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**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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ANNUAL REPORT ON COMPETITION POLICY DEVELOPEMT IN MEXICO

-- 2002 --

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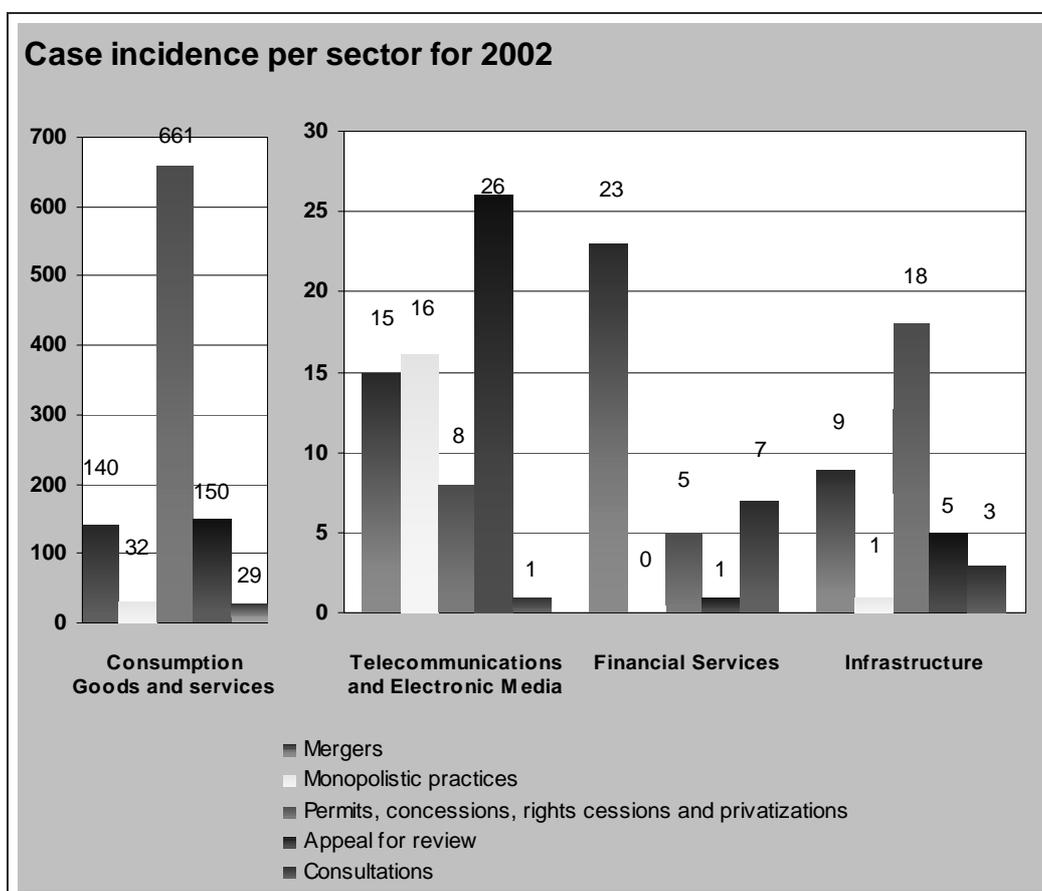
ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN MEXICO

2002

Executive Summary

1. In 2002 the Federal Competition Commission (CFC) reviewed 1363 files and decided 1,399 cases, these figures represent increases with respect to 2001 of 89% and 132 % respectively. This growth is explained by an unprecedented number of notifications of requests for permits filed and resolved (738) regarding the LP Gas industry, which contributed to raise the number of cases dealing with privatization processes, concessions and permits for the provision of public services from 101 to 783. On the other hand, the number of decisions regarding mergers dropped by 16%, from 311 to 260. The rest of the cases decided comprise 68 anticompetitive practices and inter-state trade restrictions, 247 appeals for review, 40 consultations from economic agents and one assessment of market power and competition conditions in specifically regulated sectors.

