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GCR INSIGHT

PRIVATE LITIGATION GUIDE

SECOND EDITION

Editors

Nicholas Heaton and Benjamin Holt

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This article was first published in December 2020

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Published in the United Kingdom by Global Competition Review

Law Business Research Ltd

Meridian House, 34-35 Farringdon Street, London, EC2A 4HL, UK

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www.globalcompetitionreview.com

Second edition

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Enquiries concerning reproduction should be sent to Law Business Research, at the address above. Enquiries concerning editorial content should be directed to the Publisher – clare.bolton@globalcompetitionreview.com

ISBN 978-1-83862-262-6

Printed in Great Britain by Encompass Print Solutions, Derbyshire

Tel: 0844 2480 112

Acknowledgements

The publisher acknowledges and thanks the following contributors for their learned assistance throughout the preparation of this book:

ADVOKATFIRMAN VINGE

ALLEN & OVERY LLP

CAMINATI BUENO ADVOGADOS

CDC CARTEL DAMAGE CLAIMS CONSULTING SCRL

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NISHIMURA & ASAHI
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PROSKAUER ROSE LLP
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VON WOBESER Y SIERRA
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PART 3

COMPARISON

ACROSS

JURISDICTIONS

Mexico Q&A

Fernando Carreño Núñez de Álvarez and Gerardo Enrique Rodríguez Aguilar¹

Effect of public proceedings

1 What is your country's primary competition authority?

The authorities in charge of enforcing the Mexican Federal Competition Act (FCA) and its regulations are the Federal Telecommunications Institute (FTI), which is the competition agency focusing only on the telecommunications and broadcasting industries, and the Federal Competition Commission (the Commission or the FCC) (the Agencies), which is the agency for all the other industries.

2 Does your competition authority have investigatory power? Can it bring criminal proceedings based on competition violations?

To start an investigation to demonstrate the existence of any monopolistic behaviour is a difficult task for the Agencies. The chief prosecutor of the Investigative Authority (IA) needs to obtain sufficient evidence or receive a complaint backed up with enough evidence to do so.

The investigation may last up to 120 business days. This period may be extended four times. As a consequence, the investigation may last up to 600 business days. During the investigation, the Agencies may exercise any of the following powers: issue requests for information; summon and depose any individual; and execute dawn raids.

Once the investigation is finished, the IA has two options: close the investigation, or issue a statement of objections and summon all those responsible for engaging in the practice.

¹ Fernando Carreño Núñez de Álvarez is a partner and Gerardo Enrique Rodríguez Aguilar is a senior associate at Von Wobeser y Sierra.

The administrative trial procedure initiates with the issuance of the statement of objections. Through this procedure, the IA and the accused submit evidence in support of the allegations or in response thereto. After the Agencies discuss the allegations and the responses of the accused regarding the anticompetitive behaviour, the outcome will be stated in the judgment, which will be notified to all the interested parties.

All other procedures for prosecuting any competition violation in Mexico are subject to issuance of the statement of objections (for criminal investigations) or the judgment entered by the competition authority (for civil claims). Thus, it is relevant to bear in mind that only the action of the Agencies will trigger the criminal and civil procedures.

3 Can private antitrust claims proceed parallel to investigations and proceedings brought by competition authorities and criminal prosecutors and appeals from them?

No, only the action of the Agencies will trigger the criminal and civil procedures.

4 Is there any mechanism for staying a private claim while a related public investigation or proceeding (or an appeal) is pending?

No, the private parties have to wait for the issuance of the statement of objections for criminal investigations and the Agencies' final decision to bring a civil claim.

5 Are the findings of competition authorities and court decisions binding or persuasive in follow-on private antitrust cases? Do they have an evidentiary value or create a rebuttable presumption that the competition laws were violated? Are foreign enforcers' decisions taken into account? Can decisions by sector-specific regulators be used by private claimants?

