

Competition Law
**Year in
Review**

First
Semester
2024

Index

- 1. CNDC News and Publications**
 - A. Regulatory and Legislative Developments**
 - B. International Cooperation**
- 2. Competition Law on the Local Media**
- 3. Merger Control**
- 4. Anticompetitive Conducts**
- 5. Judicial Rulings**
- 6. Market Investigations**
- 7. Antitrust Events**
- 8. Contact**

1. CNDC News and Publications



A. Regulatory and Legislative Developments

New Reporting Thresholds and Fines in 2024

Resolution 48/2024 of the Secretariat of Industry and Trade (“SC”), published on 23 January 2024 in the Official Gazette and effective as of 25 January 2024, modified the value of the mobile unit (“MU”) defined in section 85 of Antitrust Law No. 27,442 (the “Competition Law”).

The MU is the “unit of account” used to define a series of values set in the Competition Law. It is of particular importance in determining whether an economic concentration should be notified.

Resolution SC 48/2024 updated the value of the UM to ARS 506.19, almost 212% higher than that in force in 2023.



Consequently, economic concentration transactions are currently notifiable in the event that the turnover in Argentina of the acquiring group and the target company in the last financial year exceeds ARS 50.619 billion. Likewise, the exemption from notification under section 11 of the Competition Law is applicable when the amount of the transaction and the value of the assets located in Argentina that are being absorbed, acquired, transferred or controlled do not exceed ARS 10.123 billion each, provided that no transactions have been carried out in the last 12 months in excess of such value, or ARS 30.371 billion in the last 36 months.

On the other hand, in the event that it is impossible to determine the turnover of the infringing companies in conduct investigations (section 55 of the Competition Law), the new ceiling of fines for prohibited conducts is now ARS 101.238 billion.

Finally, the increase in the value of the UM also increased the fines under the unfair trading regime approved by Decree No. 274/2019 (section 57) to ARS 5.061 billion.

To read the Resolution, see: [Link](#)

New Members of the CNDC Appointed

New members of the National Antitrust Commission (“CNDC”, for its acronym in Spanish) were appointed by Decree 100/2024 of 30 January 2024. Alexis Pirchio, Master’s in Economics, will serve as president, while economist Florencia Bogo and lawyers Lucas Trevisani Vespa and Eduardo Montamat will serve as commissioners. All of them have previous experience in the CNDC. In turn, by Decree 363/2024 of 25 April 2024, lawyer María Paula Molina was also appointed as a commissioner.



For more information, see: [Link 1](#) / [Link 2](#)

Regulation of the Leniency Program

On 28 May 2024, and after a public consultation process, the Ministry of Industry and Trade issued Resolution 98/2024, which approved the Regulation for the Implementation of the Leniency Program created by sections 60 and 61 of the Competition Law. The Regulation will be in force until the National Competition Authority -not yet constituted- becomes operational.



The Leniency Program grants any individual or legal person that has incurred or is incurring in cartels typified under section 2 of the Competition Law (the so-called hardcore cartels) the possibility to obtain the following benefits:

A. an exemption from the administrative fine for the first applicant to provide evidence to establish the existence of the cartel, whether or not there is an ongoing investigation (unless in the latter case there is already sufficient evidence);

B. a reduction of between 50% and 20% of the maximum fine that would have been applicable by virtue of their participation in the collusive arrangement, for the next applicants who provide additional evidence.

C. a one-third reduction of the fine that would otherwise have been imposed for the participation in the first conduct, for a person who failed to qualify as a first applicant, but who, during the course of the investigation, discloses and acknowledges a second and dissimilar concerted anti-competitive conduct in which he is the first applicant (leniency plus);

D. exemption from the prison sentences provided for individuals by sections 300 and 309 of the Criminal Code, which punish, respectively, price fixing or collective boycotts commodity cartels, or price fixing cartels in negotiable securities or other financial instruments; and

E. exemption or reduction of the applicant's liability to pay damages in private action cases, depending on whether the applicant has benefited from the exemption from or reduction of the administrative fine, respectively, and subject to certain restrictions.

The Regulation

A. Creates the “Leniency Unit” (the “LU”).

What it is: An operational unit formed within the CNDC, but functionally independent from it and the Secretary of Trade and Industry, whose main purpose is to carry out the tasks required for the implementation and enforcement of the Regulation.

