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(1997)

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Executive Summary

1. In 1997, the Federal Competition Commission (the Commission) concluded the drafting of the Regulations to Implement the Federal Law of Economic Competition (FLEC), in order to promote further transparency and guidance in the enforcement of the Mexican competition legislation.
2. The number of cases reviewed in 1997 increased significantly compared to the previous year. Cases concerning monopolistic actions and other restrictions to competition increased 103.4 percent and those concerning merger notification increased 50.7 percent. Some of the significant cases are: (i) the ex-officio investigation for alleged price predation in the chewing gum market; (ii) the merger in the tobacco market between British American Industries Plc and Empresas La Moderna, S.A. de C.V.; and (iii) several recommendations to local governments to eliminate restrictions affecting interstate trade.
3. Regarding advocacy efforts, the Commission played an active role in the promotion of competition in sectors recently opened up to private participation and in strengthening the co-ordination mechanisms with regulatory agencies. Within this process, the Commission contributed to the drafting of the regulatory framework for satellite communication and local telephony.
4. With respect to privatisation and license granting, the Commission contributed to ensuring an efficient and non discriminatory allocation of assets and licenses by evaluating the participation of parties in public bidding and by establishing restrictions to the amount of assets which can be acquired by a single participant.
5. Important efforts were made to increase the transparency in the enforcement of the FLEC. For this purpose, the Commission made improvements to its Internet page and organised a seminar on competition policy. Another event that contributed to the promotion of Mexico's competition policy was the in-depth examination held in February 1997 before the Committee on Competition Law and Policy of the OECD.
6. The Commission continued the consultation process which has been established by the FLEC, through which agents may clarify their questions concerning the enforcement of competition legislation.
7. In addition, during 1997, it became possible to charge a fee for the analysis undertaken by the Commission regarding merger notifications and the authorisation of agents to participate in public bidding.
8. As to financial resources, the Commission's 1997 budget reached a figure of \$6.8 million USD.

I. Changes to Competition Laws and Policies

1. Summary of the new provisions of competition law and related legislation.

9. In 1997, the Commission concluded the drafting of the Regulations to Implement the FLEC (Regulations), which were issued in 1998, in order to promote further transparency and guidance in the enforcement of the Mexican competition legislation. The new Regulations provide further accuracy regarding the time limits established for the proceedings that may be initiated according to the FLEC. They also clarify important concepts, such as the different types of monopolistic actions prohibited by the

competition law, as well as the criteria applied for defining the relevant market and for determining the existence of market power. These criteria expressly recognise that the Commission will take into account procompetitive effects produced by efficiency gains in the evaluation of relative monopolistic actions and mergers.

10. In order to enhance transparency and public awareness of competition law, the Regulations establish that, in addition to the annual reports, the Commission will publish regularly a gazette including a description of cases decided by the Commission. Moreover, the initiation of the Commission's investigations will be announced in the Official Gazette of the Federation, making reference to the markets where alleged monopolistic actions and forbidden mergers are taking place. This is aimed at encouraging economic agents to collaborate in the investigations.

11. On another issue, the Federal Law of Duties (*Ley Federal de Derechos*) was amended to enable the Ministry of Finance (*Secretaría de Hacienda y Crédito Público*) to charge a fee for the analysis undertaken by the Commission regarding mergers and the authorisation of agents to participate in public bidding.

II. Enforcement of Competition Laws and Policies

1. Legal proceedings against anticompetitive actions

a) Summary of activities (statistics)

12. In 1997, the Commission gave course to 60 proceedings against monopolistic actions and other restrictions to competition: 35 were ex-officio investigations and 25 were private complaints. A total of 52 cases were concluded: 13 cases were subject to penalties or recommendations; in 16 cases the alleged actions were not found; 8 cases were withdrawn; in 1 case the Commission did not find any violations to the FLEC; and 15 cases were dismissed for being inadmissible.

b) Description of significant cases

(i) Monopolistic Actions

Corredores Públicos of the Federal District vs College of Public Notaries of the Federal District, Undersecretary for Legal Affairs of the Department of the Federal District (DDF), and the Director General of the Public Register of Property and Commerce of the DDF.¹

13. *Corredores Públicos* of the Federal District filed a complaint against the College of Public Notaries of the Federal District, the Undersecretary of Legal Affairs of the Department of the Federal District (DDF), and the Director General of the Public Register of Property and Commerce (the Public Register) for making it impossible for the *Corredores* to have their commercial acts recorded, as a result of pressure exerted by the Public Notaries on the said authorities of the Federal District.

