



**International  
Competition  
Network**

# **ANTI-CARTEL ENFORCEMENT TEMPLATE**

**CARTELS WORKING GROUP  
Subgroup 2: Enforcement Techniques**

**Costa Rica (Commission to  
Promote Competition COPROCOM)**

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# ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

## IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning anti-competitive practices, particularly hardcore cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses and individuals which suffer from cartel activity to get information about the possibilities of enforcement of their rights in private law in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

[Please include, where applicable, any references to relevant statutory provisions, regulations or policies as well as references to publicly accessible sources, if any.]<sup>1</sup>

## 1. Information on the law relating to cartels

A. Law(s) covering cartels: [availability (homepage address) and indication of the languages in which these materials are available]

**Law of Promotion of Competition and Effective Defense of Consumers, Law 7472.** Available on: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=26481&nValor3=104340&param2=1&strTipM=TC&lResultado=7&strSim=simp](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=26481&nValor3=104340&param2=1&strTipM=TC&lResultado=7&strSim=simp) (Spanish)

**Strengthening of Costa Rican Competition Authorities, Law 9736).** Available on: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=90054](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=90054) (Spanish).

<sup>1</sup> Editor's note: all the comments in [square brackets] are intended to assist the agency when answering this template, but will be removed once the completed template is made public.

<p><b>B. Implementing regulation(s) (if any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]</b></p>	<p>Regulations to the 2019 Competition Reform Act, Law N°9736. Available at: <a href="https://www.coprocom.go.cr/acerca_coprocom/Regl_Ley9736_Gac233_031221.pdf">https://www.coprocom.go.cr/acerca_coprocom/Regl_Ley9736_Gac233_031221.pdf</a> (Spanish)</p> <p>Regulations to <b>Law of Promotion of Competition and Effective Defense of Consumers, Law 7472</b>. Available on: <a href="http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&amp;nValor2=75696">http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&amp;nValor2=75696</a> (Spanish)</p>
<p><b>C. Interpretative guideline(s) (if any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]</b></p>	<ul style="list-style-type: none"> <li>• <b>Guidelines for Fighting Bid Rigging in Public Procurement.</b> Available in Spanish on the following link: <a href="https://www.coprocom.go.cr/publicaciones/Guia_Contrata_Admin_2019.html">https://www.coprocom.go.cr/publicaciones/Guia_Contrata_Admin_2019.html</a></li> <li>• <b>Guidelines on the Leniency Program</b> Available in Spanish on the following link: <a href="https://www.coprocom.go.cr/publicaciones/Guias_para_investigacion/Prog_BenExonReduSanciones.html">https://www.coprocom.go.cr/publicaciones/Guias_para_investigacion/Prog_BenExonReduSanciones.html</a></li> </ul>
<p><b>D. Other relevant materials (if any): [availability (homepage address) and indication of the languages in which these materials are available]</b></p>	<p>N/A</p>