2. The majority of the cases decided dealt with consumption goods and services (88%) which include the LP gas notifications mentioned above. Other consumption goods involved were beverages, chemical substances and oil by-products, machinery and equipment, food and automobile parts. The rest of the cases involved telecommunication and electronic media services (6%), financial services (3%) and infrastructure (3%).



3. Appeals for review and mergers account for a large portion of the cases dealing with telecommunications and electronic media, the majority of which relate to fix telephony and TV signal transmission. Cases regarding financial services mainly refer to merger review and consultations and the cases dealing with the infrastructure sector concerned mostly the review of permits, concessions and rights cessions in port industries and natural gas.

4. Sixteen cases were sanctioned for anticompetitive practices: 5 were price fixing agreements, 4 cases entailed exclusive distribution, 3 denials to treat and the remaining 4 were obstructions to the competition process generally.

5. Notified mergers and acquisitions involving national parties (87) almost equaled the number of international mergers notified (92).

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

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

6. No new legal provisions of competition law were enacted during 2002. However, the CFC participated in the ongoing review of several draft proposals to amend the regulatory framework of specifically regulated sectors, such as the telecommunications law, the shipping law, the radio and TV law, the regulations to the LP gas law and technical standards regarding trackage and haulage rights and interconnection services among railway concessionaires.

1.2 Other relevant measures, including new guidelines

7. On December 13 the Mexican Senate authorized the cooperation agreement between the government of Canada and the government of the United Mexican States regarding the application of their competition laws. This agreement was negotiated during 2001. Approbation by the Canadian Parliament is pending. The CFC is currently negotiating agreements containing competition related provisions with Uruguay, Argentina and Japan.

1.3 Government proposals for new legislation

2. Enforcement of competition laws and policies

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

a) Ssummary of activities of competition authorities

8. In 2002 41 files were opened against anticompetitive practices and inter-state trade barriers and 68 were concluded. Although the number of cases initiated represents a decrease compared to 55 opened during previous year, the number of cases concluded increased by 4 (6%). 59 of the concluded cases were filed as complaints and the remaining 9 were initiated as ex-officio investigations. Twenty three of the decisions issued included either fines or recommendations from the CFC.

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

9. Bid rigging agreement in chemical substances¹

¹ Expedientes DE-57-2000, RA-81-2002 y RA-82-2002.

10. Reliable de México, S.A. de C.V (Reliable), filed a complaint challenging a bid rigging agreement between Kodak Mexicana, S.A. de C.V., Juama (Juama), S.A. de C.V. and GPP Mexicana (GPP), S.A. de C.V., in breach of Article 9 section IV of the FLEC. Reliable is the exclusive distributor of both the Belgian Agfa Gebeart and its affiliated company Agfa de México, S.A. de C.V., and is authorized to sell radiographic film and chemical substances to the Mexican Social Safety Institute, the Social Safety Institution for Government Employees and the health sector.

11. The investigation provided sufficient elements to sustain the alleged responsibility of the defendants, who were summoned to submit the pertaining evidence.

12. The proceeding against Kodak Mexicana, S.A. de C.V. was terminated in advance, in view of the commitments this firm proposed, according to Article 41 of the Regulations to the FLEC. The Plenum considered that these undertakings were appropriate and economically feasible since they would allow the CFC to assess market functioning regarding public auctions in which the company participated and the prices charged for chemical developers. In addition, the CFC imposed a fine of \$5'000,000 Mexican pesos.

13. With regards to Juama and GPP the FCC found that the alleged violators bid identical prices in eleven auctions that were to be awarded to a single bidder and thus each had been awarded 33%, including Kodak, SA de CV. Further, the FCC observed that the defendants bid the same prices for several product codes whenever two or the three of them participated in the same auction, whether awarded to a single winner or simultaneously to several winners

14. Thus, Juana and GPP were found responsible for the infringement of article 9 of the FLEC for engaging in contracts, agreements, arrangements, or combinations among competitive economic agents, to establish, agree upon or coordinate bids or to abstain from bids, tenders, public auctions or biddings called by health sector institutions to acquire radiographic material. The CFC ordered the responsible parties not to commit the forbidden practice, and imposed a fine of \$4,215,000.00 Mexican pesos on each of them.