The FCA states that the final decision issued by the Agencies would be enough to prove the wrongdoing of the anticompetitive conduct. In this regard, the decision has evidentiary value that the competition laws were violated; therefore, it seems that the Federal Courts would be limited to estimating the amount to be granted as payment for the damages and losses.

In terms of the FCA, the Commission's decisions are the only judgement that will trigger the civil claim before the federal courts.

6 Do immunity or leniency applicants in competition investigations receive any beneficial treatment in follow-on private antitrust cases?

No, the leniency applicants would have to face civil proceedings if the affected persons bring a civil claim.

7 Can plaintiffs obtain access to competition authority or prosecutors' files or the documents the authorities collected during their investigations? How accessible is information prepared for or during public proceedings by the authority or commissioned by third parties?

The civil proceeding before the federal courts would be limited to estimating the amount to be granted as payment for the damages and losses. That being said, it is customary that the Commission's decisions calculate the damages (estimated in money) caused in the market as a result of the anticompetitive conduct.

If the plaintiffs were part of an administrative trial, they may have access to the information submitted in that part of the procedure. The information obtained through the investigation is classified as confidential, so the plaintiffs would not have access to that information.

8 Is information submitted by leniency applicants shielded from subsequent disclosure to private claimants?

Yes, if the leniency was granted to the applicants. In terms of the FCA, the information submitted under the leniency program would remain confidential.

9 Is information submitted in a cartel settlement protected from disclosure?

This is not applicable in Mexico; the FCA does not state any cartel settlement.

10 How is confidential information or commercially sensitive information submitted by third parties in an investigation treated in private antitrust damages claims?

This subject is still under discussion by the federal courts. In principle, if confidential information is granted by a third party in an investigation, this could not be released in private damages claims; however, there are judicial decisions in which the courts have mentioned that the competition principle should prevail over the privacy right; therefore, if the confidential information is essential to prove the anticompetitive damage, it is possible that this may be unclassified and released in private damages claims.

Commencing a private antitrust action

11 On what grounds does a private antitrust cause of action arise?

The FCA sanctions three types of monopolistic behaviours: cartels; abuse of dominance conduct; and illegal mergers; as a consequence, these are the private causes of action for plaintiffs to recover damages and losses.

12 What forms of monetary relief may private claimants seek?

In Mexico private persons may only seek relief from damages and losses caused by anticompetitive behaviours through federal courts. The Federal Civil Code and Federal Civil Procedure Code in Mexico sets forth two different procedures for seeking this: private actions and class actions.

The damages are the harm suffered to the assets of a person by the breach of an obligation and, the losses are the deprivation of any lawful gain that would have been obtained if the obligation had been complied with.

13 What forms of non-monetary relief may private claimants seek?

This is not applicable in Mexico.

14 Who has standing to bring claims?

Any entity or individual who has been harmed by a cartel, abuse of dominance or an illegal merger has legal standing to bring a claim to recover damages and losses before the federal courts.

The federal statutes make no distinction between categories of persons entitled to recover damages. That being said, direct or indirect purchasers who acquired the goods or services subject to the anticompetitive conduct, or competitors of those markets, may bring the civil suits.

The only requisite to have legal standing would be to have a final decision by means of which an entity or individual was found liable for any anticompetitive conduct or an illegal merger; otherwise, the suit would be dismissed

15 In what forums can private antitrust claims be brought in your country?

Private competition actions are authorised only under federal law. The causes of action are contained only in a federal act: the FCA. The procedures are also contained in federal statutes: the Federal Civil Code and Federal Civil Procedure Code. Finally, the FCA sets forth that the competent court to enter a decision for damages and losses as a consequence of an anticompetitive conduct are the Federal Courts Specialised in Competition, Telecommunications and Broadcasting.

16 What are the jurisdictional rules? If more than one forum has jurisdiction, what is the process for determining where the claims are heard?

This is not applicable considering the last answer.

17 Can claims be brought based on foreign law? If so, how does the court determine what law applies to the claim?

In terms of the FCA, the Commission's decisions are the only judgment that will trigger the civil claim before the federal courts. We do not consider that a claim could be brought based on foreign law.

