



**COMPETITION COMMITTEE**

**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS  
IN MEXICO**

**2003**

**Executive Summary**

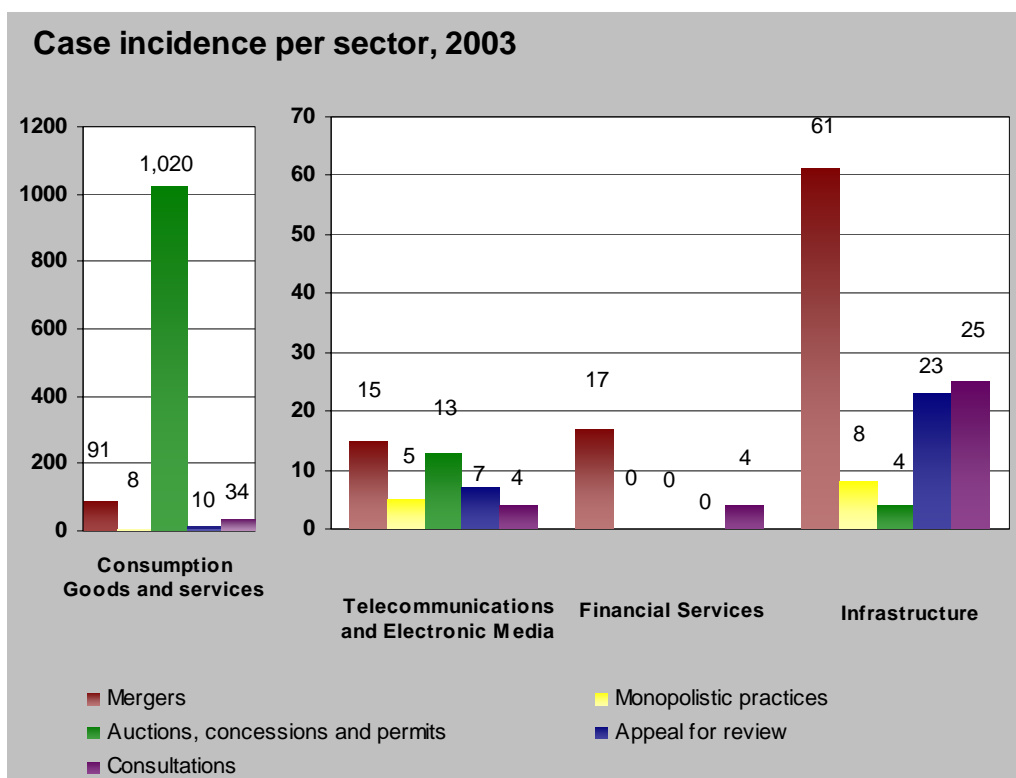
1. In 2003, the Federal Competition Commission (FCC or Commission) concluded 1,450 cases and reviewed 1,592 files. These figures represent a 3.7% increase with respect to concluded cases in 2002 and a 2.8% decrease in files reviewed. As in 2002, *auctions, concessions and permits* account for the majority of concluded cases adding up to 1,122, most of which were notifications of economic agents interested in obtaining permits to carry out activities in the LP gas industry. Only fifty of the cases in this category did not involve LP gas but dealt instead with the natural gas industry.

2. The decreasing trend of merger review noted in previous years was also verified in 2003. Merger decisions added up to 196 cases, almost 25% less than the former year, one of which was blocked and two more were conditioned in order to preserve or restore competition in the relevant markets.

3. The FCC solved 33 complaints and 5 ex officio investigations regarding *monopolistic practices and other restrictions to competition*. Six of these decisions sanctioned relative monopolistic practices and a finding of bid-rigging. In addition the FCC issued a recommendation to eliminate an interstate trade barrier.

4. The remaining concluded cases comprise 44 *consultations* from economic agents and 50 *appeals for review*. No final decisions on assessments of *market power and competition conditions* in regulated sectors were issued during this year.

5. The graph below shows concluded cases classified by sector. It illustrates that over 90% of the former involved intermediate and consumption goods and services, including the LP gas notifications referred to above. Other consumption goods were chemical substances and oil by-products (22); food (17); and machinery and equipment (13). The rest of cases involved infrastructure (4.7%), telecommunications and electronic media (4.7%), and financial services (1.6%).