Composition: it will be headed by an official with the rank of National Director. The Resolution mandates the CNDC to allocate within its current resources those officials who will form the LU, who must keep confidential all information to which they have access in the exercise of their functions.

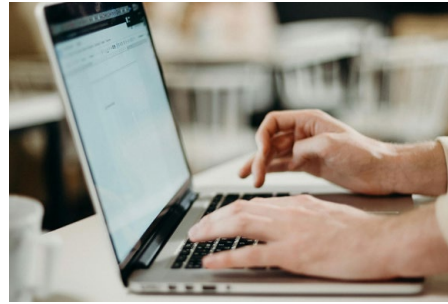
B. Creates a two-stage procedure for obtaining Leniency Program benefits:

Marker request:

Interested parties will be able to make general inquiries about the Program, as well as inquiries about the availability of markers. Consultations will not imply the acknowledgement of any infraction, nor a request for access to the Leniency Program.

Inquiries should be made as follows: (i) anonymously; (ii) in hypothetical terms; (iii) indicating a description of the market in which the practice would have taken place, but without the need to identify specific facts about the conduct in question; and (iv) in person, by telephone or by email.

Once informed of the availability of markers, the applicant may formally make the request for a marker, which will determine the order of priority in which it will be evaluated. Within 10 days, the LU will decide on its admissibility by issuing a “marker certificate” indicating the date and time the request was made.



The request for a marker will not be considered submitted if the interested party formalizes its request after having been notified to make its discharge and offer evidence under section 41 of the Competition Law (advanced stage within the conduct investigation procedure).

Request for Leniency:

Within 10 days after the issuance of the marker certificate, the Regulation provides for a “coordination hearing” to be held before the LU, in which the interested party will formalise the leniency application, attaching: (i) identification data; (ii) copy of the marker certificate; (iii) sworn statement as required by section 21 of the Regulation; (iv) identification of the other participants involved in the conduct; and (v) detailed description of the affected market, as well as the facts, geographic scope and timeframe of the anti-competitive conduct.

In case the disclosed practice is international, an explanation should be given as regards its impact on the country.

At this hearing, the LU will set a schedule for the delivery of all the documentation, information and supporting data of the leniency application, which may not exceed 60 days from the date of the hearing, with a single extension of 30 days when the complexity of the investigation determines the need to have more time to obtain information relevant to the procedure.



Once this period has expired, the LU will issue a confidential opinion on the application, and the CNDC shall evaluate the application within a period of no more than 20 days, which may be extended only once for up to 20 additional days when the complexity or volume of the background and documentation so justifies.

If appropriate, the CNDC will grant the conditional benefit of exemption from or reduction of penalty.

Finally, it establishes the granting by the Secretariat of Industry and Trade of the definitive benefit of exemption from or reduction of the fine at the time of issuance of the final resolution of the relevant conduct, after the opinion of the CNDC has been issued.

C. Requires the applicant to immediately cease the disclosed anti-competitive practice, provide all information and evidence, as well as collect and preserve the evidence at its disposal. Failure to comply with this duty will be ground for rejection of the Request for Leniency and, where appropriate, for the granting of the definitive benefit of exemption from or reduction of penalty.

Finally, by means of Provision 57/2024, the members of the LU were appointed: Catalina Aldama will be in charge of the Unit, being assisted by Rafael Lobos, Ana Julia Parente, Germán Zamorano and Mariana Bermúdez.

If you would like to review the full text of the Resolution (available only in Spanish), see [Link](#) For more information, see: [Link 1](#) / [Link 2](#)

B. International Cooperation

CNDC Participates in the Meeting of the Antitrust Technical Committee of the Mercosur Trade Commission

On 28 February, the Mercosur Antitrust Technical Committee No. 5 was held, in which, in addition to the CNDC team from Argentina, members of the Administrative Council for Economic Defence of Brazil (CADE), the National Competition Commission of Paraguay (CONACOM), and the Commission for the Promotion and Defence of Competition of Uruguay (CPDC) also participated.

This meeting was held under the coordination of CONACOM, with the aim of advancing a joint cooperation agenda.

