

Mexico	
COMPETITION FRAMEWORK	
Competition Law	Federal Law of Economic Competition (LFCE). Law published in the Official Journal of the Federation on May 23, 2014. Current text: Last reform published DOF 20/05/2021; Article 28 of the Mexican Constitution.
Competition Authority	<p>Federal Competition Commission (CFC), started in 1993</p> <p>In 2013 through a constitutional amendment the CFC was replaced by the Federal Commission of Economic Competition (COFECE), the current Competition Authority.</p> <p>Website: https://www.cofece.mx/?lang=en</p> <p><i>[Please introduce here the name of the competition authorities that are part of the enforcement process of the laws mentioned in the previous question. In that regard, please specify the norms that established those agencies, the year in which they started operation, and their website. Include tribunals only if they have a role in the process of founding guilt and imposing sanctions. This point specifically excludes judicial authorities that only have judicial review powers]</i></p>
POLICY-MAKING AGENTS	
-DIVERSIFICATION-	
How many agencies are responsible for competition enforcement?	<p>Mexico has one authority with a general mandate to enforce competition law infringements:</p> <p>COFECE: is an autonomous agency created by Article 28 of the Mexican Constitution with the purpose of promoting, protecting, and guaranteeing free competition and preventing monopolies along with the abuse of dominant position, and the creation of entry barriers in the Mexican market. Specifically, it is tasked with the investigation, prosecution, and sanction of competition law breaches: agreements, and abuse of dominance (Articles 53,54, and 56 of the LFCE), as well as ex-ante and ex-post merger control (Third Book, Title III of the LFCE). It can impose fines, and structural relief (Article 118, Decree 9736). It is also charged with competition advocacy, and it has the power to issue binding regulations in different subjects (Article 12 of the LFCE).</p> <p><i>[Please mention how many authorities have a general mandate to enforce competition in your jurisdiction. Include a brief reference on their duties e.g.: if they impose criminal, civil or administrative liability. The purpose is that readers can quickly understand, which are the agencies charged with competition enforcement in the jurisdiction, the difference between them, and if they have concurrent, overlapping, or exclusionary authority. Include the relevant provisions on which their powers are based. Exclude in this point sector regulators or enforcers]</i></p>
Do sector regulators have a competition policy enforcement mandate?	<p>Yes. According to Article 28 of the Mexican Constitution and Article 5 of the LFCE, the Federal Telecommunications Institute is tasked with enforcing the Competition Law in the telecommunication sector. According to those provisions, it has the power to investigate and sanction restraining conduct, and to conduct merger review procedures in the Mexican telecommunication market.</p> <p><i>[Please introduce the name agencies that have powers to enforce any aspect of competition law, including merger control, in specific sectors. Introduce the relevant provisions on which their powers are based.]</i></p>
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	<p>No.</p> <p><i>[Please mention here any provision or interinstitutional agreement that allows the</i></p>

		competition authorities to coordinate behavior to effectively enforce competition law.]		
DISAGGREGATED FUNCTIONS—PROSECUTORIAL MODEL				
Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?	No	[If the answer is yes, please explain briefly the enforcement process, and include the relevant provisions. The purpose of this question is to understand the enforcement model of the jurisdiction and establish how many independent authorities are involved in the enforcement process and what are their functions.]		
Are disputes presented for decision to judiciary authorities?	No	[If the answer to your question is “yes”, please introduce the name of the judiciary authorities that are involved and their role until the final decision in the process is achieved; exclude from this question judiciary authorities whose role in the process is the judicial review of administrative decisions.		
Do private rights of action to challenge competition law infringements exist in your jurisdiction	Yes	According to Article 134, LFCE, any third person harmed by a competition law breach including illegal mergers, is entitled to claim damages before the specialized competition Jurisdiction. The final decision issued by COFECE would be taken as undeniable evidence of the illegal conduct. [If the answer is “yes”, please explain briefly the process and who are the persons entitled to exercise those rights; mention the relevant provisions]		
* Please fill the next sections for each of the authorities mentioned in the prior sections excluding sector regulators.				
FEDERAL COMMISSION OF ECONOMIC COMPETITION (COFECE)				
STATUS OF THE COMPETITION AUTHORITY				
Accountability	Please, answer “Yes” in the boxes of this line if any of the duties on the right column apply to the authority, and “No” if they do not.	Answer with X/√ as it applies		Please, in the boxes of this line mention the relevant provisions in which the obligations are based.
Does the Competition Authority have obligations before the executive?	Yes	X	Obligations to report to the executive on on-going investigations upon request.	
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.	
		√	The executive has to report on an annual basis to the executive.	Article 28 of the Mexican Constitution and Article 49 of the LFCE.
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.	Article 28 of the Mexican Constitution and Article 49 of the LFCE.
		√	Obligation to stand before parliament and to respond to congressmen on an annual basis.	Article 28 of the Mexican Constitution and Article 49 of the LFCE.
		X	Its activities are monitored by an independent auditor or by oversight committees.	

