Premio a la innovación en transparencia para la mejora de la gestión institucional

Award for Innovation in Transparency to Improve Institutional Management

Documentation of the Resolutions and Opinions Search Tool of the Federal Competition Commission

Winner of the First Edition of the Award for Innovation in Transparency to Improve Institutional Management
The findings and conclusions in this document do not necessarily reflect the views of the Federal Institute for Information Access and Data Protection, the Ministry of Public Administration, the National Institute of Public Administration, or the World Bank.

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I. Introduction

The first edition of the Award for Innovation in Transparency to Improve Institutional Management in Mexico was presented in August 2010 by the World Bank, the Mexican Federal Institute for Information Access and Data Protection (IFAI), the National Institute of Public Administration (INAP), and the Ministry of Public Administration (SFP).

The purpose of this award contest was to identify and disseminate, nationally and internationally, good practices and/or innovations related to the disclosure of government data and access to information, information management systems, and mechanisms for facilitating access to public information in Mexico.

Participation was open to public administration offices and entities at the federal, state, and municipal level; offices in the federal and state legislative and judicial branches; as well as federal and local autonomous agencies.

A total of 75 proposals were submitted, of which 24 were listed as finalists. The jury was composed of specialists in public administration, transparency, accountability, and the right of access to information. A technical committee, consisting of staff from the sponsoring institutions assisted the jury in on-site verification of the finalists’ proposals.

1 Rosa Isabel Montes, Anáhuac University; Miguel Carbonell Sánchez, Instituto de Investigaciones Jurídicas, National Autonomous University (Institute for Legal Research); Ernesto Isunza Vera, Centro de Investigaciones y Estudios Superiores en Antropología Social (Center for Research and Higher Studies on Social Anthropology); Miguel Treviño de Hoyos, journalist; Aurelio Álvarez Orozco, Colegio Nacional de Educación Profesional Técnica (National College of Professional Technical Education), State of Mexico; Óscar Guerra Ford, Chairman, Conferencia Mexicana para el Acceso a la Información Pública (Mexican Conference for Access to Public Information—COMAIP); Mauricio Merino Huerta, Centro de Investigación y Docencia Económicas (Center for Research and Teaching in Economics—CIDE); and Juan Pardinas Carpizo, Instituto Mexicano para la Competitividad (Mexican Institute for Competitiveness—IMCO).
The initiatives selected were:

1. **“New Search Tool for the National Registry of Professionals”**, presented by the Ministry of Education: an online search tool that makes consultation of the National Registry of Professionals simpler and more efficient.

2. **“Web-based Transparency Program”**, presented by the Office of the Attorney-General of Mexico City: a Web-based tool for locating individuals in the custody of the Office of the Public Prosecutor.


**II. Description of the Project**

The objective of the Resolutions and Opinions Search Tool of the Federal Competition Commission (CFC) is to ensure transparency and streamline the flow of information managed and disseminated by the institution. Through a Web platform, the user can perform searches and get immediate information on the status of matters being processed by the CFC and gain access to public versions of the resolutions and opinions issued by the Commission since 1993.

**III. Institutional Context**

The Federal Competition Commission (CFC) is a deconcentrated administrative agency of the Ministry of Economy with technical and operational autonomy. The Federal Law on Economic Competition (LFCE) establishes the Commission as the authority responsible for investigating, combating, and sanctioning cases of monopolistic practices, abuse of dominance, price-fixing, market segmentation, and other forms of unfair competition. It also authorizes corporate mergers. Its duties include raising awareness and promoting a healthy culture of competition and good regulatory practices.

The CFC was created in 1993 and entrusted with the implementation of the Law on Competition. It is composed of a panel of five commissioners2 that resolve cases and impose administrative penalties for violations of the law and its regulations;3 an Executive Secretariat, which coordinates the Commission’s various units; and support staff. In total, 190 people work at the institution.

Up until 1998, when regulations for the Federal Law on Economic Competition were enacted, there was limited access to decisions made by the Commission. Regulations required that an Economic Competition Gazette be published every four months, issued first in a printed format, later in a CD but with limited circulation. The Gazette contained the texts of the final resolutions and decision criteria of the Commission.4

It is worth noting that the Commission holds more than 4,500 documents, totaling more than 4 million digitized pages.

