



Competition Law

Year in Review

First Semester
2025

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1. CNDC News and Publications

A. Regulatory and legislative developments

The CNDC modified the inclusion and exclusion criteria for PROSUM

On January 3, Provision 156/2024 (the “New Criteria”) of the National Commission for the Defense of Competition (“CNDC”) was published in the Official Gazette, whose Annex I replaced Annex I of Provision 62/2023, in general terms, making the technical inclusion and exclusion criteria applicable to an economic concentration operation more flexible so that an economic concentration operation can be processed through the Summary Procedure (“PROSUM”).



PROSUM is provided for in Article 10 of Law 27,442 on the Defense of Competition (“LDC”), and was contemplated in the Regulations for the Notification of Economic Concentration Operations approved by Resolution 905/2023 of the Secretariat of Trade. It is an alternative procedure to the ordinary one, applicable to economic concentrations that do not have a significant negative impact on competition. It allows notification of mergers only with Form F0, without the need to file additional forms.

The incorporation of PROSUM was one of the main changes in the regime for reviewing economic concentrations in recent years. According to the CNDC, these new amendments were aimed at optimising administrative resources, promoting investment and competitiveness by fostering a predictable regulatory environment and ensuring an efficient analysis of economic concentrations.

The changes introduced by the New Criteria in the PROSUM are as follows:

- 1.** With respect to horizontal concentrations, in order to process under the PROSUM, the joint market share in each of the relevant markets affected by the notified transaction must be less than 50% (previously it was 35%), and the increase in the IHH must be less than 150 points.
- 2.** With respect to the exclusion criteria, it was determined that an economic concentration may not be processed via PROSUM if a regulatory agency (Article 17 of the LDC) expressly opposes the notified transaction.

3. Finally, the following exclusion criteria were removed:

- a) The creation of joint ventures between companies that remain independent.
- b) Changes from joint to exclusive control when (i) the acquiring company is a direct competitor and has a substantially high market share; or (ii) the prior joint control acquisition transaction was not examined by the authority.
- c) When, at the time of the transaction, the acquirer or the target company has more than 5% of the stake in competing companies.

To access the Resolution, see / [Link here](#)

To access the New Criteria and Annex I see / [Link here](#)

The Secretariat of Industry and Trade updated the value of the Mobile Unit for year 2025

Through Resolution 21/2025, the Secretariat of Industry and Trade (SIyT) updated the Mobile Unit provided for in article 85 of the LDC for year 2025. As of February 26, its value was established at One Thousand One hundred and Two pesos and Twenty-Eight cents (AR\$ 1102.28).

For more information see / [Link here](#)



Eduardo Montamat was appointed as President of the CNDC

As a result of the official resignation of Alexis Pirchio on March 14, 2025, through Decree 201/2025 of March 18, 2025 Eduardo Montamat was appointed as the new President of the CNDC.



Eduardo Montamat is a lawyer and holds a PhD in Law and Social Sciences from the National University of Córdoba. He is a full professor in Economics and Finance at the National University of Córdoba and at the National University of Chilecito. He was Chief Lawyer of the CNDC and Member between 1999 and 2003, and served as a Member of the CNDC from his appointment in January 2024 until his appointment as President.

In addition to Montamat, the CNDC is currently comprised by three members, lawyers Lucas Trevisani Vespa and María Paula Molina and economist Florencia Bogo.

For more information see / [Link here](#)

Creation of the National Competition Authority

Through the approval of Joint Resolution No. 1/2025 of March 13, the procedure for the appointment of the members of the National Competition Authority (“ANAC”) was established. Subsequently, the SIyC resolved, through Resolution No. 93/2025 of April 16, 2025, to initiate the selection process to fill the positions corresponding to the members of the ANAC, in accordance with the LDC.

On the other hand, on May 6, the SIyC approved the bases of the call of candidates and the profiles defined by the jury to fill the positions of the ANAC, and after the closing of the call on June 2, 2025, lists were drawn up of the candidates registered for each position. Among the applicants were professionals with a long career in the CNDC, current officials of the CNDC, and professionals from the private sector.

On July 23 the shortlists for the different positions of the ANAC were approved. They will be sent to the Anti-Corruption Office to make a report on the conflicts of interest that the candidates may have. Once the report is produced, the Executive Branch will publish the names and background of each of the applicants, and citizens, NGOs, professional associations and academic entities, among others, will be able to submit their observations for 15 days. Once this period has expired, the Executive Branch will appoint the members of the ANAC, which must be ratified by the National Senate.



The implementation of the ANAC will entail, among other implications, the dissolution of the CNDC, which currently operates as a technical advisory body to the SIyC, which in turn temporarily acts as the adjudicatory authority of the LDC. Likewise, the constitution of the ANAC will allow the implementation, one year after its effective operation, of the pre-closing merger control regime.

To access the Resolution, see / [Link here](#)

CNDC rules on regulations governing the payment of employees' salaries

On January 29, 2025, the CNDC issued an opinion on free competition following a request filed by the Mayor of the Municipality of Tres de Febrero, Diego Valenzuela.

The purpose of the consultation was to analyze two regulations of the Province of Buenos Aires: Article 7 of the Organic Charter of the Bank of the Province of Buenos Aires (“BAPRO”) and Article 1 of Provincial Law No. 14,881. Both provisions impose on municipalities and provincial agencies the obligation to channel the payment of staff salaries through the BAPRO, without the possibility of freely choosing among other financial institutions.

The requesting Mayor argued that these rules generate a distortion of competition, since they exclusively reserve a segment of the market to BAPRO, preventing other entities from competing to provide the same service. It also held that this not only restricts competition and affects the general economic interest, but also violates constitutional principles such as municipal autonomy (Articles 5 and 123 of the National Constitution) and the right of consumers to freedom of choice (Article 42).



BAPRO rejected the CNDC’s empowerments to rule on provincial regulations, arguing that it is an inter-administrative matter between the province and its municipalities, protected by the federal regime and by historical prerogatives recognized in the Pact of San José de Flores. It also maintained that there is no impact on free competition or the general economic interest, and that municipal workers can freely transfer their salaries to other entities once they have been received.

However, and contrary to the bank’s arguments, the CNDC concluded that it has the power to issue non-binding opinions on antitrust matters, including with respect to provincial regulations, and that the regulations in force in the province of Buenos Aires violate the principle of competitive neutrality, by imposing contracting with a single banking entity. It indicated, in turn, that the lack of competition prevents municipalities from obtaining better conditions for the payment of salaries and restricts the access of other operators to the market.

