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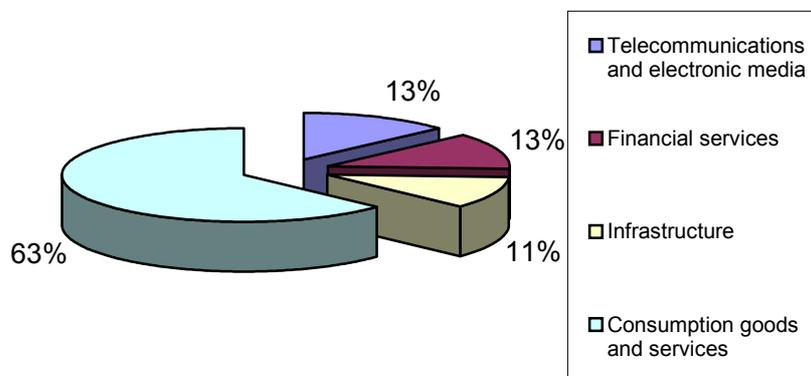
(2001)

Executive Summary

1. During 2001, the Federal Competition Commission (CFC) reviewed 720 cases, implying a 30.7 percent increase compared to the previous year. Mergers and acquisitions account for the majority of them totalling 324, while 107 cases related to privatisation processes or concessions and permits for providing public services. Actions against anticompetitive practices, including interstate trade barriers, added up to 58, appeals for review amounted to 192 files and only three referred to the assessment of market power and competition conditions in regulated sectors. The number of cases concluded in 2001 were 600, thus exceeding in 13.4 percent the corresponding number for the previous year.

2. The telecommunications sector account for 13.3% of all cases decided by the Plenum, the financial sector for 12.6% and utilities subject to sector specific regulation for 11%. Among the latter are cases involving ports, railways, natural gas and airports. The remaining 63% involved a wide variety of consumption goods and services.

**Cases decided by the Plenum¹
sector occurrence**



3. The activities undertaken by the CFC comprised merger review, interstate trade barriers and anticompetitive conduct, including agreements restricting competition and abuse of dominant position by large companies such as breweries and telephony carriers, state-owned companies and local governments, among others. Important activities were also carried out regarding basic consumption goods such as tortilla, milk and poultry.

4. Cases concluded regarding mergers added up to 311. Of these, 51% had an international scope while the remaining 49% only had effects in domestic markets.

5. The CFC reviewed 13 cases concerning anticompetitive behaviour. Some of the practices investigated and sanctioned are: refusal to deal and exclusivity contracts (5), boycott (4), discrimination

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(3), horizontal price fixing agreements (2), bid rigging and interstate trade barriers (more than one practice may have been reviewed per case).

6. Competition advocacy efforts concerning sector specific regulation involved the CFC participation in the drafting of a new telecommunications law. The opinions issued were aimed at maintaining and expanding CFC's participation in the review of competition conditions in several procedures; ensuring flexibility to allow technological convergence and avoiding excessive regulatory burdens and at clearly defining specific regulation to be applied to dominant carriers. Likewise, the CFC took part in the discussions regarding the draft regulations to the Natural gas and LP gas laws. The enactment of the three referred rules is still pending and the CFC continues to play a role in the corresponding drafting processes.

7. A comprehensive investigation into the LP gas market nationwide led the CFC to declare the inexistence of effective competition conditions in 20 regional markets for LP gas distribution. Following such a declaration the sector regulator is empowered to apply price regulation. In addition, the CFC initiated investigations regarding monopolistic practices and prohibited mergers in the LP gas market.

Changes to competition laws and policies, proposed or adopted

Summary of a proposal to amend the competition law

8. A proposal by some legislators to add a new Article 4 bis to the Federal Law of Economic Competition (LFCE) was not approved by the Congress. The addition proposed was to declare commercial airline services as a "priority area" for national development and as a public interest activity, to enable government investment in firms operating flag airlines, granting it with veto power against decisions taken by such firms and to empower the Ministry for Communications and Transportation to regulate flag airline tariffs. This amendment was intended to exempt commercial airline services from the LFCE and to allow the two largest airlines to become a flag carrier.