15. The reconsideration appeals filed by Juama and GPP confirmed the resolution on the grounds that the agents' grievances were unfounded.

Exclusivity arrangements in the beer industry

16. The CFC had knowledge that Grupo Modelo, its holding company and several distributors (from now on, Modelo) celebrated contracts with exclusivity clauses for the distribution of beer and decided to initiate an ex officio investigation. Shortly after, Especialidades Cerveceras (ECSA), a brewery that produces and distributes Casta, filed a complaint against Modelo that was incorporated to the former investigation. ECSA argued that some establishments in Mexico City stopped selling its products due to the celebration of exclusivity contracts with Modelo.

17. To determine whether these exclusivities had adverse effects on competition and consumers by limiting available options, the FCC defined the relevant market as the production and commercialization of beer with a regional geographic dimension, due to existence of significant distribution costs. The product market was limited to beer because it can be differentiated from the rest of the alcoholic beverages mostly due to its alcoholic graduation, physical characteristics and price. Two market segments were distinguished: closed and opened bottle product sale.

18. In its analysis of substantial market power, the CFC determined that Modelo had a considerable market participation in the areas located near commercial establishments and that the beer market has important entry barriers such as distribution channels, publicity investments and label positioning. However, ECSA was found to have a business relationship with another major brewery, Cervecería Cuauhtémoc Moctezuma (CCM), which enables ECSA to use CMM's distribution and commercialization

systems. This fact implied that ECSA had access to the market through these distribution channels. The FCC therefore decided that Modelo did not incur in relative monopolistic practices.

Cross subsidization and denial to deal in telephony services

19. SOS, Telecomunicaciones del Golfo, S.A. de C.V., Sistemas Telefónicos Portátiles Celulares, S.A. de C.V., Comunicaciones Celulares de Occidente, S.A. de C.V., and Grupo Iusacell, S.A. de C.V., filed a complaint charging Telmex and Telcel with alleged monopolistic practices namely cross subsidies, discriminatory treatment, inappropriate delays in interconnection, inappropriate delays in the re-installation process, abuse of contractual rights, discrimination in long distance discounts and discrimination against cellular telephony through 900 numbers.(90x)

20. The defendants alleged that Telmex affected diverse telephony services. The relevant markets defined were the following: a) Cellular telephony services in local service areas, within each of the nine regions in which the country is divided; b) access services for basic local telephony in each local service area; and c) national long distance telephony services provided within the national territory.

21. The Plenum decided that Telmex was responsible of monopolistic practices in violation of Article 10 of the FLEC, sections V and VII, regarding cross subsidies and denial to treat. Telmex used profits obtained from other services to finance losses incurred by its subsidiary Telcel in cellular telephony services and refused to grant a 10% discount to cellular telephone concessionaires. Telmex was ordered to suppress the referred monopolistic practices and a fine was imposed. By imposing this fine the CFC seeks to discourage the former and its subsidiaries from incurring in similar practices in the relevant markets where it has substantial market power.

22. Telmex filed an appeal for review before the CFC, this appeal was resolved confirming the resolution appealed. Among the main arguments wielded by Telmex is the violation to Articles 30, 32 and 33 sections III and IV of the FLEC, since Telcel is not mentioned in the resolution, as it is in the initial complaint, leaving Telmex defenseless. Telmex also contended that the FCC did not address all the arguments it had proposed and that the FCC was not competent. Nevertheless, the CFC proved the ineffectiveness of this argument, since Telmex's grievance was ineffective and unfounded.

Relative monopolistic practices in the LP gas distribution market²

23. Gas Supremo filed a complaint challenging Gas de Cuernavaca, Gas de Cuautla, Gas Modelo, Compañía Hidro Gas de Cuernavaca, Gas del Sol, and Gas de Morelos for hindering the construction of a storage plant for LP gas distribution which Gas Supremo intended to build in the municipal district of Yautepec, Morelos.