Accordingly, the CNDC recommended that the SIyC suggest to the Executive Branch and the Legislature of the Province of Buenos Aires the revision and modification of Article 7 of Decree-Law No. 9434/79 (Organic Charter of BAPRO) and Article 1 of Law No. 14,881, in order to eliminate the obligation to contract exclusively with BAPRO and promote conditions of open competition, in a fair and non-discriminatory manner. It also proposed to notify the Central Bank of the Argentine Republic about this resolution and publish the opinion on the official website of the organization.

For more information, see / [Link here](#)

To access the Resolution, see / [Link here](#)

B. International cooperation

CNDC participated in the XLV meeting of the Mercosur Trade Commission

On June 30 and July 1, the XLV Extraordinary Meeting of the Mercosur Trade Commission (“CCM”) and the LXIV Extraordinary Meeting of the Common Market Group (“GMC”) were held at the San Martín Palace in Buenos Aires, on the eve of the LXVI Ordinary Meeting of the Common Market Council and the Summit of Presidents of Mercosur and Associated States, to celebrate the closing of the Pro Tempore Presidency of Argentina.



The CCM is made up of Technical Committees, among which is No. 5 on the defense of competition.

On this occasion, the CNDC participated in its capacity as coordinator of said committee and shared the progress of the activities carried out by the competition agencies of the States Parties.

For more information, see / [Link here](#)

Meeting of Technical Committee No. 5 of the Mercosur Trade Commission

On June 12, the second meeting of the semester of the Technical Committee No. 5 for the Defense of Competition of the Mercosur Trade Commission was held within the framework of the closing of the Pro Tempore presidency of Argentina, in which the competition agencies of Brazil (“CADE”), Paraguay (“CONACOM”), Uruguay (“COPRODEC”) and Bolivia (“AEMP”) participated.

At the event, the CNDC presented the main advances of the semester, including the publication of the second edition of the Mercosur Competition Newsletter – prepared by the CNDC itself – which brought together the most relevant developments of the authorities in competition matters.

On the other hand, certain activities were carried out to exchange experiences on existing cases in the region. In this context, on June 11, a presentation was made to the members of the competition agencies of the States Parties on means of payment and credit cards, led by Carolina Singer and Estefanía Dileo, economists of the National Directorate of Anticompetitive Conduct of the CNDC, and Dr. Ricardo Gavilán, Director of Research of CONACOM. These speakers presented a case related to cross-border payments and payment aggregates.

For more information, see / [Link here](#)

CNDC participated in the meeting of the OECD Competition Committee

In June 16-20, the Competition Committee of the Organization for Economic Cooperation and Development (“OECD”) met in Paris as part of Competition Week. On this occasion, the CNDC made contributions in two round tables on best practices, entitled “Evaluation of the impact of competition authorities” and “Competition in mobile payment services”.

The biannual meetings of the OECD Competition Committee are very valuable occasions in which competition authorities from all countries find space for the exchange of views and analysis of various competition policy issues.



For more information, see / [Link here](#)

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



2.

Competition law in the local media

Laboratories accused of cartelization in the sale of oncology drugs to PAMI

During the first month of the year, Elisa Carrió and Hernán Reyes (politicians from the Coalición Cívica - ARI party) filed a complaint for cartelization with the CNDC against the Association for the Administration of Oncology and Special Treatment Contracts (“ACE Oncología”) and a large number of pharmaceutical companies.



According to the complainants, a cartel made up of almost 40 companies – both national and foreign – would have fixed prices of cancer drugs provided to PAMI (Argentina’s National Institute of Social Services for Retirees and Pensioners). The alleged anticompetitive conduct would have materialized through agreements between the agency and the laboratories and through the control exercised by the entity mandatorily responsible for administering, auditing and supervising compliance with said agreements, ACE Oncología.

For more information, see / [Link here](#)

Government cancels the public tender for the concession of the Paraná-Uruguay Waterway

Provision No. 34/24 of the Undersecretariat of Ports and Waterways launched the public tender for the Paraná-Uruguay Waterway. The objective of the bid was to grant a private operator the modernization, expansion, operation and maintenance of the waterway. This route is the main exit channel to the Atlantic Ocean for 80% of Argentine exports, in addition to transporting cargo from Brazil, Bolivia, Uruguay and Paraguay.



However, after it became known that the Belgian firm Dredging Environmental and Marine Engineering NV (“DEME”) was the only one of eleven initial interested parties to submit a bid – despite the fact that the same company denounced alleged irregularities in the tender specifications – the Government decided to suspend the process, motivated by the lack of competition and the suspicion of possible irregularities.

It also decided to intervene with the CNDC, based on the need to clarify whether DEME could have exerted undue pressure on the other potential bidders, or on the existence of some type of illicit association to the detriment of the National State and all Argentine producers.

As a result, the bidding process was annulled, and the Government announced that it is working on the preparation of new specifications to make a new call.

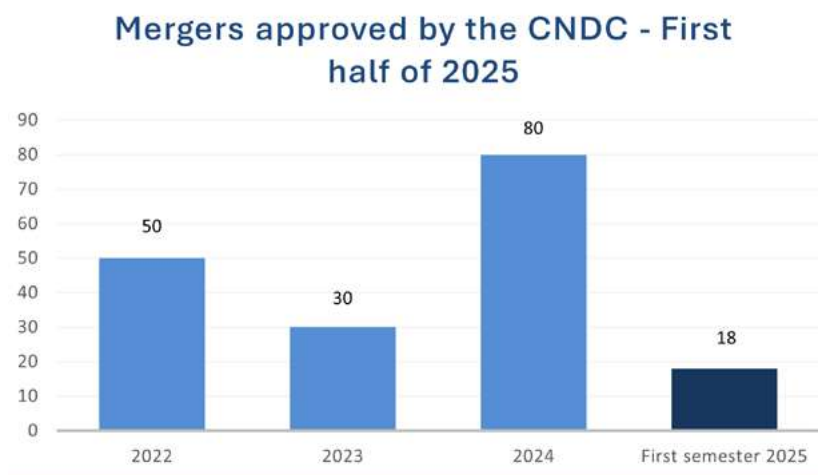
For more information, see / [Link 1](#), [2](#), and [3](#)

3.