## 2. Scope and nature of prohibition on cartels

<p><b>A. Does your law or case law define the term “cartel”?</b> [Please quote.]</p> <p><b>If not, please indicate the term you use instead. [Please quote.]</b></p>	<p>A number of anticompetitive horizontal agreements, which could be broadly described as “hard-core cartels”, are called <b><i>absolute monopolistic practices</i></b> in Costa Rica. Absolute monopolistic practices include all acts, contracts, agreements, arrangements or combinations between actual or potential competitors that engage in price fixing, output restriction, market allocation, bid rigging or collusive boycotts.</p> <p>These practices are prohibited <i>per se</i> and agreements to undertake them are legally void (i.e. not legally enforceable). Such practices cannot be defended by claiming that they are efficient, as the law presumes their inefficiency conclusively.</p>
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	<p>Article 11 of Law 7472 identifies as absolute monopolistic practices all acts, contracts, agreements, arrangements or combinations between economic agents, who are actual or potential competitors, with any of the following purposes:</p> <ol style="list-style-type: none"> <li>a) Fix, raise, agree or manipulate the buying or selling price at which goods or services are bought or sold in the markets, or exchange information with the same object or effect;</li> <li>b) Establish duties to acquire, produce, process, distribute or commercialise a restricted or limited amount of goods; or to provide a restricted or limited amount, volume or frequency of services;</li> <li>c) To divide, distribute, assign or impose actual or future market shares or segments based on clientele, suppliers, time, geographical areas, or determined or determinable spaces;</li> <li>d) To set up, agree or co-ordinate offers or failures to offer in public procurement processes;</li> <li>e) To refuse to buy or sell goods or services.</li> <li>f) sharing information for any of the purposes or effects referred to in the preceding sections.</li> </ol>
<p><b>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas<sup>2</sup>) and other types of “cartels”? [Please describe how this differentiation is made and identify the most egregious types of conduct.]</b></p>	<p>Costa Rica’s legislation (Article 11 of Law 7472) does not distinguish between very serious or not serious cartel behaviours (i.e. absolute monopolistic practice).</p> <p>All absolute monopolistic practices are null and void and will lead to the sanctioning of the economic agents that incur in them.</p> <p>The legal analysis to determine the illegality of an absolute monopolistic practice (horizontal agreements), is to demonstrate: a) that participants agents are competing with each other; b) they have incurred in any of the agreements prohibited by Article 11 of the Law 7472.</p>
<p><b>C. Scope of the prohibition of hardcore cartels: [including any exceptions, exclusions and defences e.g. for particular industries or sectors. Please also describe any other limitations to the ban on hardcore cartels.]</b></p>	<p>Costa Rica does not have exceptions about hardcore absolute monopolistic practices; however, Article 9 of Law 7472, establishes the scope of application of the competition regulations by stating:</p> <p><i>“Article 9. Scope of Application</i>  <i>The rules of this chapter apply to all economic agents whose acts generate effects in Costa Rica, regardless of if they originate outside the national territory. Only those acts expressly authorized in special laws shall be exempted from their application.</i></p> <p><i>In its market studies and opinions, the Commission for Promoting Competition (COPROCOM) may assess said exceptions and formulate those recommendations it deems pertinent to promote greater competition in those sectors.”</i></p>

<sup>2</sup> In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

<p><b>D. Is participation in a hardcore cartel illegal <i>per se</i><sup>3</sup>? [If the situation differs for civil, administrative and criminal liability, please clarify this.]</b></p>	<p>These practices are prohibited <i>per se</i> and agreements to undertake them are legally void (i.e. not legally enforceable). Such practices cannot be defended by claiming that they are efficient, as the law presumes their inefficiency conclusively.</p> <p>The investigation of monopolistic practices follows the special procedure set out in the The Competition Reform Act, Law 9736</p> <p>The special procedure shall consist of three stages: preliminary investigation, examination and decision-making.</p>
<p><b>E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?</b></p>	<p>In Costa Rica the monopolistic practices (hardcore cartel) is a administrative offence.</p>

### 3. Investigating institution(s)

<p><b>A. Name of the agency, which investigates cartels: [if there is more than one agency, please describe the allocation of responsibilities]</b></p>	<p>Costa Rica has two authorities:</p> <ol style="list-style-type: none"> <li>1. The Commission to Promote Competition (COPROCOM) is the <b>national authority</b> responsible for the protection and promotion of free concurrence and competition. The foregoing is in order to exclusively exercise the functions, authorities and competences granted to it by Law N° 7472 and Law N°9736.</li> <li>2. The Office of the Superintendent of Telecommunications (SUTEL) is the <b>sectoral authority</b> responsible for the protection and promotion of free concurrence and competition in the <b>telecommunications sector</b> and support networks for freely accessible radio and television broadcasting services.</li> </ol>
<p><b>B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages available on the website]</b></p>	<p>Commission to Promote Competition  Phone: +506 2549-1400  Mail: <a href="mailto:coprocom@coprocom.go.cr">coprocom@coprocom.go.cr</a>  Webpage: <a href="http://www.coprocom.go.cr">www.coprocom.go.cr</a>  Language: Spanish</p>
<p><b>C. Information point for potential complainants:</b></p>	<p>The Entity has provided the following information points:</p> <ol style="list-style-type: none"> <li>1. At the premises of the Entity.</li> <li>2. By email: <a href="mailto:coprocom@coprocom.go.cr">coprocom@coprocom.go.cr</a></li> </ol>
<p><b>D. Contact point where complaints can be lodged:</b></p>	<p>Complaints can be lodged:</p> <p>At the premises of the Coprocom (San José, Costa Rica).</p> <ol style="list-style-type: none"> <li>1. Building Asebanacio, Fifth Floor</li> <li>2. Virtually by mail <a href="mailto:coprocom@coprocom.go.cr">coprocom@coprocom.go.cr</a></li> </ol>

<sup>3</sup> For the purposes of this template the notion of ‘per se’ covers both ‘per se’ and ‘by object’, as these terms are synonyms used in different jurisdictions.