9. The opinion issued by the CFC regarding this proposal was that it should not be approved on the grounds of unconstitutionality and because of the adverse effects it would have on competition in the domestic airline industry.

Other relevant measures, including new guidelines

International antitrust co-operation

10. In November 2001, Mexico and Canada subscribed an agreement regarding the application of their competition laws intended to enhance cooperation and coordination in the enforcement as well as the prevention of anticompetitive activities in both jurisdictions. Approval by the Mexican Congress is still pending.

Enforcement of competition laws and policies

11. Action against anticompetitive practices, including agreements and abuses of dominant positions:

Summary of activities of competition authorities;

12. In 2001, the number of cases initiated against anticompetitive practices added up to 55, this represents a 5.2% decrease compared to 2000. However, 64 cases were concluded which implies a slight percentage increase (1.6 %) with respect to the previous year. (See Annex 1 for details).

Description of significant cases, including those with international implications.

Collusion

Price and output fixing in the citric acid market

13. The citric acid is mainly used as an input in several products such as food and drinks. The supply side of the production market is highly concentrated and imports provide an additional source of supply. Although there are some substitutes they present some disadvantages regarding citric acid.

14. The collusive practices affecting this market may have originated in other countries. Between June 1993 and 1995, Archer Daniels Midland and other enterprises pleaded guilty before the US Department of Justice for participating in price and production fixing in the international market for citric acid.

15. The effects of such conduct were investigated by the CFC under the FLEC. It was concluded that the agreement in the US aimed at eliminating competition among the economic agents participating in the citric acid market by fixing citric acid price, coordinating price increases and assigning sales volumes in the US and other countries including Mexico.

16. The CFC considered that there were enough elements to infer the existence of horizontal anticompetitive practices damaging the Mexican market through citric acid imports at the price concerted in the US. Archer Daniels Midland Company expressed its intention to suspend, withdraw and repair the practice's effects.

17. The CFC considered the proposed settlement unfeasible given that the practice was committed jointly with Haarmann & Reimer Corp. and F. Hoffmann – La Roche, Ltd. It was decided that the three enterprises were responsible of the investigated practice and a fine was imposed on each of them because of the damage caused to the Mexican market.

Price fixing in the pasteurised milk industry

18. In October 2000, the price of pasteurised milk raised nationwide with an increase ranging between 6.7 and 7.3 percent depending on the brand. The CFC deemed the potential existence of horizontal anticompetitive practices in the production, distribution and trading of industrialised milk. An *ex officio* investigation was initiated regarding presumed horizontal anticompetitive practices, concerning a collusion among economic agents participating in the processed milk market to fix sale prices.

19. The investigation revealed that Lala, Alpura, Pasteurizadora El Nayar, Pasteurizadora y Enfriadora de Lerdo, Monica's Food, Leche Queen, Latinlac and Ganaderos Unidos, performed anticompetitive practices in violation of article 8 of the FLEC, by celebrating contracts and agreements among competing economic agents aimed at fixing, raising, concerting or manipulating the sales price of industrialised milk nationwide. Consequently, such enterprises were summoned.

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20. According to article 41 of the Regulations to the FLEC¹, Lala voluntarily committed itself to notify before the CFC during three years the prices for each presentation of pasteurised milk as well as the dates and the increase rate. In the same way, it committed itself not to carry out any contracts or agreements with its competitors to prevent any anticompetitive practice which would infringe article 9 of the FLEC.

21. Additionally, the CFC imposed the following conditions on Lala:

- to provide the CFC with purchase prices of raw milk producers;
- to denounce before the CFC any anticompetitive practices it had knowledge of.

22. Alpura, Pasteurizadora El Nayar, Pasteurizadora Lerdo, Monica's Food, Leche Queen, Latinlac, Ganaderos Unidos and Pasteurizadora de Lerdo, adhered to the commitments presented by Lala, which were accepted by the CFC. Therefore, the investigation procedure was finished in advance, since the proposed commitments were considered convenient and feasible to survey the operation of the affected market during the following three years.