Merger Control

Economic concentrations approved by the CNDC during the first half of 2025

During the first half of 2025, the CNDC approved 18 economic concentration operations without conditions.



CNDC objects to Telecom's acquisition of Telefónica

On February 24, Telecom Argentina S.A. acquired exclusive control of the local operations of the Telefónica group for an amount of USD 1,245 million. Immediately, the Office of the Presidency publicly stated that this operation could imply a concentration of around 70% of telecommunications services under a single economic group, giving rise to the formation of a monopoly favored by certain state benefits accumulated over the years.

Having notified the operation on March 5, the CNDC requested technical reports from the National Communications Agency ("ENACOM").

In this context, on March 21, the SIyC, based on the recommendation of the CNDC and the reports provided by ENACOM, issued an injunction, which ordered Telecom and Telefónica to maintain their businesses separate for a period of six months or until the SIyC issues a ruling under the terms of Article 14 of the LDC, that is, until it approves, conditions or rejects the operation.

The injunction ordered the companies involved to refrain from carrying out any legal, corporate and/or commercial act that implies, directly or indirectly, the integration or consolidation between both companies. Unlike previous precedents, in which precautionary measures of a more general nature were imposed, the SIyC included in its resolution a series of specific guidelines to establish clear and concrete guidelines for conduct. In addition, the measure included the appointment of an independent monitoring agent, to ensure strict compliance.

Against the injunction and the appointment of the monitoring agent, Telecom filed an appeal with the CNDC. Subsequently, on June 6, Chamber III of the Court of Appeals in Federal Civil and Commercial Matters decided to grant the appeal with suspensive effects, in contradiction to the provisions of Article 66 of the LDC, consequently annulling the measures of the SIyC that preventively suspended the operation.

Notwithstanding this, on June 19, following the recommendation of the CNDC, the SIyC issued an Objection Report regarding the operation. In particular, the CNDC concluded that the transaction eliminated one of the country's top three mobile operators, transforming the market into a duopoly, with Telecom reaching a share of approximately 58%. It also highlighted as an additional concern the accumulation of radio spectrum that would result from the operation, which would exceed in all cases the regulatory limit of 140 MHz established by the ENACOM, reaching surpluses of up to 130 MHz in certain locations. Radio spectrum is a finite resource essential for the provision of mobile services.



With regard to fixed telephony and residential internet, the CNDC warned of significant effects in 186 localities nationwide. According to the agency, in 114 locations in the residential internet market and in 143 in the fixed telephony market Telecom could reach market shares of more than 40%, in many cases reaching positions close to monopoly. Among the jurisdictions with the highest levels of concentration are the City of Buenos Aires and AMBA, as well as various localities in the provinces of Buenos Aires, Mendoza, Neuquén and Río Negro.

On the other hand, the CNDC identified possible anticompetitive effects in the packaged services market (quadruple play), where Telecom would become the only operator with national coverage capable of offering packages that integrate mobile telephony, internet, pay television and fixed telephony, generating competitive advantages that are difficult to replicate by other competitors.

Finally, in the corporate telecommunications services segment, the analyses carried out showed that the joint participation of the companies would exceed 50% in all the scenarios evaluated, configuring a dominant position with a potential negative impact on competition in this strategic market.

By virtue of the above, the SIyC objected to the operation on the grounds that it could restrict or distort competition, to the detriment of the general economic interest. As a next step, the parties must appear at special hearings before the CNDC to evaluate possible measures to mitigate the adverse effects identified.

Finally, Telecom filed an appeal against that decision, arguing that the objection report was premature, the production of relevant evidence and the response to a request from the CNDC was still pending and so was the filing of the Form F2 also requested by the CNDC. By virtue of this, it requested the nullity and the granting of the appeal with suspensive effect.

For more information, see the injunction and the Objection Report / [Link 1](#) and [2](#)

CNDC authorizes Discovery's acquisition of WarnerMedia with conditions

On June 18, the SIyC authorized, upon recommendation of the CNDC and subject to compliance with certain behavioral commitments, the operation notified in April 2022 by AT&T Inc. and Discovery, through which the latter acquired sole control of the WarnerMedia business unit, giving rise to the creation of the new global company named Warner Bros. Discovery, Inc.

Within the framework of the analysis, the CNDC issued an Objection Report in which it warned of risks to competition in different markets of pay television signals, particularly in the Children's, Movies and Series, and Non-Fiction Entertainment segments. Likewise, possible conglomerate effects were identified as a result of the formation of a broad and diversified portfolio of signals, which includes premium content such as TNT Sports.



According to the CNDC, the operation could significantly strengthen the combined company's negotiating position vis-à-vis pay TV operators, with potential adverse effects on competition, such as price increases for consumers and a decrease in the quality of supply.

In response to these observations, the notifying parties submitted an initial proposal for remedial measures, which was subsequently expanded and finally accepted by the CNDC. The conditions imposed included:

- a)** The prohibition of bundling between WarnerMedia's children's channels (Cartoon Network, Cartoonito and Tooncast) and Discovery Kids, as well as between the premium signal TNT Sports and any linear channel of Discovery.
- b)** The implementation of a customer service hotline, operated by an independent third party, aimed at channeling inquiries and complaints from pay TV distributors regarding compliance with the commitments assumed.

These measures were set with a validity of five years from the closing of the operation, that is, until April 8, 2027. Likewise, the parties were imposed the obligation to reliably notify their customers of the conditions assumed and to submit semi-annual reports, accompanied by a copy of the contracts in force with the operators and their eventual modifications.

For more information, see Resolution / [Link here](#)

First case of application for membership of the RIGI evaluated by the CNDC

Within the framework of the application submitted by the company Sidersa to adhere to the Incentive Regime for Large Investments (“RIGI”), with a project aimed at the development of a steel plant in San Nicolás de los Arroyos, province of Buenos Aires, the Undersecretariat of Industrial Policy, dependent on the SIyC, requested the intervention of the CNDC. This request was made under the terms of Article 52 of Annex I of Decree 749/2024 and subsection f) of Article 11 of Annex I of Decree 1074/2024 of the Ministry of Economy, and its amendments.

In response, on July 22, the CNDC issued a Joint Signature Opinion in which it concluded that the incorporation of Sidersa into the RIGI, within the framework of the evaluated project, would imply the entry of a new national producer with a projected capacity equivalent to 15% of domestic consumption and 12% of the total installed capacity. This participation would contribute to increasing rivalry in the local steel market. The opinion also highlighted that the adoption of advanced technology would reduce operating costs, which could translate into a drop in the prices of long steel products.

