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Mexico: timing and effective, ongoing communication are critical in mitigating sanctions

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What are the maximum penalties in competition enforcement cases in your country, and how are fines calculated?

Under the Federal Economic Competition Law (the Competition Law), infringements are subject to fines and sanctions, including correction or suppression of the infringing conduct; disqualification to practice as counsel, manager or legal representative; and potential civil and criminal liability.

Monetary fines are primarily calculated as a percentage of the infringing economic agent's annual income in Mexico. In cartel conduct and horizontal agreements, fines may reach up to 15% of the economic agent's annual income in Mexico. In the case of abuse of dominance and vertical restraints, the maximum fine is up to 10% of the infringer's annual income in Mexico.

In merger control matters, the following fines mat be imposed:

- for failure to comply with remedies imposed in a conditioned resolution can result in fines of up to 12% of annual income;
- unlawful concentrations may be sanctioned with fines of up to 10% of annual income; and
- failure to notify a reportable transaction (gun jumping) may lead to fines of up to 8% of annual income.

In determining the specific amount of the fine, the authority must take into account factors such as the gravity and duration of the infringement, the harm caused, indications of intent, the size of the affected market, the infringer's market participation and economic capacity, and any impact on the authority's enforcement functions

Beyond administrative sanctions, cartel conduct may also give rise to criminal liability for individuals, including imprisonment of up to 10 years.

Finally, Mexican legislation does contemplate class actions. Affected parties that were harmed as a consequence of illegal conduct are entitled to file civil claims seeking damages.

Outline any procedural rights and obligations that apply during dawn raids or unannounced inspections.

The Competition Law imposes extensive cooperation obligations on companies and individuals during dawn raids or unannounced inspections, while also recognising certain procedural safeguards. The National Antitrust Commission (CNA), through its Investigative Authority, is empowered to conduct unannounced inspections (known in Mexico as "verification visits") for the purpose of collecting evidence for suspected infringements of the Competition Law and market investigations. In cases of resistance or refusal to cooperate, CNA officials are legally authorised to request the assistance of public force to carry out the visit.

These visits may include access to business premises and means of transportation; the review and copying of documents and information, whether in physical or electronic form; the collection of digital information, including data stored on electronic devices, and, when the visit lasts more than one day, the securing of books, records or documents of the investigated economic agent that fall within the scope of the inspection.

The authority is not allowed to seize or forcefully remove information from the inspected premises. The CNA officials must comply with a strict protocol when there are documents or information protected by attorney legal privilege in the inspected premises.

Individuals in the inspected premises who have knowledge of, or are related to, the facts under investigation are legally required to cooperate fully with the authority. This obligation includes providing information (answering the official's questions), documents and records. Failure to comply with these obligations may result in the imposition of coercive measures and sanctions.

During the inspection, the party has the right to make observations to the public officials conducting the inspection, to request the inclusion of statements made during the diligence process and to offer any evidence it deems relevant. The inspected party also has the right to review the inspection record and to submit clarifications or observations regarding the inspection record drawn up at the conclusion of the diligence process.

The Mexican legal framework establishes important procedural protections. Dawn raids may only be carried out pursuant to a written inspection order that specifies, among other things, the place, date and scope of the diligence process, and they may only be conducted by CNA officials who are expressly authorised to do so. The visit cannot exceed two months, which may be extended for an equal period, if warranted by the investigation.

During the investigation phase, access to the case file is strictly limited, and even after the investigation concludes, access is restricted to parties with a legally recognised interest, excluding information classified as confidential. In addition, the law recognises the protection of attorney–client communications: economic agents may request that communications with their external legal counsel, when intended to obtain legal advice, be excluded from the case file.

CNA officials are subject to strict confidentiality obligations, and the improper disclosure of confidential or reserved information may give rise to administrative sanctions. These safeguards are intended to balance the authority's investigative powers with due process considerations and the protection of sensitive business information.

Following competition enforcement actions, what personal liability exposure is there for company directors and officers?

Under the Law, the CNA is empowered to impose sanctions not only on companies but also on individuals who participate, directly or indirectly, in illegal practices or unlawful concentrations on behalf of the company. These include directors,

managers, officers, advisers, representatives and other persons acting under the authority or direction of a company.