14. The Public Register was refusing to record instruments notarized by *Corredores Públicos*, despite an official communication of the Ministry of Trade and Industrial Promotion (SECOFI) sent to the Director General of the Public Register, which stated that: (i) commercial acts related to real property

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notarized by *Corredores Públicos* were being recorded by all Public Registers of the different states; (ii) the argument regarding the supposed unconstitutionality of the Federal Law regarding *Corredores Públicos* (*Ley Federal de Correduría Pública*, LFCP) and its regulations, with respect to the *Corredores Públicos*' capacity to intervene in commercial acts related to real estate does not have sufficient legal grounds, and (iii) the federal courts had decided largely against the supposed unconstitutionality of the LFCP and its Regulations.

15. The Commission considered that Public Notaries compete among themselves and with *Corredores Públicos* in the service of the notarisation of commercial acts. Therefore, both participate in the same relevant market. It also determined that Public Notaries had market power due to their capacity to fix prices.

16. The Commission decided to impose an economic penalty on the College of Public Notaries and on the Public Notaries involved in the anticompetitive actions. As to the Public Register's refusal, the Commission considered that it did not constitute a monopolistic action since, in this case, the Public Register was acting as an authority. Nevertheless, it issued a recommendation to the Public Register so that it would follow SECOFI's interpretation of the LFCP and accede to record acts notarized by *Corredores Públicos*.

Market allocation: Ex-officio investigation in the market for tortillas

17. The Commission initiated an ex-officio investigation regarding an alleged anticompetitive agreement between local *tortilla* producers of the city of Felipe Carrillo Puerto in the state of Quintana Roo, supported by the municipal authorities. The purpose of this agreement was to allocate sections of the *tortilla* market and prevent the entrance of other competitors, namely those who provided home delivery services.

18. The Commission proved the existence of the agreement and penalised the economic agents involved. It also issued a recommendation to the Government of the State of Quintana Roo to prevent the municipal authorities from supporting this type of actions in the future.

Ex-officio investigation for alleged predatory pricing in the chewing gum market

19. The Commission's February 8, 1996 decision regarding Chicles Canel's SA de CV (Canel) against Chicle Adams, S.A. de C.V. (now Warner Lambert) established that no penalty would be imposed on Warner Lambert, since the existence of relative monopolistic actions was not proven. However, to prevent predatory behaviour, which was not excluded, the Commission warned Warner Lambert to refrain from any action that could unduly harm competition in the chewing gum market. In 1997 an ex-officio investigation was initiated to further explore the chewing gum market in order to uncover alleged monopolistic actions between May 1994 and April 1996.

20. The Commission confirmed Warner Lambert's dominance in the chewing gum market, where its share is in between 65.5 percent and 72.7 percent. There was a significant price disparity between its products, Chiclets-4, and Clarks which pointed out Warner Lambert's price fixing capacity. It was also found that Warner Lambert was pricing below its average costs and that Canel's losses were caused by Warner Lambert's conduct.

The Commission imposed a fine on Warner Lambert and enjoined it to stop predatory pricing in its product.

Oxígeno y Acetileno, S.A. de C.V. vs Quimobásicos, S.A. de C.V.

Oxígeno y Acetileno S.A. de C.V. (OASA) filed a complaint against Quimobásicos S.A. de C.V. (Quimobásicos), arguing that the company was carrying out relative monopolistic actions by refusing to sell refrigerating gas (CFC-12 y 22), despite their sale agreement.

21. The Commission determined that Quimobásicos had market power but the alleged action was not proven. Nevertheless, in order to protect competition the Commission ordered Quimobásicos to confirm in writing the terms under which it will sell its products to OASA.

(ii) Restrictions to interstate trade

22. The Commission concluded three ex-officio investigations regarding barriers to interstate trade in San Luis Potosí, Sonora and Sinaloa. In the three cases the Commission issued recommendations to state authorities which were accountable for such restrictions.