CONACOM formulated the Work Program 2024, which contains the activities to be developed, either on a permanent or specific basis, and which was also approved by the competition authorities of the States Parties. It will then be submitted to the Mercosur Trade Commission (MTC) for consideration.



Among the issues discussed during the meeting, there were certain projects related to technical cooperation, communication and dissemination on competition matters and peer review of rules and regulations. Such initiatives include the evaluation of training instances to keep competition authorities up to date on digital markets, as well as exchange spaces to discuss cases of anti-competitive practices or economic concentrations of regional relevance. On another front, it is planned to develop a joint strategy to communicate the objectives, tasks and activities of the competition agencies to specialized and non-specialized audiences in the field through different channels.

For more information, see: [Link](#)

[CNDC Participates in International OECD Workshop on Due Process and Procedural guarantees in Competition Cases](#)

Professionals from competition agencies of Argentina, Brazil, Chile, the United States, Paraguay, Uruguay and Peru, among others, attended the international workshop on due process and procedural guarantees in competition cases.

Organised by the OECD Regional Centre for Competition in Latin America and the INDECOPI of Peru, various topics related to the investigation of cases and the right of defence, powers of competition authorities in gathering evidence and judicial review of decisions, among other aspects of the guarantees that make up the due process, were presented and discussed. In addition, the workshop allowed for the exchange of experiences with representatives of other agencies and facilitated possibilities for cooperation.

na Parente, Director of Legal Studies of the CNDC, referred to the Argentinian experience in cases related to certain procedural guarantees, such as the application of the principle of the most benign criminal law in the case of continuous infractions, the legal standing of the complainant to challenge resolutions imposing sanctions, confidentiality of certain evidence and the right of defense.



For more information, see: [Link](#)

CNDC Attends Extraordinary Meeting of Mercosur Competition Authorities

On 21 March, the first face-to-face meeting of Mercosur competition authorities since 2019 was held in Buenos Aires.

The meeting was held with the aim of advancing in the joint work agenda for 2024, previously agreed upon in the meeting of the Mercosur Antitrust Technical Committee No. 5.



In this framework, the Memorandum of Understanding for the Edition of the Mercosur Competition Yearbook was signed by the competition authorities of the four State Parties. The purpose of the Mercosur Competition Yearbook is to present the main actions of the agencies on anti-competitive behaviour and merger control.

For more information, see: [Link](#)

To see the MoU (available only in Spanish) see: [Link](#)

CNDC Hosts First Free Competition Meeting of the Year

On 24 April 2024, the First Competition Meeting of the year was held, organised by the CNDC and addressed to its own team, with the aim of creating a space for discussion and exchange on case law, relevant competition law cases and new approaches to certain antitrust issues, among other aspects.



For more information, see: [Link](#)

World Bank Provided Leniency Training to CNDC Staff

In the framework of the enactment of the Regulation for the Implementation of the Leniency Program and the creation of the Leniency Unit, the World Bank provided intensive training to CNDC members. Presentations focused on the stages of the procedure under a leniency application, from the consultation to the granting of the final benefit. Different experts shared experiences from other jurisdictions and practical exercises and simulations of the process were carried out.



For more information, see: [Link](#)

CNDC Participates in International Workshop on Tools and Techniques to fight Cartels Organised by OECD and INDECOPi

On 4 and 6 July, the CNDC participated in a workshop in Lima organised by the OECD and INDECOPi on tools to fight cartels.

In the sessions, different topics related to the investigation of cartel cases, powers and methods used by competition agencies in the collection of evidence, economic intelligence, monitoring of public procurement and implementation of leniency programmes were presented and discussed. The workshop also allowed for the exchange of experiences with representatives of other agencies, as well as possibilities for cooperation.



For more information, see: [Link](#)

CNDC Participates in OECD Competition Committee

The OECD Competition Committee meets twice a year in Paris, in June and November. On this occasion, the CNDC participated in two best practices roundtables, entitled “Competition and regulation in professions and occupations” and “Monopolisation, economic loopholes and entrenchment strategies”.



These biannual meetings are an opportunity for the world’s competition authorities to exchange ideas and analyse various competition policy issues.