By virtue of the above, the CNDC indicated that it had no observations to make regarding Sidersa’s accession to RIGI in the context of the investment project presented.

It should be noted that this is the first time that the CNDC has intervened in the evaluation of an application for membership of the RIGI, within the scope of its competency.

For more information, see Resolution 1028/2025 of the Ministry of Economy / [Link here](#)



4. Anticompetitive conduct

CNDC recommends pro-competitive measures in the foot-and-mouth disease vaccine market and SENASA implements regulatory changes following Tecnovax's complaint

On July 15, 2024, the Argentine laboratory Tecnovax S.A., a biotechnology company specializing in animal vaccines, filed a complaint with the CNDC against Biogénesis Bagó and the Veterinary Diagnostic Center, for alleged cartelization in the prices of the foot-and-mouth disease vaccine.

Likewise, Tecnovax described as arbitrary and anti-competitive various administrative decisions adopted by the National Service of Agri-Food Health and Quality ("SENASA"), requesting the CNDC to issue pro-competitive recommendations aimed at eliminating barriers to entry, in accordance with the provisions of Article 28 of the LDC.

In addition, Tecnovax requested the CNDC to issue a cease and desist order with respect to the conduct denounced, under the terms of Article 44 of the LDC. On October 24, 2024, the CNDC rejected the request for a cease and desist order filed by Tecnovax, a decision that was appealed by the company.

After analyzing the denounced scenario, the CNDC identified various regulatory barriers that unjustifiably limited the supply of foot-and-mouth disease vaccines in the market, resulting in a highly concentrated market with only two bidders. This reduction in supply affected the choice of livestock producers and generated supra-competitive prices and tariffs. Consequently, on May 7, 2025, it issued an opinion recommending that the SIyC issue a series of pro-competitive recommendations to SENASA:

- a)** To evaluate the replacement or coexistence of PGP testing with simpler methods such as ELISA-CFL.
- b)** Recognize equivalences to authorize foreign vaccines with proven efficacy.
- c)** Accept certificates of good practice issued by countries with similar standards.
- d)** Review requirements of the Registry of Health Entities to expand the number of registrants.
- e)** Allow multiple entities or suppliers in the same area, without limiting the choice of producer.
- f)** Guarantee the free choice of supplier by the producer.
- g)** Eliminate geographical restrictions to encourage competition and lower costs.
- h)** Allow health entities to freely set their tariffs on services approved by SENASA.

In response to these suggestions, on May 15, 2025, SENASA issued Resolution 333/2025, establishing an agile procedure for the authorization of veterinary products through the recognition of equivalence with registrations in selected countries. Likewise, through Resolution 338/2025, the founding countries of Mercosur were incorporated into the list of countries with registration recognition.

For more information, see Resolution / [Link here](#)

Preventive measures against boycott of the Mendoza Association of Orthopedics and Traumatology against PAMI

As of April 1, a group of traumatologists who are members of the Mendoza Association of Orthopedics and Traumatology (“AMOT”) decided to stop attending PAMI affiliates (doctors’ offices, emergencies, surgeries) because they considered that the fees set by PAMI and paid via clinics were too low and in arrears. They also demanded an increase of between 300% and 400%, and to change the payment modality per medical act instead of per capita.

These conditions were accepted by only two clinics, which signed the agreement in April.

Faced with this, a group of clinics made up of the Private Hospital of Mendoza, Hospital Italiano, Clínica Santa María, Clínica Santa Clara and Hospital Santa Isabel de Hungary denounced the AMOT and 48 traumatologists before the CNDC for alleged practices restricting competition and abuse of dominant position in the market of traumatology services for patients affiliated with PAMI in Greater Mendoza. The anti-competitive practices denounced consisted of the fixing of the price of the services offered in the market and the exchange of information with the same object or effect, the suspension of the provision of a monopolistic service dominant in the market to a provider of public or public interest services, and the obstruction or exclusion of third parties in its entry or permanence in the market.



At the beginning of June, the CNDC issued a preventive measure advising the SIyC to order the AMOT, in particular:

- a) resuming care for PAMI affiliates under the conditions of March 31;
- b) refrain from suspending, restricting or preventing any benefit;
- c) not setting their own rates without agreement with the complaining clinics; and
- d) to allow its members to exercise their profession freely, without establishing sanctions.

On the other hand, the CNDC pointed out that the AMOT concentrates almost all the traumatologists in the province, which gives it a dominant position in the private traumatology market in Mendoza, a market that lacks real or immediate substitutes. Therefore, it considered that the suspension could cause damage to the health and physical integrity of a vulnerable population such as PAMI affiliates.

Finally, by means of a Resolution dated June 25, the SIyC granted the recommendation of the CNDC and issued an early protection measure under the terms of Article 44 of the LDC. Thus, it ordered the AMOT:

- a) refrain from suspending, restricting, or interrupting the provision of trauma services to PAMI members;
- b) suspend the application of nomenclators or lists of their own prices with respect to the complainants;
- c) immediately restore normal care in accordance with the conditions in force on March 31, 2025;
- d) allow its members to freely exercise their profession without sanctions; and
- e) notify and publish the measure on its website, in the Official Gazette of Mendoza and in a newspaper of wide circulation, under threat of forced execution in case of non-compliance.

The measure was ordered with an initial validity of six months.

For more information, see [Resolution](#) / [Link here](#)

[CNDC closes investigation against Whatsapp and Meta for alleged abuse of dominant position](#)

In April 2021, the then Secretariat of Domestic Trade (“SCI”) instructed the CNDC to open an investigation against WhatsApp LLC and other companies of the Meta group, following the update of its Terms of Service and Privacy Policy. The initial hypothesis was that the new policy could constitute an abuse of dominant position by expanding Facebook’s capacity to process and cross-reference WhatsApp users’ data.

During the preliminary stage, the CNDC considered that the modification of the terms could increase Meta's market power in the social media and instant messaging segments. Among other aspects, it noted that the update enabled the massive exchange of data between the group's different platforms and that users who did not accept the new conditions would see the functionality of the application severely limited, as they would not be able to access their chats or fully use the service.