**IV. Background**

The creation of the CFC Resolutions and Opinions Search Tool (the Buscador) met both the internal management needs of the Commission and the needs of the external community of practice interested in economic competition.

Before the Buscador was implemented, information published by the Commission was spread across several sections of its Website. Information on cases presented to the Commission appeared in a variety of formats: gazettes, reports and extracts.

CFC’s Website had a search tool, but it did not guarantee access to all the documentation available on line. Moreover, it faced limitations related to the “the establishment of search parameters and criteria, and it was not sensitive to the public’s lack of knowledge of the issues handled by the CFC.”5 Users did not have “the necessary data or elements to conduct their searches successfully”6. Also, due to this dispersion of sources, it was impossible to identify the entire universe of cases and find all the information related to them.

The CFC is an entity mandated by the Federal Law on Transparency and Access to Government Information (LFTAIPG), and therefore any person is entitled to file access to information requests to the Commission.7 Before the Buscador was implemented, accessing information generated by the CFC faced a slow process. For example, a public version of a resolution demanded an average time of 20 working days. Handling of such requests was fraught with internal inefficiency. Since there was no established procedure for

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1 The Gazette was published every four months and 1,000 copies were printed per edition. The cost to produce the Gazette was approximately 1.2 million pesos (US$94,000) per year.
2 Opinion of the Mexican Bar Association in support of the candidacy of the CFC’s Resolutions and Opinions Search Tool for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.
3 According to IFAI statistics, 96 percent of requests for information addressed to the Federal Executive Branch are submitted electronically through Infomex. Infomex is an Internet portal through which it is possible to capture and submit requests for information, receive responses, and present appeals to IFAI. This system is used to contact the Executive Branch at the federal level, other agencies subject to the Transparency Law, and almost all the states in the country.
creating public versions of the resolutions, this was done on an ad hoc basis. Moreover, under the terms of the LFTAIPG, in the event of disagreement with the Commission’s response, the party concerned had the option to appeal to IFAI for a review, which increased the waiting time by up to 50 business days.

Finally, before the Buscador became available, the CFC did not publish information on pending cases. Thus, it was not possible to know the status of a case, for example, the investigation of a monopolistic practice that could take years to conclude. It was impossible for the public, and for the parties involved in a case, to know the status of the investigation process.

In light of the growing demand for information by various stakeholders, the Commission held a public consultation in 2010 in which it invited various experts to make recommendations to strengthen its transparency and accountability mechanisms. The stakeholders invited to this open consultation included law firms, academic institutions, research centers, civil associations, and the general public.

The Commission received 30 responses to its invitation. The suggestions may be grouped as follows:

1. Facilitate access to the Commission’s resolutions and publish more information on the matters pending before it.

2. Publish criteria for interpreting the terms of the Federal Law on Economic Competition with a view to clarifying their scope and lending greater legal certainty for economic agents.

Within the Commission, it was possible to identify some areas of opportunity in the management of information and documentation. The following needs, among others, were identified:

1. An efficient control system that would give the Commission greater certainty in the exercise of its duties and help assess the degree to which its objectives and activities achieved.

2. Facilitated access to documents from different areas that interact in the integration and analysis of the cases that come before the Commission.

3. A mechanism to ensure meeting of legal deadlines for the resolution of cases.

4. An archives system for administrative jurisprudence to ensure expeditious access, both within and outside the institution, to criteria related to the cases that reach the Commission.

Bearing in mind these needs, the CFC embarked on a process of designing and implementing a tool that would help to improve internal management of documents and information and at the same time optimize the way in which these materials are made available to the public.

The result of this effort was the Resolutions and Opinions Search Tool. Its aim is to “facilitate the consultation of decisions and publish more information on procedures, as well as the criteria and guidelines that govern the actions of the Commission.” This system provides an efficient alternative for requesting information and eliminates the shortcomings of the previous search tool. It should be emphasized that, while the new Search Tool facilitates access to information, it also protects reserved and confidential data in the Commission’s possession.