Recommendation issued to the Government of the state of San Luis Potosí

23. The Commission initiated an ex-officio investigation against the Government of the state of San Luis Potosí. It found that several municipal authorities were imposing the obligation to pay for labeling all types of fresh meat coming into San Luis Potosí.

24. Mexican sanitary regulations govern the transit of animal products within the country. These regulations do not provide for local labeling requirements. Consequently, the Commission issued a recommendation to the Government of San Luis Potosí, to eliminate the labeling obligation, as it was hindering the interstate trade of fresh meat.

2. Mergers and acquisitions

a) Statistics on number, size and type of mergers examined under competition laws

25. In 1997 the Commission proceeded to the analysis of 212 mergers and acquisitions: 189 of these cases were pre-merger notifications, 22 were ex-officio investigations, and one originated as a complaint. The Commission concluded a total of 219 cases: 192 of which were approved, 20 were subject to conditions, 2 were disallowed, and 5 were dismissed or withdrawn by the parties.

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b) Summary of significant cases

Clear Channel Communications, Inc. (Clear Channel)/Grupo Acir Comunicaciones, S.A. de C.V. (Acir)

26. Clear Channel and Grupo Acir filed a pre-merger notification in which Clear Channel would acquire 40 percent of Acir's capital stock. Clear Channel is a US company that operates radio-broadcasting stations (AM-FM) and TV broadcasting networks in the US. Acir is a Mexican holding involved in broadcasting and other communication services.

27. The relevant market is composed of several telecommunication services provided in different geographic areas of Mexico, namely pay TV (MMDS and cable), radio broadcasting, DTH and trunking. Since Clear Channel does not have the authorisations needed to operate radio or TV systems in Mexico, the Commission considered that Acir's market share would not change with the proposed deal. Instead, it would increase its efficiency through the acquisition of additional resources. The transaction was approved as filed.

British-American Tobacco Industries Plc (British American)/ Empresas La Moderna, S.A. de C.V. (La Moderna)

28. British American filed a pre-merger notification on the acquisition of La Moderna's assets related to the tobacco industry.

29. The Commission considered the Mexican tobacco market to be a duopoly. However, there was far enough rivalry between the participants, as to assure a fair competition. The market structure would not change since British Tobacco did not participate in the Mexican tobacco industry.

30. Based upon these facts, the Commission decided to authorise the business deal as filed.

Procter & Gamble Company (P&G Co)/Fábricas de Papel Loreto y Peña Pobre (FLPP) KCM/Crisoba/Copamex S.A. de C.V.

31. Following the Kimberly Clark (Mexico) (KCM)/Crisoba (Scott Paper's Mexican subsidiary) merger in 1996, the relevant market for the production and distribution of tissue paper and its products had undergone substantial changes. On that occasion, the Commission imposed several conditions to reduce KCM's market power and to facilitate the entrance of new competitors into the market. KCM's share was limited to 50 percent in the tissue paper market as a result of the enforced divestiture of the assets required to produce a minimum of 67,000 tons of tissue paper.

32. This situation encouraged P&G Co and Copamex to seek more competitive positions. On one hand, P&G Co and FLPP notified the Commission their intention to merge while on the other hand, Copamex notified its intention to acquire KCM/Crisoba's assets to be divested according to the conditions imposed by the Commission on the KCM/Crisoba merger. Both operations were approved as filed.

Sigma Alimentos, S.A. de C.V. (Sigma)/Zwanenberg México, S.A. de C.V. (Zwan)/Quesos la Caperucita, S.A. de C.V./ Arosa, S.A. de C.V.

Sigma, Zwan, Quesos la Caperucita, and Arosa filed a pre-merger notification. Sigma would acquire 100 percent of Zwan's capital stock and its trademarks, as well as the trademarks owned by Quesos la Caperucita and Arosa.