Faced with this scenario, and considering that the combination of a pre-existing dominant position and the greater capacity to collect, process and exchange data could lead to exclusive and exploitative conduct, in May 2021 the SCI issued a precautionary measure ordering WhatsApp and Meta to:

- a) Refrain from implementing – or suspending, as the case may be – the update of WhatsApp's Terms of Service and Privacy Policy in Argentina for 180 days or until the conclusion of the investigation.
- b) Refrain from exchanging data between the group's platforms, even if users have accepted the new terms.
- c) Communicate the full text of the decision to all users through the application itself and/or the company's official website.

On June 9, 2021, WhatsApp appealed the precautionary measure alleging the lack of plausibility in the right and danger in the delay. However, in April 2022, Chamber II of the Court of Appeals in Federal Civil and Commercial Matters confirmed the decision, maintaining the validity of the measure until the conclusion of the investigation.

After more than four years of investigation and following the recommendation of the CNDC, on July 2, 2025, the SIyC decided to close the file. The CNDC concluded in its opinion that sufficient evidence had not been gathered to prove the existence of an abuse of a dominant position and that the greater volume of data processed responded to the functional evolution of the service and the operational needs inherent in an instant messaging platform.

In turn, the CNDC emphasized that the business model of free digital platforms financed by targeted advertising *“constitutes a widely spread and legitimate commercial practice in the contemporary digital economy.”* The monetization of data for advertising purposes, it pointed out, *“does not constitute by itself a reprehensible conduct under the Law on the Defense of Competition, as long as it remains within the limits of the applicable regulations.”* However, the CNDC did not rule out that WhatsApp's conduct could be questioned under the law on the protection of personal data or consumer protection.

For more information, see Resolution / [Link here](#)

Paper Industry Investigation Closes

In August 2023, the Argentine Book Chamber (“CAL”) filed a complaint with the CNDC against a group of paper manufacturers, distributors and importers, including CELULOSA ARGENTINA S.A., LEDESMA S.A., CASA HUTTON S.A.U., CASTINVER S.A.U., STENFAR S.A.I.C., GRAVENT S.A., PAPELES EUROPEOS S.A., RESMACON S.R.L., PAPELERA PERGAMINO S.A. and DIMAGRAF S.A. CAL held that these companies had abused their joint dominant position through price discrimination and excessive pricing practices in the domestic market.

According to the complaint, these firms acted in parallel to artificially increase the prices of paper – both domestic and imported – destined for the publishing industry, in a context of strong restrictions on imports. In addition, the CAL argued that there was a significant difference between the prices charged in the local market and the export values, which would imply unjustified discrimination. The entity also denounced an alleged diversion of production to foreign markets that would have generated internal shortages. Based on this, it requested a preventive measure to return prices to the historical levels in US Dollars in place prior to 2020.

The complainants attributed the price increases to external factors: the impact of the pandemic, global increases in logistics and input costs, the exchange restrictions imposed by the Argentine State (such as the SIRA regime and the Central Bank’s provisions on access to the foreign exchange market), and uncertainty about the cost of replacing imported goods. In addition, they stressed that local prices of paper—especially of locally manufactured paper—remained consistently below import prices, and that there was no coordination between them or intention to restrict competition. On the other hand, it was pointed out that the demand for paper in the publishing industry has changed structurally due to the advance of the digital book and that a large part of the supply difficulties were due to the closure of the Papelera Tucumán plant and the productive reconversion towards packaging paper.

After an exhaustive analysis, on March 17 the CNDC concluded that the necessary elements to constitute an anticompetitive practice of abuse of joint dominant position or price discrimination with exploitative effects were not proven. The agency considered that the price variations observed between 2018 and 2023 responded to market conditions common to all operators and that there was no evidence of concerted conduct among the companies investigated.

In view of the above, the CNDC recommended rejecting the precautionary measure requested by the CAL, accepting the explanations provided by the companies and closing the proceedings. These recommendations were later adopted by the SIyC.

For more information, see Resolution / [Link here](#)

Closing of Predatory Pricing Investigation

In 2020, the firm CASILDA GNC S.R.L. filed a complaint with the CNDC against the Camarotti Group, made up of the firms GNC CAMAROTTI S.A. and CAMAROTTI HNOS. S.R.L., as well as YPF S.A. and Trafigura Argentina S.A., for alleged anticompetitive conduct prohibited by the LDC.

The complainant alleged that, after entering the retail compressed natural gas (“CNG”) market in October 2018, the Camarotti Group implemented a predatory pricing strategy, selling CNG below cost at its Casilda (province of Santa Fe) service stations. This practice would have been financed with revenues obtained by the Group in other locations where it would have a dominant position (such as Victoria and Villaguay, in the province of Entre Ríos), with the aim of excluding CASILDA GNC from the market.

It was also noted that the price of CNG in Casilda was considerably lower than in other nearby towns and that the stations of the Camarotti Group offered the product at almost half the usual value. However, in its ratification of the complaint, CASILDA GNC acknowledged that neither YPF nor Trafigura (wholesale suppliers of CNG) set the retail price, but that it was a decision of the Camarotti Group itself. For this reason, the CNDC ruled out the responsibility of these two companies from the outset of the process.



The CNDC examined two key conditions to determine whether predatory pricing conduct existed:

- a)** That the low prices were not explained by real efficiencies of the operator.
- b)** That this policy generated an exclusionary effect on competitors.

With respect to the first point, the Camarotti Group demonstrated that its service stations were integral – they offered other products such as liquid fuels and bar services – which allowed it to distribute fixed and operating costs more efficiently than CASILDA CNG, dedicated exclusively to CNG. The CNDC concluded that there were no sales below cost, and that the Camarotti Group’s revenues always exceeded its operating costs.

Regarding the second point, although it was recognized that the Camarotti Group had a high market share in Casilda (around 65%), the analysis of the evolution of market shares showed that CASILDA CNG maintained and even increased its share during the period in which low prices would have been applied. Therefore, there was no exclusionary effect or an impact on the complainant’s permanence in the market.

Consequently, the CDNC understood that the necessary elements to constitute an infringement of the LDC were not present, and recommended to close the file, which was confirmed by the SIyC.

For more information, see Resolution / [Link here](#)

E-commerce pricing policy: CNDC resolution in the JUMAR-SIKA case

In September 2022, the company JUMAR S.R.L. – a marketer of hardware, paints and construction products under the brand “Pinturerías MM” – filed a complaint with the CNDC against the firm SIKA S.A.I.C., a manufacturer and importer of inputs for the construction, automotive and maritime industries, for alleged anti-competitive practices in violation of the LDC.