The Resolutions and Opinions Search Tool is fed with data from the Integrated Competition Information System (SIIC), an internal management system used in the handling of documents, follow-up of cases already processed, and the organization of information based on CFC’s needs. The SIIC is part of a re-engineering process through which the Commission shifted from a paper-based environment to a digital support one.

The Buscador covers 95 percent of the Commission’s activities and gives online access to all its substantive proceedings. This tool makes it possible for citizens to follow cases in progress, look up information, and consult public versions of CFC’s documents. Each procedure has a corresponding glossary of terms and filters for further refining user’s searches.

### Procedures and Products

<table>
<thead>
<tr>
<th>Filters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigations</td>
</tr>
<tr>
<td>Claim filed; official letter of submission; not presented, in progress, arbitrated, closed; absolute monopolistic practice, relative monopolistic practice; prohibited/unreported merger</td>
</tr>
</tbody>
</table>

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* Essay on the Resolutions and Opinions Search Tool, presented as part of the application for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.

* Idem.

* See table in Annex 1, which describes all the matters reviewed by the Commission.
<table>
<thead>
<tr>
<th>Mergers</th>
<th>In progress; authorized, not authorized, granted on condition; penalized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concessions</td>
<td>Requests for an opinion; bidding requirements; favorable opinion, unfavorable opinion; bidding procedure in progress</td>
</tr>
<tr>
<td>Declarations</td>
<td>Fine imposed; request rejected, in progress, confirmed, revoked; reversal of the procedure</td>
</tr>
<tr>
<td>Recourses for reconsideration</td>
<td>Fine imposed; request rejected, in progress, confirmed, revoked; reversal of the procedure</td>
</tr>
<tr>
<td>Opinions</td>
<td>Presidency, Commissioner’s Panel</td>
</tr>
</tbody>
</table>

The system has various search fields:

- Keywords (searchable by word, all words, or exact phrase).
- File number
- Agent involved
- Range of dates of the resolution
- Sector, subsector, and branch, with drop-down menus for each of these categories

These fields and filters make it possible for users who wish to generate their own statistics to conduct customized searches. Thus, it is possible, for example, to consult by claim filed all the investigations in the construction sector that have resulted in penalties since the Commission was created in 1993, or to find out how many mergers have been authorized in the mining sector during the current year.

This tool is different from the previous one because it automatically extracts the public information and documents from the Commission’s working database (the SIIC). This guarantees that the information accessed by the public is consistent with that being used internally, and it ensures that the information is updated in real time.

To monitor and evaluate the experience of the search tool's users, the CFC has incorporated a feedback mechanism within the system which receives comments, complaints, and requests. A process of ongoing evaluation was set in place through a unit that is responsible for submitting random searches to verify the quality of the public versions available online and ensure that they are in compliance with transparency law.

The **Buscador** is the most visited feature on the Commission’s website. As of November 25, 2011, the system had a total of 24,890 visits from 163 cities in Mexico and 61 foreign countries. These users consulted 121,100 documents. As the Deputy Director General for Coordination has pointed out: “our client universe is small and specialized—attorneys, investigators, law firms—but in this field, our coverage is quite broad.”

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11 Idem.
12 Based on statistics from Google Analytics for the site http://resoluciones.gob.mx, provided by the Commission.
13 Interview with Humberto R. Solórzano, Deputy Director General for Coordination at the Federal Competition Commission (December 2, 2011).
VI. Implementation Process

The tasks related to developing the Resolutions and Opinions Search Tool were coordinated by the Executive Secretariat of the Federal Competition Commission.

The Commission obtained funding for design and implementation of the tool from the Embassy of the United Kingdom in Mexico and the United States Agency for International Development (USAID). The project took into account good practices from recognized competition authorities at the international level (the United States, Canada, France, Spain, and the European Union).

The system was designed to meet the needs of various user profiles, ranging from the general public to lawyers specialized in the subject of competition or researchers focused on a particular economic sector.

The completion of the project took six-months. According to the Executive Secretary of the Commission, “the process followed a cycle of consulting stakeholders, developing it, putting the system on line, going back and asking users for their opinion again.” Implementation of the project involved the following phases:

1. Needs Assessment. Staff meetings were held with the Commission’s different units to identify the information to be incorporated in the Buscador. Information management providers were also interviewed. In addition, meetings were held to identify external sources of funding.