33. The relevant market of the proposed operation was the production and distribution of cold cuts, mainly the market for ham and sausages, within the country. Sigma controls 38 percent of the national supply of cold cuts. It sells these products through all kinds of food stores, including supermarkets. Zwan sells its products only in supermarkets. The proposed merger would give Sigma and Zwan a joint market share of 42 percent of the cold cuts sold in supermarkets. Kir Alimentos, S.A. de C. V., its main competitor, would maintain a market share of 21 percent. As to the market shares in ham sold in supermarkets, Sigma-Zwan would have 42 percent and Kir 15 percent. The rest of the market is divided among 400 minor competitors focused on a regional level.

34. The Commission concluded that the following elements would give Sigma power to fix prices or restrict supply in the relevant market without competitors being able to offset such power:

- Sigma's market share in the relevant market;
- Sigma's ownership over Mexico's main distribution network for refrigerated food; and
- the fact that the transaction would allow for the accumulation of important trademarks within Sigma.

35. Consequently, the Commission opposed the proposed transaction as it would diminish competition in the relevant market and endanger the process of competition and freedom of access.

III. The Role of Competition Authorities in the Formulation and Implementation of Other Policies

36. The Commission, in accordance with the Mexican Government's efforts to encourage the development of efficient markets in sectors recently opened up to private participation, issued opinions regarding public administration policies, programs, laws and regulations. Moreover, the Commission currently participates in the following inter-ministerial committees, in order to protect competition against possible anticompetitive effects of administrative measures:

- Foreign Trade Commission (Comisión de Comercio Exterior).
- Consulting Committee for the Opening of Local Telephone Services (Comité Consultivo para la Apertura de los Servicios de Telefonía Básica)
- Inter-ministerial Privatisation Commission (Comisión Intersecretarial de Desincorporación)

37. The Commission also played an active role in introducing competition rules into the allocation of licenses and permits. It received 140 notifications of agents interested in participating in public auctions for the licensing of radio frequencies and the distribution of natural gas, as well as for the privatisation of

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port administration agencies, port terminals, railways, and satellites. A total of 154 cases were concluded, of which the Commission opposed two participations and conditioned one.

(i) The role of the Commission in the formulation of other policies

Regulations for satellite communication

38. The Commission promoted the incorporation of competition criteria into the new regulatory framework for the opening of satellite communication to private investment. The chief competition provisions included in such regulations are the following:

- The Ministry of Communications and Transport may impose special obligations on satellite operators that have market power as according to a previous assessment of the Commission. This is intended to prevent abuses from dominant satellite operators.
- Satellite operators and service suppliers should provide good, competitive services and refrain from behaving in a discriminatory manner or cross-subsidise services through their subsidiary firms.
- In order to prevent satellite users from accumulating satellite capacity which may be used to impede the entry of new competitors, the “use it or lose it” principle was introduced. Thus, any economic agent who acquires satellite capacity should use it within 180 days, otherwise he will lose his right to another economic agent who claims the use of such capacity.
- Parties interested in a license to exploit the emission and reception of satellite signals associated with foreign satellite systems allowed to operate in Mexico should obtain the Commission’s authorisation.

Local telephony rules

39. Local Telephony Rules incorporate several of the Commission’s recommendations to promote competition in local telephone services. The main competition provisions are:

- The specification of a procedure to impose specific obligations on those operators that have market power, according to the Commission’s formal statement on this matter.
- The definition of local telephone service areas is based on switching groups. The number of local service areas will be gradually reduced from 1,500 to 485 within a five-year term after the rules enter into force. This measure diminishes the investment requirements for new carriers and so therefore reduces barriers to entry into this market while promoting scale economies in the use of capacity. It also increases competition among local and long distance carriers.
- A settlement granting every local operator which is terminating an international call, a transfer payment. This transfer payment represents an important income for the local operator. Therefore, it was deemed convenient to ensure that the same treatment be applied to any company offering local telephone services in order to avoid unequal or discriminatory conditions that may harm competition in the local telephone service market.

- The obligation to register at least five unbundled interconnection components. The rules establish that the payment received for services such as billing, collection and directory information provided with interconnection services, shall be charged on an “unbundled basis”. Individual rates for each component should be registered before the Federal Telecommunications Commission. Services shall be provided at non-discriminatory rates, making no distinction among service suppliers performing similar operations, including its subsidiaries or affiliates, or its own operations according to a separate accounting basis.
- The introduction of “calling party pays” system in the mobile service. In countries where this charging system has been implemented, mobile telephony has developed much faster than in Mexico where the receiver pays the call.