Does the Competition Authority have obligations before the judiciary or independent agencies?	Yes	✓	Decisions of the Competition Authority are subject to judicial review.	The Specialized Economic Competition and Telecommunication Jurisdiction review the decisions of COFECE under an exceptional constitutional remedy that is actionable only on the grounds of constitutional rights violations. Articles 28 and 94 of the Mexican Constitution. <i>[Aside from the relevant provisions please mention the judicial authority charged with the review.]</i>
		X	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?	<i>[Aside from the relevant provisions, please mention the authority charged with the review.]</i>
		Other obligations/comments: <i>[Please introduce any other obligation or comment that you consider relevant.]</i>		
Independence				
Please, answer "Yes" or "No"				
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes		Article 28 of the Mexican Constitution and Article 23 of the LFCE. <i>[Please introduce the relevant provisions, and if the answer to this question is "no", explain briefly why in your opinion the criteria are not clear or transparent.]</i>	
Does the executive have powers to decide on specific cases based on public interest?	No		<i>[Please introduce the relevant provisions, and if the answer to the question is "yes", explain in which cases the executive can decide on public interest bases.]</i>	
Does the executive retain decision-making powers over the Competition Authority?	No			
Is the Competition Authority obliged to publish reasoned decisions to ensure transparency?	Yes		LFCE, Articles 49 and 85. <i>[Please introduce the relevant provisions.]</i>	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes		Article 28 of the Mexican Constitution and Article 48 of the LFCE. <i>[Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved.]</i>	

Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	Yes	<p>LFCE Article 48, IV establishes that COFECE can be financed by any kind of income that it is able to collect.</p> <p><i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i></p>
GOVERNANCE OF THE COMPETITION AUTHORITY		
Is the Competition Authority governed by a single chairman or by a collegiate body?	<p>Collegiate Body.</p> <p><i>[Answer "single chairman" if the directive organ of the authority is composed of one person. Answer "collegiate body" if the authority's directive organ is composed of two or more members, regardless if this organ is directed or presided by a chairman or president.]</i></p>	
How are the members of the Authority's directive organ chosen?	<p>According to Article 28 of the Mexican Constitution, the Commissioners are nominated by a committee integrated by independent agencies, the executive appoints candidates from the list of the craft by the committee, and then the appointees must be ratified by Congress. The president of the agency is elected by two-thirds of Congress.</p> <p><i>[Please describe the election process for choosing the members of the directive organ. Include relevant provisions; mention the branch government involved in this process.]</i></p>	
Is there a fixed period during which removal is prohibited?	No	<p>Pursuant to Article 28 of the Mexican Constitution, the Commissioners are elected for a tenure of 9 years and only can be removed by cause and under the grounds provided in Article 23 of the LFCE.</p> <p><i>[If your answer is "yes", please introduce the duration of the tenure and the relevant provisions. If the answer is no, please refer if there are specific and restricted grounds under which the members of the Directive body can be removed; mention if they are elected for a term and introduce the relevant provisions.]</i></p>
Is the tenure of the heads renewable?	No	<p>Article 28 of the Mexican Constitution.</p> <p><i>[Please, introduce the relevant provisions]</i></p>
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	<p>Article 28 of the Mexican Constitution establishes that Director candidates must meet the following requirements:</p> <ol style="list-style-type: none"> 1. Be a Mexican citizen by birth and in full enjoyment of his civil and political rights; 2. Be older than thirty-five years of age; 3. III. Be in good standing and not have been convicted of a felony punishable by imprisonment for more than one year; 4. Possess a professional degree; 5. Have performed, for at least three years, in an outstanding manner in professional, public service or academic activities substantially related to matters related to economic competition, broadcasting or telecommunications, as the case may be; 6. To prove, under the terms of this precept, the technical knowledge necessary for the exercise of the position; 7. Not having been Secretary of State, Attorney General of the Republic, senator, federal or local deputy, Governor of any State or Head of Government of Mexico City, during the year prior to his/her appointment; and 8. Not to have held, in the last three years, any employment, position or managerial function in the companies that have been subject to any of the sanctioning procedures carried out by said body. <p><i>[If your answer is "yes", please make reference to the qualifications required by law and the relevant provisions.]</i></p>

