This country-specific Q&A provides an overview to cartels laws and regulations that may occur in Mexico.

For a full list of jurisdictional Q&As visit here
1. **What is the relevant legislative framework?**

At the outset, it is important to explain that there are two competition authorities in Mexico: the Federal Economic Competition Commission (“FECC”) and the Federal Institute of Telecommunications (“FTI”). The subject-matter of the latter is only limited to telecommunications and broadcasting sectors, while the former is the authority for the rest of the sectors. Regarding the competition field, both authorities follow the Federal Economic Competition Law (“FECL”). Hereinafter, we will refer to the “competition authority” in general to refer indistinctively to the FECC or the FTI.

The FECL does not provide specific procedural or substantive rules that would apply to a specific sector. Therefore, the FECL is the legislative framework that govern both the FECC and the FTI in all the matters related to competition, including the cartel conduct. In addition to that, each authority has issued its own Regulatory Provisions of the FECL that provide additional rules that implement the FECL.

According to the FECL, the conducts that constitute a cartel are contracts, agreements, arrangements or combinations amongst economic agents which have the purpose or effect of any of the following absolute monopolistic practices (anticompetitive practice among competitors):

- Fixing, raising, coordinating or manipulating the sale or purchase price of goods or services supplied or demanded in the markets (price fixing);
- Establishing an obligation not to produce, process, distribute, market or acquire a restricted or limited amount of goods, or the supply or transaction of a limited or restricted number, volume or frequency of services (output restriction);
- Dividing, distributing, allocating or imposing portions of a current or potential market of goods and services, by a determined or determinable group of customers, suppliers, time spans or spaces (market allocation);
- Establishing, arranging or coordinating bids or abstentions from tenders, contests, auctions or purchase calls (bid rigging); and
- Exchanging information with any of the abovementioned purposes (exchange of information).

According to the FECL, the investigation regarding absolute monopolistic practices may begin *ex-officio*, per the request of the Federal Executive Branch or by the complaint filed by any person.

2. **To establish an infringement, does there need to have been an effect on the market?**

No. Absolute monopolistic practices are considered *per se* illegal and are not governed by the rule of reason. This means that, according to the FECL, an absolute monopolistic practice may be triggered either by having the object or purpose of carrying out the illegal conduct, or by the effects that it produces even if the economic agents carrying out do not have the
intention of producing illegal effects.

3. Does the law apply to conduct that occurs outside the jurisdiction?

Yes. The FECL provides that it is applicable to all areas of economic activity and it is obligatory within the Mexican territory. It also provides that the competition authorities can impose sanctions for infringements to the FECL, suspend acts constituting monopolistic practices, among other measures, in all areas of economic activity, within Mexico. These remedies are imposed on domestic or foreign economic agents when their acts have or may have negative effects on competition in Mexican markets. Case-law has developed criteria in the sense that the FECL may apply not only to conducts executed within the Mexican territory but also to conducts that occur outside the Mexican jurisdiction, when they produce effects in Mexico.

In fact, several international cartels have been penalized in Mexico on the grounds of the harmful effects that they have caused within Mexican territory. For example, in 2016 the FECC issued a $581.6 million MXP (approx. USD 24.333 million)[1] fine against seven global shipping companies after finding them responsible for allocating the market of maritime transportation of vehicles and heavy machinery and as a result of affecting the competition within Mexican territory (Case IO-005-2013). There were several collusive agreements implemented globally on international routes, some of them had as points of origin or destination several Mexican ports. The FECC also found that the conduct had the effect of increasing the costs of the services provided to the automotive industry companies in the Mexican market and reducing the competitive pressure among competitors.

Taking into account the Mexican Central Bank currency exchange of 23.9008 on March 19, 2020. It is worth mentioning that this number does not reflect the average exchange rate since the Mexican peso value has recently plummeted after the coronavirus effect.

4. Which authorities can investigate cartels?

As mentioned above, there are two authorities in charge of enforcing the competition policy in Mexico: the FECC and the FTI. Each of these entities have an Investigation Authority in charge of investigating cartels.

The Investigation Authority of the FTI is the competent authority in launching and conducting absolute monopolistic practices investigations in the telecommunications and broadcasting sectors, while the Investigation Authority of the FECC is the competent authority in launching and conducting investigations in the rest of the sectors.