## **1. Changes to competition laws and policies, proposed or adopted**

### ***1.1 Summary of new legal provisions of competition law and related legislation***

6. A new legal provision of competition law was enacted on December 22, 2003 when the Congress passed a legislative reform to the credit institutions law, which empowers the FCC to declare the existence of effective competitive conditions in markets related to banking services. In addition, the FCC participated during the year in the ongoing review of several draft proposals to amend the regulatory framework of specifically regulated sectors, such as the telecommunications law, transport sector laws, the road transportation law and the railway transportation law.

### ***1.2 Other relevant measures, including new guidelines***

7. On August 21, 2003, the Plenum issued two new criteria regarding corporative re-structures exempted from notification. According to the first criterion an exemption applies if the re-structure occurs as a consequence of a merger that the FCC authorised within a three year period. The second criterion establishes the basis for indirect property analysis in these cases.

### ***1.3 Government proposals for new legislation***

8. The President's Office has identified areas of improvement to enhance competition policy and is developing a proposal to amend the Federal Law of Economic Competition. This proposal would focus on:

1. Strengthening the FCC's autonomy.
2. Extending general competition principles throughout all economic sectors.
3. Reinforcing preventive measures, as well as investigative and enforcement powers.
4. Enhancing the efficiency of administrative and judicial proceedings.

9. It is expected that this proposal would be submitted to the Congress during 2004.

## **2. Enforcement of competition laws and policies**

### ***2.1 Action against anticompetitive practices, including agreements and abuses of dominant positions***

#### ***a) Summary of activities of:***

##### **Competition authorities**

10. In 2003, 64 files were opened against anticompetitive practices and inter-state trade barriers and 38 were concluded. Initiated cases represent a significant (56%) increase compared to 41 filings during previous year, however the number of cases concluded dropped by 44%.

11. Thirty three of the concluded cases were filed as complaints and the remaining 5 were initiated as ex-officio investigations. Six of the decisions issued included either fines or recommendations from the FCC.

##### **Courts**

12. The FCC has promoted a public scrutiny of its decisions and their validation by the judicial power. As a consequence of this scrutiny, 706 *amparo* actions had been filed against FCC actions until

December 2003. The FCC has strongly defended its decisions and the constitutionality of the Federal Law of Economic Competition (FLEC) before the Supreme Court of Justice of the Nation (SCJN). It has obtained 19 favourable sentences confirming the constitutionality of FLEC provisions. However, the SCJN has also issued three unfavourable decisions which represent an institutional challenge and puts forward the need for a legal reform aimed at strengthening FCC powers.

*b) Description of significant cases, including those with international implications*

Coca Cola thesis contradiction

13. In January 2002, a complaint was filed challenging the Coca-Cola Group (CCG) with the alleged commission of relative monopolistic practices in the market of carbonated drinks. The proceeding, conducted by the FCC in compliance with the FLEC and its Regulations, was challenged with over 60 *amparo* actions by several firms of the CCG in District Courts of Administrative Matters.

14. The most relevant suits were filed by Coordinación Industrial Mexicana, SA (CIMSA) and Grupo Continental, SA (GCSA). The Judge of the First Judicial Instance considered that the evidence provided, such as the acts of the FCC plenum sessions, the particular votes of each member, and opinions, reports, and studies prepared by FCC technical areas were not matter of legal action and therefore could not be used as evidence. CIMSA and GCSA appealed this decision at several Collegiate Tribunals which decided upon this issue in contradictory ways.

15. A complaint was filed before the Supreme Court of Justice of the Nation (SCJN) denouncing this contradiction in order to establish a criteria on the acceptability of certain internal documents as evidence. The SCJN considered that the votes and Plenum acts did not constitute part of the decision appealed, and that there was no obligation to admit documents prepared in support of the proceeding as evidence in an *Amparo* action. Thus, the SCJN established the right to present evidence related to the controversy when suing for individual rights but this did not occur in CIMSA and GCSA actions.