Telmex’s market power

40. The Federal Law of Telecommunications empowers the Commission to determine if carriers have a dominant position. Based upon such judgement, the Federal Telecommunications Commission may impose specific obligations upon the dominant firm with respect to tariffs, quality and information, in order to facilitate the entrance of new competitors and enhance competition in telephony markets.

41. Based on an ex-officio procedure, the Commission determined that Telmex has a dominant position in the following markets: (i) local telephony, (ii) national long distance services, (iii) international long distance services, (iv) access or interconnection services, and (v) transport services between cities.

42. The markets for local telephony, national long distance services, and international long distance services are aimed at the final consumers, while the markets for access or interconnection services, and transport services are directed at other carriers.

43. The Commission considered that Telmex virtually owns all of the local public networks and provides local and interconnection services. As to long distance services, the building of new networks by entrants was also considered. However, the extension of their infrastructure is still modest compared to Telmex’s network. Thus, long distance companies rely on Telmex’s capacity for their access to final consumers and to provide long distance services in some of the routes.

44. Telmex’s vertical integration and its ability to fix prices without other competitors being able to offset such power, as well as the existence of important entry barriers, were taken into account in determining its dominant position.

(ii) Public auctions

Railways

45. According to the Railroad Service Law (*Ley del Servicio Ferroviario*) and the privatisation of railways now in process, the licenses to build and operate railways shall be granted through a bidding process which requires interested parties to compete in technical matters as well as monetary bids. Licenses may only be granted to Mexican companies. Foreign investment may not exceed a 49 percent of

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stock ownership, unless an authorisation is obtained from the National Commission of Foreign Investment (*Comisión Nacional de Inversiones Extranjeras*).

46. During the period under review, the Commission issued several opinions concerning the participants in the privatisation of four railways: (i) Coahuila-Durango; (ii) Nacozari (iii) Pacífico-Norte (FPN), and (iv) Tijuana-Tecate. The Commission and the Ministry of Communications and Transport, agreed to include the following rules to protect and enhance competition:

- Ferrocarril del Noreste, S.A. de C.V. (FNE) was allowed to acquire a maximum five percent stock participation in FPN. On the other hand, FPN and its shareholders were not allowed to acquire more than 5 percent of the companies having the licenses for the south-east main railway route.
- The obligation to grant tracking and haulage rights was imposed on certain situations in order to facilitate the operation of and access to railways. The license terms for the Coahuila-Durango railway included such obligations aimed at avoiding market power abuses.
- The obligation to notify the Commission about any merger among railway licensees on main railroads was included.

47. Based on the foregoing, the Commission decided not to oppose or place conditions on the participation of the parties in the above mentioned railway privatisation.

Licenses to exploit frequencies of the radio spectrum (telecommunications)

48. The Federal Law of Telecommunications establishes that licenses to exploit frequencies of the radio spectrum will be granted through auctions. Interested parties require the Commission's authorisation.

49. In 1997, the following frequencies of the radio spectrum were auctioned:

- I. microwave point to point and point to multiunit in the 10.1-10.7, 14.5-15.3, and 21.2-23.5 GHz frequencies;
- II. fixed wireless, mobile access services and personal communication services (PCS) in the 1850-1900 MHz, 3.4-3.7 GHz, 440-450 and 485-495 MHz frequencies;
- III. pay TV and radio provided through microwaves in the 2500-2690 MHz frequencies.

(i) Microwave point to point and point to multipoint

50. Microwave point to point and point to multipoint systems may be used in several services but mainly in the establishment of high capacity links between two or more points, through the following frequencies: 10.1-10.7, 14.5-15.3, and 21.2-23.5 GHz.

51. The auction for point to point and point to multipoint frequencies was aimed at building a capacity supply market. Restrictions were included to ensure the presence of at least five operators in every geographical market, with each acquiring no more than 20 percent of the spectrum auctioned. These conditions would contribute to develop competition in the markets for high capacity connections.

52. The Commission considered that the above conditions and competition principles were sufficient to protect the competition process. Consequently, it decided not to oppose the economic agents' participation in the auctioning process.

