeholders in the field agree that one factor that weakens competition in the sector is payments. They point out that delays in contract payments favor large firms, whose financial structures allow them to sustain their operations over the long term, while medium-sized and small businesses lack sufficient financial backing, thereby creating disincentives to participate in public tenders. Reducing bureaucratic processes and ensuring payment compliance, according to the deadlines established in contracts, could significantly improve competition in the sector.

4. Regulatory analysis: distance between pharmacies

14. Pharmacies in Paraguay are mostly private businesses and the prices of drugs are regulated by the MSPyBS⁶.

15. In 2021, CONACOM studied a draft law that would have imposed a minimum distance between pharmacies of 200 meters, aiming for the balanced geographic redistribution of pharmacies⁷.

16. CONACOM argued that the minimum distance would have restricted competition as it directly impacted the number of pharmacies that could operate geographically. While the draft law had exceptions regarding areas with hospitals, it did not account for aspects

⁶ CONACOM, Resolución D/AD N° 52/2021 *Por la cual se aprueban los sectores prioritarios determinados por el Área de Estudios Económicos de la CONACOM.*

⁷ CONACOM, Opinión D/09/2021, *Proyecto de ley que modifica la Ley N° 1119/97 en cuanto a la distancia entre farmacias.*

such as demographics and it did not consider that businesses may feel that there are no economic incentives to relocate to other areas, so its effectiveness was cast into doubt.

17. CONACOM's opinion was submitted to the National Congress. The draft was not approved into law⁸.

⁸ Congreso Nacional, SIL, *Proyecto de ley que modifica la Ley N° 1119/97 De Productos para la Salud y Otros* <<https://silpy.congreso.gov.py/web/expediente/124115>> (Accessed 21 Oct 2025).