18 Give details of any preliminary requirement for starting a claim. Must plaintiffs post security or pay a filing fee? How is service of claim affected?

The plaintiffs do not have to post securities or pay a filing fee.

19 What is the limitation period for private antitrust claims?

The statute of limitations in private actions for claiming damages and losses is two years.

20 Are those time limits procedural or part of the substantive law? What is the effect of their expiry?

The Federal Civil Code sets forth the statute of limitations mentioned above. The effect of this expiration would be that the affected party would not be entitled to bring the civil claim.

21 When does the limitation period start to run?

The statute of limitations starts from the day on which the damage was caused. Notwithstanding, there are judicial precedents which state that the period may start from the day on which the affected party becomes aware of the damage suffered.

22 What, if anything, can suspend the running of the limitation period?

In relation to the tolling of the statute of limitations, the period is suspended when the Agencies officially initiate the investigation.

23 What pleading standards must the plaintiff meet to start a stand-alone or follow-on claim?

In Mexico, the federal courts only have jurisdiction to issue a judgment related to the damages and losses suffered as a result of illegal behaviour sanctioned in the FCA. This is set forth in Section 134 of the FCA, which confers jurisdiction to the Federal Courts Specialised in Competition, Telecommunications and Broadcasting for resolving civil lawsuits submitted by private parties who have suffered damages and losses as a consequence of monopolistic practices or illegal concentrations.

These kinds of lawsuits would be admitted once the Commission's judgment is final. This may be construed as when Federal Courts Specialised in Competition, Telecommunication and Broadcasting have upheld the Commission's judgment.

Section 134 of the FCA provides that the Agencies' decision by itself proves the wrongfulness of the accused for purposes of the compensatory action. Therefore, it is not necessary to bring any additional element to prove this one.

In addition to the foregoing, the following has to be stated: the existence of damages and losses suffered by the plaintiff; and that the illicit behaviour was the sole, direct, immediate and necessary cause of the damages and losses; that is, that a causal relationship exists between the illicit behaviour and the damages.

24 Is interim relief available? What must plaintiffs show for the court to grant interim relief?

This is not applicable in Mexico.

25 What options does the defendant have in responding to the claims and seeking early resolution of the case (e.g., answer, counterclaim, motion to dismiss, summary judgment)?

Once that the claim has been filed before the federal courts, the defendant has nine business days to respond to the claim. The defendant may respond to the claim: denying, totally or partially, the facts; confessing; or filing procedural defences.

Disclosure/discovery

26 What types of disclosure/discovery are available (e.g., documentary, depositions, interrogatories, admissions)? Describe any limitations and the courts' usual practice in ordering disclosure/discovery.

In accordance with the Federal Code of Civil Procedure, the parties can offer the following evidence:

- party confessions;
- public documents;
- private documents;
- expert reports;
- judicial inspections;
- witnesses;
- photographs, writings and, in general, all those elements provided by scientific techniques; and
- presumptions.

Once the defendant has answered the plaintiff's claim, the court will open a disclosure period for a term of 30 days for the parties to submit all the evidence in their possession. Once the reception of evidence offered by the parties is completed, on the final day of the disclosure period, the court declares a final trial hearing; the parties may attend this hearing.

During this final trial hearing, the court will analyse the pertinent points, beginning with the public and private documents of the plaintiff and then the public and private documents of the defendant granting each party opportunity to speak, alternately, twice with respect to each party's evidence, for a period that must not exceed 15 minutes.

Once the documentary evidence has been discussed, the court will continue with the analysis of the expert reports offered by the parties in the points that the court deems necessary. If there has been a discrepancy between the expert reports, the court will grant to each expert thirty minutes to explain its report.

If the expert reports of the parties coincide, the court will continue with the witness's depositions, which will be carried out exclusively by direct questioning by the court of the witnesses.