To access the contributions, see: [Link 1](#) / [Link 2](#)

For more information, see: [Link 1](#)

The CNDC participated in the end-of-semester meeting of MERCOSUR Antitrust Technical Committee No. 5

The Mercosur competition authorities’ meeting closed the Pro Tempore presidency of Paraguay, and CONACOM made an assessment of the progress achieved.

Among the objectives achieved, the joint production of a newsletter with the main news of each authority, the signing of the Memorandum of Understanding for the edition of the Mercosur Competition Yearbook and the review of certain guidelines and regulations, among which is the recently approved Regulation for the Implementation of the Leniency Program, were highlighted.

Among the projects planned for the agenda of activities, a training on digital markets and the approach of cross-cutting issues for the different competition agencies of the common market was included. Uruguay will assume the Pro Tempore Presidency, so the CPDC will be in charge of the coordination of the Committee during the following months.



For more information, see: [Link](#)

2.

Competition Law On the Local Media



[CARBAP Accuses Grain Exporters of Anti-Competitive Behaviour](#)

In March 2024, the Confederation of Rural Associations of Buenos Aires and La Pampa (CARBAP) filed a complaint with the CNDC against grain exporters for alleged anti-competitive behaviour.

In the context of a four-year internal investigation that analysed the behaviour of international and local markets, comparing the evolution of FOB and FAS prices, the impact of export duties and the different exchange rates applied in grain sales operations, they allege that exporters adopted exploitative conducts.



For more information, see: [Link](#)

[TECNOVAX accuses Biogénesis and CDV for alleged cartelization and abuse of dominant position](#)

Argentinean company Tecnovax filed a complaint before the CNDC for alleged cartelization and abuse of dominant position against the main laboratories producing foot-and-mouth disease vaccines, Biogenesis and CDV.

Tecnovax claims that both companies dominate the Argentinean FMD vaccine market and that they abused their dominant position by modifying the price of the tetravalent FMD vaccine. The conflict began months ago when Tecnovax complained that Biogénesis Bagó and CDV were selling the vaccine at much higher prices than in neighbouring countries, where it was available two to four times cheaper.



Since 2001, vaccination against foot-and-mouth disease has been compulsory in Argentina, with two vaccination campaigns per year, and until 2017 the only supplier of the vaccine was Biogénesis Bagó. That year, CDV joined as a participant.

The fact that both Biogénesis Bagó and CDV, the main suppliers of the market, were selling the vaccine to producers at higher prices than those available in neighbouring countries, forced SENASA to define changes in the composition of the vaccine required by Argentina, in order to enable new competitors and import vaccines from other countries at lower prices.

For more information, see: [Link](#)