It is also important to mention that differently to the proceeding in other countries, in Mexico there is a second procedural stage once the investigation concludes. As it will be explained at length later, once the Investigation Authority concludes its investigation, if it has elements to presume that the investigated economic agents carried out an illegal conduct, it may begin a
second stage also known as the trial-like proceeding.

5. **What are the key steps in a cartel investigation?**

As mentioned previously, in Mexico the entire proceeding has two phases: (i) the investigation conducted by the Investigation Authority and (ii) the trial-like proceeding conducted by the Technical Secretary. At the end, the case is decided by the Board of Commissioners of the competition authority. The details of this stages are provided as follows:

**Step 1: Investigation**

In order to launch an investigation, the Investigation Authority needs an objective cause. An objective cause is any indication of the existence of monopolistic practices.

The investigation period begins to count the day in which the investigation’s Initiation Decision is issued and shall last no less than 30 nor exceed 120 business days thereafter. This period may be extended up to 4 times, for subsequent periods of 120 business days, whenever the Investigation Authority considers there are justified reasons for doing so.

Upon conclusion of the Investigation, the Investigation Authority, within a 60-day period, shall bring before the Board of Commissioners an investigative opinion that either proposes: (i) the initiation of the trial-like proceeding, due to objective elements that indicate a probable responsibility of the investigated economic agents, or (ii) the closing of the case filed when there are no elements to initiate the trial-like procedure.

The investigative opinion shall contain at least: (i) the identification of the investigated economic agent(s), and, if applicable, of the alleged offender(s); (ii) the investigated facts and their probable purpose or effect on the market; (iii) the evidentiary elements and other means of conviction included in the investigation file and their analysis, and (iv) the elements that support the proposal and, if applicable, the legal provisions that may have been infringed, as well as the consequences that may result from such violation.

The Board of Commissioners may order the closing of the case or the initiation of the trial-like proceeding, within the next 30 days after having received from the Investigation Authority the investigative opinion.

**Step 2: Trial-like proceeding**

If the Investigation Authority concludes that there are elements that indicate a probable responsibility of the investigated Economic Agents, it will issue a statement of probable responsibility that will be notified to the alleged offenders. The proceeding shall commence
with the notification to the alleged offenders of the statement of probable responsibility. The stages of the trial-like procedure are the following:

a) Once notified, the alleged offender shall have access to the file and a non-extendable 45-day period to reply and thereby assert any arguments available to it under the law, bring forth the documentary evidence at its disposal, as well as introduce the evidentiary elements requiring further processing.

b) The Investigation Authority shall be awarded a non-extendable 15 working-day period to provide its position regarding the arguments and evidence brought forth by the alleged offender;

c) Upon expiration of the period established above, the procedural oversight authority shall, if applicable, order either the dismissal or admissibility of the evidentiary elements provided, and it shall also set the location, date and time for evidentiary processing. The evidentiary elements shall be processed within a 20-day period from the admission date.

d) Once the evidence is processed and within the following 10-day period, the authority may order further evidence gathering and processing or summon for closing arguments.

e) Once any further evidence has been introduced, the authority shall set a period not exceeding 10 days, for the alleged offender and the Investigation Authority to submit their closing written arguments.

f) The file shall be considered completed on the date the written closing arguments are submitted.

g) Upon completion, the file shall be assigned by the competition authority’s Chair to the Commissioner Rapporteur, in a rotating manner. The Commissioner-Rapporteur is charged with the duty of preparing the resolution project for the Board of Commissioners’ approval or modification.

h) Within 10 days following the file’s completion, the alleged offender or the complainant have the right to request an oral hearing before the Board of Commissioners to render any statements they deem appropriate. The competition authority shall issue the resolution within a non-extendable 40-day period.

The final resolution shall contain at least the following: (i) The assessment of evidence that was conducive in deciding whether, engagement in a monopolistic practice, was or was not proven; (ii) the determination ordering the definitive suppression of the monopolistic practice, or its effects, or the determination to undertake measures or actions, omission of which caused the monopolistic practice, as well as the means and timeframes to prove
compliance thereof, and, (iii) the determination of sanctions.