Club Cadena Maíz Tortilla (Camato)

16. In May 2001, the FCC resolved that Camato was responsible for absolute monopolistic practices comprising price fixing of Masfresca tortilla among tortilla retailers in Mexico City. Camato appealed the resolution in a judicial proceeding, challenging the FCC with breaching its legal rights for ignoring the franchising contract it held with tortilla stores. The courts considered that such contractual relationship existed and ruled in favour of Camato.

17. Subsequently, the FCC appealed the resolution before a higher court and argued that Camato failed to demonstrate the constituent elements of a franchise contract. On September, 2003 the court ruled in favour of the FCC and overruled the previous judicial decision, stating that the existence of a franchise contract had not been demonstrated and, therefore, Camato and the tortilla stores should not be considered as a single economic agent.

Centro de Telefonía Celular

18. In November 2000, a complaint was filed before the FCC challenging Centro de Telefonía Celular with relative monopolistic practices in the relevant market of mobile telephone equipment and services in the city of Monterrey. During the proceedings, the FCC issued information requirements to Centro de Telefonía Celular, stating that, in case of non-compliance, a fine would be applicable as foreseen in article 34 of the FLEC. In response, Centro de Telefonía Celular, filed a complaint before the courts, arguing the referred article was unconstitutional and hence also the FCC's powers deriving from it.

19. On September 2003, the SCJN resolved that FCC's compulsory measures did not breach the Constitution, since the FLEC is a Law in legal form and substance and is therefore not subject to the limitations imposed by the Constitution to other types of norms. The Supreme Court further acknowledged compliance of the FLEC with the constitutional principle of legal certainty because, in the one hand, it clearly draws the limits of the authority's powers, and on the other, fines are subject to an explicit maximum. Thus the Supreme Court decided that the sanctioning powers of the FCC are properly limited in such a way that the private party's penalty is not caused by an arbitrary action, but by a legally justified one.

#### Wal-Mart de México, SA de CV

20. In May 2002, the Commission initiated an ex-officio investigation into presumed relative monopolistic practices regarding the imposition of prices and other conditions that suppliers must observe when selling their products to self-service stores. Some suppliers expressed that Wal-Mart de México, SA de CV (Walmex) imposed obligations to set higher minimum resale prices to Walmex competitors and threatened suppliers to stop buying their products if they failed to observe this requirement. Such practices would indeed imply that self-service stores competing with Walmex would buy products in disadvantageous conditions.

21. The relevant market was defined as the acquisition, distribution and commercialisation of goods by self-service stores with a national graphic dimension. In general terms, self-service stores perform retail commerce aimed at family purchases and provide a wide variety of products. This characteristic distinguishes them from other sort of stores, such as government, department or traditional stores.

22. During the investigation, the Commission required diverse information from the main self-service stores and from several goods suppliers. The FCC also did some independent price and supply monitoring for representative products, which was complemented with other price studies performed by the consumer protection authority.

23. During substantiation of the investigation proceeding, Walmex committed to indicate by written fashion to its purchasing departments that negotiations with suppliers must strictly be based on the costs and conditions pertaining to their clients' interests and avoiding to interfere with and suggest costs that suppliers should negotiate with other chain stores. This commitment lead the Commission to close the file.

#### *Interstate trade barrier*

24. In May of 2002, the Asociación de Engordadores de Ganado Bovino del Noreste, AC (Northeast cattle breeder association, Asociación) filed a complaint challenging the Nuevo León state authorities with unjustified restrictions to enter and move cattle in this territory. These restrictions were contained in a ruling on the introduction of cattle published in the official gazette of the state that was intended to regulate zoo sanitary conditions regarding tuberculosis of cattle arriving from other states.

25. The first agreement impeded the entry and exit of cattle not complying with certain requirements which were more restrictive than federal official standards. Thus, the agreement was deemed to constitute alleged interstate commerce restrictions in terms of article 14 of the FLEC.