24. The defendants hold permits to distribute LP gas through storage plants in several municipal districts of the State of Morelos. The investigation revealed that Gas Supremo took more than 18 months to install its plant and begin operations instead of the expected 6 months, because the accused firms presented administrative prohibitions banning the works on the grounds of the risks involved. The FCC found that the person acting as proxy for the defendants was also a proxy for the people that requested similar administrative bans against Gas Supremo in Puebla. The FCC demonstrated that the defendants were aware of their proxy's acts which enabled them to profit from Gas Supremo's delayed entry into the relevant market.

² File DE-65-2000.

25. The Commission considered the accused firms as a single economic group because they were linked through common shareholders who are members of both administration councils, and the use of Soni brand.

26. The Commission decided that the relevant market affected by the investigated monopolistic practice was LP gas distribution in the State of Morelos in virtue of the limited capacity to substitute it for electric power, other hydrocarbons and the lack of natural gas supply in the State of Morelos. The geographical dimension was limited to the State of Morelos because agents in the region's market lack incentives to obtain or mobilize gas LP from or towards other regions.

27. The Commission decided that defendants had substantial power in the relevant market, mainly due to their high market share in every municipal district in which they meet Gas Supremo. Therefore, the Plenum of the Commission decided the accused firms were guilty of relative monopolistic practices and fined them considering, among other issues, their conduct's intention and their share in the relevant market.

2.1 Mergers and acquisitions

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

28. Merger cases dropped significantly during 2002. Regarding notified mergers and ex-officio investigations, 229 were initiated and 260 were concluded. These figures represent a decrease of 29% and 16% compared to 2001, respectively. This trend may be explained in terms of the general economic deceleration during 2002.

29. The decisions issued included 238 non objected mergers, 2 objected and 5 conditioned. Of all the mergers reviewed, 72 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 mergers which were considered to have effects upon competition involved horizontal transactions, vertical mergers and diversifications.

30. Notified mergers with an international dimension added up to 92, this implies a 40% decrease compared to 2001. Most of these mergers were intended to increase administrative efficiency and to further Mexican firms' integration into the trade regions where Mexico participates most intensively. Among these, 56 mergers had a multinational dimension involving operations between two foreign parties, but they had effects in Mexico. The remaining 36 involved investments by Mexican firms and foreign parties: 7 of these were joint ventures, and the remaining were direct investments.

B) Summary of significant cases

31. Rail transportation³

32. Infraestructura y Transportes de México/ FRISCO/ Sinca/ Inbursa/ Ferrocarril Mexicano/ Ferrosur.

33. The transaction consisted in an association between Ferrocarril Mexicano (Ferromex) and Ferrosur.

³ Files CNT-28-2002 and RA-93-2002.

34. The analyzed relevant service was freight railway transportation nation wide. Freight service may be developed by connecting towns located along a concessionaire's tracks or by using the tracks of another concessionaire, thus resulting in a full railway network system.

35. As a result of the proposed notified operation the merged agent would have considerable chance of acquiring substantial power in the relevant market and the ability to unilaterally fix the price and supply of the service. In fact, the new agent could increase the access price to the majority of the Mexican Railway System Network. Further, given the existence of current disagreements between Ferromex and TFM it was foreseen that the intended efficiency gains would not likely benefit users but significantly affect competition conditions.

36. This service has the following entry barriers: i) a concession granted by the Ministry of Communications and Transportation is needed; ii) trackage and haulage rights; and iii) limits to foreign investment.

37. Possible substitutes for the relevant service considered were intra-modal and inter-modal freight. In the intra-modal substitution there is substitution between two railway companies for freight service in similar routes with the same origin and destination points. In addition there is competition between railways originated at different points but with the same destination. However, as mentioned before this intra-modal competition is limited by disagreements between concessionaires regarding the price for trackage and haulage rights which have increased excessively and are not enforced.