According to JUMAR, SIKA initially denied it the possibility of distributing its products on the grounds of exclusivity with other resellers. Once the commercial relationship began, JUMAR said that SIKA required it to apply minimum prices on internet sales, particularly on the Mercado Libre platform, under warning to cut off the supply. This would have affected its competitiveness, as the prices demanded were even higher than those offered by other retailers. As a result of this situation, JUMAR requested a cease and desist order from the CNDC.

The CNDC, after receiving SIKA’s defenses, initiated an investigation in March 2023 to investigate whether there was an abuse of a dominant position, considering that the conduct denounced could fall under one of the following assumptions:

- a)** imposition of resale prices;
- b)** impediment to the entry or permanence of competitors;
- c)** unjustified discriminatory conditions; and
- d)** refusal to sell.

On the merits of the case, the CNDC focused its analysis on the imposition of minimum resale prices. It recognized that these policies may, in certain cases, have negative effects on competition, but may also be justified by efficiency objectives, especially to avoid intra-brand competition problems. In this case, the imposition of prices would have been limited to sales through Mercado Libre, a channel that – according to data from the file itself – represents a smaller portion of the total market.

The CNDC concluded that the prices suggested by SIKA had no impact on the general economic interest nor did they imply an abuse of a dominant position. It considered that the pricing policy responded to a reasonable commercial strategy to harmonize conditions between physical and digital channels, without relevant anticompetitive effects. It was also noted that the market was strongly fragmented and that SIKA did not have a dominant position.

For all of the above, the agency recommended closing the proceedings and leaving the separate administrative file on the precautionary measures without effect. These recommendations were later taken adopted by the SIyC.

For more information, see Resolution / [Link here](#)

Investigation into dumping and predatory pricing in Mar del Plata: CNDC rules out LDC infringement

On August 17, 2023, the Mar del Plata Electricity, Public Services, Housing and Credit Provision Cooperative filed a complaint with the CNDC against TELMEX Argentina S.A. ("Claro"), accusing it of dumping, abuse of dominant position, unfair competition and other anti-competitive conduct in the city of Mar del Plata.

The Cooperative maintained that Claro offered internet and pay TV services at artificially low prices in areas where it faced competition (below its costs and without respecting the prices regulated by ENACOM) and higher prices where it had a monopolistic position. It also alleged that it was supported by a precautionary measure to set prices without control and that it charged wholesale bandwidth in dollars, affecting competition.

After the administrative procedure, in which both parties presented evidence and defenses, the CNDC concluded that the necessary elements to prove the existence of anticompetitive practices were not verified. In particular, it noted that:

- a)** Claro does not hold a dominant position in the relevant markets (internet and pay TV), since there are multiple important competitors (such as Telecom and Movistar).
- b)** The comparative price analysis showed that the Cooperative offered lower rates in general than Claro and the other actors.
- c)** The alleged predatory pricing behavior was not configured, since Claro's low prices were part of temporary and non-systematic promotions.
- d)** Nor was there a squeeze of margins, given that there are several wholesale suppliers and the Cooperative could choose between different options.

In turn, the CNDC considered that the complaint about the non-compliance with DNU 690/20 and ENACOM's resolutions lacked support, since those rules were suspended by judicial measures, then declared null and void and finally repealed by the Executive Branch.

Consequently, it recommended that the proceedings be closed because there were no violations of the LDC. The SIyC resolved this by resolution dated March 10.

For more information, see Resolution / Link [here](#)

CNDC rules out abuse of dominant position in the resins market

On August 1, 2022, the company Plaquimet S.A. filed a complaint with the CNDC against Poliresinas San Luis S.A., accusing it of engaging in anticompetitive conduct, specifically predatory pricing, in violation of the LDC.

According to the complainant, since June 2021 the defendant firm had been selling unsaturated polyester resins to a select group of customers at prices 10% below the market, a practice that she considered unsustainable for the rest of the competitors, and that could lead to the bankruptcy of other market participants, affecting the general economic interest.

After the investigation of the case, which included testimonial hearings to customers, requests for information, analysis of prices, sales volumes and financial statements, the CNDC determined that there were not sufficient elements to prove a practice of abuse of dominant position for exclusive purposes. In particular:

- a)** The prices of the defendant were not systematically lower than those of the market. In fact, for most of the period analyzed they were higher than those of the complainant.
- b)** The sales volumes of the defendant did not increase, but tended slightly downwards, which contradicts the logic of a predatory strategy.
- c)** The defendant's financial statements reflected profitability, with no indications of losses due to sales at a loss.
- d)** In addition, it was found that prices in the sector are highly influenced by the costs of raw materials subject to international prices.

Based on all of the above, the CNDC recommended the closing of the proceedings, which was adopted by resolution of the SIyC.

For more information, see Resolution / Link [here](#)

5.

Judicial Rulings

Telecom's challenges to the CNDC's resolutions in the notification procedure for the purchase of Telefónica

The first appeal filed by Telecom was directed against the injunction issued by the SIyC, which ordered the companies involved to refrain from carrying out any legal, corporate and/or commercial act that would involve, directly or indirectly, the integration or consolidation between the two companies (see reference to this case in the section on control of economic concentrations, "CNDC objects to Telecom's acquisition of Telefónica").

Unlike previous precedents, in which precautionary measures of a more general nature had been ordered, on this occasion the SIyC established clear and concrete guidelines for the conduct to be followed by the merging parties. It also appointed an independent monitoring agent in charge of controlling compliance with the measure.



In its appeal, Telecom mainly argued that:

- a) the appeal had to be granted with suspensive effect, since the resolution imposed a sanction and altered the merger control system in Argentina, transforming it from prior control to a subsequent one;
- b) Article 44 of the LDC, relating to the procedure for the investigation of anti-competitive conducts, was not applicable to economic concentration operations;
- c) the plausibility in the right or the danger in the delay requirements had not been proven;
- d) nor had the affectation to the general economic interest been proven;
- e) the measure hindered the submission of information required by the CNDC, including the F2 form, essential to deepen the analysis of the operation; and
- f) the appointment of a monitoring agent was illegal, since it enabled a third party without the status of a public official or professional background to access sensitive information of the companies.