26. A new agreement issued on October left the former without effects. The new agreement eliminated the restrictions for cattle leaving the state. The Commission considered that this new agreement was a first step towards the adequacy of Nuevo León state norms with the federal legislation for the control of bovine tuberculosis. It thus issued an opinion to the authority of the Nuevo León government about the convenience of adjusting the new agreement to the current federal standards regarding the mobilisation of

bovine cattle, specifically regarding the classification of zoo sanitary conditions originating entities, as well as the necessary requirements to realise that mobilisation.

## **2.2 Mergers and acquisitions**

### *a) Statistics on number, size and type of mergers notified and/or controlled under competition laws*

27. Merger cases, including review of notified mergers and ex-officio investigations, dropped significantly in 2003. 197 cases were initiated and 196 were concluded, compared to 229 and 260 in 2002, respectively. The decisions issued included 186 authorised mergers, one objected and two conditioned.

28. Notified mergers added up to 192 cases, 44.3% of which had structural effects on markets and the remaining 55.7% did not. Those with structural effects included 35 horizontal transactions, 6 vertical integrations, and 44 diversifications. Mergers without structural effects included 88 corporative restructures and 19 increases of share participations.

29. Mergers with international dimension added up to 60, which included 34 transactions between multinational enterprises with subsidiaries in Mexico, 24 foreign direct investments, and 2 voluntarily notified transactions.

### *b) Summary of significant cases.*

#### **Tyson Foods Inc/Tyson de México**

30. Tyson de México (TM) notified a corporative restructure and a stock acquisition that would allow Tyson to acquire stocks of TM, owned by third parties.

31. The relevant market was defined as the generic chicken market in the national territory. Due to price differences and consumers' preferences beef, pork and turkey were not considered substitutes of chicken. The national dimension of the market was determined because of the existence of a five year safeguard on imports of chicken legs and thighs originating in the USA.

32. The Commission also considered the potential effects of imports of fertile eggs for chicken breeding and the access to inputs by the parties and their competitors was deemed acceptable.

33. During the investigation, the Commission proved that Tyson had made several former operations that allow it to consolidate in the national market, along with leader firms Bachoco and Pilgrim's.

34. No anticompetitive effects were foreseen to result from the transaction and hence the Commission decided to authorise the notified operation and fined Tyson for failing to notify previous transactions within established deadlines.

#### **Bayer/SC Johnson & Son, Inc**

35. SC Johnson & Son, Inc (SCJ) notified the international purchase of the business of development, production and commercialisation of domestic insecticides and personal repellents, domestic use cleaning products, environmental deodorants and air-fresheners (Negocio Flora), property of Bayer, AG (Bayer). The relevant markets were defined as those in which the parties coincided: the production and commercialisation of domestic insecticides and personal repellents.

36. The geographic dimension of domestic insecticides and personal repellents was defined as national due to important price differences in domestic insecticides and personal repellents as well as

regulatory requirements to produce, commercialise and import these products among Mexico, the USA and Canada.

37. The merger between SCJ and Bayer raised the concentration index beyond the threshold established by the FCC. In addition several barriers could impede the entry of new firms to the relevant markets. These barriers included advertising investments to introduce products and to maintain a significant share and limited access to efficient distribution channels.

38. The Commission decided not to authorise the notified concentration since it would empower SCJ to unilaterally fix prices or to substantially limit the supplies in the relevant markets.

39. The parties appealed this decision and proposed to separate a trademark of the Flora business and to undertake other measures to preserve competition. The Commission considered these proposals would attenuate the degree of concentration and allow competitive prices and supply, and thus conditioned the concentration to the compliance of the conditions presented by the parties.

#### Procter & Gamble / Wella

40. Procter & Gamble Company notified the acquisition of stocks from Wella, derived from the international operation notified to the competition authorities of the USA and the European Union.

41. The following relevant markets were defined: hair shampoo; hair conditioners; hair stylers, hair tints; fragrances and cosmetics. Although there is a wide variety of products that may be used for the same purposes, a significant price difference across segments was found. This led the Commission to analyse the merger under two scenarios: a) generic markets for shampoo, conditioners, hair stylers, tints and fragrances and b) segmented markets based on prices.

42. The geographic dimension of the relevant markets was defined as national since: i) products are distributed with a national criteria; ii) retailers buy the relevant products within Mexican frontiers and iii) imports comprised recognised trademarks and are distributed through well-established channels throughout the country.