At the administrative level, individuals who participate in illegal practices or unlawful concentrations may be subject to monetary fines. In addition, the CNA may impose disqualification sanctions, preventing sanctioned individuals from acting as directors, officers, managers or representatives in the relevant market for up to five years. Furthermore, individuals sanctioned for cartel conduct – particularly for agreements to fix, coordinate or refrain from submitting bids in tenders, auctions or similar procurement procedures – may be disqualified from participating in public procurement proceedings.

Individuals who assist, induce or facilitate the commission of anticompetitive conduct may also be sanctioned, even if they do not formally hold a management position within the infringing company.

Beyond administrative sanctions, cartel conduct may give rise to criminal liability under article 254-bis of the Federal Criminal Code (FCC),

Criminal prosecution under the FCC is not automatic. The offence is prosecuted exclusively by means of a criminal complaint filed by the CNA, and only after the CNA has issued a statement of probable responsibility (which is similar to a statement of objections) in the administrative proceeding.

The FCC expressly provides that individuals and economic agents who benefit from the leniency programme under the Competition Law are exempted from criminal liability, provided that the CNA confirms compliance with the applicable requirements.

This layered enforcement framework – combining administrative fines, disqualification sanctions and potential criminal exposure – substantially increases personal risk for directors and officers and underscores the importance of robust competition compliance at the senior management level.

How do leniency and immunity programmes operate? Outline any strategic considerations that companies should consider.

The Competition Law provides different tools for companies to mitigate their exposure to enforcement actions, with the most significant and consequential mechanism being the leniency programme. This programme is specifically designed for cases involving cartel conduct and reflects a deliberate policy choice to prioritise cartel detection and destabilisation through incentives for self-reporting and cooperation. It is a very useful tool for the CNA to detect, prevent and combat cartel conduct.

Under the Competition Law, any economic agent or individual who has participated in cartel conduct may voluntarily approach the competition authority and seek the benefits of the leniency programme by recognising its participation and providing evidence of the infringement. The programme operates on a "first-in" basis and, in general terms, is subject to four main obligations: (1) acknowledging the behaviour; (2) ceasing participation; (3) providing sufficient evidence; and (4) cooperating fully and continuously throughout the leniency process. The first applicant that comes forward before the authority has sufficient evidence to establish the existence of the cartel, and that fully complies with the statutory cooperation requirements, may obtain full immunity from administrative sanctions.

Timing is a critical element of the leniency programme. Full leniency benefits may only be requested before any investigation has started. The first applicant will be exempted from monetary fines (only a minimum fine will be imposed) and disqualification sanctions. Subsequent applicants may still benefit from fine reductions of up to 50%, 30% or 20%, depending on the order of application and the additional evidentiary value of the information provided. Leniency applications may only be requested before the third extension of the investigation.

Applicants must cooperate fully and continuously throughout the investigation and any subsequent proceedings, provide all relevant evidence in their possession and cease their participation in the illegal conduct unless instructed otherwise by the authority. Failure to comply with these obligations may result in the revocation of the benefits granted, and the authority may use the information provided against the applicant.

A particularly important feature of the leniency programme is its interaction with criminal enforcement. The FCC expressly establishes that economic agents and individuals who obtain leniency benefits are exempted from criminal liability for cartel conduct, provided the authority confirms compliance with the programme's requirements. This makes the leniency programme a critical risk-management tool not only for corporate exposure but also for personal liability of executives and employees.

From a strategic standpoint, companies should carefully assess whether their conduct may qualify as cartel conduct under the Competition Law, the risk that another participating economic agent may apply first to the leniency programme, and the strength and uniqueness of the evidence available to them. Companies must also consider the implications of formally acknowledging their participation in the conduct before the CNA and the scope of the ongoing cooperation obligations required under the leniency framework. Internal investigation readiness, document preservation and the ability to ensure sustained and effective cooperation over time are likewise key considerations. In addition, because leniency does not shield applicants from private

damages claims brought by third parties, companies must balance the benefits of regulatory relief against the potential exposure to civil liability.

How do cross-border investigations affect enforcement strategy and the advice that you give to clients?

