

The Commission has a period of 45 calendar days from the date of the notice, or from such later date on which any additional requested information was received, in which to respond. If the Commission does not respond during this 45-day period the transaction will be deemed approved.

2.3 Federal Competition Commission

As the agency responsible for enforcing the Competition Law, the Commission has broad investigative and enforcement powers. It may institute administrative proceedings on its own initiative and at the request of third parties, investigate and resolve such cases and enforce its orders through administrative penalties. It may also bring cases of a criminal nature to the attention of the public prosecutor. The Commission may also issue advisory opinions.

2.4 Penalties

The Commission is empowered to levy fines of up to 1,500 daily minimum wage (DMW), or approximately US \$4,427 (at N \$6.20 pesos per US dollar) per day, for non-compliance with the Commission's orders. In addition to being obligated to cease the prohibited practices or divest prohibited concentrations, violators may be subject to civil and criminal penalties, including fines in the following amounts:

- up to 375,000 DMW (approximately US \$1,106,855) for absolute monopolistic practices;
- up to 225,000 DMW (approximately US \$664,113) for prohibited relative monopolistic practices or prohibited economic concentrations;
- up to 100,000 DMW (approximately US \$295,161) for failure to provide the Commission with prior notice of economic concentrations, in the cases required by the Competition Law;
- up to 7,500 DMW (approximately US \$22,137) for individuals directly participating in prohibited monopolistic practices or concentrations, in their capacity as representatives of legal entities; and
- in serious cases of any of the above violations, the higher of 10 percent of the violator's annual sales or 10 percent of its assets.

2.5 Private right of action

The Competition Law also gives private parties an express right of action to bring ordinary civil suits for damages. In order to be able to bring such an action, however, the plaintiff must have previously given evidence of its alleged damages in administrative proceedings before the Commission. The judge is allowed to consider the Commission's estimation of the plaintiff's alleged damages. The Competition Law expressly denies any private right to bring a judicial or administrative action based on the Law (e.g., alleging damages due to violations thereof), except for the foregoing right of action established by the Law.