2. Preparation of the public information. This phase had two goals: to verify and supplement the historic archive of the public versions of the Commission’s resolutions. To achieve this goal the following actions were undertaken: capturing missing information; preparing it to be migrated to the search tool; digitizing the documents and checking them after they were in digital form; integrating the electronic documents into the Integrated Competition Information System (SIIC); preparing public versions of the resolutions; and generating/capturing information and follow-up records (FIS).

3. Development of the Buscador. The prototype was generated and validated; migration of the data was automated; and a final review was undertaken. Additionally, security tests were conducted and a mirror of the main database was designed.

4. Release of the Buscador. The performance of the Buscador was tested using different navigation systems and final adjustments were made. Before the tool went online, staff was trained on how to use the system and it finally became fully operational.

VII. Benefits

The Resolutions and Opinions Search Tool meets both internal and external needs, to homologate processes, simplify access to information, and ensure legal certainty at national and international level.

This tool is an improvement over a number of existing systems for publishing and searching the resolutions of competition authorities elsewhere in the world. For example, one innovative feature - the Buscador shows progress graphics for investigations currently under way. It indicates where a case currently stands in terms of five phases—for example, admission of evidence, or completion of the file. U.S. consulting firms have indicated that the Buscador is much more user-friendly and powerful than the system maintained by other Commissions.

<table>
<thead>
<tr>
<th>Búsqueda por agente económico,</th>
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<td>diferentes procedimientos (pasos).</td>
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<td>textos de las versiones</td>
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<td>complicados para la comprensión del</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>investigaciones en curso.</td>
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<tr>
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<td>X</td>
<td>X</td>
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</tbody>
</table>

Fig 2. Table comparing the Resolutions and Opinions Search Tool of the Mexican Federal Competition Commission (first column) with the search tools of, from left to right: the European Commission for Competition; the French Competition Authority; the Spanish Federal Competition Commission; and the United States Federal Trade Commission. Source: Mexican Federal Competition Commission.

14 Total financial support from the two sponsors was 391,905.53 pesos (approximately US$30,800).
15 Interview with Ali Haddou Ruiz, Executive Secretary of the Federal Competition Commission (November 16, 2011).
16 These include NERA Economic Consulting, a firm based in New York, NY.
The **Buscador** offers the following concrete benefits:

**Benefits for external users**

The **Buscador** guarantees free, easy, and universal access to the information generated by the Commission since its creation in 1993, as well as the institutional memory of economic competition in Mexico: “We have the entire history, all the decisions that show how the Commission has acted”\(^{19}\). The system permits customized searches that enable users to organize and filter information according to their needs. Anyone who is interested can assess the Commission’s performance, since the **Buscador** allows public scrutiny of the institution’s work as it performs its duties and activities. The complex case files have executive summaries that enable nonspecialized users to understand the information contained in the documents. Based on the principle of maximum disclosure, the system creates legal certainty regarding the actions of the Commission because it includes all the institution’s public documents and cases in progress.

According to the Center for Development Research A.C. (CIDAC), the **Buscador** “not only represents major progress in transparency and accountability on the part of the Federal Competition Commission, it also saves an enormous amount of time for researchers and businesses”\(^{20}\) interested in economic competition issues. In addition, “it fosters research on competition in Mexico,”\(^{21}\) since it allows access to the entire universe of documentation in the Commission’s possession.

This tool offers exhaustive search criteria for all possible cases and allows for file linkages. The Mexican Bar Association states that “the **Buscador** facilitates searching for multiple criteria, and enables any citizen to have real and instantaneous access to the resolutions and opinions of the CFC”\(^{22}\).

**Benefits for internal users**

The **Buscador** is part of a management re-engineering initiative within the Federal Competition Commission. The specific innovations introduced through the project include:

- **Streamlining of processes**: the **Buscador** receives its data from the Integrated Competition Information System (SIIC), avoiding the creation of overlapping databases; information is captured only once, for its storage, protection, monitoring, and publication.