Cross-border investigations have a decisive impact on enforcement strategy and the advice provided to clients, given the involvement of multiple authorities, divergent legal frameworks and the possibility that the same conduct or transaction will be assessed under different standards across jurisdictions. The principal challenge is to coordinate a coherent strategy that accounts for both local legal requirements and the broader global implications of the matter.

Cross-border investigations initiated in other jurisdictions can trigger CNA market inquiries or formal investigations in Mexico, and vice versa; therefore, it is relevant and advisable for clients involved in investigations in other jurisdictions to ensure global coordination among legal advisers and actions to have full visibility of potential implications in each relevant jurisdiction.

From a counsel perspective, advice must begin with early identification of all potentially relevant jurisdictions, whether based on the parties' places of establishment or the competitive effects of the conduct or transaction. As emphasised by the Organisation for Economic Co-operation and Development (OECD) and the International Competition Network (ICN), differences in market definition, procedural timelines and theories of harm can lead to divergent or even inconsistent outcomes, increasing regulatory risk and uncertainty for the parties involved.

In practice, this requires aligning factual and economic arguments presented to each authority to ensure consistency, while considering and analysing jurisdiction-specific nuances.

What immediate compliance steps must companies take upon receiving an adverse enforcement decision?

Upon receiving an adverse competition enforcement decision, companies must take immediate steps to ensure full and timely compliance to mitigate additional risks. First, the decision must be carefully analysed to identify the specific obligations imposed, whether behavioural, structural or related to the cessation of certain practices and potential defences in judicial courts once sanctions have been imposed.

Once sanctions are imposed, it is relevant for the companies involved in the violation to set clear guidelines for the company going forward to avoid repeating any infringement, since a second infringement will trigger recidivism, which implies receiving double the amount of the corresponding sanction. This often requires changes to internal policies, commercial practices, existing contracts and, where

necessary, organisational structures. Companies should also implement internal controls and comply with the monitoring mechanisms to document compliance and demonstrate responsiveness to the authority. Implementing tailored compliance programmes is key to setting clear guidelines for the prevention of illegal conduct going forward.

Where remedies or conditions are imposed – such as divestitures or contractual restrictions – companies should immediately begin planning their implementation, even if judicial review is contemplated.

If individuals or companies consider that their fundamental or procedural rights have been affected, they may define a clear litigation strategy, including an assessment of whether the resolution should be challenged in whole or in part (in the specific case of Mexico, through an *amparo* proceeding). From a broader compliance standpoint, adverse decisions should also trigger a reassessment and strengthening of internal competition compliance programmes, targeted training for relevant personnel and enhanced governance measures aimed at reducing the risk of recurrence.

How do competition enforcement decisions affect ongoing commercial operations and existing contracts?

Competition enforcement decisions can significantly – and in some cases disruptively – affect ongoing commercial operations and existing contractual arrangements. Because the decisions may impose monetary fines, behavioural sanctions or remedies, structural sanctions or remedies, and, in certain cases, disqualification sanctions against individuals, companies must assess a wide range of legal, operational and commercial factors.

Monetary sanctions may directly affect a company's financial capacity to continue operating as usual or to comply with existing contractual obligations, particularly where fines are substantial or imposed alongside additional compliance costs.

Behavioural sanctions and remedies may require companies to modify pricing policies, exclusivity provisions, supply terms, access conditions or information-sharing practices. As a result, existing contracts may need to be renegotiated, amended or, in some cases, terminated to align with the authority's decision and restore compliant market conduct.

Structural sanctions and remedies, such as divestitures or business separations, can have an even broader impact. These measures may require the transfer, amendment or termination of contracts associated with the divested assets, as well as changes to corporate governance structures, operational control and strategic planning.

Because disqualification may be imposed by the CNA as a sanction, key individuals involved in negotiations or ongoing transactions may become the subject of these penalties. This may directly affect the execution of the relevant commercial

operations, the continuity of negotiations or the performance of existing contracts, particularly where those individuals play a central role in decision-making or contractual relationships.

In addition, enforcement decisions may have reputational consequences that adversely affect the ability of sanctioned companies or individuals to maintain or enter into commercial relationships with customers, suppliers or business partners.

From an operational perspective, enforcement decisions may reshape how a company interacts with customers, suppliers and competitors, necessitating adjustments to internal processes, compliance systems and commercial strategies. Companies should, therefore, manage these impacts proactively by assessing contractual and operational risks, communicating transparently with counterparties and ensuring that any changes implemented are fully consistent with both the enforcement decision and applicable law.