43. Under these two scenarios, the merger between Procter and Wella in Mexico did not exceed the concentration index thresholds except for the low price tints segment. However there are potential competitors in the high price tint segment and thus the Commission solved to authorise the concentration.

#### Estrella Blanca / Pullman

44. The merger notified by Autobuses Estrella Blanca and Pullman consisted of an association of those enterprises to create Unebus, which would render passenger road transportation services in direct routes. The merging parties argued that the transaction would produce efficiency gains because it would enable passengers to satisfy their demand for long routes with reduced transfer costs.

45. The relevant market was defined as federal passenger road transportation services rendered within the country, and each route connecting a pair of cities was considered a particular geographical market in itself. The FCC carried out an assessment of the merger effects in Unebus routes, as well as in other related markets and found out that the merging parties: i) were the two leading passenger road transportation firms ii) were vertically integrated into the upstream market for bus terminal services; and iii) render services in routes that are parallel to those which Unebus was intended to serve, furthermore, they were the only competitors in several of these routes. Thus, even if Unebus were to create new routes, its lack of independency from the merging parties would probably result in a lack of competition among

them. Therefore, the FCC decided that the notified merger would very likely damage competition in the relevant markets and decided not to authorise the transaction.

#### Innova

46. In 1997, Innova S de RL (Innova) consulted the Commission whether future social capital increments might be considered monopolistic practices or notifiable mergers according to the FLEC. The Commission informed Innova that the consulted transaction did not constitute sanctionable monopolistic practices because it did not threaten competition as such. However it did imply a notifiable merger whenever it surpassed the thresholds established in article 20 of the FLEC. Innova appealed for reconsideration but the FCC confirmed its decision.

47. Innova S de RL (Innova) filed a suit challenging the FLEC with a lack of definition of concepts and unequal treatment because it required firms to notify capital increases. In September 2003 the judicial authority denied the amparo action and referred the case to the SCJN to review the constitutionality of articles 16, 20 and 21 of the FLEC. In September of 2003, the SCJN resolved these articles should not be considered imprecise and therefore were not unconstitutional. It further clarified that the constitutionality of legal provisions is not conditioned to a detailed description of the terms it contains since legislations are not dictionaries and the meaning of words is subject to interpretation. The SCJN also affirmed that the arguments of Innova about violation of its guarantees regarding equal treatment were not founded since this principle does not imply that those in different situations be treated equally but that the same treatment should be granted to those in similar situations.

#### 48. Sugar commercialisation Trust

49. On September 2001, the Federal Government expropriated 27 sugar mills and grouped them into a public trust named Fondo de Empresas Expropiadas del Sector Azucarero. On January 2003, a merger notification was filed before the FCC regarding the creation of another public trust, Fideicomiso Comercializador (Fico), aimed to create a sole commercialisation channel for the joint production of the expropriated mills.

50. The FCC assessed the impact of the transactions in two market segments, standard and refined cane sugar commercialisation, due to differences in their production technology and in demand. Refined sugar requires additional processing and is an input for several food industries, while standard sugar is sold for final consumption. The geographic dimension of the market was established as national, due to the existence of normative entry barriers that hinder sugar imports and the use of high fructose corn syrup as a substitute input for industrial purposes.

51. The FCC considered that Fico risked becoming an agent with substantial market power because it would commercialise nearly 50% of the total domestic sugar cane yield. However, the FCC determined that the creation of Fico was necessary to commercialise sugar produced by the expropriated mills, which in turn ensures domestic sugar supply and is thus intended to reinforce a future competitive environment. Therefore, the FCC authorised the merger, subject to divestiture of Fico after a two year period, which may only be extended on justified basis.

### **3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies**

#### **3.1 Regulatory framework**

52. The National Program for Economic Competition 2001-2006 (PNCE) entrusted to the FCC was published in June 2003. This program had a favourable opinion from the Finance and Economics

Ministries because it aims at the objectives set out in the National Development Plan 2001-2006: to promote efficiency, sustained, high quality market growth and social welfare in Mexico.