The appeal was sent directly to the Appeal Court, without the CNDC ruling on its admissibility. On June 6, the Court allowed the appeal, both against the measure of advance protection and against the appointment of the monitoring agent. The Chamber granted the appeal suspensive effect – in contradiction to the provisions of Article 66 of the LDC – considering -as sustained by the appellant- that said regime is not applicable to cases of economic concentrations but to those of prohibited conduct. It also held that the designation of a third party as monitoring agent implied enabling him to enter the appellant's registered office and inspect documentation and data, which could generate irreparable damage. Consequently, it annulled the precautionary measures issued by the SIyC.

Telecom also filed an appeal against the Objection Report issued by the SIyC on June 19, alleging that it had been issued prematurely, given that there was still evidence to be produced, the response to a request from the CNDC and the presentation of form F2, through which the defense should be presented and the efficiency gains accredited. In this context, it requested the nullity of the resolution and the granting of the appeal with suspensive effects.

By Resolution 285 dated July 11, the SIyC rejected the appeal on the grounds that it did not fall within the assumptions of Articles 66 and 79 of the LDC or Article 449 of the Code of Criminal Procedure, and that it did not generate a current damage. Consequently, it dismissed both the nullity and the suspension of the procedure requested by Telecom.

In view of this, Telecom filed a complaint appeal before the same Chamber, arguing that the SIyC lacked jurisdiction to rule on the formal admissibility of the appeal and that it should limit itself to referring it to the competent court, as provided for in Article 67 of the LDC. It also argued that Article 66 of that law does not constitute an exhaustive list and that, in the case, there was an irreparable injury, since the objection report implied a substantive decision by imposing the obligation to submit a mitigation plan that could include divestments or conduct commitments. It also stressed that the resolution did not suspend either its own effects or the procedural deadlines.

The Court partially admitted the complaint, declaring the nullity of Resolution 285 as to the empowerment of the SIyC to rule on the admissibility of the appeal. However, it concluded that Telecom had not demonstrated the existence of an irreparable injury derived from the Objection Report, pointing out that its possible future challenge was still enabled in the event that the operation was conditioned or rejected. Accordingly, it rejected the appeal.

For more information, see both judgments / [Link 1](#) and [2](#)

Justice dismisses Tecnovax's appeals against the CNDC

As noted in the section on anticompetitive conduct ("CNDC recommends pro-competitive measures in the foot-and-mouth disease vaccine market and SENASA implements regulatory changes following Tecnovax's complaint"), Tecnovax requested the CNDC, within the framework of its complaint against Biogénesis Bagó and the Veterinary Diagnostic Center, to issue a cease-and-desist order in accordance with Article 44 of the LDC. The authority, however, rejected the proposal, which motivated the company to appeal the decision.

The Court dismissed the appeal by resolution of June 5, considering that the requirement of plausibility in the law was not accredited. Tecnovax filed an extraordinary appeal against this decision, alleging that it was an arbitrary judgment, with an erroneous interpretation of the LDC that violated its guarantees of defense in trial and due process, as well as its rights to property, health, competition and the exercise of lawful industry.

In response, the Court held that the federal appeal was not directed against a final or comparable judgment, nor did it demonstrate an irreparable injury. It also understood that no abusive conduct by the defendant or defects in the resolution that justified its revocation were proven. Finally, it recalled that in order to qualify a judgment as arbitrary, it must be unequivocally proven that it departs from the applicable normative solution, lacks sufficient grounds, violates due process or reflects the mere will of the judge. Consequently, by resolution of August 12, it decided to declare the extraordinary appeal inadmissible.

For more information, see both judgments / [Link 1](#) and [2](#)

Sanction to the College of Opticians of the Province of Buenos Aires for Abuse of Dominant Position Confirmed

On April 30, Chamber II of the Federal Court of La Plata rejected the direct appeal filed by the College of Opticians of the Province of Buenos Aires (“COPBA”) and confirmed Resolution 1084/2021 of the then Secretary of Domestic Trade, which imposed a fine on it for engaging in an anticompetitive practice of an exclusive nature in the market for the sale of glasses without a medical prescription.

The case originated in a complaint filed in 2014 by Orbital Internacional SRL before the CNDC. The company alleged that COPBA set disproportionate fees for the registration of the so-called Technical Directors of Quality Control, an essential requirement to register sunglasses without corrective purposes with the Ministry of Health of the Province of Buenos Aires, in accordance with provincial decree 3630/00. According to the complaint, the differential tariff – which in some years was more than 80 times higher than that of other registrations – prevented the commercialization of these products outside the traditional optical channel, restricting the entry of new players and limiting alternative distribution channels.

After an extensive procedure, the CNDC concluded in August 2021 that COPBA had abused its dominant position by setting discriminatory tariffs from at least 2011 to 2018, configuring an exclusivity practice under the terms of articles 1 and 3 incs. d) and h) of the LDC (and its equivalents in its predecessor, Law 25.156). The authority considered it proven that this tariff policy distorted competition and negatively impacted the general economic interest, by restricting the possibility of marketing sunglasses in alternative retail channels.

In its appeal, the COPBA alleged that the statute of limitations had expired, questioned the empowerments of the CNDC to sanction it and raised the nullity of the resolution due to an alleged contradiction in the legal classification (since the summary had been initiated under Law 25,156 and the LDC had been applied in the accusation). The Court rejected all the grievances. In particular, it maintained that the statute of limitations had not operated given the continuous nature of the conduct until 2018, that the CNDC acted within the powers granted to it by Articles 41 and 80 of the LDC and that the application of Law 25,156 to graduate the fine responded to the principle of a more lenient law.

The ruling reaffirms that exclusivity practices that affect distribution channels and restrict access to the market can constitute abuse of a dominant position even when they are exercised by non-profit entities in the exercise of statutory powers. Likewise, the Court validated the CNDC's methodology to set the fine considering the illicit benefit, the income of the school and the ability to pay of the entity.

For more information, see the ruling / [Link here](#)

Territorial Jurisdiction in Direct Appeals in Anticompetitive Conduct: The MC Ingeniería and Oleaginosa Cases

On June 12, Chamber III of the Court of Appeals in Federal Civil and Commercial Matters declared itself incompetent to hear a direct appeal filed by MC Ingeniería en Servicios SRL against a resolution of the CNDC, attributing jurisdiction to the Federal Court of Appeals of Comodoro Rivadavia.