List any public disclosure and stakeholder notification requirements that follow competition enforcement decisions. Is there any guidance on managing reputational impact?

Under the Mexican antitrust legal framework, there is no specific obligation for companies to notify stakeholders or make public disclosures solely as a result of a competition enforcement decision. However, under the Securities Market Law (LMV) and the General Provisions Applicable to Securities Issuers and Other Participants in the Securities Market (DGAEV), publicly traded companies (ie, companies listed on the Mexican stock exchange) are subject to specific disclosure obligations.

In particular, articles 105 and 106 of the LMV require publicly listed companies to inform the market of relevant events, including unusual movements in the price or trading volume of their securities, as well as changes in supply or demand or in the price of such securities that are inconsistent with their historical behaviour and cannot be explained by publicly available information. Competition enforcement decisions may constitute such relevant events where they have, or are reasonably expected to have, a material impact on the issuer's securities.

In addition, article 50 of the DGAEV provides a non-exhaustive list of events that may influence the price of securities and, therefore, qualify as relevant events. This list expressly includes judicial, administrative or arbitral proceedings that are material to the issuer or to entities it controls or over which it exercises significant influence, as well as the resolutions issued in such proceedings. It also covers resolutions issued against shareholders exercising significant influence, as well as against directors and key executives, which may encompass competition enforcement decisions and related sanctions.

Separately, with respect to the publicity of decisions issued by the CNA, the Competition Law establishes that:

- sessions of the Board of Commissioners (the Board) are public;
- a stenographic version of the sessions is published on the CNA's website;
- the CNA must make public the individual positions of each commissioner on the matters listed on the agenda of the Board meetings; and
- the official communications and resolutions of the Board are public in nature, with only confidential or reserved information being withheld.

Following significant enforcement decisions, the CNA often issues press releases highlighting the decision and its perceived benefits for the relevant markets.

Accordingly, while the Competition Law does not impose direct notification or disclosure obligations on the stakeholders of companies subject to enforcement decisions, other legal regimes provide for the public dissemination of those decisions. This transparency promotes accountability and the development of precedent, but it also exposes companies to reputational risk.

From a strategic perspective, reputational management should be closely coordinated with legal compliance. It is advisable that corporate communications should neither contradict nor minimise the authority's findings, while emphasising corrective actions taken and the company's commitment to competition compliance. Poorly managed messaging may amplify reputational harm and create additional risks in capital markets or commercial relationships.

How – if at all – do competition authority enforcement decisions affect exposure to private damages litigation?

The Competition Law expressly provides that any persons who have been harmed as a result of illegal conduct or an unlawful concentration may bring individual or collective judicial actions to seek compensation before the federal specialised courts. In addition, the competition authority may bring collective actions where legally appropriate.

A central feature is that private damages actions may be initiated once the CNA has issued the corresponding enforcement resolution. The law further establishes that the statute of limitations for claiming damages begins to run from the date on which the CNA issues such a resolution. This provides legal certainty as to when potential civil liability exposure is triggered and when limitation periods commence.

A claim can be brought as soon as the CNA issues a resolution; it is not necessary to wait for judiciary appeals to be resolved for private damages actions to be brought.

In practice, damage claims is underdeveloped; although the Mexican antitrust legal framework has included them for more than three decades, very few actions have

been brought. This underdevelopment is the result of several factors, including uncertainties on various fronts, such as the competency of tribunals, the underdevelopment of class actions – which has made it difficult to gather enough claimants to make a claim economically feasible – and specific challenges in the calculation of damages given the burden of proof and the standards for causal connection in the civil laws. This setting, however, could rapidly change as the CNA is actively promoting private follow-on claims while relevant case law is expected to be issued in ongoing cases at the time of writing.

Companies must, therefore, assess civil liability exposure as an integral part of their enforcement strategy, including when considering settlement, commitments or leniency, since regulatory relief does not eliminate the possibility of private damages claims by affected third parties.

How are enforcement decisions coordinated across multiple jurisdictions? Give examples of any conflicts that have arisen in your experience.