<p><b>E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.</b></p>	<p>No, there aren't other authorities.</p>
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#### 4. Decision-making institution(s)<sup>4</sup> [to be filled in only if this is different from the investigating agency]

<p><b>A. Name of the agency making decisions in cartel cases: [if there is more than one agency, please describe the allocation of responsibilities.]</b></p>	<p>N/A</p>
<p><b>B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages available on the website]</b></p>	<p>N/A</p>
<p><b>C. Contact point for questions and consultations:</b></p>	<p>N/A</p>
<p><b>D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.</b></p>	<p>N/A</p>
<p><b>E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?</b></p>	<p>N/A</p>

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<sup>4</sup> Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

## 5. Handling complaints and initiation of proceedings

<p><b>A. Basis for initiating investigations in cartel cases: [complaint, ex officio, leniency application, notification, etc.]</b></p>	<p>Costa Rica's competition agencies can start their investigation either <i>ex officio</i> or after receiving a complaint. Some <i>ex officio</i> investigations arise from anonymous complaints.</p> <p>Also, the new legislation adopted in November 2019, introduces a leniency program</p>
<p><b>B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)? [If there is a requirement to complete a specific form, please, indicate its location (website address).]</b></p>	<p>Complaints must contain the following items:</p> <ul style="list-style-type: none"> <li>a) The complainant's name and domicile;</li> <li>b) The reported economic agent and data for locating it;</li> <li>c) A brief account of the reported acts or facts related to potential violations typified herein and in Law No. 7472,</li> <li>d) Claim in the complaint;</li> <li>e) The evidence in their possession;</li> <li>f) Any additional <i>de facto</i> or <i>de jure</i> statements the complainant wishes to make;</li> <li>g) An indication of the place or means for receiving notices; and</li> <li>h) A statement of whether or not the complainant wishes to be notified of the other actions within the special procedure.</li> </ul>
<p><b>C. Legal requirements for lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]</b></p>	<p>According the law 9736, any person or economic agent may report a complaint and it is not necessary to have a legitimate interest to do so.</p> <p>Costa Rica's competition agencies can start their investigation either <i>ex officio</i> or after receiving a complaint.</p> <p>Some <i>ex officio</i> investigations arise from anonymous complaints.</p> <p>Complaints shall be directed to the Technical Body of the respective competition authority. Complaints may be formulated in writing and shall be signed by the complainant.</p> <p>If necessary, they shall be accompanied by the respective legal personality document confirming the signatory's powers of representation.</p> <p>In addition, complainants may appear before the respective Technical Body or any other office enabled for such purpose and make the complaint orally, from which a document shall be drawn up containing the requirements indicated in Article 32 hereof concerning complaint requirements. This document shall be signed by both the complainant and the official who receives the complaint.</p>
<p><b>D. Is the investigating agency obliged to take action on each complaint that it</b></p>	<p>According to the Law N°9736, complaints that do not provide enough evidence, late complaints and inadmissible may be rejected.</p>

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<p>receives or does it have discretion in this respect? [Please elaborate.]</p>	<p>In the regulation of the law, include some flexibility when dealing with complaints.</p> <p>Also Law N°9736 adopted in November 2019, introduces a minimis rule.</p> <p>The purpose of the preliminary investigation stage is to determine whether or not the elements and conditions coincide to merit initiation of the examining stage of the special procedure.</p>
<p>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</p>	<p>When the investigating officer deems that the evidence gathered during the preliminary investigation is insufficient for initiating the examining stage, he/she shall dismiss the case by means of reasoned resolution.</p>
<p>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</p>	<p>Once the complaint is filed properly, the investigating officer of the respective Technical Body shall have ten business days to reach one of the following decisions by means of reasoned resolution:</p> <p>a) Reject outright the complaint in the event of it being openly untimely, inappropriate or inadmissible; or</p> <p>b) Start the preliminary investigation stage on the reported events.</p>