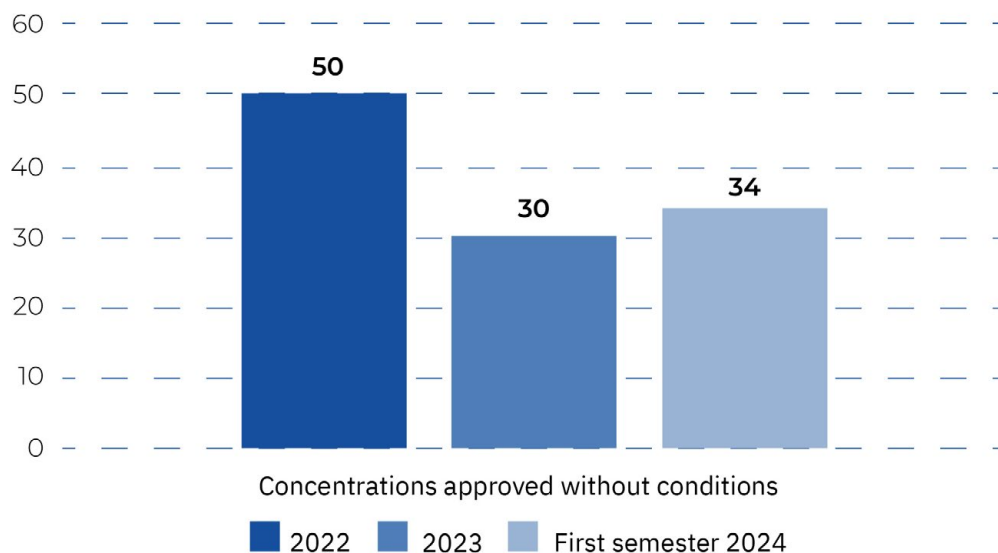
3. Merger Control



Economic Concentrations Approved by the CNDC in the First Half of 2024

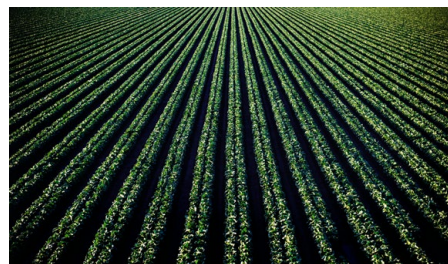
During the first half of 2024, the CNDC approved 34 economic concentration operations without conditions.

Concentrations Approved Without Conditions



Fines for Late Notification of Acquisition of Land in the Province of Santa Fe

On 21 March 2024, following the recommendation of the CNDC, the Secretary of Trade and Industry imposed a fine to Ulands S.A., a company controlled by Unilever, for notifying after the deadline the acquisition of land in the Province of Santa Fe.



Although the transaction was approved without conditions, the notification of the acquisition was submitted with a delay of eight administrative business days; therefore, it was decided to impose a fine of ARS 716,713.58 for each day not notified, i.e. a total of ARS 5,700,000.

For more information, see: [Link](#)

Cascia Gases Acquired the Assets from the Divestment Ordered by the CNDC as Part of the Linde/Praxair Transaction

On 19 May, the CNDC issued its final opinion on the merger between Linde and Praxair, two of the world's leading domestic and global suppliers of medical and industrial gases.

In September 2021, the CNDC had issued an Objection Report, in which it noted that, if the notified concentration were approved, in 22 out of 33 gas markets the number of companies capable of producing and/or distributing gases on a national scale would be reduced, and that in several of these markets - such as the markets of bulk oxygen, bulk nitrogen and medical cylinder gases, as well as cylinder carbon dioxide - the parties would have a combined market share of more than 55%. In turn, it considered that the merger would also vertically affect the market of respiratory care services, leading to a possible closure of the supply of medical oxygen.

On their part, Linde and Praxair argued that the Argentine medical gases market was dynamic and that companies regularly lost customers to competitors. In addition, they challenged the findings of the Objection Report in defense of the hypothesis that the merger did not give rise to competition concerns, which ultimately convinced the CNDC that the merger merited the application of structural and behavioral remedies, but only in the oxygen market.

During and after the hearing held under section 14 of the Competition Law, the parties successively submitted three divestiture proposals. The first two were discarded by the CNDC, while the third one was complemented by adding requirements in terms of deadlines, methodology of the sale process and behavioral remedies, which according to the CNDC are intended to dissuade the potential unilateral effects that the operation may generate at the national level, as well as to generate a bidder that can compete with the merged companies, thus restoring the competition that existed in the gases market prior to the operation.



The structural remedies involved deconcentrating all links in the liquid oxygen chain to ensure the entry of a competitor with a 7.5% share. The measures consisted of:

A. A supply contract for a term of five years, with two additional renewal options for another five years each, to ensure the supply of 75 tons per day of liquid oxygen at production cost.

B. The sale of three liquid oxygen fractionation plants and two tankers.

C. The assignment of oxygen supply contracts with public and private hospital customers in different parts of the country.

As regards the behavioral measure, the CNDC ordered the parties to regularly submit sales data to the CNDC and prohibited them from unreasonably denying sales or discriminating against the purchase of gases by other companies.

With regard to the divestiture, which was implemented after a competitive process conducted by an international consultant, the company Roberto Salinas e Hijos S.A. -known in the market as Cascia Gases- acquired the divested asset package. Cascia Gases is an Argentinean company that owns a production plant in Tucumán where it produces oxygen, nitrogen and argon.

Prior to the acquisition, Cascia Gases had a 2% share in the domestic production of liquid oxygen. As a result of the acquisition, it will now have a 9.5% share.