53. The PNCE formalises and reaffirms competition policy as a high priority public policy because it directly affects competitiveness. It comprises the elements needed to foster competition and market functioning. It also sets out objectives, strategies and guidelines for FCC actions to contribute to accomplish the goals of the PND and the FLEC.

54. Several cooperation and consultation mechanisms established with other federal government agencies facilitate coordination of competition policy with industrial, regulatory, trade and consumer protection policies. In 2003, the Inter-ministerial Divestiture Committee enjoined the responsible authorities to refer two transactions undertaken by state-owned firms to the consideration of the FCC. On the one hand, the creation of a trust for commercialisation of sugar produced by 27 expropriated mills, referred to in mergers section of this report. On the other, the purchase of shares of Mexico City's Airport Group by Aeropuertos y Servicios Auxiliares.

55. The Federal Regulatory Reform Commission referred to the FCC the draft modifications to the Regulations to Liquefied Petroleum Gas and a proposal to broaden the concession titles for the radio electric spectrum. In response the FCC issued recommendations to prevent unnecessary restrictions or risks to competition.

56. The Commission participated in the revision to several Mexican official standards in force to decide whether they should be ratified, modified or cancelled. One of the most important reviews comprised standards regarding the maximum weight and dimensions of vehicles travelling along federal roads and bridges. It also participated in the revision of several draft standards including safety specifications and test methodologies for car and light truck wheels; guidelines for the use of compulsory trackage and haulage rights among Mexican railroad concessionaries; and guidelines for the use of interconnection, interlineal traffic and terminal services among the Mexican railroad concessionaries.

### **3.2 *Privatisations, licenses and permits granted by the Federal Government in regulated sectors***

#### **3.2.1 *Liquefied natural gas re-gasification facilities***

57. Five economic agents filed notices of their intent to seek permits from the Energy Regulatory Commission (CRE) to build and operate sea port terminals equipped with facilities to receive, store and re-gasify liquefied natural gas. Four notices dealt with projects located on the north shore of Baja California and one in Altamira port, Tamaulipas. The agents applying in Baja California were: Gas Natural Baja California, S de RL de CV (Marathon); Chevron Texaco de México, SA de CV (Chevron Texaco); Energía Costa Azul, S de RL de CV (Sempra); and Terminal de LNG de Baja California, S de RL de CV (Royal Dutch/Shell). The latter was also the only applicant for Altamira port.

58. The relevant services rendered by a sea port re-gasification terminal comprise transportation and commercialisation of natural gas.

59. Baja California

60. Due to its location, the capacity of the re-gasification projects and existing transport facilities in Baja California, the geographical dimension of the relevant markets was defined as the north region of the state. In addition, re-gasification facilities could also satisfy natural gas demand from the south of California, USA. Any of these projects would broaden natural gas transport infrastructure in Baja California and promote enhanced fuel supply within the region.

61. Altamira port, Tamaulipas

62. Royal Dutch/Shell filed an application to participate in the public auction to be called by the Federal Electricity Commission (FEC) to award contracts to supply natural gas from a re-gasification plant in Altamira port, to the states of Tamaulipas, Nuevo León, east of San Luis Potosi and north of Veracruz. This project would allow the entry of a new participant in the relevant markets for natural gas transport and commercialisation services in the northeast of the country, competing with Pemex Gas, Petroquímica Básica and other agents.

63. Two significant benefits derive from the analysis of sea port terminals with re-gasification plants: i) it provides certainty about the transmission of benefits of the new infrastructure and increased natural gas supply to society and, ii) it anticipates the regulator about possible risks to competition.

64. The Commission issued favourable opinions to firms that had notified in a timely fashion their interest in obtaining permits, and provided equal opportunities to all parties interested in obtaining a permit that included Baja California.

### 3.2.2 *Auctions for independent energy production contracts*

65. The FEC called for international auctions to grant contracts for electricity capacity generation commitments and related electricity sales, under an independent electricity producer scheme (PIE) in three investment projects, namely, Valladolid III, Altamina V and Tuxpan V.

