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Competition Dynamics in the Evolving Connectivity Ecosystem – Note by Paraguay

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

Federica MAIORANO
Federica.Maiorano@oecd.org

JT03597595

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Paraguay

1. Introduction

1. This paper outlines Paraguay's experience in addressing competition issues in the evolving connectivity ecosystem through CONACOM's advocacy activities[1].

2. Law and authority

2. Paraguay's 1992 Constitution sets out the guarantee for competition in the market[2].

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)[3]. In addition to setting the first legal framework in the country on matters of mergers and anticompetitive practices (abuse of dominance and anticompetitive agreements including 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. The Board of Directors, comprised by three members, leads the institution on administrative matters, performs the role of competition advocacy and makes the decision on all enforcement cases[4].

5. The enforcement cases, which could pertain to merger control, abuse of dominance or anticompetitive agreements, are all brought to the attention of the Board of Directors by the Directorate for Investigation, which has functional autonomy[5].

6. On merger control, the Directorate for Investigation studies merger operations and issues technical opinions. Merger review is focused on whether the operation would significantly restrict competition due to the creation or reinforcement of dominance in the market.

7. When it comes to anticompetitive practices, the Directorate is in charge of investigating and filing charges against the alleged infringers of the LDC before the Board of Directors.

8. The Board also has sole responsibility as to issuing opinions regarding regulatory issues[6].

9. CONACOM has in force an inter-institutional cooperation agreement with the National Telecommunications Commission (CONATEL), signed on 16 November 2021,

[1] This contribution was prepared by Eduardo González, Member of the Board of Directors of the National Competition Commission (CONACOM), with the collaboration of Jesús Silveira, Head of the International Relations Department of CONACOM

[2] Constitution of the Republic of Paraguay, article 107.

[3] 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).

[4] LDC, art. 17.

[5] LDC, art. 30.

[6] LDC, art. 17.

which provides for training activities, consultations on matters relevant to the application of their respective legislation, the exchange of information in accordance with that legislation, and any other form of cooperation the parties consider appropriate.[7]

3. Competition Advocacy on Changes to the Licence Fee Methodology for Internet Service Providers

10. In 2022, following a complaint by ASISPY, the trade association of ISPs from the interior of the country, issued Opinion D/03/2022 of the Board of Directors,[8] dated 18 April 2022, in which it warned that a methodological change introduced by CONATEL for calculating ISPs' licence, authorisation and extension fees had a disproportionate and potentially anticompetitive effect, because:

- it sharply increased market entry costs for small operators in sparsely populated districts, without a comparable increase for large urban operators; and
- the risk identified was a narrowing of price dispersion between large and small operators, not as a result of efficiency gains but through the exit or non-entry of small competitors, with the consequent concentration of the market.[9]

11. The Opinion made clear that, as a competition authority, CONACOM has no power to set fees, but does have the mandate to assess the competitive impact of sectoral regulation. Applying a test of necessity, proportionality and non-discrimination, the Board of Directors recommended that the sectoral regulator, CONATEL, review the methodology through a technical study that would set graduated amounts according to the actual characteristics of each district, and open the process to participation by operators and citizens.[10]

12. In its competition analysis, CONACOM took the constitutional framework and the sectoral telecommunications legislation, such as Law No. 642/95 (the Telecommunications Law), as the normative starting point for assessing whether regulatory provisions affect free competition.[11]

4. Context of the Advocacy Case

13. Internet access services in Paraguay are provided under a licence granted by CONATEL, the sectoral regulator for telecommunications. Sectoral regulations require providers to pay a licence fee (derecho de licencia) of 1% of the declared investment amount, and empower CONATEL to set minimum fixed amounts according to technology, district and market prices.[12]

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[7] Document available (in Spanish) at: https://conacom.gov.py/la-conacom-y-la-conatel-suscriben-un-convenio-marco-de-cooperacion/

[8] Available (in Spanish) at: https://drive.google.com/file/d/12Ci-Ri42MiyBzz-thABbN_pol3DiwUqr/view

[9] Board of Directors Opinion D/03/2022, dated 18 April 2022, pp. 4–5.

[10] Board of Directors Opinion D/03/2022, dated 18 April 2022, pp. 17–18.

[11] Board of Directors Opinion D/03/2022, dated 18 April 2022, p. 3.

[12] Board of Directors Opinion D/03/2022, dated 18 April 2022, p. 3.