For more information, see: [Link](#)

4. Anticompetitive Conducts



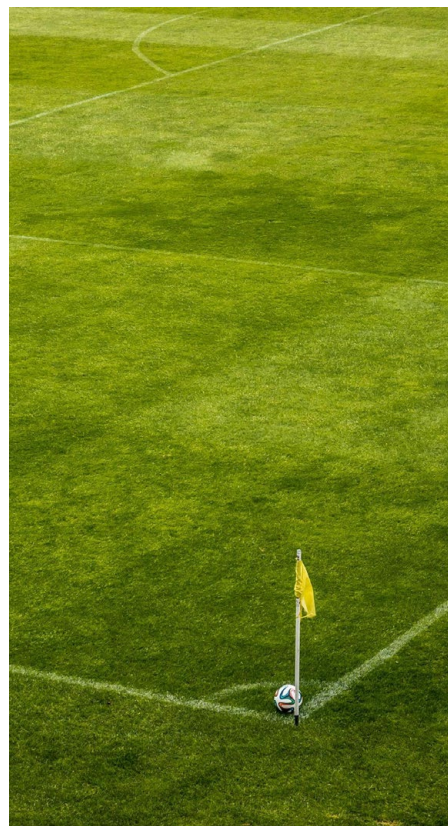
CNDC Imposed an Injunction Against the Company that Controls the TyC Sports Signal for Alleged Refusal to Sell

The Argentine Chamber of Internet (CABASE) filed a complaint before the CNDC against the company Tele Red Imagen S.A (TRISA) for the alleged unjustified refusal to sell, by refusing to provide the sports signal TyC Sports to certain companies associated to the Chamber. The refusal was expressed through CABASE companies' rejection of TRISA's proposal to establish guaranteed minimum clauses. In this respect, TRISA stated that this type of clause is part of its commercial policy and that it was a "guideline on which negotiations are initiated", which could be modified depending on the commercial agreement reached.

The CNDC did not find it justified that TRISA had not reached an agreement with CABASE, as the refusal to sell the signal did not make economic sense when, for TRISA, the cost of providing an additional subscriber was deemed to be close to zero.

In addition, CABASE pointed out the urgency to reach an agreement, since TyC Sports had the broadcasting rights for numerous matches of the 2022 Qatar World Cup. Indeed, the non-inclusion of the signal during the World Cup resulted in a reduction in the clientele of the companies associated to CABASE.

The CNDC understood that the reported conduct, by restricting competition, had the potential to affect the general economic interest. Having corroborated the economic reasonableness of the potential alleged practice, the dominant position held by the defendant, the plausibility of the potential anti-competitive effect derived from the creation of entry barriers in the provision of pay TV services and the danger of delay due to the harmful consequences for cable operators of not having the "TyC Sports" signal in their line-up, the CNDC considered that the anticipatory protection measure (*tutela anticipada*) was the appropriate and effective legal tool for the protection of the general economic interest. Consequently, it issued an opinion suggesting the adoption of an anticipatory protection measure under the terms of section 44 of the Competition Law.



The main elements that supported the issuance of the measure were:

A. TyC Sports included football contents considered “critical” from a competition point of view.

B. The CNDC interpreted the refusal to sell as being linked to the fact that both partners of TRISA (Grupo Clarín and Vrio, of the Werthein Group) controlled downstream companies that competed with the companies associated to CABASE (namely Telecom and DirecTV).

In this context, the CNDC stated that guaranteed minimum clauses setting a high number of subscribers as barriers to entry put entrants at a competitive disadvantage.

TRISA will be required to comply with the anticipatory protection measure from the time of its issuance until the ongoing investigation is resolved.

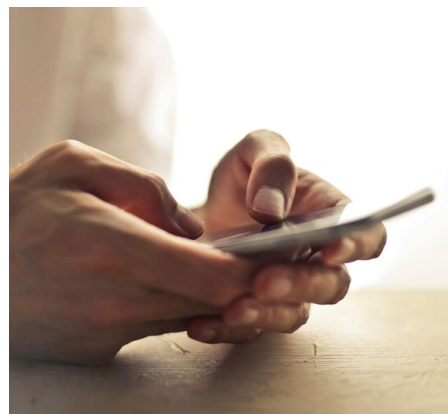
For more information, see: [Link](#)

Modo Accused Mercado Pago and Mercado Libre for Abuse of Dominant Position after Refusal to Accept Interoperability of QR Codes

In May, Play Digital S.A. (commercially known as “MODO”) filed a complaint in the CNDC against Mercado Pago and Mercado Libre for exclusionary abuse of dominant position.