(ii) Wireless fixed or mobile access services

53. The auction of frequencies for wireless access services promotes competition in local telephone markets. This auction involved licenses in the 3.4 -3.7 GHz, 440-450, 480-495, and 1850-1990 MHz, which are intended for the development of fixed and mobile wireless, as well as of PCS services.

54. The Commission and the Federal Telecommunications Commission agreed to establish certain limits for the accumulation of frequencies, in order to prevent the anticompetitive accumulation of licenses auctioned. Therefore, it was determined that no economic agent could acquire: (i) more than 35 MHz in the 824-849/869-894 MHz and of 1850-1990 MHz frequencies, in any region of the country; (ii) more than 65 MHz in the 440-450 and 480-495 MHz and of 3.4-3.7 GHz frequencies, in certain regions of the country; and (iii) more than one license in the 1850-1990 MHz frequencies and more than two licenses of the 3.4-3.7 GHz frequencies in the same region.

55. In addition, the Commission decided to impose several conditions on Telmex's participation, as it had already determined that Telmex has market power in the markets for local telephony and interconnection. It also considered that although long distance operators are expected to participate in the markets for local telephony, in the near future this will not be an important factor. Hence, Telmex is not expected to reduce its market power in the short run.

Telmex's participation was conditioned on the following terms:

- if Telmex obtained any of the licenses auctioned, it would be subject to an audit process in order to review the conditions of competition in the market. For this purpose, it would have the obligation to provide all the information requested by the auditor.
- It would also have to respect a waiting period of at least 24 months before starting its commercial operations (except for rural telephony services) in order to ease the entrance of new competitors to the market.

(iii) Pay TV and radio provided through microwaves in the 2500-2690 MHz frequencies (MMDS).

56. The auction of frequencies of the radio spectrum for the transmission of pay TV and radio, comprised 46 regional markets, where these services may be provided through microwaves (MMDS) or cable. When the auction was announced there were 190 companies with cable networks in 190 cities, and licenses for MMDS systems had already been granted throughout the country. The geographic areas for these companies, were also served by DirecTV and Sky, which provide DTH services throughout the

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country. Competition among companies that provide pay TV services is limited, as they are aimed at populations with different income levels.

57. In particular, Cablevisión, S.A. de C.V., has an important presence in the pay TV market, however it does not have an outstanding presence except in the Federal District, where no licenses were auctioned. Furthermore, the auction rules established that cable and MMDS operators already providing these services were only allowed to apply for licenses in those geographic areas which were not covered by their previous licenses.

58. Under these circumstances, the Commission resolved not to oppose or condition the participation of any of the bidders.

Satélites Mexicanos, S.A. de C.V. (Satmex)

59. The regulations for the opening of satellite communication to private investment, as well as the international framework, established an adequate background to divest Satélites Mexicanos, S.A. de C.V. (Satmex) through a public auction procedure, in which the Commission's approval prior to participation was required.

60. In its competition analysis, the Commission considered the following elements:

- the market for fixed satellite services for the transmission of television, radio, voice and data signals in private and public telecommunication networks;
- the participation of new competitors in the short run, particularly US competitors, following the reciprocity agreement concerning the transmission of satellite signals, negotiated in 1997 by Mexico and the US;
- the international services offered by Intelsat;
- the commitment to open satellite services within the framework of the General Agreement in Trade and Tariffs (GATT). Mexico agreed to open its voice and data satellite networks services by the year 2002;
- the potential competition between satellite services and those offered through optic fiber and microwave, considering that there existed no connections between the companies applying to participate and those who own the relevant networks;
- the existing competition between foreign members of the groups taking part in the auctions.

61. Based on the above, the Commission concluded that none of the agents' participation in the public auction to obtain Satmex would hinder competition, as none would acquire market power by winning the license. Consequently, it decided not to oppose or condition their participation.

Ports

62. The Commission plays an active role in promoting competition when ports are privatised or when port licensees auction their rights to exploit and manage port terminals. It was established that

economic agents would not be allowed to accumulate (directly or indirectly) 2 or more terminals that provide the same kind of service in the same seacoast.