6. **What are the key investigative powers that are available to the relevant authorities?**

   1. Request any individual or company to submit the information or documents they deem necessary to perform an investigation.
   2. Interview individuals that may have information related to the facts investigated.
   3. Conduct on-site inspections (dawn rides) on offices, premises or any other location where the competition authority considers that it may find evidentiary elements connected with its investigation. During a dawn ride the Investigation Authority may: (i) review, photocopy, or reproduce files; (ii) “secure” or “seal” offices or the areas where the information to be reviewed is kept, in order to ensure that it is not altered or withdrawn during the inspection, (iii) regarding essential documents for the operation, the inspected company may ask for a copy of such documents; (iv) ask general questions related to the facts, information, or places reviewed; and (v) take pictures or video-recording or reproduce by any means any document or information related with the subject matter of the procedure.

   The inspected economic agent shall not obstruct the development of the inspection and has the obligation to cooperate with the competition authority.

   In case of dawn rides carried out by the FECC Investigation Authority, a procedure to separate documents qualified by the attorney-client legal privilege shall be followed, in terms of the recently issued the Regulatory Provisions of the FECC for the assessment of information that stems from legal advice provided by economic (“Regulatory Provisions on Legal Privilege”) agents were published in the *Federal Official Gazette* and entered into force.

7. **On what grounds can legal privilege be invoked to withhold the production of certain documents in the context of a request by the relevant authorities?**

   As mentioned previously, on September 30, 2019 the Regulatory Provisions on Legal Privilege, were published in the Federal Official Gazette and entered into force. This Provisions establish rules for processing communications between individuals and companies involved in proceedings carried out by FECC and their lawyers, when such communications are intended to provide legal advice.

   In terms of the Regulatory Provisions on Legal Privilege, the FECC will neither take into consideration such communications nor regard them as evidence. This instrument also contemplates the formation of Assessment Committees which will determine whether the reviewed information qualify as privileged or not, as well as a mechanism for requesting the protection of the corresponding information during an investigation or a proceeding, as well as during dawn raids.
8. **What are the conditions for a granting of full immunity? What evidence does the applicant need to provide? Is a formal admission required?**

Any economic agent or individual who has engaged or has participated directly, or on behalf of companies in an absolute monopolistic practice, may acknowledge its participation before the competition’s Investigation Authority and apply for the sanction reduction benefit.

The conditions for being granted full immunity are the following: (i) being the first, among the economic agents or individuals involved in the conduct, in providing sufficient supporting evidence to allow the investigation to be initiated, or allow the presumption of the existence of an absolute monopolistic practice; (ii) cooperate fully and continuously throughout the investigation, and if applicable, during the trial-like proceeding; and (iii) take all the necessary actions to cease the anticompetitive practice.

The applicant needs to provide as evidence enough documents and information to allow the Investigation Authority to initiate an investigation or to presume the existence of an absolute monopolistic practice and to establish its participation in an absolute monopolistic practice.

Interested parties may apply by voice mail or email. Applicants will include a statement of their intention to apply to the immunity program, information of the market, products and services related to the conduct and the information of the person that will be in contact with the Investigation Authority. Within the next 5 business days (in the case of FECC) or 2 business days (in the case of the TFI), from the date in which the application is made, the competition authorities will contact the applicant to schedule a formal meeting in which the applicant will provide the documents and information available to evidence the conduct.

9. **What level of leniency, if any, is available to subsequent applicants and what are the eligibility conditions?**

Subsequent applicants may apply for the fine reduction of 50%, 30% or 20% of the maximum permitted fine, as well as criminal immunity when additional evidentiary elements to those in possession of the Investigation Authority are submitted during the investigation. In determining the amount of fine reduction, the competition authority shall take into consideration the chronological order in which requests are submitted and the supporting evidence is provided.

10. **Are markers available and, if so, in what circumstances?**

Yes. When the company first apply to the program, it is assigned a numeric key and a marker. The marker system allows the company to keep its place in the program with respect to the products or services of the corresponding market so that no other applicant has a better
benefit over the same goods or services reported. An applicant will hold its marker and its order of preference while the Investigation Authority assesses the sufficiency and appropriateness of the information provided to either initiate an investigation concerning the facts provided or presume the existence of an absolute monopolistic practice.

11. **What is required of immunity/leniency applicants in terms of ongoing cooperation with the relevant authorities?**

According to the FECL, one of the requirements to apply for the immunity/leniency program is to cooperate fully and continuously throughout the investigation, and if applicable, during the trial-like proceeding.