14. Paraguay's ISP sector is characterised by marked segmentation between a few large-scale national operators, concentrated in the Asunción Metropolitan Area and in dense urban areas, and a broad base of small and medium-sized providers (SMEs) in the interior of the country, which serve districts of low population density that are frequently not covered by the large operators. This SME base plays a central role in the connectivity of rural and remote areas, an objective that Law No. 642/95 itself declares to be of public interest (Article 4).[13]

5. The Competition Problem Identified

15. In 2020 and 2021, CONATEL modified the methodology for calculating the minimum licence fee amounts. ASISPY complained to CONACOM that the change discriminated against operators in the interior of the country by excessively increasing the licence fee for SMEs, through two calculation mechanisms:

- Wireless access in an exclusive-use frequency band: the base value, set in 2004 on the basis of the investments of that time, was adjusted solely for inflation (+118%) over almost 20 years, without taking into account the fall in costs brought about by technological innovation such as 4G and 5G.
- Wired (physical) distribution access: the calculation proportional to the population of the metropolitan area was replaced by a classification based on districts of more than 80,000 inhabitants and districts of up to 80,000 inhabitants, with a fixed amount estimated on the basis of a single cost study from a single equipment supplier. Districts below that threshold are home to 51% of the country's population, that is, the tier with the highest minimum fixed amount in relative terms.

16. The quantitative effect of this second rule was the most compelling finding of Opinion D/03/2022: because the amount was fixed for all districts of up to 80,000 inhabitants, an ISP wishing to operate in a locality of 8,908 inhabitants had to pay practically the same amount as one operating in another locality of 82,032 inhabitants (10 times larger) and therefore with a much larger potential market.

17. From its overall analysis, CONACOM concluded that this design (standardised amounts, not updated for technological innovation and not proportionate to the actual size of the local market) created three specific risks for competition:

- exclusion of existing or potential participants in small districts, favouring concentration among a few operators with financial capacity;
- pass-through of the regulatory cost to consumers; and
- areas of the country left with no service offering at all.

6. CONACOM's Intervention: Analytical Framework and Recommendations

18. CONACOM made two specific recommendations:

- To replace rigid standardisation with a comprehensive technical study, applying a "model or efficient firm" methodology, that would take into account different

[13] Board of Directors Opinion D/03/2022, dated 18 April 2022, pp. 7–15.

population ranges and the characteristics of each district (surface area, socioeconomic conditions) for both wired and wireless access.[14]

- To allow market operators and affected citizens to participate in the process of drawing up the fee-setting regulations, in line with the principle of regulatory transparency.[15]

7. CONATEL Resolution No. 3523/2024, Following CONACOM's Intervention

19. On 23 December 2024, the Board of Directors of CONATEL approved Board Resolution No. 3523/2024, "Approving the procedure for determining the minimum amount payable as licence, authorisation, licence extension and licence renewal fees under the party-initiated request regime".[16]

20. The Resolution expressly repeals Resolutions No. 2635/2021, 2756/2021 and 1007/2022 — the measures analysed in CONACOM's Opinion D/03/2022 — and replaces the two-tier population scheme with an individualised table of minimum fee amounts (*Montos Mínimos por Derecho*, MMD) for more than 300 municipalities across the country, further differentiated by technology.

21. This Resolution has CONACOM's Opinion D/03/2022 as its antecedent, and the case is therefore presented as evidence of regulatory convergence between the competition authority and the sectoral regulator. The contrast between the two texts is telling: the Resolution repeals exactly the resolutions to which CONACOM had objected, abandons the binary population criterion identified as the source of the disproportionality, and adopts precisely the district-by-district granularity that CONACOM had recommended as an alternative to rigid standardisation.

8. Relevance of Competition Advocacy in Sectoral Regulation

22. The restriction on entry did not originate in anticompetitive conduct by economic agents, but in a technical rule of the telecommunications sector. This particularity called for an approach centred on assessing the competitive impact of the regulation in force, rather than on investigating and sanctioning market conduct.

23. The use of geographically disaggregated quantitative evidence, rather than national aggregates, made visible an effect that a national-level analysis would have diluted: the specific comparison between two cities in the interior of the country, Itá and Katueté, was the piece of evidence that made the disproportionality tangible to the sectoral regulator itself.

24. Meticulous advocacy work, grounded in a framework of necessity, proportionality and non-discrimination and in verifiable data, resulted in effective regulatory change two years later, protecting the possibility of entry and continued operation of SMEs such as small-scale ISPs in the interior of the country.

[14] Board of Directors Opinion D/03/2022, dated 18 April 2022, p. 14.

[15] Ibid., p. 18.

[16] Available (in Spanish) at: https://www.conatel.gov.py/wp-content/uploads/2025/01/2024-rd-3523.pdf

25. Paraguay's experience in the internet access sector shows that competition advocacy can act as an effective counterweight to sectoral regulatory decisions that, without any anticompetitive intent, create disproportionate barriers to entry for SME.