ARCHITECTURE		
Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a ministry?	Stand-alone	<i>[If your answer is "part of a bigger entity", please explain briefly how the bigger entity is organized.]</i>
POLICY DUTIES		
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Exclusive	<input checked="" type="checkbox"/> Concurrent consumer protection mandate.
		<input checked="" type="checkbox"/> Concurrent IP mandate.
		Other mandates: <i>[Please inform all other mandates]</i>
PORTFOLIO INSTRUMENTS		
Law Enforcement		
Does the Competition Authority have powers to investigate cartels?	Yes	COFECE has broad powers to investigate any type of agreement restraining competition (Mexican Constitution Article 28, LFCE Articles 53, 54 and 56). It can impose administrative sanctions such as fines, structural relief, behavioral obligations, and moral persons can be sanctioned with disqualification to act as director, administrator, manager, officer, executive, agent, representative or attorney in a legal entity for a term of up to five years. (Articles 127 and 131, LFCE) <i>[If the answer is "yes", please mention the type of liability that the actions of the agency seek: civil, criminal, administrative. Introduce the relevant provisions; briefly explain if the powers of the authority are limited to certain types of cartels and what kind of sanctions can be imposed.]</i>
Does the Competition Authority have powers to investigate unilateral Conduct?	Yes	COFECE has the powers to investigate any dominant unilateral conduct that could restrain competition in the Cost Rican market, exploitative or exclusionary, (Articles 54 and 56, LFCE). It can impose administrative sanctions such as fines, structural relief, behavioral obligations and natural persons can be sanctioned with disqualification to act as director, administrator, manager, officer, executive, agent, representative or attorney in a legal entity for a term of up to five years. (Articles 127 and 131, LFCE) <i>[If the answer is "yes", please mention briefly if the competition authority is invested with the power to pursue exploitative and exclusionary effects, also make reference to relevant provisions, the type of liability that the actions of the authority seek, and what kind of sanctions can be imposed.]</i>
Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger reviews?	Yes	The <i>ex-ante</i> merger reviewed is regulated in Third Book, Title III of the LFCE: According to LFCE, Article 90 the procedure is the following: The merging parties must file a request meeting all the requirements provided in Article 89 of the same norm. COFECE has 10 business days to review the document and determine whether it meets the requirement, and in the event it doesn't, the Commission will notify the merging parties so they can complete the request within the following 10 business days. Once all the requirements of Article 89 are met, COFECE can request additional information during the next 15 business days. The merging parties comply with the request

		<p>also within 15 business days; on the contrary, the Commission will disregard the premerger request.</p> <p>The Competition Authority must issue its final decision during the 60 business days following the date on which the merging parties file the request meeting the requirements of Article 89. COFECE can extend this term once for no more than 40 business days.</p> <p>In the event COFECE considers that the transaction raises competition concerns, the Commission must communicate them to the merging parties so they can offer remedies within the next 10 business days.</p> <p>The final decision can clear, block or approve the transaction imposing structural or behavioral conditions.</p> <p><i>[If the answer is "yes", please explain briefly the process and which are the remedies that authority can seek or impose and mention the relevant provisions]</i></p>
<p>Is the notification of merger transactions mandatory?</p>	<p>Yes</p>	<p>In Mexico a concentration must be informed to COFECE when there is control acquisition carried out among competitors, suppliers, clients or any other economic agent (Article 61, LFCE) and the following thresholds, provided in Article 84 of the LFCE, are met:</p> <ol style="list-style-type: none"> 1. When the act or succession of acts that give rise to them, regardless of the place of their celebration, directly or indirectly in the national territory, amount at least the equivalent of 18 million times the general daily minimum wage in force for the Federal District (approx. 77.450.000,00 USD); 2. When the act or succession of acts that give rise to them, imply the accumulation of 35% or more of the assets or shares of an Economic Agent, whose annual sales originating in the national territory or assets in the national territory are greater than the equivalent of 18million times the general daily minimum wage in force for the Federal District (approx. 77.450.000,00 USD); 3. When the act or succession of acts that give rise to them imply an accumulation in the national territory of assets or capital stock greater than the equivalent of eight million four hundred thousand times the general daily minimum wage in force for the Federal District and in the concentration participate two or more Economic Agents whose annual sales originating in the national territory or assets in the national territory jointly or separately, amount to more than 48 million times the general daily minimum wage in force for the Federal District(approx. 206.534.000,00 USD). <p><i>[If the answer is "yes", please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions]</i></p>
<p>Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)?</p>	<p>No</p>	<p>Article 87 LFCE</p> <p><i>[Please mention the relevant provisions and add any explanation that you deem necessary]</i></p>

Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations?	Yes	<p>Second Book, Chapter VI.</p> <p>It is worth mentioning that COFECE has the powers to investigate transactions that were below the thresholds within the following year to its consummation (Article 65, LFCE)</p> <p><i>[Please mention relevant provisions]</i></p>
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	Yes	<p>LFCE, Articles 127 I and VII provide that COFECE can impose fines up to 8% of the agents' income and order divestitures in the event of an illegal concentration.</p> <p><i>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions]</i></p>
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	<p>LFCE, Article 75. The dawn raids do not need to be authorized by a judge.</p> <p><i>[If the answer is "yes", please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions]</i></p>
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<p>LFCE, Article 63.</p> <p><i>[Please, mention the relevant provisions]</i></p>
Does the Competition Authority have powers to accept leniency applications?	Yes	<p>The leniency program is regulated in the Third Book, Title IV, Chapter IV of the LFCE and in the Regulatory Provisions for the Immunity and Sanction Reduction Program Foreseen in Article 103 of the Federal Economic Competition Law, issued by COFESE in 2020 (the "Rule"). Pursuant to these provisions, any agent or person involved in restrictive practice can apply to be accepted in the leniency program before the Investigation Authority issues to the Board of COFECE its report recommending the opening of the trail-like procedure.</p> <p>The applicant must submit a request by phone or e-mail, afterwards, the authority will issue an agreement in which will provide the applicant with an identification password. 5 business days after the reception of the application, the Authority must settle and communicate to the applicant the date on which they will meet so the applicant can handle the relevant information.</p> <p>Within the following 40 business days, COFECE must review all the documents. The Commission can request additional information during the term for reviewing the documents. If the information is useful and meets the requirement of Article 103 of LFCE, the Commission will issue a provisional agreement of immunity.</p> <p>The Applicant must collaborate with the authority during all the administrative procedure until the final decision in the terms of Article 6 of the Rule.</p> <p>In the final decision, the Board of COFECE will grant the immunity or the benefit if the applicant has fulfilled its duties during the procedure.</p> <p>Benefits:</p> <p>The Beneficiaries are exempted of any criminal liability that could rise from the conduct.</p> <p>The first applicant is granted full exemption of the administrative fine, the subsequent applicants will be granted 50%, 30%, 20% respectively.</p>