- **Standardization of processes for the preparation, automatic dissemination, online cataloguing, and checking of all public versions issued by the Commission, while protecting any reserved or confidential information contained.**

- **Design and implementation of criteria and rules for automatic migration of information and documents from the SIIC to the Buscador**, which guarantees, for example, that the public versions of resolutions are available online within 15 days from the time the parties are notified.

- **Ability to trace files** — they are now generated and managed electronically from their creation until they are finished.

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\(^{19}\) Opinion of the Center for Development Research A.C. (CIDAC) in support of the candidacy of the Resolutions and Opinions Search Tool for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.

\(^{20}\) Idem.

\(^{21}\) Opinion of the Mexican Bar Association in support of the candidacy of the Resolutions and Opinions Search Tool for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.
Before the Buscador was created, the Commission’s Government Liaison Unit spent a lot of its time preparing reports to answer to various institutions, including the Ministry of Economy, the Ministry of Public Administration, the Secretariat of Finance and Public Credit, the Office of the Federal Auditor General and the Office of the President. When the tool was designed, provision was made to include all possible filters to facilitate the preparation of statistical reports. “Reports that previously took weeks to prepare can now be done in minutes.”

VIII. Lessons Learned

From the outset, the Commission felt it was important that the search tool’s design and implementation be done at minimal cost to the Government and that the tool build on and enhance the Commission’s existing resources and technological and operational infrastructure. A cost optimization strategy was adopted, and international sponsorship was sought from some of the agencies that had supported the Commission on other projects.

In connection with the implementation of similar projects, the CFC’s Executive Secretary has indicated that the challenge is to adapt the “internal culture to the system and help staff to see the usefulness of incorporating these processes into their daily routine.” For example, he said, it was challenging to shift from a paper-based office to an electronic environment. The team that implemented the project was always flexible and interacted regularly with staff in order to eliminate cumbersome procedures and maintain an open line of communication.

The Executive Secretary added that, in the beginning, projects of this kind can “fail from an excess of procedures and mechanisms.” The Commission suggests that systems of this kind be centralized and flexible to avoid hindering the interaction between different areas. It is desirable that these systems provide elements that ease daily operations and administration procedures, for example, facilitating the elaboration of follow-up reports.

With regard to concerns about the protection of reserved and confidential information in both the SIIC and the Buscador, discussions were held about establishing safeguards and access levels to the information bearing in mind that the Commission handles sensitive data such as requests for immunity for whistleblowers. The CFC has worked to provide the greatest access to personnel, without putting confidential information at risk – they have followed strict security rules that allow them to monitor access to files and documents.

The lessons learned during the process of implementing the Buscador have been shared with other institutions. Given the nature and characteristics of the tool, it facilitates the auditing tasks performed by the Internal Control Units and creates an interinstitutional environment of trust. The Federal Institute for Information Access and Data Protection (IFAI), the Federal Telecommunications Commission (COFETEL), the Energy Regulatory Commission, and the Ministry of Public Administration have been approached by the CFC to show them how the Buscador facilitates the management of internal documents. “We have offered the system to anyone who wants to look at it, and we are in the best position to share it,” added the Executive Secretary.

23 Essay on the Resolutions and Opinions Search Tool, presented as part of the application for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.
24 Interview with Ali Haddou Ruiz, Executive Secretary of the Federal Competition Commission (November 16, 2011).
25 Idem.
26 Idem.
27 Idem.
IX. Looking Forward

The Commission is engaged in an ongoing process of improving this tool through a series of tasks aimed at strengthening its capabilities. Specifically, it is working to find mechanisms that optimize the user’s search time. Recently, an improvement to the Buscador was made: now it is possible to conduct text searching within the documents, this is a unique feature among the search engines of competition authorities around the world.

Based on this experience, the Commission has launched a judicial search tool that concentrates information about injunctions and annulments. This internal tool will make intelligence available so that CFC staff can study trends in judicial resolutions, learn about the concerns of particular judges and magistrates, and analyze why exemptions are granted, among other possibilities. Over all, it will enable staff to learn more about the judicial issues of concern to the Commission and build further solid ground for its resolutions.