38. Inter-modal substitution between rail transport and road and maritime transport depends on the volume, distance and freight's value. The advantages of railway services *vis a vis* road transport are greater as the distance and volume increase and the goods value decreases and vice versa. In addition, maritime transport may be a partial substitute for railway.

39. Based on the above considerations, the Commission decided not to authorize the transaction. This decision was appealed but the Commission confirmed its original decision.

CIE/ Ocesa Entretenimiento/ Televisa Entretenimiento

40. The relevant markets identified for this merger were: organization of live shows and events; operation of facilities dedicated to these events; and electronic ticketing services. Since there are several types of live shows and events, this market was segmented into: musical concerts; theater plays; sport events; and cultural and family events. The economic agents in the merger only coincide in the organization of massive musical concerts. Facilities were segmented by the type of facility, by the type of event they are generally used for and, in some cases, by their capacity. These economic agents also coincide in theater plays and sports facilities in Mexico City. No close substitutes were identified in the relevant markets.

41. The relevant markets have a local geographic dimension and the proposed merger has its main effects in Mexico City.

42. The calculated concentration indexes for the segment of massive musical concerts do not meet any of the parameters set by the CFC, nevertheless, no significant barriers to entry were identified.

43. In the segment of facilities, specifically theaters and stadiums, the calculated concentration indexes met the parameter set by CFC and that there were several alternative facilities to those operated by the agents in the merger.

44. Finally, in the electronic ticketing services the calculated concentration indexes did not meet the parameters set by the CFC and barriers to entry were identified. Therefore, the merger could create disadvantages against current competitors and displace potential competitors in the future. The most important barriers to entry are: publicity, investment, intellectual property rights, brand recognition, and exclusivity rights.

45. The CFC determined to authorize this transaction, but conditioned on Grupo Televisa selling its share in Ticketaces as well as any related property rights and assets

46. This merger will allow consumers to access lower prices for outdoor entertainment, particularly musical concerts and theater plays.

Sabormex, S.A. de C.V. (Sabormex)/ Unilever N.V./ Corporativo Unilever de México S.A. de C.V. / Unilever de México, S.A. de C.V.

47. The transaction notified, consists in the acquisition, by Sabormex, of assets related to the brand “Clemente Jacques”, owned by Unilever N.V., Corporativo Unilever de México, S.A. de C.V. y Unilever de México, S.A. de C.V. (jointly, Unilever).

48. The relevant products for this transaction were ketchup, hot sauces, vinegar, canned vegetables and marmalade, and other industrialized food. There are important competitors in each of the relevant markets, some of them are even bigger than Sabormex/Clemente Jacques: Del Monte, Herdez, Corfuerte y Provisa.

49. No threats to competition are foreseen derived from this transaction, since only three of the brands of Sabormex, of a list of twenty food products, are leaders. Also, in this market consumers have a great variety of options. Therefore, therefore the CFC resolved to authorize this merger.

Telefónica/Telefónica Móviles/Pegaso Telecomunicaciones⁴

50. The relevant market for this merger are mobile and wireless phone services. In this market there are other participants; Telcel, Unefon, Iusacell y Nextel. There are close substitutes to cellular phone services: personal communication services (pcs) and complementary services to access the telephone network that can be offered by providers of trunking digital.

51. Telefónica Móviles participates in cellular regions 1, 2, 3 and 4, while Pegaso Telecomunicaciones has concessions to operate in the 9 pcs regions. The calculated concentration indexes meet the CFC parameters in all regions. On the other hand, the most important barrier to entry is the need of a concession title.

52. This transaction would allow Telefónica to be in better position to compete with other participants in the relevant services, and increase consumer welfare by lowering prices and improve services. For these reasons, the CFC resolved to authorize the operation.

⁴ Expediente CNT-61-2002.

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*

53. The CFC participated in several legislative and governmental round-tables in order to ensure the inclusion of pro-competitive criteria in sector laws and regulations in the telecommunications, broadcasting and television, and shipping and terrestrial transportation. It also stated opinions about two different proposals presented before the Congress to privatize the electricity generation sector.