Judicial inspection may be carried out, at the request of a party or by order of the court to clarify facts related to the trial that do not require special technical knowledge. The parties, their representatives and lawyers may attend the inspection and make the observations they deem appropriate. A detailed record will be kept by the court to certify the action, which will be signed by those who attend it. The court can also draw up blueprints or photographs of the place or objects inspected.

To prove facts or circumstances in relation to the trial, the parties may submit photographs, writings, and, in general, all kinds of elements provided by science. If special technical knowledge is needed for the appreciation of such evidence, the court will appoint an expert for this purpose.

27 How do the courts treat confidential information that might be required to be disclosed or that is responsive to a discovery proceeding? Is such information treated differently for trial?

The federal courts treat as confidential all the information provided by the parties during the trial. No other person different from the parties or the court has access to the information analysed at trial.

28 What protection, if any, do your courts grant attorney–client communications or attorney materials? Are any other forms of privilege recognised?

The federal courts have not issued any guidelines on the protection of attorney–client communications regarding antitrust private actions.

That said, the federal courts have determined that the attorney–client privilege is applicable within the competition investigations carried out by the Agencies. The secrecy of communications between a lawyer and his client derives from the human rights to privacy, inviolability of private communications and an adequate defence, as well as from the principle of non-self-incrimination. Therefore, it has been resolved that the Agencies have to take safeguards that guarantee protection of attorney–client communications obtained in the exercise of their investigative powers, since otherwise it would imply a violation of human rights.

Trial

29 Describe the trial process.

The trial process begins with the plaintiff’s claim submitted before the Federal Courts Specialised in Competition, Telecommunications and Broadcasting.

The defendant has nine business days to respond to the claim. The defendant may respond to the claim: denying, totally or partially, the facts; confessing; or opposing procedural exceptions.

Once the defendant has responded to the plaintiff’s claim, the court will open an evidence disclosure term of 30 days to process all the evidence submitted by the parties. After that, the court declares a final trial hearing; the parties may attend this hearing.

After the final trial hearing, the court proceeds with the final pleadings hearing, considering the following rules:

- the plaintiff will argue first and then the defendant;
- each party will argue two times;
- each party has to argue about the substantive and procedural subjects of the trial;
- the pleadings have to be brief and concise;
- each party may speak for thirty minutes; however, the courts may extend this for each party;
- the parties may present their pleadings in writing, even when they do not attend the final pleadings hearing or when they refuse to speak.

Within the next 10 business days following the final pleadings hearing, the court will summon the parties to issue its final decision.

30 How is evidence given or admitted at trial?

See question 26.

31 Are experts used in private antitrust litigation in your country? If so, what types of experts, how are they used, and by whom are they chosen or appointed?

It is possible to use experts in Mexican private antitrust litigation.

The Federal Code of Civil Procedures allows the use of any experts in any matters when it is necessary for the trial, as long as they have a degree in the science or art in which they claim to be experts.

If the science or art that deals with the case subject matter is not regulated by the Mexican Ministry of Professions, then any person who has knowledge of the aforementioned matter may be appointed with the court's authorisation.

32 What must private claimants prove to obtain a final judgment in their favour?

The affected party must demonstrate in the civil proceedings the three following elements: (1) an illicit behaviour carried out by the accused; (2) the existence of damages and losses suffered by the plaintiff; and (3) that the illicit behaviour was the sole, direct, immediate and necessary cause of the damages and losses, that is, that a causal relationship exists between the illicit behaviour and the damages.

To prove requisite (1) above, Section 134 of the FCA provides that the Agencies' decision by itself proves the wrongfulness of the accused for purposes of the compensatory action. Therefore, it is not necessary to bring any additional element to prove this one.

Requisite (2) can be divided into two sections: damages, which can be understood as the harm suffered to the assets of a person by the breach of an obligation; and losses, which can be understood as the deprivation of any lawful gain that would have been obtained if the obligation had been complied with.