MODO argued that the defendants prevent (i) their users from incorporating competing digital wallets into the Mercado Pago platform; (ii) payment aggregators that compete with Mercado Pago from providing payment services on the Mercado Libre platform, directly tying the services offered by the platform with those offered by the Fintech; and (iii) sellers from operating on the platform unless they have an account in Mercado Pago. Lastly, MODO pointed out Mercado Pago’s refusal to establish interoperability of QR codes and the payment gateway concerning other digital wallets.

According to MODO, Mercado Libre controls 80% of e-commerce, and these types of practices strengthen the vertical relationship between the platform and the Fintech. Mercado Libre is the most widely used platform for e-commerce, and both sides of the platform (users and sellers) are compelled to exclusively use Mercado Pago services to operate, thus reducing the options available to users and sellers by limiting competition.



Additionally, MODO requested that the CNDC issue a precautionary measure ordering Mercado Libre to:

A. Grant immediate access to its platform to digital wallets that compete with Mercado Pago and, specifically, allow MODO to operate as a payment button within Mercado Libre.

B. Grant immediate access to its platform to acquirers, aggregators, and acceptors that compete with Mercado Pago.

C. Cease the tying of sales between Mercado Libre and the Mercado Pago digital wallet, allowing merchants and sellers on the platform to receive payments directly into the bank or payment account of their choice.

D. Cease the refusal of interoperability and make their QR codes interoperable, without discriminating or degrading the service for other digital wallets.

E. Make their digital wallet interoperable so that Mercado Pago users can initiate card payments through payment methods offered by acquirers and/or aggregators that compete with Mercado Pago.

Regarding the implementation of QR code payment interoperability with debit and credit cards, Mercado Pago and MODO ultimately reached an agreement. Under this agreement, Mercado Pago and other digital wallets will be able to operate in a unified manner across various stores under the same QR system.

The Central Bank had mandated that all QR code readers must accept payments from any digital wallets, regardless of brand, something that had not yet been implemented due to resistance from Mercado Pago. Finally, the company decided to accept not charging a fee to other digital wallets whenever its system was used.

Nonetheless, MODO will continue its claim before the CNDC for anticompetitive behavior by Mercado Libre



For more information, see: [Link 1](#) / [Link 2](#)

Collusion in the Private Healthcare Companies Segment

In April 2024, the Secretary of Industry and Trade, based on the recommendation of the CNDC, issued a preliminary injunction against the main private healthcare companies, ordering them to readjust the values of their healthcare plan fees according to the monthly variation of the Consumer Price Index (CPI).

The conflict dates back to the beginning of the year when some congressmen for Buenos Aires City denounced before the CNDC a possible cartelization of the main private healthcare companies in the country. The complainants pointed out that there was a coordinated increase in the prices of private healthcare plans offered by the companies after the entry into force of DNU 70/2023, which deregulated the prices of the sector. According to the complainants, the agreements were made through the Confederación Unión Argentina De Salud (UAS), as evidenced by public statements made by some of its officers.



After the defendants explained their position and the CNDC analyzed the matter, the Secretary of Industry and Trade issued a preliminary injunction under the terms of section 44 of the Competition Law, ordering the defendants to (i) adjust the values of the health plan fees to be charged and those charged since December 2023 according to the variation of the CPI; (ii) cease any type of information exchange regarding commercial information; (iii) provide monthly information on prices, revenues and number of affiliates to the CNDC; and (iv) publish the judgment in their respective websites.

However, as a result of an agreement reached and approved by the Superintendencia de Servicios de Salud (SSS) and the accused companies in May, the Secretary of Industry and Trade annulled the early injunction, considering that the danger of delay -one of its requirements- had ceased and that the objectives of the agreement matched the purpose of the measure adopted by the CNDC.

Notwithstanding the above, the CNDC reported that the investigation will continue.

For more information, see: [Link 1](#) / [Link 2](#)

Undertaking in the Investigation against Prisma is Declared Fulfilled

On 4 June, the Secretary of Industry and Trade declared fulfilled the undertaking of Prisma and its shareholder banks, which consisted of selling 100% of the company's shares and unbundling merchant fees, among other measures. The commitment was offered in the framework of an investigation initiated in 2016 by the CNDC for alleged concertation and abuse of dominant position in the electronic payment processing and acquiring markets.