66. Iberdrola México, SA de CV requested a FCC opinion as a prospective participant in all three auctions. TransAlta México, SA de CV and an economic group comprising Mitsui & Co, LTD and Valladolid International Investments, S de RL de CV, applied for the Valladolid III auction process; and the group constituted by Mitsubishi Corporation and Kyushu Electric Power Company Incorporated, filed a similar application for Tuxpan V.

67. The relevant market defined in each case was electricity generation capacity and delivery of related electricity to the switched transmission network.

68. The following factors were considered: (i) the volume of electricity generation and capacity to be delivered to the FEC is established in a long term contract; (ii) fees are set through an auction process; (iii) contracts obtained by winners are compulsory; (iv) the Energy Ministry is empowered to determine future generation capacity increases or substitutions which must be granted through auctions; (v) the FEC is the sole energy purchaser and holds the largest generation share; and (vi) granting the contracts implies the creation of new supply.

69. In an electricity restructuring scenario<sup>1</sup> the PIE scheme addresses the need to ensure that private sector entry into electricity generation does not result in anticompetitive market structures. The FCC estimated that the effects of an eventual reform on PIEs would occur starting 2008. However, the FEC is expected to maintain a major market share by that year and hence private generators are not envisaged to cause market power problems. Consequently, the FCC issued favourable opinions to all prospective participants in the referred auction processes.

### 3.2.3 *Satellite services*

70. In compliance with a judicial resolution, the FCC commenced a new proceeding to issue opinions regarding the granting of concessions to exploit broadcasting and reception rights for frequencies associated to foreign satellites. These opinions had been requested by Telesistema Mexicano, SA de CV

(Telesistema); Sistemas Satelitales de México, S de RL de CV (Sistemas) and Controladora Satelital de México, S de RL de CV (Cosatmex).

71. The judicial resolution declared Satmex and Enlaces interested parties, according to article 50, section III of the Regulations to the FLEC, and therefore granted them hearing in the proceedings. In their testimony Satmex and Enlaces claimed the existence of inequalities in the fees charged for the concession granted to Satmex and those paid by the new service providers, which unduly displace the former from the market. In addition, these unequal conditions also affect concessions for frequencies associated to foreign satellites with lower capacity, including Enlaces. These agents also considered that the Communications and Transport Ministry incurred in relative monopolistic practices by imposing unequal conditions in the relevant market comprising the rights to exploit the Mexican radio-electric spectrum regarding frequency bands related to geo-stationary satellites and rights to broadcast the corresponding signals.

72. The FCC analysed the applications for favourable opinions as well as Satmex and Enlaces' allegations, taking into account that the relevant market corresponds to that of satellite capacity provision in Mexico. It also considered the procompetitive effects derived from the entry of new agents into this market and that the legislation foresees proceedings to address complaints regarding unequal conditions alleged by Satmex and Enlaces.

73. On November 2003, the FCC decided to issue favourable opinions to Telesistema, Sistemas and Cosatmex and notified Satmex about its right to file a complaint under a different proceeding before the FCC.

#### **4. Resources of competition authorities**

##### **4.1 Resources overall (current numbers and change over previous year):**

###### *a) Annual budget (in your currency and USD)*

74. The 2003 annual budget exercised by the FCC was 163 million Mexican pesos. This total is equivalent to 15.1 million US dollars<sup>2</sup> and represents a 6.8 percent nominal increase with respect to 2002.

###### *b) Number of employees (person-years)*

75. In December 2003, total FCC staff added up to 174. This figure comprises 120 professional members: 40 lawyers, 36 economists, and 44 members from other professions including accountants and commerce, business administrators, engineers, public administrators, actuaries, communications, political science and software and networks experts. Clerical and support staff added up to 54 employees.

##### **4.2 Human resources (person-years) applied to:**

###### *a) Enforcement against anticompetitive practices*

76. Enforcement activities are carried out by the Plenum, comprised of the five Commissioners and their advisors and 31 officials from the Operational General Directorates and the Executive Secretary's office, totalling 45 people.