Looking toward the future for the Federal Competition Commission, “transparency and accountability are essential, because they enable us to earn the public’s respect, which in turn gives legitimacy to the institution. We will be effective to the extent that the resolutions of the Commission are seen as correct and predictable, and that they are believed to have a positive effect on the efficiency of market operations.”

x. Contact Information

Further information about the Resolution and Opinions Search Tool of the Federal Competition Commission may be obtained by contacting the Access to Information Liaison Unit of the Commission at: transparencia@cfc.gob.mx.

xi. Bibliography

(1) PowerPoint presentation prepared by the National Competition Commission, used for the panel “Presentation of Projects for the Awards for Innovation in Transparency to Improve Institutional Management at the Federal Level,” held during the Eighth National Transparency Week (September 8, 2011).

(2) Transcript of the panel “Presentation of Projects for the Awards for Innovation in Transparency to Improve Institutional Management at the Federal Level,” held during the Eighth National Transparency Week (September 8, 2011).

(3) Registration form for the project “Resolutions and Opinions Search Tool;” Award for Innovation in Transparency to Improve Institutional Management, March 2011.

(4) Letters from users supporting the candidacy of the Resolutions and Opinions Search Tool for the Award for Innovation in Transparency to Improve Institutional Management. These documents form part of the application file submitting the Resolutions and Opinions Search Tool as a candidate for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.

(5) Letters from the sponsors of the CFC Resolutions and Options Search Tool in support of the candidacy of the Resolutions and Options Search Tool for the Award for Innovation in Transparency to Improve Institutional Management, March 2011. These documents were attached to the application file submitting the Resolutions and Opinions Search Tool as a candidate for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.

(6) Essay on the Resolutions and Opinions Search Tool, presented as part of the application for the Award for Innovation in Transparency to Improve Institutional Management, March 2011.

(7) Summary results of the public consultation conducted by the Commission in March 2010 (electronic copy provided by the CFC on December 5, 2011).


Text searching within the documents will be available in December 2011.

Ali Haddou Ruiz, Executive Secretary of the Federal Competition Commission, speaking on the panel “Presentation of Projects for the Awards for Innovation in Transparency to Improve Institutional Management at the Federal Level,” held during National Transparency Week (September 8, 2011).
### XII. Annex 1. Description of Procedures and Products of the Federal Competition Commission

<table>
<thead>
<tr>
<th>Procedures and Products</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>INVESTIGATION</td>
<td>Procedure having to do with official investigations initiated by the Commission to detect possible violations of the Federal Law on Economic Competition (Art. 30, 32, 33, 33 bis 1, LFCE)</td>
</tr>
<tr>
<td>COMPLAINT</td>
<td>Procedure through which the Commission learns about the existence of possible violations of the Federal Law on Economic Competition (Art. 30, 32, 33, 33 bis 1, LFCE)</td>
</tr>
<tr>
<td>CONCENTRATION</td>
<td>Procedure regarding the merger, takeover, or any action whereby corporations, associations, shares, partners, trusts, or any capital assets in general are merged with competitors, providers, or any other economic agents (Art. 16, LFCE)</td>
</tr>
<tr>
<td>CONCESSION</td>
<td>Procedure for issuing opinions on concessions and procedures already granted, as well as sales of shares of corporate concessionaires or permissionaires that are not consistent with Article 20 of the LFCE (Art. 33 bis 1, LFCE)</td>
</tr>
<tr>
<td>COMPETITIVE BIDDING</td>
<td>The Commission analyzes draft tenders, master plans, calls for proposals, proposed contracts, and other documents associated with the bidding process in order to issue its opinion and prepare a resolution on the incorporation of measures to protect and promote competition (Art. 33 bis 1, LFCE)</td>
</tr>
<tr>
<td>DECLARATION</td>
<td>Procedure for resolving issues that impact healthy competition, the existence of a significant force in the market, or other analogous situations (Art. 33 bis, LFCE)</td>
</tr>
<tr>
<td>RECOUSE FOR RECONSIDERATION</td>
<td>Recourse available to an economic agent to challenge a resolution approved by the CFC (Art. 39, LFCE)</td>
</tr>
<tr>
<td>OPINION</td>
<td>Opinion issued by the Chairman or the full panel of Commissioners with the intent of protecting and promoting free competition in Mexico.</td>
</tr>
</tbody>
</table>