		<i>[If the answer is "yes", please mention if there is any limitation for the applicants, what are the benefits, and mention the relevant provisions. Include any commentary that you consider relevant about the leniency program]</i>
Does the Competition Authority have powers to seek criminal punishment?	No	<i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose].</i>
Advocacy		
Can the Competition Authority issue opinions on draft legislation?	Yes	Yes, the opinions are not binding LFCE Article 12 XII, XIII, XIV, XV, XVIII, and XIX. COFECE can issue opinions on any kind of regulation or administrative process affecting competition conditions. <i>[If the answer is yes, please specify if there is any kind of limitation to the agency's authority to issue opinions, include relevant provisions]</i>
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No	<i>[If the answer is yes, include relevant provisions]</i>
Rulemaking		
Can the Competition Authority issue guidelines?	Non-Binding	✓ Guidelines on the calculation of fines.
		✓ Guidelines on merger control.
		✓ Guidelines on the economic analysis of abuse of dominance cases.
Can the Competition Authority issue binding regulation on competition?	Yes	According to LFCE Article 12 XXII provides that COFECE must issue regulations at least regarding the following topics: <ol style="list-style-type: none"> 1. Imposition of sanctions; 2. Monopolistic practices; 3. Determination of substantial power for one or several Economic Agents; 4. Determination of relevant markets; 5. Barriers to competition and free competition; 6. Essential inputs; and 7. Divestiture of assets, rights, social parts or shares of the Economic Agents. <i>[Please, explain which kind of regulation and mention the relevant provision on which the powers are based]</i>
Research & Reporting		
Can the Competition Authority carry out market studies?	Yes	LFCE, Article 12 XXIII. <i>[If the answer is "yes", include relevant provisions]</i>
Can the Competition Authority report to the legislature on the results of market studies?	Yes	LFCE, Article 12 XXIII and Article 48 and Article 28 of Mexican Constitution. <i>[If the answer is "yes", include relevant provisions]</i>
DECISION-MAKING FUNCTIONS		
Aggregated Functions		
Does the Competition Authority make the decision to investigate and make guilty findings?	Yes	Articles 10 and 12 I, LFCE. <i>[If the answer is "yes", include relevant provisions]</i>
Does the Competition Authority impose punishments?	Yes	According to Article 127 LFCE, COFECE can impose fines up to 10% of the annual gross income of the breaching agent. It also can impose a fine equivalent to 180.000 general daily minimum wage in force for the Federal District (approx. 774.500.00 USD). Natural persons can be sanctioned with

		<p>disqualification to act as director, administrator, manager, officer, executive, agent, representative or attorney in a legal entity for a term of up to five years, and a fine up to 200.000 general daily minimum wage in force for the Federal District (approx. 860. 500.00 USD).</p> <p>The fine can be increased up to double if the agent has been sanctioned within the last 10 years for a competition law breach. Pursuant to LFCE Article 130 a COFECE can also order divestitures.</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i></p>
<p>Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?</p>	<p>No</p>	<p>The investigation, guilty finding, and sanction procedure is established in the Third Book, Title I of the LFCE.</p> <p>The procedure is divided into two stages, the investigation procedure carried out by the Investigation Authority (the "IA"), and the trial-like procedure, which is conducted by COFECE's Board; in this second stage the IA, the complainants, and investigated agents are considered as parts.</p> <p>The IA is part of the COFECE; however it supposes to be an autonomous office within the agency, its chief is appointed and removed by the favorable vote of at least 5 of the 7 members of the Board, and can only be removed on the grounds provided in Article 32 of the LFCE.</p> <p>The investigation stage can start by a private complaint or ex officio. It can take no less than 30 business days and no more than 120 business days, which can be extended 4 times (Article 71, LFCE). The IA can conduct dawn raids, interview potential witnesses and request all the information it deems necessary.</p> <p>Once the investigation is concluded, the IA must issue a report recommending whether the Board should open the trial-like procedure.</p> <p>The trial-like stage starts when the Board notifies the parties of the report issued by the IA. The investigated parties have 45 business days to reply and defend themselves from the report findings. They can submit evidence and request the practice of any probatory means. After, the IA has 15 business days to file its arguments regarding the evidence handled and requested by the investigated parties.</p> <p>Then, the Board must decide on the admission of the evidence and conduct its practice within the next 20 business days. The Boar can request additional evidence during the next 10 days once the 20 days term for collecting the proving material has finished.</p> <p>When the probatory stage has concluded, the board will give the parties and the IA a 10 business days term to file their closing arguments. After filing the closing arguments, the parties can request a hearing before the Board.</p> <p>The Commission must issue its final decision within the following 40 business days.</p> <p><i>[Regardless of the answer please explain briefly the enforcement process until the final decision is issued, include relevant provisions, and if the answer is "No" mention how the head of the body that carries out the investigation is elected and removed. The main idea of this last point is to establish whether the investigation authority is, in fact, independent from</i></p>

		<i>the decision-making body.]</i>
Can the Competition Authority's decisions be appealed to a court?	Yes	As provided in Articles 28 and 94 of the Mexican Constitution, COFECE's decisions can be reviewed by the Specialized Economic Competition and Telecommunication Jurisdiction under an exceptional constitutional remedy, which is actionable only on the grounds of constitutional rights violations. <i>[Please, mention the judicial authority who is charged with the review, make reference to the relevant provisions, and if there is any requirement to exercise the right of the judicial review.]</i>
Please add commentaries or information that you consider relevant and were not covered in any of the previous sections and questions.		