23. By accepting the proposed settlement the process of competition was restored, fostering the industry's productivity and protecting consumers.

Relative monopolistic practices

Refusal to deal in tortilla markets (Yucatán)

24. The CFC initiated an ex officio investigation into the market for production, distribution and commercialisation of corn flour for human consumption. The investigation revealed Harinera de Yucatán, a subsidiary of Grupo Industrial Maseca (Gimsa) had celebrated agreements with mill and tortilla associations in two municipal districts in Yucatán by means of which the former refused to sell flour and machinery to businesses located within a given distance from already established ones.

25. Harinera Yucatán was found to have market power in the regional market for production, distribution and commercialisation of corn flour, given its high market share and the fact that distribution channels represent important entry barriers. Furthermore, the CFC considered that alternative access to inputs by mills and tortilla producers was limited because their bargaining power is small given the low volumes these agents purchase and the existence of high tariffs on corn imported from North America.

26. Based on the above considerations, Harinera de Yucatán was found guilty of infringing the law and fined. In turn, the latter committed itself not to take action derived from the agreements and not to refuse dealing. Following a reconsideration appeal objecting the imposition of the fine, the CFC reduced the amount of the pecuniary sanction.

Exclusivity contracts in the distribution of beer.

27. In 1999, an investigation at national level was initiated in the market for beer distribution to determine the existence of anticompetitive practices regarding agreements entered by breweries with state or local authorities, among others, for the exclusive distribution of beer.

¹ Article 41 of the Regulations to the FLEC¹ establishes a mechanism to conclude investigations in advance.

28. The beer industry presents an important vertical integration, from raw material elaboration through beer distribution. In this industry, exclusivity contracts are a common practice which may originate competition problems in a highly concentrated market by foreclosing alternative supply to consumers.

29. The investigated breweries, Grupo Modelo (Modelo) and Cervecería Cuauhtémoc Moctezuma (CCM), asked for a six month period to analyse the exclusivity contracts in order to find a solution according to article 41 of the Regulations to the FLEC. The CFC agreed to conclude the investigation conditioned to re-initiating it if a diagnosis and a proposed solution were not delivered within this term.

30. CCM and Modelo recognised they had celebrated exclusivity contracts throughout the country to distribute and sell the different brands of beer they produce. Both economic agents offered to observe the following commitments:

- to immediately stop subscribing exclusivity contracts with local authorities aimed at excluding competing products from their jurisdiction; eliminate direct distribution; and encourage independent distributors to eliminate this practice;
- to stop renovating contracts in force upon expiration and to encourage their independent distributors not to renew similar contracts.

31. The mechanisms presented before the CFC by both economic agents, have the same scope, are verifiable and have the same immediate effect to hinder the expansion of the practice. Therefore, the CFC resolved that both commitments were convenient and feasible to solve the competition problems related to the exclusivity contracts.

Interstate trade barriers

Poultry products from Oaxaca

32. The chairman of the Poultry Association of Villaflores, Chiapas, brought to the attention of the CFC a writing indicating that a firm had been required to pay a fee for introducing and disinfecting poultry products at a plant and animal sanitary inspection gate in Oaxaca. The CFC initiated an ex officio investigation in order to determine undue interstate trade restrictions imposed by Oaxaca authorities regarding poultry products proceeding from Chiapas.

33. The enquiry into the legal framework revealed that the fee charged for poultry mobilisation from Chiapas to Oaxaca is not a federal requirement and therefore constitutes an over-regulation, in violation of the Constitution, that deters interstate trade. The CFC declared the existence of a barrier to interstate trade carried out by the government of Oaxaca, thereby contributing to the observance of Article 117 of the Mexican Constitution. The result was that consumers now benefit from a larger number of competitors and from a supply at lower prices and enhanced quality.

Summary of activities of courts;

34. During year 2001 the defense of CFC decisions before tribunals was significant. The sentences issued by judicial authorities contribute to clarify guidelines regarding CFC procedures and powers.