In addition to the FECL, on March 4, 2020, the Regulatory Provisions on Immunity and Reduction of Penalties Program ("Regulatory Provisions on Immunity") issued by the FECC, were published in the Federal Official Gazette. This binding instrument seeks to further regulate the leniency program set forth in the FECL. It contains: (i) a procedure to request coverage under the immunity program, (ii) the definition and scope of the obligation of the economic agent to fully and continuously cooperate with COFECE in both, the investigation and the trial-like proceeding, and (iii) the procedure to be followed by the FECC to remove immunity to any economic agent who fails to comply with the obligations set out in the Regulatory Provisions on Immunity.

In terms of the Regulatory Provisions on Immunity the economic agents’ obligation to fully and continuously cooperate includes:

1. **During the investigation:** (i) to admit liability for participating in the monopolistic practice; (ii) to desist from participating in such practice, unless the FECC directs otherwise; (iii) to keep the information filed with FECC strictly confidential, unless the FECC directs otherwise; (iv) to produce as evidence any supervening information and documents that may be useful during the investigation, (v) allow and cooperate in the execution of the visits and acts carried out by the Investigation Authority, (vi) to carry out all the necessary actions to ensure cooperation of the persons that belong to the applicant’s economic group and that were also engaged in the anticompetitive conduct, (vii) to not destroy or alter the information, and (viii) to report all the possible absolute monopolistic practices in which it has participated in the market.

2. **During the trial-like proceeding:** (i) to not deny its participation in the conduct for which it applied to the benefit; (ii) to provide as evidence the supervening information and documents that may be relevant during the trial-like proceeding; (iii) to allow the execution of visits or acts carried out by the Technical Secretary, and (iv) to not destroy, falsify or hide information.

The abovementioned obligations to cooperate fully and continuously would be applicable to the applicant as well as to the companies that belong to the same economic group and that were engaged in absolute monopolistic practices. The same obligations will apply to the
economic agent or individual who may have cooperated, fostered, instigated or induced the execution of absolute monopolistic practices.

According to the FECL, the competition authority shall uphold the confidential nature of the identity of the economic agent and the individuals who seek to apply for the benefit.

12. **Does the grant of immunity/leniency extend to immunity from criminal prosecution (if any) for current/former employees and directors?**

Yes. The immunity granted extends to immunity from criminal prosecution for current/former employees and directors, if the application is also made on behalf of them or directly by them.

The Federal Criminal Code provides that individuals that engaged or participated in absolute monopolistic practices would be penalized with: (i) prison ranging from 5 to 10 years and (ii) the imposition of a penalty ranging from 1,000 to 10,000 times the measurement unit (“UMA”)\[1\], which amounts to MXP $86,880.00 to MXP $868,800.00 (approximately USD $3,635.02 to USD $36,350.25).

Also, according to the Federal Criminal Code there will be no criminal responsibility for the economic agents that apply to the immunity program, whenever the competition authority issues a determination declaring that the individuals complied with the requirements set forth in the applicable legal framework.

13. **Is there an ‘amnesty plus’ programme?**

No. The Mexican competition legal framework does not foresee an “amnesty plus” program.

14. **Does the investigating authority have the ability to enter into a settlement agreement or plea bargain and, if so, what is the process for doing so?**

No. There is no settlement procedure or plea bargain foreseen in the FECL available to absolute monopolistic practices. The FECL only foresees the possibility of settlement regarding relative monopolistic practices (abuse of dominance cases) and illegal concentrations (mergers).

For the sake of completeness, and although this is not an available benefit in the case of cartel investigations, the willingness to settle should be offered before the Investigation Authority issue a statement of probable responsibility. The applicant should express in writing its intention to settle and include: (i) its commitment to suspend, eliminate or correct the illegal practice or concentration, in order to restore the process of free market access and economic competition, and (ii) the proposed legally and economically feasible means to avoid or eliminate the relative monopolistic practice or illegal concentration under investigation, stating the timeframes and terms of verification thereof.
15. **What are the key pros and cons for a party that is considering entering into settlement?**

As set forth above, there is no settlement procedure or plea bargain foreseen in the FECL regarding absolute monopolistic practices. The FECL only foresees the possibility of settlement regarding relative monopolistic practices (abuse of dominance cases) or illegal concentrations (mergers).