###### *b) Merger review and enforcement*

77. Besides the Plenum, merger review is undertaken by six members of the Mergers General Directorate, two employees of the Investigations General Directorate who investigate transactions that fail

to be notified, two more from the Legal Affairs General Directorate and one from the Executive Secretary's office. This adds up to 25 people.

c) *Advocacy efforts*

78. Advocacy activities performed by the Plenum are supported by eight officials of the General Directorate for Privatisation and Auctions processes; eight officials from the General Directorate for International Affairs; and three members of the General Directorate for Regional Coordination.

**4.3 *Period covered by the above information: January through December 2003***

**5. Summaries of or references to new reports and studies on competition policy issues**

79. The 2002 Annual Report describes the outputs of the FCC during that year and analyses the statistical data contained in the final annex. A separate chapter analyses selected decisions that clearly illustrate the benefits derived from economic efficiency for consumers and provide guidance on the elements considered for their resolution.

80. FCC also published a book entitled "The first decade of the Federal Competition Commission" on the occasion of its tenth anniversary, containing six essays, a statistical appendix and the results of a transparency survey. The first essay, prepared by a prominent journalist, deals with the meaning of competition. The FCC's President prepared an evaluation of the progress made in the Commission's operation and proposes the direction that both the Commission and competition policy should take in the future. Three Commissioners contributed with papers addressing the experience from a decade of analysing competition; the autonomy of the Commission; and international aspects of competition policy. Finally, the head of the legal directorate elaborated on the federal judicial branch rulings on economic competition.

81. In addition three issues of the Gazette (numbers 12, 13 and 14 ) were published including final decisions issued from January through December 2002. Gazette 12 contains a paper on international merger review; Gazette 13 includes a paper on Competitive aviation prepared by the working group on aerial competition; finally the paper contained in Gazette 14 deals with information exchanges among competitors and absolute monopolistic practices.

**NOTES**

1. 2001 proposed Presidential reform.
2. An average annual exchange rate of 10.792 pesos per US dollar was used to calculate this amount.

*Annex 1.*

**FEDERAL COMPETITION COMMISSION**  
**Files Processed 2002-2003<sup>1</sup>**

	2002	2003
<b>MERGERS</b>		
<b>Cases filed and <i>ex officio</i> investigations initiated</b>	<b>229</b>	<b>197</b>
Notifications	219	189
Ex officio investigations	1	3
Complaints	9	5
<b>Concluded</b>	<b>260</b>	<b>196</b>
No objection	238	186
Conditions imposed	5	2
Opposed	2	1
Others <sup>2/</sup>	15	7
In process	<b>30</b>	<b>31</b>
<b>PRIVATISATIONS, CONCESSIONS AND PERMITS</b>		
<b>Cases filed</b>	<b>929</b>	<b>995</b>
<b>Concluded</b>	<b>783</b>	<b>1,122</b>
No objection	25	37
Conditions imposed	0	0
Opposed	3	0
Others <sup>2/</sup>	755	1,085
<b>In Process</b>	<b>170</b>	<b>43</b>
<b>MONOPOLISTIC PRACTICES AND OTHER RESCTRCTIONS TO COMPETITION</b>		
<b>Cases filed and <i>ex officio</i> investigations initiated</b>	<b>41</b>	<b>64</b>
Ex officio investigations	7	10
Complaints	34	54
<b>Concluded</b>	<b>68</b>	<b>38</b>
Penalty or recommendation	23	6
Concluded in advance, based on Art.41 of the RLFCE	6	0
Others <sup>2/</sup>	39	32
<b>In Process</b>	<b>32</b>	<b>58</b>
<b>CONSULTATIONS</b>		
Filed	40	45
Concluded	40	44
In process	1	2

**FEDERAL COMPETITION COMMISSION**  
**Files Processed 2002-2003<sup>1</sup>**

	<b>2002</b>	<b>2003</b>
<b>MARKET POWER AND COMPETITION CONDITIONS</b>		
Filed	2	0
Concluded	1	0
In process	3	3
<b>APPEALS FOR REVIEW</b>		
Filed	122	52
Concluded	247	50
In process	3	5
<b>TOTAL</b>		
Cases filed	1,363	1,353
Concluded	1,399	1,450
In process	239	142

1/ Figures only include administrative proceedings concluded by the FCC.

2/ It includes closed, withdrawals and dismissed proceedings.