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35. Four of the sentences issued relate to appeals filed by Telmex alleging unconstitutionality against decisions issued by the CFC regarding: the CFC declaration of the former as an agent endowed with market power in five relevant markets; the admission of two complaints filed by a competing carrier and the imposition of a fine.

36. The first sentence establishes that Article 52 of the Regulations to the FLEC that refers to the reconsideration appeal, is constitutional and concludes that the CFC is the competent authority to solve competition matters. It further sets that all economic agents are subject to competition regulation, irrespective of the activity they develop, and that no exception applies to firms operating under a concession title. With respect to the President and Executive Secretary of the Commission, federal courts stated that they have the necessary powers to initiate investigations, and to perform information requirements and to summon agents involved in the relevant markets investigated.

37. As regards the administrative proceeding applicable to the investigation's process established in Article 33 of the FLEC, the Supreme Court established that it is in agreement with the requirements established to ensure an adequate defense, in terms of efficiency, security, effectiveness and timeliness.

38. Another sentence recognises the CFC is the technically and operationally autonomous organ responsible for the protection of competition by means of preventing and eliminating monopolies, monopolistic practices and restrictions to the efficient functioning of markets. It also recognises the powers the FLEC confers to it and clarifies the definition of economic agent as any person involved in economic activities including production, trade and consumption of a product, distinguishing between producers and consumers.

39. The sentences issued by the courts are favourable to the enforcement activities of the CFC and foster public knowledge about its powers and the legality of its actions.

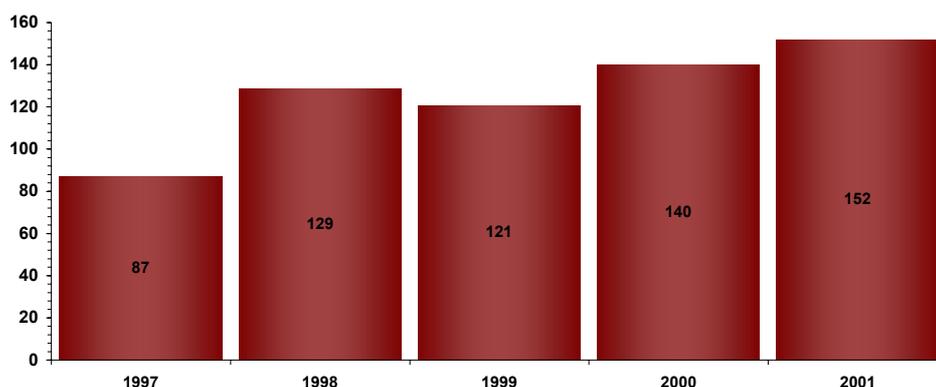
Mergers and acquisitions:

Statistics on number, size and type of mergers notified and/or controlled under competition laws;

40. Merger cases initiated in 2001, including notifications and ex-officio investigations were 324, while 311 were concluded. These figures represent increases of 14.1 and 12.7 percent compared to the previous year.

41. Concluded notified mergers, including those presented as notice, added up to 277 files, out of which 152 had an international dimension.

MERGERS WITH AN INTERNATIONAL DIMENSION



42. Of all the mergers reviewed, 134 were found not to have effects in the relevant markets, because they entailed either corporate restructurings or transactions to increase the firms' stocks. The remaining 143 mergers which were considered to have effects upon competition involved 74 horizontal transactions, 5 vertical mergers and 64 diversifications.

Summary of significant cases.

Banamex/Citigroup

43. Citigroup Inc. (Citigroup) and Grupo Financiero Banamex SA de CV (Banacci) notified their intention to carry out a merger comprising the whole range of their activities in Mexico. This transaction thus involved one of the largest worldwide financing institutions and the second largest Mexican one.

44. The CFC assessed the impact of this transaction in several markets: pension funds, consumption financing and auxiliary services for electronic payment processing. As a result of the operation Citibank's Garante pension fund administrator would concentrate with Banamex-Aegon, property of Banacci. Market shares in pension funds are restricted in terms of the number of registered subscribers one agent may hold. Therefore, the Commission ordered the divestiture of one pension fund administrator in order to prevent a single agent from obtaining an excessive market share and to preserve competition in this market.