16. **What is the nature and extent of any cooperation with other investigating authorities, including from other jurisdictions?**

There are some agreements of cooperation between the Mexican competition authorities and other Mexican investigating authorities, as well as agreements between the Mexican competition authorities and foreign competition authorities.

In the local arena, the most recent cooperation instrument negotiated between local agencies is a Collaboration Agreement between the FECC and the Ministry of Civil Service that entered into on August 27, 2019. This agreement establishes the basis for collaboration and coordination through which both entities shall exchange information from their administrative files and shall collaborate between each other, among other matters, in processing their respective investigations and administrative proceedings regarding public procurement and competition.

In the international field, Mexico has signed several free trade agreements (“FTAs”). Today, 10 of the 20 FTAs in force, have incorporated competition provisions or chapters dedicated to competition policy. Although the competition provisions in these instruments have different scopes and reach, they have set the conditions to foster and protect competition, as well as the antitrust inter-agencies’ cooperation and coordination with the purpose of strengthening the State’s local competition legal frameworks. Mexico has also entered into bilateral agreements on competition which develop additional rules on cooperation between competition agencies.

Regarding inter-agency cooperation, these agreements set the rules to foster cooperation and coordination between competition agencies, as well as the enforcement of the local competition legal frameworks. The nature and extent of the cooperation with other investigating authorities depends on the specific legal instrument from where the commitments stems. Some of the relevant rules that might be found in those agreements include the following: (i) the obligation to notify each other of matters that may affect the interests of another State, (ii) the coordination between agencies to have access to information in possession of a different agency when such information may be relevant in a case handled by a competition authority (including cooperation to gather evidence or access witnesses), (iii) cooperation among agencies in the organization of activities, including training activities; (iv) consultation among agencies to discuss competition topics, (v) technical cooperation, etc.
Evidence issued or produced in another jurisdiction, had been used in investigations regarding international cartels which are being processed in different jurisdictions. To the best of our knowledge, leniency applications or settlements made in foreign jurisdictions have not yet been used by the Mexican competition authorities as evidence during a proceeding. However, there have been cases processed by the FECC in which indictments or plea agreements have been used as evidence of the confession of an Economic Agent of the conduct in a different jurisdiction. However, in order to constitute evidence in Mexico, those elements need to be examined in conjunction with additional evidentiary elements that would support the same line of reasoning, in order to be given weight as evidence by the Mexican competition authority.

17. **What are the potential civil and criminal sanctions if cartel activity is established?**

The administrative sanctions for carrying out an absolute monopolistic practice are the following:

- For the economic agent that participated in the absolute monopolistic practice: a maximum fine of 10% percent of the economic agent’s annual income,
- For the economic agent that contributed, facilitated, or instigated the execution of monopolistic practices: a maximum fine equivalent to 180,000 times the UMA, which amounts to MXP $15,638,400.00 (approximately USD $654,304.46).
- For having participated in an absolute monopolistic practice on behalf of an economic agent: (i) the ineligibility to act as a company’s board member, manager, director, executive, agent, representative or legal representative for a maximum 5 year period and (ii) a maximum fine equivalent to 2,000 times the UMA, which amounts to MXP $173,760.00 (approximately USD $7,270.05).

The criminal sanctions that may be imposed to individuals that participated in an absolute monopolistic are the following: (i) prison ranging from 5 to 10 years and (ii) the imposition of a penalty ranging from 1,000 to 10,000 times the UMA, which amounts to MXP $86,880.00 to MXP $868,800.00 (approximately USD $3,635.02 to USD $36,350.25).

Civil sanctions may also be imposed. The persons that suffered damages as a result of the execution of an absolute monopolistic practice may file judicial actions before the Judicial Courts to claim the payment for the damages suffered. Actions may be individual or collective. In order to be able to claim damages it is necessary: (i) the existence of a final resolution from the Board of Commissioners that determine the existence of a monopolistic practice, and that (ii) the causal relation between the conduct and the damages claimed be evidenced.

18. **What factors are taken into account when the fine is set? In practice, what is the maximum level of fines that has been imposed in the case of recent domestic and international cartels?**
According to the FECL, in the imposition of fines the elements that must be considered to determine the severity of the infraction are: (i) the damage caused, (ii) indications of intention, (iii) share of the offender in the market, (iv) size of the affected in the market, (v) duration of the practice, (vi) economic capacity, and if applicable (vii) the harm to the Commission’s exercise of its powers.

