Promoting Market Studies in Latin America
Links between market studies and enforcement actions
What does Cofece do?

**Assure** that companies compete with each other, so their success depends on their ability to offer:

- Lower prices
- Better quality
- Greater variety of products and services
- Innovating options

**Consumer choice** determines which companies enter or exit the market.

**Competition Policy:**

- Protects competition, not competitors
- Its final criterion is **consumer welfare**
- Its **preventive** and **corrective**

**COFECE’s objective** is not to impose sanctions, but **assure the efficient operation of markets** through the Federal Law of Economic Competition Enforcement (FLEC).
What does Cofece do?

Cofece excerts its mandate through the following instruments:

1. **Preventive**
   - Prevents the formation of market structures that could facilitate price fixing and supply restrictions, with the following procedures:
     - Merger analysis
     - Opinions on tenders, new concessions and permits
     - Concessions transfers, permits, shares and share transfer agreements

2. **Corrective**
   - Investigate and sanction anticompetitive conducts which harm competition carried out by economic agents:
     - Cartels and monopolistic practices
     - Unilateral conduct

3. **Regulatory**
   - Assess competition conditions in relevant markets and issue recommendations to foster competitive pressure:
     - Declarations to activate or eliminate prices and tariffs regulations.
     - Regulate essential facilities and remove competition barriers (New capacity)

4. **Advocacy**
   - Promote competition principles
     - Market studies
     - Review and issue opinions on draft laws, by-laws, administrative acts, laws and regulations
Advocacy instruments: market studies...

What is a market study?

- Its the assessment of competition market conditions

Cofece reviews differ aspects related to markets, such as:

- Efficiency
- Competition
- Consumer Welfare

What does it consist of?

Issue recommendations or proposals, non binding and/or modify norms, eliminate regulation when:

- Detect risks to competition

Result
What does a market study assess?

Possible agreement among consumers

Possible bottle neck

What tools does Cofece have to carry out market studies?

Inquiries

Interviews

Field visitation

Any other steps
Recent or future market studies

Cofece’s strategic plan

Financial Sector: Finished in 2014
Agri-food Sector: Started in 2014 and results will be published on 2015
Transport: Will begin in 2015
Main recommendations from the financial study

36 regulatory and policy recommendations on several subjects:

Some issues are:

- Financial entities constitution and operation
- Credit information companies
- Credit
- Dwelling
- Savings
- Payment systems

Some recommendations are:

**ATMs:** Assure non-discriminatory bank access charges based on costs and promote tariff schemes to reduce the difference among ATM access charges from different banks.

**Credit:** Develop and regulate electronic platforms for consumer credit and dwelling with manifest financial needs and authorize credit information companies to check history and allow financial intermediaries to send financing offers.

**Credit information companies:**

- Review volume discount policy on consultation services provided by credit information companies offered to financial system users to discourage explicit discrimination from economic agents under equal conditions.
- Adjust the regulatory and operation framework so banks are legally required to provide credit information to all authorized credit information companies, under equal conditions and acceptable quality standards.
### Sanctioning instruments: Monopolistic practices investigations

#### 1. Monopolistic practices investigations

Are initiated ex officio or by complaint to determine the existence of a cartel.

**Element analysis:**
1. Contracts / agreements / combinations
2. Among competitors
3. With the objective or effect: i) price fixing; ii) supply restriction; iii) market segmentation; iv) collusion; v) information exchange with the aforementioned objectives.

There are no efficiencies analysis.

#### 2. Unilateral conduct investigations

Are initiated ex officio or by complaint to determine the abuse of dominant position.

**Element analysis:**
1. Substantial market power.
2. Conducts sanctioned by the LFCE: i) vertical market segmentation; ii) vertical price restrictions; iii) product bundling; iv) exclusivity; v) refusal to deal; vi) boicot; vii) predatory pricing; viii) loyalty discounts or conditioned transactions; ix) cross-subsidies; x) price discrimination; xi) increase rival costs; xii) refuse essential facilities; xiii) margin squeeze.
3. With the purpose or effect of unduly displace competitors and restrain substantially their market access or establish exclusive advantages in favor of one or several competitors.
4. Efficiencies assessment is carried out.
In addition to issuing policy recommendations to foster competition in assessed sectors, a market study can detect problems based on:

- Market studies
- Cartel
- Abuse of dominant position
Mexican experience: relation between market studies and corrective instruments...

**Technical Secretary**

- Market Study

  **Findings:**
  1. Probable agreements among competitors
  2. Probable abuse of dominant position
  3. Probable forbidden merger

**Plenum**

- Command studies, research and general reports on competition

**Investigative Authority**

- **Objective cause:** any sign of monopolistic practices or forbidden mergers

- **Investigation beginning.**

- **Tools:**
  - Record integration (market research)
  - Information requirements
  - Citations
  - Dawn raids

- **Investigation conclusion:**
  - Closing; or
  - Start procedure in a trial manner (Probable liability declaration)

**Plenum decision**

**Parties:**
- Economic agent
- Investigative Authority
- Third parties

**Final ruling**

Example: IO-001-2015. Probable conducts contrary to FLCE in the generation, processing, and commercialization of credit information markets.
UN MÉXICO MEJOR ES COMPETENCIA DE TODOS