45. Credit markets for consumption were defined to include car financing, consumption through credit cards issued by banks and department stores, and credit granted by wholesalers and retailers. The CFC decided that the merged agent should withdraw from a particular financial institution jointly owned by Citigroup and Grupo Financiero Bancomer, Banacci's main competitor, and hence ordered Citigroup to divest its share in the referred firm.

46. Finally, auxiliary services for electric payment processing are mainly rendered by two agents totally owned by financial institutions, given cost savings and synergies this scheme purports. Both, Banacci and Citigroup are main partners to these two firms. In addition, electronic payment faces high

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entry barriers derived from strong restrictions to the entry of agents outside the financial sector. Therefore, the Commission ordered divestiture of Banacci's shares in one of these firms, Servicios Electrónicos Globales. However this condition was appealed by Banacci, which proposed to allow the merged agent to select which technological platform it would retain, given the existing price regulations applied by the SHCP to the referred firm. The Commission accepted the suggested proposition and the parties agreed to withdraw from of these firms within a year following the CFC's decision.

Telefónica/ Telefónica Móviles/ Motorola

47. The transaction notified by Telefónica/ Telefónica Móvil/ Motorola consisted in the acquisition by Telefónica Móvil, a subsidiary of the Spanish firm Telefónica, of Motorola's share in three cellular telephony subsidiaries and 90% of another such firm. The acquired firms hold concessions to render cellular telephony services in four out of eight regions comprising the national market for cellular telephony. Following competition cooperation provisions contained in the UE-Mexico FTA, this operation was notified to the European competition authority.

48. The transaction was authorized by the CFC because it was deemed not to affect competition in the relevant market for cellular telephony, since it involved the substitution of one foreign agent for another one. Telefónica's presence in Mexico previous to the transaction was mainly in the provision of Internet and data transmission services, and indirectly for long distance telephony. Generally, the CFC has considered that the presence of new entrants strengthens competition within the referred marketplace, where competitors face Telmex, the dominant carrier that holds concessions to render cellular telephony services on a nation wide basis.

Mexalit / Grupo Eureka / Eureka Servicios Industriales

49. Mexalit, notified its intention to acquire Eureka, a transaction that concerned the market for building materials, with the aim to reduce its distribution costs. The CFC analysis focused on the markets where the involved companies competed: fibre cement sheets, fibre cement tubes and polyethylene containers.

50. The relevant markets were defined taking into account the closer substitutes for each of these three products, with a domestic dimension. Although the merger joined the only two producers of fibre cement tubes and sheets, the CFC considered the fact that fibre cement products are being displaced by cheaper substitutes. PVC and high density polyethylene tubes are substituted for fibre cement tubes while fibre cement sheets face strong competition from galvanized sheets, particularly for industrial roofing. Furthermore, no import tariffs apply to these goods and the largest US producer is planning to enter the Mexican market. Accordingly, concentration indexes calculated for these relevant markets were found to conform to the criteria established.

51. As regards the relevant market for polyethylene containers, it was found that there are several well-known competitors. Thus, the CFC decided no competition problems would result from the merger in these markets as the joint company would not be able to raise prices as a result of increased market power.

Assa Abloy/Phillips

52. The proposed Assa Abloy/Phillips merger had effects in the relevant market of locksmith, padlocks, hinge and accessories nationwide. As a result of the merger Assa Abloy A.B. would own four of the six best accepted brands nationwide namely Phillips, Scovill, Tesa and Dixon. The remaining two brands, Fanal and Lock, would have remained property of two other competing firms.

53. The market for locksmith, padlocks and similar products is highly concentrated and the consumer's acknowledgement of brands is important for a successful competition. The analysis of the proposed merger revealed that it would affect consumers choice by reducing purchasing alternatives from only three different firms. Besides, the agent would be able to raise prices or restraint providers while other companies would be unable to prevent or deter such conducts. The merger would also facilitate the possibility of cross subsidies within (e.g. padlocks) and among categories (e.g. padlocks and hinges) and increase negotiating power regarding distributors.