The case originated in a complaint by MC Ingeniería before the CNDC for alleged anticompetitive practices in the mining services market in the province of Santa Cruz. The company alleged that Oroplata S.A. had abused its dominant position to exclude service providers, including the complainant, through threats of "blacklists" administered by business chambers. In December 2024, the SIyC ordered to close the proceedings on the grounds that the facts denounced did not constitute an infringement of the LDC, but a conflict between individuals. Against that decision, MC Ingeniería filed a direct appeal under articles 66 and 67 of the LDC.

In ruling on jurisdiction, the Chamber identified as decisive connecting factors the location of the mining production plants in the Cerro Negro deposit, in the province of Santa Cruz, and the regional nature of the mining services market involved. Within this framework, it concluded that territorial jurisdiction should be attributed to the Federal Court of Appeal of Comodoro Rivadavia, which on 25 August confirmed the criteria set out and assumed jurisdiction over the appeal.

That same day, Chamber II of the same Court declared itself lacking jurisdiction in another direct appeal, this time filed by Oleaginosa Moreno Hnos. S.A. against a CNDC resolution that had suspended the deadline to rule on an economic concentration, and ordered the case file returned to the Federal Court of Appeals of Rosario.



This controversy originated when the CNDC decided to interrupt the calculation of the deadlines for the analysis of the economic concentration operation due to precautionary measures issued by Criminal Courts of Rosario that affected the Vicentin Group, linked to the unavailability of assets and restrictions on shareholder changes of the companies involved. Against that resolution, Oleaginosa Moreno filed a direct appeal in accordance with articles 66 and 67 of the LDC.

In ruling, the Court highlighted that, although in Form F1 the parties had declared that the concentration had a national impact, the main points of connection were in the province of Santa Fe: the industrial plant of the acquired company is located in Rosario, and there operates the grain market that constitutes the basis of its biofuel production.

By virtue of this, it concluded that the Federal Court of Appeals of Rosario met the conditions of immediacy and territoriality provided for in Article 67 of the LDC.

Both Chambers recalled that the LDC distributes territorial jurisdiction based on the affected market and not on the administrative headquarters that issued the challenged act. Following the doctrine of the Supreme Court in *Multicanal* (Rulings: 330:1610) and reiterated in *Surgas*, the courts emphasised that the analysis must focus on the geographical area where the conduct or operation has its effects, given that the federal judges of that jurisdiction are the ones who are closest to the community and the market potentially affected.

Taken together, the MC Ingeniería and Oleaginosa cases reinforce an already consolidated line of jurisprudence in the field of direct remedies under the LDC: territorial jurisdiction is determined by the relevant geographic market and the economic effects of the conduct under investigation, and not by the headquarters of the CNDC or by the nationwide nature of the activity. This criterion seeks to guarantee the application of the principle of territoriality provided for in Article 118 of the National Constitution and the proximity of the court to the market and the community potentially affected.

For further information, see the rulings of the Court of Appeals in Federal Civil and Commercial Matters in the MC Ingeniería and Oleaginosa cases, respectively. | [Link 1](#) and [2](#)

Also, see the ruling of the Federal Court of Comodoro Rivadavia | [Link here](#)

Jurisdiction of the Court of Appeals in Federal Civil and Commercial Matters in Precautionary Measures Under Competition Law: The Wade Case

On March 27, Chamber III of the Court of Appeals in Federal Civil and Commercial Matters revoked a judgment of first instance that had declined its jurisdiction in favor of the Federal Administrative Litigation jurisdiction in the framework of an injunction filed by Wade S.A. against a fine imposed by the CNDC.

The company had requested to suspend the effects of the resolution by which the CNDC applied a fine for not notifying an economic concentration operation linked to the acquisition of assets of PROTEINSA S.A. in the bankruptcy of Rasic Hnos. S.A. (products under the Cresta Roja brand). In particular, it requested that CNDC be ordered to refrain from undertaking certain acts in the context of the bankruptcy proceedings, or initiating any enforcement action while the outstanding appeals were resolved.

The judge of first instance had considered that the proposal was linked to the validity of an administrative act under the terms of Law 19,549 of Administrative Procedure, and referred the case to the contentious jurisdiction. Wade S.A. appealed arguing that the sanction had been issued within the framework of the LDC and that, by virtue of Articles 66, 67 and 70 of said law, it was the responsibility of the Federal Civil and Commercial Court to hear precautionary measures associated with administrative acts issued in application of the LDC. The Prosecutor of the Chamber ruled in the same sense.

In ruling, the Court pointed out that the determination of jurisdiction must take into account the subject matter and rules invoked as the basis of the claim. In this case, the precautionary measure was inextricably linked to a sanction issued in a competition proceeding and to an economic concentration operation under the LDC. The court stressed that, in accordance with current legislation, appeals and judicial measures related to administrative acts issued in application of the LDC must be reviewed by the Federal Civil and Commercial jurisdiction, without fragmenting the specialty of the matter between different jurisdictions.

The Court invoked Supreme Court jurisprudence on the unity of knowledge in specialized matters (Rulings: 317:1105; 321:3024; 322:1220; 325:957; 327:1859) and concluded that, until the creation of the specialized Court for the Defense of Competition provided for by the LDC, the chambers of the Court of Appeals in Federal Civil and Commercial Matters are competent to review sanctions and resolve precautionary measures under the LDC. Consequently, it ordered the judge of first instance to resume jurisdiction and process the precautionary measure.

The ruling reaffirms the specialty of the antitrust regime and the exclusive competence of the Federal Civil and Commercial jurisdiction to hear not only direct appeals and sanctions under the LDC, but also autonomous precautionary measures aimed at suspending its effects.

For more information, see the ruling / [Link here](#)

6. Antitrust events

Presentation “Towards a Competitive Future” at the Bar Association of the City of Buenos Aires

On May 14, the Bar Association of the City of Buenos Aires hosted a presentation entitled “Towards a competitive future”, in which the President of the CNDC spoke about the progress in the process of forming the ANAC.

During his presentation, he highlighted the centrality of the fight against cartels in the agenda of the CNDC and in the future ANAC. He also announced that work is being done on the regulation of Advisory Opinions and Preliminary Proceedings, as well as on the preparation of two new guidelines: one aimed at public tenders and the other aimed at applicants for the leniency program.



Finally, he announced that the authority is making progress in the regulation of the fees to be applied to the notifications of economic concentration operations, with the aim of providing the future ANAC with resources that will increase institutional efficiency.

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