Finally, to contextualise requisite (3), it is relevant to bear in mind that the obligation to pay damages and losses arising from the illicit behaviour is limited under the Federal Civil Code. This limitation sets forth that a party may only be liable for actual damages and losses that directly and immediately arise from the illicit behaviour; and that no indirect, consequential, punitive, exemplary or any damages other than direct and immediate damages are available to the party affected by the illicit behaviour.

A direct, immediate and necessary causal relationship is needed. This principle requires that the illicit act be the cause of the damages and losses. Thus, there must be a causal link between the conduct of the accused (illicit behaviour) and the result (damages and losses).

The need for a causal relationship is twofold: (1) to determine if the accused is the transgressor and, therefore, liable for the damages; and (2) to determine the extent or limit of the obligation to compensate them.

Therefore, in Mexican law, the governing principle is that the person who behaved illicitly should not bear all the series of damages and losses that occur as a consequence of the non-compliance, but only those that are a direct and immediate consequence of his or her conduct.

33 Are there any defences unique to private antitrust litigation (e.g., Noerr-Pennington defence, passing-on defence)? If so, which party bears the burden of proving these defences?

No, these types of defences do not exist in private antitrust litigation in Mexico.

34 How long do private antitrust cases usually last (not counting appeals)?

These kinds of trials last between 12 and 18 months.

35 Who is the decision-maker at trial?

The Federal Courts Specialised in Competition, Telecommunications and Broadcasting are divided into three different courts: (1) district courts, which are the decision-makers in first instance trials; (2) unitary circuit courts, which are the decision-makers for second instance trials (appeal); and (3) collegiate circuit courts, which are the decision-makers in trials regarding constitutional protection actions (*amparo*) filed by any of the parties. In the Mexican jurisdiction, this constitutional protection is not considered a further appeal, rather a new independent trial.

Damages, costs and funding

36 What is the evidentiary burden on plaintiffs to quantify the damages?

It is customary that the Commission's decisions calculate the damages (estimated in money) caused in the market as a result of the anticompetitive conduct.

In addition to the foregoing, the plaintiff may submit any evidence (e.g., documentation, experts) to prove the existence of damages and losses suffered by the plaintiff, as well as the link between the conduct of the accused (anticompetitive conduct) and the result (damages and losses) suffered.

37 How are damages calculated?

The federal courts will be in charge of setting the individual damages based on the evidence submitted by the plaintiffs, taking into consideration the decision issued by the Commission.

38 Does your country recognise joint and several liability for private antitrust claims?

Yes, those liable for engaging in any anticompetitive conduct or illicit merger could be one or more individuals or entities.

39 Can a defendant seek contribution or indemnity from other defendants, including leniency applicants, or third parties? Does the law make a clear distinction between contribution and indemnity in antitrust cases?

The liable party would be anyone responsible for engaging in any anticompetitive conduct or illicit merger in accordance with the Commission's decision. The applicable law makes no distinction between contribution and indemnity.

40 Can prevailing parties recover attorneys' and court fees and other costs? How are costs calculated?

The Federal Code of Civil Procedures states that the losing party must reimburse the other for the attorneys' and court fees.

The attorneys' and court fees consist of the sum that, according to the assessment of the court and in accordance with the tariff laws in Mexico, the winning party should be reimbursed, excluding the expense of all acts and forms of defence considered superfluous by the court.

41 Are there circumstances where a party's liability to pay costs or ability to recover costs may be limited?

The court is the only one that can limit the liability of the parties is exclusively in accordance with the rules stated in the previous answer.

42 May attorneys act for claimants on a contingency or conditional fee basis? How are fees calculated?

This is not regulated in Mexico.

43 Is litigation funding lawful in your country? May plaintiffs sell their claims to third parties?

Although awareness of litigation funding is starting to grow in Mexico, this practice is not yet regulated. The plaintiffs may sell their claims, but they have to appear in the federal courts for the proceeding.

44 May defendants insure themselves against the risk of private antitrust claims? Is after-the-event insurance available for antitrust claims?

