

## Argentina's competition authority conditions Telecom's acquisition of Telefónica on structural and conduct remedies

On June 17, 2026, the Competition Tribunal (the "Tribunal") within Argentina's National Competition Authority (ANC) issued Resolution RESFC-2026-38-APN-TDC#ANC and conditioned Telecom Argentina S.A.'s acquisition of exclusive control over Telefónica Móviles Argentina S.A. and its subsidiaries on compliance with structural and conduct remedies set forth in Annex I of said Resolution (the "Remedy Package"), in accordance with Section 14(b) of Law 27,442.

The transaction closed on February 24, 2025 and was notified to the former National Commission for the Defense of Competition on March 5, 2025.

The decision relied primarily on the opinion issued by the Economic Concentrations Secretariat (SCE) on May 14, 2026, which concluded that the transaction, as notified, raised significant competition concerns across several telecommunications markets. In particular, the SCE broadly upheld the conclusions of the Objection Report dated June 19, 2025, and found Telecom's commitments offered on August 6, 2025 insufficient to address the identified risks.

The substantive assessment covered mobile services, fixed residential broadband, pay TV, n-play bundles, corporate telecom services, fixed telephony, wholesale internet access and data transport, and mobile access infrastructure.

In mobile, the ANC maintained a single national market for voice, SMS and mobile data services and concluded that the transaction would eliminate an independent national competitor and create a duopoly. Post-transaction, Telecom would hold approximately 58% of the mobile market and AMX (Claro) 42%, with an HHI increase of 1,649 points. The authority also found that the resulting spectrum accumulation would exceed the applicable regulatory spectrum caps for mobile communications services.

In fixed residential broadband, the authority noted that Telefónica had one of the most extensive access networks in the country and that the transaction would eliminate a significant competitive constraint in localities where the parties' networks substantially overlap.

In pay TV, the SCE maintained the definition of a local market for linear subscription television (cable and satellite), excluding OTT platforms, although it acknowledged the partial competitive pressure they exert on traditional pay TV operators. The authority identified competition concerns in certain jurisdictions and assessed them convergently with the fixed residential broadband market.

With respect to n-play bundled services, the SCE found that Telecom would have the ability and incentive to displace competitors through convergent offerings that other operators would not be able to fully replicate.

In corporate services, the SCE maintained the definition of a national market for telecommunications services to corporate customers and concluded that the transaction had the potential to affect competition, although those risks could be addressed through targeted conduct obligations.

In fixed telephony, although the SCE identified horizontal overlaps, it concluded that the segment did not raise standalone competition concerns warranting remedies, given the structural decline of the service, the existing regulatory framework and its ancillary role within convergent offerings.

In wholesale markets, the authority identified risks arising from the consolidation of an approximately 60,000 km fiber network and from the concentration of mobile access infrastructure, particularly given the merged entity's control of around 60% of macro sites nationwide.

The Tribunal substantially endorsed the SCE's findings on efficiencies and held that the claimed efficiencies did not offset the identified competition risks. Although mobile access infrastructure rationalization and network consolidation were considered plausible efficiencies, the Tribunal found that Telecom had not sufficiently proven their magnitude, merger-specificity and immediate pass-through to consumers, especially where they depended on spectrum use above the regulatory cap. The Tribunal therefore held that the transaction could not be cleared unconditionally and adopted a primarily structural remedy package supplemented by conduct obligations.

The Remedy Package has five components: (i) structural and conduct remedies in mobile; (ii) structural and conduct remedies in residential broadband; (iii) conduct remedies in corporate services; (iv) conduct remedies in wholesale services and mobile access infrastructure; and (v) an implementation, monitoring and no-reacquisition regime.

In mobile, the parties must divest at least 6,000,000 mobile customers, including 4,000,000 in the Buenos Aires Metropolitan Area and 2,000,000 in the rest of the country, with an appropriate customer mix to prevent adverse selection. The mobile divestiture must include spectrum rights in the order of 60 MHz to the purchaser and a 20 MHz return, subject to ENACOM's technical intervention; the customer base and spectrum are indivisible components of the remedy. The mobile purchaser must be a single independent buyer with financial and technical capacity, and AMX (Claro) and entities affiliated with the parties are excluded. The mobile remedy also gives the purchaser the option to acquire physical mobile network infrastructure and requires the parties to enter into RAN sharing, national roaming, international roaming and passive infrastructure co-location agreements on fair, reasonable and non-discriminatory (FRAND) terms, for a minimum renewable three-year term. Until the purchaser has a fully operational own network, and for up to three years, the parties must provide access to OSS/BSS systems and the network capacity needed to serve the transferred customers.

The residential broadband remedy requires the transfer of 211,400 Telefónica subscribers across 28 localities in Buenos Aires City and the provinces of Buenos Aires, Mendoza, Neuquén and Río Negro, grouped into urban centers and the southern and western corridors of Buenos Aires Metropolitan Area. The divestiture may be limited to subscribers where the purchaser has adequate infrastructure, but must include access-network assets where required for independent operation. In Buenos Aires City, the transfer of Telefónica's FTTH network and connected subscribers is mandatory. In 17 additional localities where structural divestiture lacks viable scale, the remedy imposes five-year conduct obligations covering service quality, freedom to contract standalone services, geographic non-discrimination and wholesale access on FRAND terms.

For corporate services, the remedy is conduct-only and, for five years, requires equivalent price, quality and service-level conditions, FRAND access to infrastructure, no exclusivity clauses and a public transparency portal.

For wholesale services, the parties must maintain existing wholesale contracts, offer renewals on equitable and non-discriminatory terms, remain in CABASE internet exchange points with free peering for three years, preserve IRU arrangements, and offer transport, TIP and IP transit services on a non-discriminatory basis for five years. The wholesale commitments also include quality non-discrimination, restrictions on traffic prioritization and publication of a reference offer.

The divestitures must generally be completed within 18 months from notification of the Resolution, extendable by six additional months up to a maximum of 24 months if justified. The parties must submit proposed purchasers within the first 60 business days, and the Tribunal will assess them after ENACOM's technical opinion and, where applicable, SCE input. Telecom must also propose at least two monitoring trustee candidates within 20 business days. Non-compliance may result in corrective orders, sanctions under Section 55 of Law 27,442 and revocation of the transaction approval in serious or repeated cases.

The Telecom/Telefónica case marks an important precedent for Argentine merger control, particularly in infrastructure markets subject to sector-specific regulation. Going forward, the viability of transactions of this kind is likely to depend, in large part, on embedding verifiable commitments into the transaction architecture from the outset, preserving effective competition while maintaining the economic and commercial coherence of the deal.

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