54. The FCC gave advise on sector regulations regarding drafts on liberalization of public utilities, such as Liquefied Petroleum Gas and electricity providers. In both industries, the FCC has participated in designing auctions of public assets, concessions and/or permits to participate in regulated activities.

55. It also analyzed price policies and projects to sale petrochemical plants property of the petroleum state monopoly, PEMEX and participated in the Foreign Trade Commission and the National Standards Commission (COCEX and CNN). These government agencies are in charge of defining the policies of foreign trade and normalization, respectively. The FCC issued several opinions in those forums in order to verify the exact observance of the provisions contained in the LFCE and to prevent its infringement on a timely fashion, as well as to facilitate enhanced coordination with other areas of the public administration to effectively apply competition policy.

56. The FCC also issued opinions about technical standards on railroad transportation, edible oil and wheels and participated in several forums related to telecommunications, electricity, and railroad and terrestrial transportation.

3.2 *Assessment of competition conditions*

3.2.1 *Privatizations, licenses and permits granted by the Federal Government in regulated sectors*

57. Several laws and bylaws currently in force make explicit reference to the CFC intervention in specific regulated sector. Most of them stipulate that interested parties must obtain the CFC's favorable opinion as the minimum requirement for participating in auctions called by the Federal Government in regulated sectors to grant public assets, licenses and permits. Two of the most relevant cases resolved during 2002 are described below.

Auction to acquire the capital stock of Aseguradora Hidalgo, SA

58. In 2002, the CFC reviewed the basis of an auction call to acquire the capital stock of Aseguradora Hidalgo, SA (AHISA, by its acronym in Spanish). In addition, it evaluated the request for opinion made by four economic agents to participate in this process, namely the alliances formed by MetLife, Inc/ MetLife International Holding (Metlife) and Seguros Inbursa, SA/Fianzas Guardiania Inbursa, SA (Inbursa), and the firms Mapfre América Vida, SA (Mapfre) and Ausa Holding Company (Ausa).

59. AHISA was owned by the federal government (75% share in the company) and state oil company Petroleos Mexicanos (25%). AHISA is the only insurance company granted with the faculty to provide collective life, accidents and sickness, and damages insurance policies to government employees through payroll deductions, which gives it the lowest costs in the industry. In the same terms, it also offers collective insurance products to government agencies, local governments and state-owned companies such as Pemex. However, this exclusivity granted by the Law of Acquisitions, Leasing and Services to the State (LAASSP) will be extinguished once AHISA becomes a private insurance company by means of the auction.

60. In 2000 the CFC blocked an earlier government's attempt to sell AHISA because the terms of sale did not limit the period of validity of collective insurance policies from federal employees operated by AHISA. Said exclusivity for an indefinite period would obstruct competitors to counteract the resulting market power of the transaction.

61. In the 2002 divestment process, the terms of sale were modified in order to restrict the validity of AHISA's insurance policies up to 2004. In accordance to the 2002 bid call made by the Ministry of Finance and Public Credit (SHCP)⁵ adopted a sealed bid auction scheme.

62. The relevant markets involved in the transaction correspond to AHISA's operation: (a) life, accident and sickness insurance, and (b) management of pension funds. Three segments can be identified in the first of these: individual, group and collective.

63. In accordance with current regulations, only insurance institutions established in the country are authorized to sell insurance policies. In consequence, the relevant geographic area was restricted to the national territory.

64. Regarding the transaction effects in the relevant market, the CFC concluded that the sale of AHISA to any of the participants in the bidding would not have negative effects on competition in the relevant markets. Said conclusion was derived from the analysis of the concentration indices calculated for each interested agent. Likewise the non-existence of significant barriers to entry was taken into account in said markets, as well as the federal government's obligation to auction the collective insurance policies.

65. The CFC also considered that the opening up to foreign investment and deregulation of insurance premium have raised contestability and favored competition in insurance markets. In fact, the privatization of AHISA would eliminate the barrier to entry to the segments of collective insurance for persons contracted by the public sector.