54. The CFC decided to object the proposed merger. However, an appeal for review was presented by the company, restating the terms of the merger by proposing a divestiture of the brands Scovill and Dixon to eliminate the anticompetitive effects of the transaction. The CFC considered that under these new conditions consumers would have more alternatives concerning brands and competitors, keep unmodified competition conditions and allow prices to remain at competitive levels.

55. The industry of mechanical door-locksmith, as well as related products (padlocks and accessories) is a mature market where products are distinguished by design. However, security is an important feature for consumers.

56. The acknowledgement of brands by consumers is a fundamental variable at the moment of purchasing. A competition environment allows consumers to chose among different trademarks while being certain that their preferred brands fulfil design and security requirements. Such conditions should be maintained through the conditions imposed by the CFC to the parties involved in the transaction.

57. Based on the former considerations, the CFC determined to modify its resolution and approve the transaction.

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

Advocacy

Regulatory framework

Opinion regarding the Draft Federal Telecommunications Law

58. During 2001, the Commission was involved in the Drafting of a new Telecommunications Law, the enactment of which is pending. The main proposals issued by the CFC entail:

- Include the CFC's participation in the granting, cession or transference of concession titles, as well as maintain and expand its participation in the cession of permits and concessions so as to include all cessions pertaining to the relevant market.
- Define the legal status of Internet service providers which are currently not considered as concessionaires of public telecommunications networks.
- Allow flexibility in concession titles in order to permit a nimble use of facilities for carriers to take advantage of technological convergence.

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- Increase the permitted share of foreign investment so as to reduce barriers to entry of new agents in order to enhance market competition.
- Expressly state that the CFC is exclusively empowered to declare agents endowed with substantial market power before imposing specific obligations and to suspend such declaration. In this respect, eliminate Local Service rules that contain guidelines for the CFC to determine whether a carrier has substantial market power.
- Define minimum standards for the specific regulation to be imposed on a dominant operator, upon a CFC declaration of substantial market power.
- Avoid an excessive regulatory burden for non-dominant agents.
- Expressly state that the CFC is the sole organ empowered to establish the occurrence of monopolistic practices, in terms of the LFCE and to sanction these practices accordingly.
- Increase the availability of the radioelectric spectrum for carriers to use technology that allows rendering several telecommunication services by using one band width frequency.
- Establish a transparent and efficiency-based mechanism to fund universal service obligations, avoiding cross subsidisation or unreasonable regulatory costs that may hinder the efficient development of participants.
- Settle a cooperation agreement between Cofetel and CFC.
- Establish that Telmex is dominant in five markets and will thus be subject to dominance obligations.
- Establish by law that recurrent infringement of the LFCE is a cause to revoke a concession title.

Reforms and additions to the Draft Natural Gas Regulations

59. The CFC issued opinions regarding competition aspects contained in the Draft modifications to the Natural Gas Regulations (RGN) put forward by the energy regulator, Comisión Reguladora de Energía (CRE). These modifications mainly concerned the regulation of liquefied natural gas; improved conditions for exclusive distributors; enhance the regulator's powers regarding transactions involving transference of permits among agents and increased protection to companies affected by a permit holder's failure to provide open access.

60. In the CFC's opinion:

- the new provisions intended to improve conditions for distributors by imposing restrictions would discriminate against new entrant self-supplying firms, while
- the provisions proposed to apply rules on seriousness guarantees and to review the supply and investment commitments agreed by auction winners may affect efficacy and certainty of the auction process.

61. Therefore, the CFC emphasised the need for a thorough evaluation of costs and benefits of these measures, and to assess the convenience of expanding the protection of distributors in order to foster the necessary development of the natural gas market. From the competition point of view, self-supplying firms should provide access to its pipelines to distribution companies. This measure would generate competition, foster market efficiency and simplify regulation.

62. The CRE proposed to expand its powers so as to review transactions between firms by means of which they exchange control over a company holding a permit to provide natural gas services. This power would imply the duplication of the merger review procedure carried out by the CFC under the FLEC and thus the CFC highlighted the need to coordinate with the CFC in order to avoid duplicating work.