Considering that this a new practice in Mexico, we are not aware that this type of insurance is available in the Mexican market.

Appeal

45 Is there a right to appeal or is permission required?

The Federal Civil Procedures Code sets forth the right for any party to appeal a decision issued by the District Court.

46 Who hears appeals? Is further appeal possible?

Appeals are submitted before the unitary circuit courts and there is no further appeal. That being said, the parties have the chance to request *amparo* before the collegiate circuit courts, but in the Mexican jurisdiction this constitutional protection it is not considered a further appeal, rather a new independent trial.

47 What are the grounds for appeal against a decision of a private enforcement action?

There are no specific grounds detailed in the Federal Civil Procedure Code for appealing the decision of a private enforcement action. The party dissatisfied with the resolution issued by the first instance court may appeal before the superior court. In this case, the superior court is obliged to analyse the first instance decision to affirm, modify or reverse said ruling.

Collective, representative and class actions

48 Does your country have a collective, representative or class action process in private antitrust cases? How common are they?

Yes. Class actions are relatively new in Mexico. These suits were incorporated for the first time on 29 July 2010, through a constitutional amendment.

49 Who can bring these claims? Can consumer associations bring claims on behalf of consumers? Can trade or professional associations bring claims on behalf of their members?

The Federal Civil Procedures Code sets forth that the following entities have legal standing: (1) the Commission, as well as other governmental entities that champion consumers' interests; (2) the common representative of a community made up of at least 30 members; (3) non-profit associations legally incorporated at least one year prior to the moment of the class action submission; and (4) the Attorney General.

As in the private actions, one of the main requisites for admitting a class action is that there is a final and binding decision issued by the Agencies.

50 What is the standard for establishing a class or group?

The non-profit civil associations have to be legally incorporated at least one year prior to the time of filing the action, whose purpose includes the promotion or defence of the rights and interests of the matter in question and the legal representative should act properly on behalf of the association, which means:

- act with diligence, expertise and good faith in the defence of the interests of the community in the trial;
- do not have a conflict of interest with the members of the association;
- do not promote or have repeatedly promoted frivolous or reckless class actions;
- do not promote a class action for profit, electoral purposes, proselytising, unfair competition or speculative purposes; and
- do not have behaved with negligence, bad faith or recklessness in previous class actions.

These non-profit civil associations have to be registered before the Federal Judicial Council. In order to obtain such registration, the associations have to: (1) submit their bylaws; and (2) be incorporated one year before and prove that they have carried out their purposes set forth in their bylaws.

The Federal Judicial Council keeps a registry of all these non-profit civil associations. In order to keep the associations in such registry, each association has to submit a report of its operation and activities every year.

The community must have at least thirty members; that means, thirty consumers affected by an anticompetitive conduct or illegal merger. The rules applicable to the legal representative mentioned in the first paragraph of this answer are also applicable to the common representative of the community.

51 Are there any other threshold criteria that have to be met?

Yes, all the affected consumers have to coincide in the cause of action and the harm suffered as a consequence of the anticompetitive conduct or illegal merger.

52 How are damages assessed in these types of actions?

The harm caused as a consequence of the anticompetitive conduct or illegal merger would be analysed for all the community, but the damages would be assessed and granted individually for each member.

53 Describe the process for settling these claims, including how damages or settlement amounts are apportioned and distributed.

Once the claim has been admitted and the response has been submitted by the defendant, the judge would propose to the parties possible solutions and would also urge the parties to settle the dispute.

If the parties cannot not settle at that time, the trial continues with the evidence offering and the discovery. After that stage, the judge must issue the judgment by means of which the court will determine the damage caused. The recovery of damages by each of the members of the community would be obtained through an executory and accessory proceeding.

54 Does your country recognise any form of collective settlement in the absence of such claims being made? If so, how are such settlements given force and can such arrangements cover parties from outside the jurisdiction?