The amounts of fines imposed on cartels varies case by case. The higher fine imposed by the FECC to a national cartel during 2019 amounted to MXP $88,211,000.29 (approximately USD $3,690,713.29) in the case IO-002-2015. In this case, the FECC penalized Aerovías de México, S.A. de C.V. (Aeromexico), Compañía Mexicana de Aviación, S.A. de C.V. (Mexicana) and three individuals for having acted on behalf of such companies to reach an agreement to fix prices of the tariffs they charged for the services of transportation in different routes within Mexican territory.

Another recent case in which the FECC imposed one of the highest penalties to a national cartel is the case IO-003-2015 decided in 2017, in which several Mexican pension funds (Profuturo GNP, S.A. de C.V. Afore, Afore Sura S.A. de C.V., Afore XXI Banorte S.A. de C.V., Principal Afore, S.A. de C.V. Principal Grupo Financiero) and executives acting on behalf of them entered into agreements through which they reduced the number of transfers of pensions accounts among each other and thus, reduced the competition among them to gain clients. Such conduct had the object and effect of dividing, distributing, allocating or imposing portions or segments of the market of the services of administration of pension funds. The total amount of the fine imposed by the FECC in that case is MXP $1,111,580,257.52 (approximately USD $46,508,077.45).

An example of the level of fines imposed in another recent case regarding an international cartel could be analysed in case IO-005-2013. See above.

19. Are parent companies presumed to be jointly and severally liable with an infringing subsidiary?

Parent companies are not presumed to be jointly and severally liable with an infringing subsidiary. In many cases the Investigation Authority of the FECC has accused both the parent and the subsidiary company for having participated in an absolute monopolistic practice, while in others it has only accused and penalized one of the companies.

One example of a case in which both parent companies and a subsidiary have been penalized is case IO-005-2013 in which the FECC penalized companies that belonged to two economic groups. From the K-Line Group it imposed fines to two different companies: (i) Kawasaki Kisen Kaisha, Ltd., and (ii) “K” Line America, Inc. From the MOL Group it imposed fines to two different companies: (i) Mitsui O.S.K. Lines, Ltd., and (ii) Mitsui O.S.K. Bulk Shipping (USA) LLC.
20. **Are private actions and/or class actions available for infringement of the cartel rules?**

Yes. The FECL provides that individuals that may have suffered damages or losses deriving from a monopolistic practice have the right to file judicial actions in defense of their rights before the specialized courts in matters of economic competition, broadcasting and telecommunications, once the resolution issued by the competition authority is final and conclusive.

Actions may be individual or collective. In order to be able to claim damages it is necessary: (i) the existence of a final resolution from the competition authority’s Board of Commissioners that determine the existence of a monopolistic practice, and that (ii) the causal relation between the conduct and the damages claimed be evidenced.

21. **What type of damages can be recovered by claimants and how are they quantified?**

The type of damages that can be recovered are economic damages that may be quantified in money. Even though the FECL foresee this remedy, so far Mexico has scarce experience in claims for damages and losses in the competition arena.

After the issuance of the original FECL in 1992 only a few damages cases have been filed. However, in none of them the claimant has prevailed and thus it remains unanswered the question of how damages are quantified. Theoretically, we believe that the calculation of damages that that the FECC conducts in the context of the calculation of sanction that it imposes in its final resolution may be helpful in the quantification that the civil courts carry out. However, it is yet to be defined the line of reasoning that the civil courts will adopt regarding this issue.

22. **On what grounds can a decision of the relevant authority be appealed?**

In Mexico both competition authorities, the FECC and the FTI, have investigative and adjudicative powers and their final decisions are subject to the review of specialized courts. On 2013 there was a Constitutional reform in telecommunications, broadcasting and economic competition that established specialized courts to review competition matters, and also established that the competition authorities’ final resolutions may be contested via the indirect amparo lawsuit and that interim-suspensions are not available while the amparos are resolved.

General rules, acts or omissions of the competition authorities (all kinds of decisions, rulings or opinions, as well as their proceedings, including fines imposed or divestiture of assets, rights, partnership interests or stock) are subject to review by courts. Decisions derived from the trial-like proceedings could be challenged only when they definitively conclude a proceeding and can only be grounded on violations carried out during the proceeding or that stem from the final decision.
Claims on legality or constitutionality against preliminary or intermediate actions are not admissible. However, they can be analysed during challenges to final decisions, resolutions or definitive opinions. Also, the courts may exceptionally admit appeals in instances when intermediate actions imply direct and immediate harm to Constitutional rights.