The coordination of competition enforcement decisions across multiple jurisdictions has become increasingly important in an environment of globalised markets and cross-border transactions, where conduct or transactions frequently produce effects in more than one jurisdiction. In this context, the coordination of competition enforcement decisions across multiple jurisdictions is supported in Mexico by both express statutory provisions and practical mechanisms of international cooperation. The Competition Law empowers the competition authority to cooperate and coordinate with foreign competition authorities in the exercise of its powers.

In practice, this cooperation is implemented through bilateral and multilateral agreements that establish formal frameworks for dialogue and coordination, while fully respecting applicable confidentiality rules and, where required, the consent of the parties involved for the exchange of protected information. By way of example, the Mexican competition authority has entered into cooperation agreements with, among others, the United States and the European Commission. These agreements provide institutional channels for coordination in cartel investigations, merger control proceedings, other proceedings contemplated in the Mexican legal framework and broader enforcement policy matters and reflect Mexico's integration into the global competition enforcement community.

Despite these cooperation mechanisms, conflicts between jurisdictions may still arise. Conflicts typically stem from differences in legal frameworks, substantive standards of analysis, market definitions or assessments of competitive effects. Authorities may also face distinct economic or market realities, which can lead to divergent conclusions or to the imposition of remedies that are not fully aligned across jurisdictions. Timing discrepancies in review processes may further complicate coordination.

From the perspective of companies, this environment requires a carefully coordinated global enforcement strategy, recognising the potential market and enforcement differences in each jurisdiction may affect the feasibility of a transaction or conduct worldwide, even where other authorities adopt a more permissive approach. This is one of the most challenging and common conflicts that arise in multi-jurisdictional transactions, where the specific market dynamics, criteria, legal framework and even statutory periods can create contradictory decisions that, in practice, impose real challenges for companies trying to coordinate a positive and timely outcome in international transactions.

Although conflicts arising from the coordination of enforcement decisions generally occur within and between competition authorities, which makes it difficult to identify concrete, public examples, international organisations have identified recurring challenges in this area. In this regard, the OECD and the ICN, in their report "International Co-operation in Competition Enforcement" identify the main challenges and limitations to effective enforcement cooperation as including resource constraints, coordination and timing issues, legal limitations (particularly in relation to the sharing of confidential information, investigative assistance and enhanced cooperation) and issues of trust and reciprocity between authorities. Practical considerations, such as language barriers and time zone differences, are also highlighted as factors that may hinder effective international coordination.

Finally, with specific reference to merger control enforcement, the OECD highlights several challenges faced by competition authorities in the review of cross-border mergers, including timing constraints and potential strategic behaviour by the parties (eg, deciding where to notify first or tailoring the information submitted in each filing), the risk of conflicting outcomes across jurisdictions, the complexity of designing consistent and effective remedies, and specific challenges affecting smaller jurisdictions (eg, the possibility that parties may withdraw from the jurisdiction or exit the local market altogether if there is no clear or predictable path toward transaction clearance and consummation).

What ongoing compliance monitoring and reporting obligations are imposed following enforcement decisions?

Following enforcement decisions, the CNA may impose ongoing compliance monitoring and reporting obligations to ensure compliance with a resolution. Economic agents may be required to submit periodic reports, provide documentation evidencing compliance and respond to information requests issued in the context of incidental proceedings.

In merger cases, the CNA may verify that the transaction has been implemented in accordance with the terms and conditions approved in the resolution. If discrepancies are identified, the authority may request additional information or initiate enforcement proceedings. Moreover, where a transaction has been conditionally

approved, the CNA may require ongoing information submissions and establish monitoring mechanisms to ensure compliance with the remedies imposed. Mechanisms may include periodic reports, the submission of supporting documentation and, in certain cases, the appointment of a third party, such as an independent auditor or a divestiture agent.

In the context of investigations, the CNA may impose ongoing monitoring and reporting obligations, specially as a result of market investigations and settlement processes, including the submission of periodic reports and supporting documentation to demonstrate compliance with its resolutions. In addition, the CNA has broad supervisory powers to oversee compliance, including issuing information requests, summoning individuals to testify and imposing fines or coercive measures in cases of non-compliance

These monitoring and reporting mechanisms reflect the CNA's broad authority to supervise compliance with its decisions and to impose additional sanctions where necessary. Economic agents must, therefore, maintain robust internal compliance systems, record-keeping practices and internal controls to effectively meet these ongoing obligations.