66. In January 2002, the CFC issued a favorable opinion on the participation of Metlife, Inbursa, Mapfre, and Ausa in the AHISA's bidding process.

Bid to Award a Contract for supplying Electric Power Generation Capacity

67. In November 2001, the CFE calls to an international public bid to award a contract for supplying electric power generation capacity and the purchase/sale of associated electricity, through the plan of Independent Energy Producer (IPP), corresponding to the Project of Financed Investment denominated "25 CC Rio Bravo IV." By means of an IPP contract, the government authorizes private investors to construct power plants to generate electricity and sell it to the national power company through long-term power purchase agreements. And, in this particular case, the winning agent will build the generation plant in the state of Tamaulipas and sell their output to the nation-wide transmission grid operated by the CFE.

68. The regulatory framework requires agents obtain the CFC approval in advance to be allowed to submit a bid to acquire IPPs contracts. With this aim, four private agents gave notice to the CFC about its intention to participate in this process, namely Mirant of Mexico, S. of R.L. of C.V. (Mirant), EDF International, Corp. (EDFI), Calpine International Investment B.V. (Calpine), and Enelpower S.p.A. (Enelpower). The main features of the analysis carried out by the CFC are described below.

69. By law, the electricity in Mexico is exclusively supplied by two state owned firms, which vertically integrates generation, transmission and distribution. The largest one, the Federal Electricity

⁵ In accordance with the call published on October 22, 2001 in the Official Gazette of the Federation

Commission (CFE) is responsible for providing the public electricity service nationwide, except in the Federal District area and part of the state of Mexico and Morelos, Hidalgo and Puebla, which are served by Luz y Fuerza del Centro (LFC). However, since 1992 the legal framework allows private agents participate in the commercialization of excess capacity as self-suppliers and co-generators. Most private investments under the schemes introduced with such amendments have been taking place through IPP contracts.

70. The aforementioned industry structural features raised competition concerns related with the degree of market power that would acquire the winner firm. Defining the relevant market was a crucial first step that enabled the analysis to appraise the possible presence of market power in it. The relevant service was defined as the generation and sale of electricity; and based on a number of variables that included the location and plant capacity, the demand levels and the technical restrictions in the transmission among others, the CFC concluded that the relevant geographic extent of the market corresponds to the Northeast Area of the National Electric System.

71. The competition analysis revealed that no agent would be able to obtain substantial market power on the mentioned relevant market even in the case of an eventual opening to the competition of the electric sector. Furthermore, the CFC concluded that the winner firm would not be able to apply anti-competitive pricing strategies (i.e. won't be in possibilities of to fix or to alter the prices of his services unilaterally) because it must to sell its output at tariffs that is established by the CFC, the National System Operator.

72. In January 2002, the CFC resolved to authorize the participation of Mirant, EDFI, Calpine and Enelpower in the bid referred to, and in order to prevent eventual effects contrary to the competition of future concentrations, the CFC pointed out that the winner agent must request the CFC favorable opinion previously to the realization of any act to transmit the control on the rights granted by means of this bid.

4. Resources of competition authorities⁶

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

a) Annual budget (in your currency and USD)

73. The 2002 annual budget exercised by the CFC was 152.6 million Mexican pesos. This total is equivalent to 15.8 million US dollars⁷ and represents a 7.76 percent nominal increase with respect to 2001.

b) Number of employees (person-years)

74. By December 2002, the total number of employees at the CFC was 192. This figure comprised 140 professional staff members: 41 lawyers, 39 economists, 10 accountants and 50 professionals and technicians including engineers, mathematicians, accountants, computers systems analysts and international affairs specialists. Clerical and support staff added up to 52 employees.

⁶ If there is more than one authority, please give details for each. However, only Central Government competition authorities should be included, not State or provincial bodies. Local offices should be included where these are part of the central authority.