## 6. Leniency policy<sup>5</sup>

<p>A. What is the official name of your leniency policy (if any)? [Please indicate its public availability.]</p>	<p>The Costa Rica leniency program is established in the Law N° 9736, Section II, article 121- 128. The official name of this is “<i>Administrative Fine Reduction and Waiver Program</i>”.</p>
<p>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</p>	<p>Yes, it does. Law 9736, allow Coprocom reduce the fine of an economic agent or individual, full or partial leniency, depending on certain conditions.</p>
<p>C. Who is eligible for full leniency [only for the first</p>	<ul style="list-style-type: none"> <li>▪ 100% first agent;</li> </ul>

<sup>5</sup> For the purposes of this template the notion of ‘leniency’ covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like ‘leniency’ ‘amnesty’ and ‘immunity’ are considered as synonyms.



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<p><b>one to come forward or for more participants in the cartel]?</b></p>	<ul style="list-style-type: none"> <li>▪ 50% second agent;</li> <li>▪ 30% third agent;</li> <li>▪ 20% fourth agent</li> </ul>
<p><b>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</b></p> <p><b>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</b></p>	<p>Law 9736 is broad and it does not refer to the level of knowledge of the conduct, neither the date for its application.</p> <p>However, We consider that in order to promote the figure of leniency, it should be as broad as possible, however they must provide elements that facilitate the investigation and that elements are not in the possession of the authority, even if the investigation has been initiated.</p>
<p><b>E. Who can be a beneficiary of the leniency program (individual / businesses)?</b></p>	<p>The reduction of fine conceded to an economic agent shall benefit in the same percentage its legal representatives or the governing body members who have intervened in the agreement or decision, provided they have collaborated with the respective competition authority up to the issuing of the final resolution of the special procedure.</p>
<p><b>F. What are the conditions of availability of full leniency: [e.g. provide decisive evidence, maintain cooperation throughout, not to be the ringleader, cease the infringement, restitution, etc.]</b></p>	<p>For the competition authority's Superior Body to concede the waiver provide in the preceding article, the economic agent or, where relevant, the individual who has submitted the respective request, must meet the following requirements:</p> <ul style="list-style-type: none"> <li>a) They have cooperated fully and continuously with the respective competition authority during the investigation and in the processing of the procedure as established in the implementing regulation hereof;</li> <li>b) They have terminated their participation in the absolute monopolistic practice at the time and in the manner indicated by the respective competition authority; and</li> <li>c) They have never taken measures to obligate the other economic agents to participate in the offence.</li> </ul> <p>If all the aforementioned requirements have been met, the respective competition authority's Superior Body shall issue the resolution waiving the fine.</p>
<p><b>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment): [e.g.: valuable, potential, decisive evidence by witnesses or on basis of written documents,</b></p>	<p>Article 123 of Law 9736, establish that the condition for partial leniency is providing useful information or evidence that adds significant value to the information that the COPROCOM's Superior Body already knows, including the information given by other applicants. The degree of exemption will depend on the order of arrival to the program.</p>