When and how can companies engage in settlement discussions to minimise their exposure to enforcement actions?

Mexican competition law provides several avenues through which companies may engage in settlement discussions to minimise their exposure to enforcement actions, depending on the nature of the conduct under investigation. In investigations for abuse of dominance or unlawful concentrations, there is a mechanism provided in the Competition Law (sanctions reduction programme), for companies being investigated. This programme gives the parties one chance to propose commitments aimed at suspending, suppressing or correcting the conduct at issue. The settlement may be requested by the investigated company before the third investigation period.

The commitments should be legally and economically viable, accompanied by detailed implementation plans and subject to effective monitoring. If the board of the CNA deems that the offered remedies are sufficient, the proceeding will be closed without a finding of liability. If the request is submitted by the company at a later stage, after the issuance of a statement of objections, the company will have to acknowledge its responsibility for committing an infringement, and the applicable fine reduction will be limited to 50%.

The sanction reduction programme may only be used once every five years and does not preclude private damages actions by third parties.

Settlement discussions in cases regarding cartel conduct are addressed through the leniency programme. This programme allows economic agents and individuals to obtain full immunity or substantial reductions in administrative sanctions by voluntarily acknowledging their participation in the conduct and providing evidence to the CNA, subject to strict timing and cooperation requirements. Leniency operates on a priority basis; early engagement is critical since it can only be requested before the third extension of the investigation period. Moreover, it provides exemption from criminal liability for cartel conduct, which significantly heightens its strategic importance.

In light of the mechanisms described above, from a strategic standpoint, companies must assess the nature of the alleged conduct and the procedural stage of the investigation. Settlement discussions, whether through any of the two procedures mentioned above, must be evaluated alongside potential civil liability, reputational considerations and long-term compliance obligations.

What are the realistic prospects for successfully appealing enforcement decisions and obtaining interim relief?

The prospects for successfully appealing competition enforcement decisions depend on multiple factors, including the legal robustness of the decision, procedural compliance and the nature of the remedies or sanctions imposed. Nevertheless, generally speaking, the judiciary review process works well and should be able to provide relief against unreasonable or ungrounded decisions.

Interim relief, on the other hand, is generally banned for competition cases under constitutional grounds. This means that CNA resolutions (eg, disqualifications or orders to suppress specific conduct) must be carried out immediately, regardless of whether an appeal is filed. Fines, however, will not need to be paid until the appeal process is concluded.

The Inside Track

Based on your experience, which competition officials or authorities in your jurisdiction tend to be most active and which are the most open to collaboration? How have these approaches evolved over the past few years?

Andrea Marván, chair of the CNA, has been particularly active since her appointment as Commissioner. First, she played a key role in the constitutional restructuring of Mexico's competition regime, contributing to the design and consolidation of a new competition authority intended to be autonomous, efficient and capable of continuing the solid institutional work carried out by its predecessor, the Federal Economic Competition Commission (COFECE).

Second, from an international perspective, Andrea has emerged as a leading figure in competition policy. Reflecting this recognition, she was appointed chair of the ICN in May 2025.

What are the unwritten rules or informal practices you have observed in competition enforcement cases?

Ongoing and effective communication with the competition authority is essential in enforcement proceedings.

In cases involving applications for sanctions reduction or leniency, clear and continuous communication with the officials administering these programmes is critical to secure available benefits and protect the interests of the economic agent.

Similarly, in investigations, communication with case handlers is key to reducing friction in the process. Adopting a cooperative but well-informed approach helps avoid sanctions for non-compliance. Effective enforcement handling requires a solid, pre-defined strategy, particularly before responding to requests for information or other investigative measures.

Can you share an anecdote from a case in which you have been involved that demonstrates the above?

During an enforcement case for abuse of dominance, the investigated company adopted a cooperative approach when responding to multiple requests for information, following a structured and consistent strategy. By the end of the second investigation period, the company remained compliant, with no sanctions imposed, and the authority's case handler team showed an open and constructive approach.

By contrast, within the same investigation and overseen by the same case handler team, several other companies were fined for non-compliance by the end of the second investigation period, despite not being targets of the case.

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