23. **What is the process for filing an appeal?**

As previously mentioned, the indirect amparo is the way to challenge a competition authority’s final decision. The process for filing an appeal is the following:

The claimant has a 15-day period to file in writing or through electronical means an indirect amparo lawsuit. Such term begins to count after the economic agent is notified with the final decision or resolution. The interested party shall include in its Constitutional lawsuit: (i) the identification of the parties in its challenge (itself, any interested third party, the challenged authority, also known as “responsible authority”), (ii) the identification of the act, decision or resolution being challenged, (iii) the description of the facts of the case, (iv) the identification of the violated Constitutional or conventional rights violated, and (v) the explanation of the constitutional arguments. Within the next 24 hours after the amparo lawsuit was filed, one Specialized District Court will decide on its admissibility, dismissal or in the need to clarify any matter.

For sake of completeness, the rest of the indirect amparo proceeding is briefly describe below:

- Once that the amparo lawsuit is admitted, the Specialized District Court will schedule the date and time to celebrate the constitutional hearing, that will take place within the next 30 days, and will request the responsible authority (competition authority) to file a justification brief, which is the authority’s defence. The challenged authority shall file its justification brief within 15 days after having been requested to doing so.
- During the constitutional hearing the parties will be able to offer evidence. The hearings will be public.
- Thereafter, the file will be completed, and the Specialized District Court will issue its resolution.

Parties may challenge the Specialized District Court resolution before a Specialized Collegiate Circuit Court. The latter will issue a final decision on the matter unless there is a constitutionality issue that must be adjudged by the Mexican Supreme Court of Justice, or if the Mexican Supreme Court of Justice considers the issues discussed important enough to attract it and adjudge it.
24. **What are some recent notable cartel cases (limited to one or two key examples, with a very short summary of the facts, decision and sanctions/level of fine)?**

The most relevant cartel case decided over the past year is case IO-002-2015 in which the FECC imposed penalties to Aerovías de México, S.A. de C.V. (Aeromexico), Compañía Mexicana de Aviación, S.A. de C.V. (Mexicana) and three individuals for having acted on behalf of such companies to reach an agreement to fix prices of the tariffs they charged for the services of transportation in different routes within Mexican territory. See question 6.2 for more details on this case.

25. **What are the key recent trends (e.g. in terms of fines, sectors under investigation, applications for leniency, approach to settlement, number of appeals, etc.)?**

Among the most relevant cases currently under investigation the following stand out:

1. Investigations launched by the FECC in petroleum markets:
   - Investigation DE-009-2019: On the probable carrying out of absolute monopolistic practices (cartel conduct) in the market for the retail sale of gasoline and diesel at gas stations in Mexico.
   - Investigation IO-001-2019: On the probable carrying out of an illicit concentration (merger or acquisition) in the market for the marketing and distribution of gasoline and diesel, as well as the sale of these in gas stations in Mexico.
   - Investigation IEBC-002-2019: On the probable existence of barriers to competition and essential raw materials in the national market for aircraft fuel which includes production, importing, storage, transportation, distribution, marketing, selling, and other related services.

2. Investigations launched by the FTI:

Also, the FTI launched an investigation (AI/DE-003-2019) regarding the probable carrying out of a relative monopolistic conduct (abuse of dominance) in the retail markets of services of mobile telecommunications and marketing of mobile terminal equipment.

On the other hand, the following are the most outstanding ongoing cases currently in the phase of trial-like proceeding:

- IO-006-2016: Investigation of a possible cartel conduct on the market of intermediation of debt securities issued by the Mexican government.
- DE-011-2016: Investigation of a possible cartel conduct on the market of integral services of laboratory and blood bank studies, as well as goods and services related to these, contracted by the National Health System in national territory.
- IO-001-2016: Market for the production, distribution and marketing of medicines in the national territory.
26. **What are the key expected developments over the next 12 months (e.g. imminent statutory changes, procedural changes, upcoming decisions, etc.)?**

There are no imminent statutory or procedural changes foreseeable. However, we expect that the three ongoing cases currently in the phase of trial-like proceeding described above may be resolved during the next 12 months.