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How Competition Advisory Becomes a Competitive Advantage for Businesses

Economic competition is no longer just about compliance; it is a competitive advantage.

In an increasingly sophisticated regulatory environment, leading companies no longer wait until they face an investigation to act. Economic competition has become a tool to manage risks, strengthen corporate governance, and design more robust growth strategies. This article explains how Competition Advisory helps companies anticipate regulatory risks, create value, and transform compliance into a sustainable competitive advantage.

The New Frontier of Economic Competition in Mexico

For years, many companies have approached economic competition from a primarily reactive perspective: as a legal risk that becomes relevant in the context of an investigation, a sanction, or a significant acquisition. However, its scope is much broader: it combines law, economics, business strategy, and risk management. The evolution of international markets shows that the traditional view of economic competition is no longer sufficient to explain or address today's challenges.

Today, the world's leading organizations view economic competition as a strategic element of corporate governance, risk management, and value creation. This policy has become a tool to strengthen trust among investors, authorities, shareholders, and consumers.

In Mexico, recent institutional changes in economic competition create a significant opportunity for the private sector. This new environment allows companies to move from a predominantly reactive culture toward a preventive model, in which they can anticipate risks, strengthen internal processes, and engage more strategically with the authority. The starting point for this transition is the replacement of the Federal Economic Competition Commission (COFECE) by the National Antitrust Commission (CNA), as the new authority in this area.

Economic Competition is not Intended to Limit Business Growth

There is a mistaken perception that competition authorities “punish” companies. In reality, the objective of competition policy is not to limit business growth, but to prevent conduct that reduces competitive pressure and affects the efficient functioning of markets.

Competition-related risks may arise in a variety of contexts, including agreements among competitors, bid rigging in public procurement processes, the exchange of commercially sensitive information, abuse of dominant position, improper vertical restraints, or merger transactions that reduce or eliminate relevant competitive pressure in the market.

When these practices occur, their effects can be significant. They not only create exposure to sanctions, but may also result in artificially high prices, lower innovation, reduced investment, barriers to entry for new participants, and a loss of welfare for consumers, businesses, and public authorities.

For this reason, the world’s leading economies have specialized competition authorities, such as the FTC and the DOJ in the United States, the European Commission, the CMA in the United Kingdom, CADE in Brazil, the FNE in Chile, and the SIC in Colombia. Mexico is part of this same institutional trend.

The creation of the National Antitrust Commission confirms the importance of preserving open, efficient, and competitive markets. At the same time, it represents an opportunity for companies to adopt a more preventive approach: not waiting until an investigation arises, but instead incorporating economic competition criteria into the design of their commercial, strategic, and corporate decisions.

The True Cost of an Investigation

In economic competition matters, when an authority initiates an investigation, the risk has generally already materialized and may date back several years.

The recent case initiated in the public radiography sector illustrates this situation perfectly. According to publicly available information, the National Antitrust Commission sanctioned various economic agents for conduct allegedly occurring between 2010 and 2016. The case shows how certain practices can remain hidden for long periods before being detected and sanctioned. In this case, the fine represented only part of the problem.

The New International Trend: Competition Advisory

Leading international firms no longer wait for an administrative proceeding to exist before advising companies. Increasingly, investment is made before risks materialize. This has given rise to a specialized discipline known as competition advisory, which combines economics, regulation, financial analysis, business strategy, and sector-specific expertiIts objective is not only to ensure compliance with the law. It also seeks to help companies design robust operations from a competitive standpoint. It is a preventive, proactive, and value-oriented approach.

A New Model of Collaboration with the Authorities

Competition authorities do not seek only to impose sanctions. In most modern jurisdictions, regulators favor solutions that preserve competition through commitments, remedies, and independent monitoring mechanisms. In this context, several instruments widely used in Europe and the United States have emerged.

A Monitoring Trustee is an independent expert appointed to oversee compliance with commitments undertaken by a company. Its role is to build trust between the authority and the economic operator.

Among other tasks, it may supervise:

- Divestment processes or the effective separation of businesses;
- Non-discriminatory access to relevant infrastructure or inputs;
- Compliance with supply or conduct obligations;
- Separation and protection of commercially sensitive information;
- Periodic monitoring through independent reports.

Far from being merely an “auditor,” the Monitoring Trustee acts as a neutral third party that facilitates the proper implementation of regulatory commitments. Its use is common in transactions authorized by the European Commission, the UK CMA, or the U.S. DOJ. It is foreseeable that this type of role will also become increasingly relevant in Mexico.

Beyond Economic Reports

The true value of Competition Advisory lies in combining multiple disciplines. A modern competition analysis is not limited to preparing economic reports; it enables the assessment of commercial, financial, and strategic decisions from a regulatory and competitive perspective.

In market studies, the analysis may cover the definition of the relevant market, substitution between products or services, elasticities, competitive structure, barriers to entry, substantial market power, essential inputs, and potential competition.

In merger transactions, it enables the assessment of the combined market share, concentration levels, vertical integration, unilateral or coordinated effects, regulatory risks, and potential remedies. This approach allows companies to anticipate risks and, when necessary, redesign the transaction before submitting it to the authority.

Preventive Audits

An independent review makes it possible to identify risk situations before they escalate into a sanctioning proceeding. These audits may cover, among other aspects, exchanges of commercially sensitive information, protocols for participating in public procurement processes, relationships with trade associations, commercial policies, discount programs, exclusivity agreements, and distribution structures.

Their value lies in detecting sensitive practices early, correcting them in a timely manner, and strengthening the company's internal controls before an investigation by the authority exists.

The Role of Fortantis

Fortantis was created precisely to address this space of specialized advisory. Not as a traditional law firm or as a conventional economic consulting firm, but as a multidisciplinary firm capable of integrating economics, engineering, regulation, financial analysis, valuation, and dispute resolution.

Its value proposition consists of supporting private companies, investors, legal teams, and regulatory authorities throughout the entire life cycle of an economic competition matter: from prevention and initial diagnosis to technical analysis, impact quantification, the defense of positions, and dispute resolution.

Its main areas of work include:

A Partner in Building More Competitive Markets

Economic competition should not be understood as a sanctioning mechanism, but as an institutional infrastructure that helps attract investment, increase productivity, and foster sustainable growth.

Companies that adopt a preventive approach will be better prepared to address growth transactions, sector consolidation processes, and relationships with regulatory authorities. At the same time, authorities will benefit from technical counterparts capable of facilitating investigations, implementing effective remedies, and supervising commitments with independence and rigor.

In this scenario, the role of specialized firms such as Fortantis goes beyond traditional advisory. They become strategic partners capable of anticipating risks, building trust, and contributing to the development of more transparent, efficient, and competitive markets.

Because the best competition policy is not the one that imposes the most sanctions, but the one that makes sanctions increasingly less necessary.

Our Team

Fortantis is a boutique firm specialized in damages quantification and valuation in international arbitration. This is the team behind the analysis.

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With more than 25 years of international experience in finance, focused on valuation and corporate finance, he has supported government and private-sector clients in the quantification of damages in complex disputes in Mexico, the United States, and Latin America.

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SOURCES AND LEGAL DISCLAIMER

Sources: IMSS, IMSS Highlights Sanctions Imposed by the National Antitrust Commission in Collusion Matters, Press Release No. 001/2026, June 16, 2026.

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