63. The CFC also proposed measures to strengthen the compulsory character of its opinions regarding the applications of agents for permits to develop storage, transportation or distribution activities granted directly.

64. Finally, given the lack of precision regarding the term “effective competition conditions” used to target those services that require specific regulation, the CFC suggested to change this wording for “substantial market power” in Article 12 of the RGN. The latter concept is clearly defined in the FLEC and its regulations and thus will be better understood.

Assessment of competition conditions

65. The CFC undertook an ex officio investigation to determine the existence of competition conditions in the liquefied petroleum gas (LP gas) industry. It resolved that effective competition does not exist in 20 of the 35 relevant markets for distribution of LP gas. The former markets comprise the regions of Guerrero Interior, South Veracruz, South Chihuahua, La Laguna, San Luis Potosí, Yucatán, Sinaloa, Sonora, Tabasco, Jalisco, Chiapas, Oaxaca, Baja California-San Luis Río Colorado, Son. Durango, Morelos, Baja California Sur, Campeche, Colima, Nayarit and Quintana Roo.

66. According to the Regulations on Liquefied Petroleum Gas (RGLP), the CFC’s resolution is necessary for the Ministry of Energy to apply the appropriate price regulation in the relevant market in which conditions of effective competition do not exist. Seeking to facilitate the transition from the traditional system of price controls to one of competitive prices in LP gas distribution the CFC recommended that state, municipal and federal authorities carry out a coordinated review of the regulations and practices that limit the entry of competitors into the market, in order to solve the problem represented by LP gas distribution completely.

67. The resolution of the CFC recommends that priority should be given to the prompt implementation of measures aimed to promote competition-friendly market structures for LP gas distribution, with a view to consolidate structural change in the LP gas industry. In its decision, the CFC recognised that the Ministry of Energy has already taken important efficiency enhancing actions regarding the transportation market, the diversification of supply sources to the private sector and the opening up of the LP gas distribution market.

68. The aforementioned resolution was appealed by the companies concerned and currently the CFC is also investigating monopolistic practices and prohibited mergers in the LP gas market.

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Privatisations, licences and permits granted by the Federal Government in regulated sectors

Satcorp

69. The CFC issued a non favourable opinion regarding the request filed by Satcorp to exploit the rights to use frequency bands to transmit and receive related to foreign satellite systems having coverage over the Mexican territory.

70. Satcorp holds a concession to exploit broadcasting rights for similar bands provided by Mexican satellites and belongs to an entrepreneurial group whose activities include pay TV signal commercialisation and distribution. In addition, the CFC is currently investigating Satcorp's holding with alleged monopolistic practices.

71. Had Satcorp obtained a favourable opinion, its holding group would have increased its satellite capacity to receive TV signals. The CFC considered this situation would facilitate the referred firms to incur in anticompetitive practices in related markets, such as pay TV programming, commercialisation and distribution of signals. The reconsideration appeal filed by Satcorp against this decision was considered unfounded.

72. In this case the argument for issuing a non favourable opinion was of a preventive nature, as an economic group that allegedly was transgressing the law would increase its productive capacity.

Opinion requested by the telecommunications regulator regarding granting Radiomóvil Dipsa a concession.

73. Radio Móvil Dipsa (Telcel) filed a request before the telecommunications regulator (Cofetel) to obtain a concession to render domestic and international long distance services, to sell and lease its network's capacity and to commercialise capacity acquired from other carriers, among other services.

74. In its analysis, the CFC took into consideration that:

- Despite the divestment of cellular business in America Móvil SA de CV, Telmex and Telcel belong to the same economic interest group, and must accordingly be evaluated as a single economic agent.
- Telmex holds in concession a public telecommunications network by means of which it renders domestic and international long distance telephone services.
- Telmex has substantial market power in five relevant markets, among which domestic and international long distance telephony.

75. The concession requested would enable Telcel to participate in markets where Telmex holds substantial market power thereby contributing to reinforce such market power and posing additional risks to competition. Telcel could further be used to avoid compliance with specific obligations imposed on Telmex as a dominant carrier.