⁷ Average annual exchange rate based on information issued by the Central Bank (9.66065 per dollar)

4.2 Human resources (person-years) applied to:

a) *Enforcement against anticompetitive practices*⁸

75. Enforcement activities are carried out by the Plenum, comprised of the five Commissioners and their advisors and 49 officials of the Operational General Directorates, the Executive Secretary's office and Regional Coordination, totaling 64 people.

b) *Merger review and enforcement*

76. Besides the Plenum, merger review is undertaken by nine members of the Mergers General Directorate and two people of the Investigations General Directorate support this work regarding transactions that fail to be notified.

c) *Advocacy efforts*

77. Advocacy activities performed by the Plenum are supported by:

- Nine officials of the General Directorate for Privatization and Auctions processes;
- Nine officials from the General Directorate for Economic Studies;
- Eight officials from the General Directorate for International Affairs; and
- Two officials from the General Directorate for Regional Coordination.

4.3 Period covered by the above information: January through December 2002

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

78. The 2001 Annual Report contains a description of selected cases decided during that year, statistical data of all cases addressed and two essays. The first one elaborates on the relevance of competition policy for economic development and the second emphasizes the importance of transparency in the institutional development of the CFC. In addition two issues of the Gazette (numbers 10 and 11) were published including final decisions issued from May to December 2001. Gazette 10 contains a paper on vertical restrictions in the distribution of goods and services that compares the approaches established in the US, EU and Mexican legislations to analyze these restrictions and a Spanish translation of Faye Steiner's OECD study on "Regulation, Industry Structure and Performance in the Electricity Supply Industry" is included in Gazette 11. Finally, summaries of concluded cases were published in the Federal Official Journal and in the CFC website.

⁸ Excluding unfair or misleading practices which fall under consumer protection provisions of the law, where these exist.

Annex 1

FEDERAL COMPETITION COMMISSION
Files Processed 2001-2002¹

| | 2001 | 2002 |
|---|------------|------------|
| MERGERS | | |
| Cases filed and <i>ex officio</i> investigations initiated | 324 | 229 |
| Notifications | 300 | 219 |
| Ex officio investigations | 11 | 1 |
| Complaints | 13 | 9 |
| Concluded | 311 | 260 |
| No objection | 268 | 238 |
| Conditions imposed | 8 | 5 |
| Opposed | 2 | 2 |
| Others ^{2/} | 33 | 15 |
| In process | 61 | 30 |
| PRIVATIZATIONS, CONCESSIONS AND PERMITS | | |
| Cases filed | 107 | 929 |
| Concluded | 101 | 783 |
| No objection | 64 | 25 |
| Conditions imposed | 1 | 0 |
| Opposed | 1 | 3 |
| Others ^{2/} | 35 | 755 |
| In Process | 24 | 170 |
| MONOPOLISTIC PRACTICES AND OTHER RESCTRCTIONS TO COMPETITION | | |
| Cases filed and <i>ex officio</i> investigations initiated | 55 | 41 |
| Ex officio investigations | 4 | 7 |
| Complaints | 51 | 34 |
| Concluded | 64 | 68 |
| Penalty or recommendation | 13 | 23 |
| Concluded in advance, based on Art.41 of the RLFCE | 5 | 6 |
| Others ^{2/} | 46 | 39 |
| In Process | 57 | 32 |
| CONSULTATIONS | | |
| Filed | 39 | 40 |
| Concluded | 49 | 40 |
| In process | 1 | 1 |

| MARKET POWER AND COMPETITION CONDITIONS | | |
|--|-----|-------|
| Filed | 3 | 2 |
| Concluded | 3 | 1 |
| In process | 1 | 3 |
| APPEALS FOR REVIEW | | |
| Filed | 192 | 122 |
| Concluded | 75 | 247 |
| In process | 124 | 3 |
| TOTAL | | |
| Cases filed | 720 | 1,363 |
| Concluded | 603 | 1,399 |
| In process | 275 | 239 |

1/ Differences against figures included in the 2001 Report respond to actions adopted in order to satisfy judiciary sentences.

2/ Includes withdrawals and dismissed complaints, as well as complaints and ex-officio investigations that were closed due to the inexistence of indications of the existence of practices in violation of the FLEC.