The CNDC had formulated two theories of anticompetitive harm: one attributable to Prisma's shareholder banks, for the use of the company as an information exchange mechanism and an agreement on financing terms; and another attributable to Prisma, for setting an exclusionary interchange fee, degrading the quality of competitors' services, the discriminatory and exclusionary treatment of competitors, and the unjustified refusal to provide processing services.



The structural commitment was fulfilled in two stages: in 2019, 51% of the shares were sold to Advent and, in 2022, the remaining 49% were sold. The behavioral commitment was fulfilled through the incorporation of amendments to the processing contracts with the main financial institutions and the unbundling of merchant fees.

In 2019, First Data reported a breach of the undertaking, but the CNDC dismissed the complaint and concluded that there was no discrimination in the processing service. Thus, the CNDC declared Prisma's undertaking fulfilled and ordered the case to be closed.

For more information, see: [Link 1](#)

5. Judicial Rulings



Federal Court Grants Injunction Requested by Health Regulator Regarding the Value of Private Healthcare Companies' Fees

In April, the superintendent of the SSS filed a protective action against the main private healthcare companies, ordering them to cease and desist from the increases in healthcare benefit fees subsequent to the enactment of DNU 70/2023.

In addition, it requested an injunction in order to backdate the fees to the amounts in force as of December 1, 2023 and to refund the amounts received as a result of the difference generated by the increases made. The main argument was that the companies incurred in an abuse of dominant position in the setting of the installments.



In May, Civil and Commercial Court No. 3 granted the injunction filed and ordered the companies to refrain from increasing the fees in all their plans and to backtrack the amount of the values to the fees in force as of December 2023, updating them according to the CPI. In addition, it established that in the case of members who paid the invoices with the increases prior to the issuance of this injunction, a credit in their favor should be granted.

For more information, see: [Link](#)

6. Market Investigations



Market Investigation in the Disposable Diapers and Tissue Paper Markets

In the framework of a market investigation, the CNDC concluded that the market for tissue paper products, which include toilet paper, kitchen rolls, napkins and disposable handkerchiefs, have a moderate level of concentration, while the disposable diapers market is highly concentrated.

In the case of tissue paper products, the supply structure is made up of a multinational company and some small and medium-sized companies with national capital. The production of diapers is mainly made up of three multinational companies. Thus, without prejudice to the fact that, at least incipiently, there is a recent entry with growth potential, the presence of SMEs is practically marginal.



One of the main differences between the two markets is the participation of the retail and wholesale chains' own brands. While in the case of tissue paper products their participation is very important, their presence in the diapers market is virtually non-existent and discontinuous. Moreover, this scenario could change as a result of the entry of SMEs with production capacity to manufacture products for third parties.

Although none of the markets have specific regulations, some of the companies consulted expressed difficulties in the purchase of foreign inputs due to the conditions to acquire foreign currency for the payment of imports. This situation could have affected production capacity and, therefore, the competitive performance of the different competitors. Logically, this difficulty would have had a stronger impact on those companies with greater limitations to access external financing.

For more information, see: [Link](#)

7. Antitrust Events



Leniency Program Day

As part of the regulation of the Leniency Program, the CNDC held a seminar on the matter, which was attended by members of the competition authorities of Mexico, Brazil, Uruguay, Spain and the World Bank, as well as representatives of the private sector, including our firm.



For more information, see: [Link](#)

2024 Antitrust Spring Meeting

In April, Marcelo den Toom, partner in charge of Bomchil's Competition Department, attended the 2024 Antitrust Spring Meeting in Washington, D.C., organized by the American Bar Association (ABA).

The event is the most important antitrust event in the world. It was attended by more than 3,800 government officials, private attorneys, in-house corporate counsel, academics, judges, economists and businessmen from 64 countries.



Contact



Marcelo A. den Toom

marcelo.dentoom@bomchil.com



Ilan D. Soae

ilan.soae@bomchil.com



*Av. Corrientes 420 · C1043AAR
Buenos Aires · Argentina
T. +54 11 4321 7500
contacto@bomchil.com*

www.bomchil.com