No, it is necessary to have a decision made by the Agencies stating that entities or individuals engaged in anticompetitive conduct or an illegal merger; after that, it would be necessary to bring a claim.

55 Can a competition authority impose mandatory redress schemes or allow voluntary redress schemes?

No, the competition authorities do not have those powers.

Arbitration and ADR

56 Are private antitrust disputes arbitrable under the laws of your country?

This is not applicable in Mexico.

57 Will courts generally enforce an agreement to arbitrate an antitrust dispute? What are the exceptions?

This is not applicable in Mexico.

58 Will courts compel or recommend mediation or other forms of alternative dispute resolution before proceeding with a trial? What role do courts have in ADR procedures?

This is not applicable in Mexico.

Advocacy

59 Describe any notable attempts by policymakers to increase knowledge of private competition law and to facilitate the pursuit of private antitrust claims?

This is not applicable in Mexico.

Other

60 Give details of any notable features of your country's private antitrust enforcement regime not covered above.

There are only a few cases related to private litigation so far. To the best of our knowledge, all of these are still under the review of the federal courts. The decisions will be valuable precedents that will shed light on this new but relevant practice in Mexico. We would be delighted to update these cases in the next edition of this guide.

Appendix 1

About the Authors

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Fernando is the head partner of the competition and antitrust practice of Von Wobeser y Sierra.

His practice focuses on developing and implementing high-level antitrust strategies in connection with transactional matters, including advising on antitrust regulatory approvals in Mexico, cartel and market investigations, compliance, and general antitrust counselling.

Fernando has been widely and consistently recognised as one of the leading antitrust lawyers in Mexico. In 2018, he was awarded 'Lawyer of the Year – under 40' by *Global Competition Review* and in 2016 he was listed also by *Global Competition Review* in its special report '40 Under 40'. Additionally, he has been recognised by *Chambers and Partners Global*, *Chambers and Partners Latin America*, *The Legal 500*, *Latin Lawyer 250*, *Who's Who Legal* and *IFLR1000*, among others.

He serves as a non-government agent of the International Competition Network and acts as the Officer of the Antitrust Committee of the International Bar Association, vice-president of the Antitrust Committee of the International Chamber of Commerce, and as chair of the Competition and Antitrust Section of the Barra Mexicana de Abogados, A.C.

He obtained his law degree from Escuela Libre de Derecho and his master of laws degree (LLM) from Northwestern University School of Law.

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Gerardo is a senior associate with more than 14 years of experience in competition matters. He worked for the Mexican Federal Competition Commission and the Federal Trade Commission (appointed pursuant to the US Safe Web Act of 2006).

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He has deep knowledge of and experience with network industries, such as: telecommunications, broadcasting, railroad transportation and oil and gas; as well as other regulated sectors such as healthcare and life science, financial services and air transportation, among others.

He appears before the Mexican competition authorities and the Federal Courts.

He has been recognised as a 'Next Generation lawyer' (2019) and 'Rising Star in Competition and Antitrust' (2020 and 2021) by *The Legal 500*. He was also ranked in the last edition (2021) published by Chambers & Partners Latin America.

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Private competition litigation has spread across the globe, raising specific, complex questions in each jurisdiction. The implementation of the EU Damages Directive in the Member States has furthered the ability of victims of anticompetitive conduct to seek compensation, even as US courts tighten the standards for forming a class action.

The *Private Litigation Guide* – published by Global Competition Review – explores in depth key themes such as territoriality, causation and proof of damages that are common to competition litigation around the world with jurisdictional overviews and Q&As. Beyond the established sites such as the US, Canada, Germany, the Netherlands and the UK, experts lay out the scene for competition litigation in countries such as Brazil, Japan and Mexico.

As the editors of this publication note, ‘litigating antitrust or competition claims has become a global matter, requiring coordination among jurisdictions, and requiring counsel and clients to understand the rules and procedures in many different countries and how the approaches of courts differ as to key issues.’

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ISBN 978-1-83862-262-6