63. In 1997, the Commission did not oppose or place conditions on the participation of any of the parties involved in the auctions to operate the multiple service port terminal of Ensenada and for acquiring 100 percent of the capital stock of Puerto Vallarta's Integral Port Administration, as it considered that the competitive provisions included in the licenses are sufficient to ensure competition.

Permits to distribute natural gas

64. All agents interested in participating in the public auctioning of exclusive distribution permits for natural gas, require the Commission's approval. In addition, when a holding company obtains a permit through a public auction, its subsidiaries are required to notify the Commission whenever the accumulation exceeds the thresholds established in Article 20 of the FLEC (regarding pre-merger notification).

65. The Commission evaluates these notifications in order to determine the market share of the participants, the existence of market power and evidence of possible restraints to competition. For this purpose, it considers the parties' participation in other geographic areas, the vertical and horizontal integration of agents, the competition background, and the identity of actual or future natural gas dealers within the area covered by the concession.

66. In 1997, the Commission evaluated competition aspects regarding public auctions of exclusive distribution permits for natural gas in the following areas: Toluca; Hermosillo-Guaymas-Empalme; Chihuahua-Cuahutémoc-Anáhuac-Delicias; and Río Pánuco.

67. The Commission decided not to oppose or place conditions on any of the agents' participation in the auctions, as none would acquire market power by winning the permit.

IV. Resources of Competition Authorities

1. Overall resources

a) Annual budget

68. In 1997, the Commission's budget amounted to \$52 million Mexican pesos, which is equivalent to \$ 6.8 million US dollars.²

b) Number of employees:

69. The number of employees in the Commission has not changed significantly. As reported last year, since 1993, there have been approximately 165 employees. This total breaks down to 5 commissioners (including the President of the Commission), 16 senior officers, 66 medium level officers, 33 technicians, and 45 members of the clerical staff.

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70. Among the five commissioners, there are 3 economists and 2 lawyers. In the Commission as a whole, there are approximately 30 economists, 30 lawyers and around 50 officials who have other professions, such as engineering, mathematics and international studies. The rest of the personnel is in charge of secretarial assistance and related services.

2. *Human resources:*

71. In general terms, the Commission has the following structure:

- The Plenum: The Commission's decision-making body which is comprised of five Commissioners, including the President of the Commission.
- The Executive Secretariat: Responsible for operational and administrative co-ordination.
- The General Directorates: In charge of the Commission's operational work.

a) *Enforcement against anticompetitive actions*

72. The Plenum is always directly involved in the enforcement against anticompetitive actions. In addition, approximately 24 officials of the Directorate of Investigations and the Directorate of Legal Affairs are directly involved in the investigation and prosecution of anticompetitive actions, and 12 officers from the Directorate of Economic Studies may be indirectly involved by supporting the investigations and prosecutions.

b) *Merger review and enforcement*

73. In addition to the Plenum, generally 13 officials of the Concentrations Directorate are directly involved in the evaluation of mergers and may be supported by 12 officials of the Directorate of Economic Studies.

c) *Advocacy efforts*

74. As mentioned before, the Commission's advocacy efforts have mainly focused on the promotion of a competitive environment by the dissemination of the FLEC and by participating in the formulation of other policies. The President of the Commission has direct responsibility in this area. He is supported by the Directorates under the co-ordination of the Executive Secretariat.

75. In total, approximately 49 officials are involved in the elaboration of opinions regarding new regulations, trade policy, and other government programs, which are reviewed by the Commissioners.

V. **Summaries of References to New Reports and Studies on Competition Policy Issues**

76. The Commission continues to publish annual reports regarding its activities. In 1997, it issued a report covering the second half of 1996, which includes articles by the Commissioners. The following reports will cover calendar years.

77. For further promotion, since 1997 the Commission's reports are available at its web site, which also contains summaries of its resolutions, as well as statements regarding the criteria applied when enforcing the law.

Notes

1. Public Notaries are individuals vested by local governments with the authority to attest civil acts and may also participate in the notarisation of commercial acts. On the other hand, the Federal Government may appoint individuals authorised exclusively to attest commercial acts. These Public Notaries for commercial purposes are known as "Corredores Públicos".
2. In 1997 the average exchange rate was \$ 7.5994 Mexican pesos for one US dollar. (See International Financial Statistics of the IMF).