76. For the above reasons, the CFC recommended Cofetel not to grant Telcel the referred concession thereby preventing the creation of conditions that might endow Telmex with additional market power, to the benefit of general consumers and of other carriers.

Resources of competition authorities

Resources overall

Annual budget

77. The 2001 annual budget allocated to the CFC was 141.6 million Mexican pesos. This total is equivalent to 15.4 million US dollars and represents a 3 percent nominal increase with respect to the previous year.

Number of employees (person-years):

78. At the end of 2001, the total number of employees at the CFC was 198. This figure comprised 130 professional staff members: 46 lawyers, 39 economists, and 45 professionals and technicians including engineers, mathematicians, accountants, computers systems analysts and international affairs specialists. Clerical and support staff added up to 68 employees.

Human resources (person-years) applied to:

Enforcement against anticompetitive practices²;

79. This field is attended by the Plenum, integrated by five Commissioners and their advisors, 49 officials of four Operational General Directorates, adding up to 64 officials.

Merger review and enforcement;

80. In addition to the Plenum, ten members from the Mergers Directorate review notified mergers and two members from the Investigations Directorate are involved in anticompetitive merger cases.

Advocacy efforts.

81. The opinions issued by the Plenum regarding competition aspects of laws and actions undertaken by government agencies is supported by work of nine officials of the General Directorate for Privatisation and Auction Processes; six officials from the General Directorate for Economic Studies; nine officials from the General Directorate for International Affairs; and three officials from the General Directorate for Regional Co-ordination.

² Excluding unfair or misleading practices which fall under consumer protection provisions of the law, where these exist.

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Period covered by the above information: January- December 2001

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

82. The Economic Competition Gazette, numbers 5, 6 and 7 were published containing final decisions of the CFC issued during the periods comprising September-December 1999, January-April 2000 and May-August 2000, respectively. Gazette number 5 contains an article by two CFC officials on the definition of the relevant market based on the hypothetical monopolist approach. Likewise, Gazette number 7 includes an article by Commissioner Javier Aguilar Álvarez de Alba on free competition and the criteria of the Nation's Supreme Court of Justice. This topic was also issued in a separate bulletin published by the CFC.

Annex 1
FEDERAL COMPETITION COMMISSION
Files Processed 2000-2001

	2000	2001
MERGERS		
Cases filed and <i>ex officio</i> investigations initiated	284	324
Notifications	252	300
Ex officio investigations	7	11
Complaints	25	13
Concluded	276	311
No objection	181	268
Conditions imposed	20	8
Objected	3	2
Others ^{1/}	72	33
In process	52	65
PRIVATIZATIONS, CONCESSIONS AND PERMITS		
Cases filed	110	107
Concluded	99	101
No objection	79	64
Conditions imposed	2	1
Opposed	6	1
Others ^{2/}	12	35
In Process	19	25
MONOPOLISTIC PRACTICES AND OTHER RESCTRCTIONS TO COMPETITION		
Cases filed and <i>ex officio</i> investigations initiated	58	55
Ex officio investigations	18	4
Complaints	40	51
Concluded	63	64
Penalty or recommendation	11	13
Concluded in advance, based on Art.41 of the RLFCE	2	5
Withdrawals and complaints dismissed	12	21
Others ^{3/}	38	25
In Process	66	57
CONSULTATIONS		
Filed	44	39
Concluded	39	46
In process	11	4

Annex 1
FEDERAL COMPETITION COMMISSION
Files Processed 2000-2001

	2000	2001
MARKET POWER AND COMPETITION CONDITIONS		
Filed	4	3
Concluded	3	3
In process	1	1
APPEALS FOR REVIEW		
Filed	51	192
Concluded	49	75
In process	7	124
TOTAL		
Cases filed	551	720
Concluded	529	600
In process	145	276

1/ Includes complaints dismissed withdrawals, merger notices that had to be notified, and *ex officio* investigations requiring notification of concentrations.

2/ Includes withdrawals and complaints dismissed and opinions regarding modification of an auction process.

3/ Complaints resulting in withdrawals, dismissed, closed and considered as not filed.