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<p>etc.? Must the information be sufficient to lead to an initiation of investigations?]</p>	
<p>H. Obligations for the beneficiary after the leniency application has been accepted: [e.g. ongoing, full cooperation with the investigating agency during the proceedings, etc.]</p>	<p>According to Article 122 and 123 of the La 9736 and 188 of the Regulations to the 2 Law N°9736, “Article 188.- Duty of cooperation of the applicants for exoneration or reduction of the payment of the fine.”.</p> <p>The applicant for exemption or reduction of payment of the fine cooperates fully, continuously and diligently with the relevant competition authority, where, throughout the procedure</p>
<p>I. Are there formal requirements to make a leniency application? [e.g. must applications take a particular form or include particular information/data, must they be in writing or can they be made orally, etc.]</p>	<p>The procedure for exonerating and reducing the payment of the fine shall be initiated at the request of the economic agent, who must submit to the corresponding competition authority an application to receive the benefit of exoneration or reduction of the payment of the fine, as appropriate in accordance with the provisions of articles 121, 122 and 123 of Law No. 9736.</p> <p>The application may be submitted even if there is no ongoing investigation procedure by the competition authority or, if an investigation process already exists, the investigation process may be submitted until before the start of the instruction stage (Article 185 of Decree 43305-MEIC). In the latter case, the persons concerned may submit their application until the reasoned decision ordering the instruction stage of the special procedure by the authority has been issued. of corresponding competence (Articles 38 – 43, Law 9736).</p>
<p>J. Are there distinct procedural steps within the leniency program? [e.g.: provisional guarantee of leniency ("PGL") and further steps leading to a final leniency agreement / decision)?]</p>	<p>Yes, there are. The first one is the moment of entrance to the program which must fulfil the requisites set forth in Articles 121,122 and 123, Law N° 9736.</p> <p>3 days after the application has been submitted to the COPROCOM, the competent officer will analyse if the application fulfils the requirements. If the requirements are completed, the officer will issue a recognition of the quality of applicant, communication of the Key and call for the presentation of information meeting.</p> <p>The competition authority evaluates the information provided by the applicant.</p> <p>The competition authority conditionally grants exemption from the administrative penalty or reduction of the payment of the fine where the information and documents provided are sufficient to substantiate the request for an inspection or to establish an infringement in relation to the commission of the absolute monopolistic practice.</p> <p>The COPROCOM's Superior Body takes the substantive decision on the application at the end of the special procedure. The decision may consist of:</p> <p>(a) Granting the benefit of exemption from administrative sanctions;</p>

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	<p>(b) To grant the benefit of reducing fines; or,</p> <p>c) Revoke the conditional granting of exoneration or reduction of the payment of the fine for not complying with the requirements provided for by Law 9736 (Articles 189 and 190 del Decree 43305-MEIC</p> <p>.</p>
<p><b>K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?</b></p>	<p>In order to decide on the application and to decide on the application of the benefits provided for by the Programme, COPROCOM's Superior Body shall examine the application within 30 working days of the submission of the information and evidence by the applicant.</p> <p>In this analysis, the competition authority will check whether the information is sufficient, as provided for by articles 121. 122 and 123 Law 9736 and articles 184, 185 and 187 of Executive Decree 43305-MEIC.</p>
<p><b>L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?</b></p>	<p>Articles 121 and 123 of Law 9736, the leniency program will be granted on the basis of a resolution of the Coprocom.</p> <p>Coprocom' s Superior Body approve the leniency applications with the reduction of the payment of the corresponding fine according to the chronological order of presentation of the applications, in the resolution that ends administrative procedure.</p>
<p><b>M. Do you have a marker<sup>6</sup> system? If yes, please describe it.</b></p>	<p>Yes, we do. Article 185 of Executive Decree 43305-MEIC establishes COPROCOM shall issue a marker guaranteeing the applicant's place vis-à-vis the other applicants.</p> <p>The order of receipt of requests for exemption or reduction shall be determined in accordance with their date and time of entry in the register of the Competition Authority. COPROCOM shall keep a confidential internal record on the receipt of applications, the issue of markers and the status of assessment of each application.</p> <p>In order to respect the chronological order of interested parties who have submitted previous applications, the relevant competition authority shall not evaluate a new application without having ruled on an earlier one dealing with the same market and/or goods or services that are the subject of the request.</p>
<p><b>N. Does the system provide for any extra credit<sup>7</sup> for disclosing additional</b></p>	<p>Yes, it does. Article 126 of Law 9736 of 2019 and Article 193 of Executive Decree 43305-MEIC enable leniency applicants who is being investigated for an absolute monopolistic practice</p>

<sup>6</sup> A marker protects an applicant's place in the queue for a given period of time and allows it to gather the necessary information and evidence in order to meet the relevant evidential threshold for immunity.

<sup>7</sup> Also known as: "leniency plus", "amnesty plus" or "immunity plus". This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

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<p><b>violations? [e.g. a hardcore cartel in another market]</b></p>	<p>by Competition Authority and who does not comply with the requirements established in Law 9736 may disclose to the Competition Authority the existence of another absolute monopolistic practice different, on which no investigation or procedure has been initiated, for which you will receive a fifty percent (50%) reduction of the fine related to the monopolistic practice for which you are investigated, and a total exemption from the fine related to the additional monopolistic practice you report. (<i>Leniency plus</i>).</p>
<p><b>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</b></p>	<p>COPROCOM's Superior Body shall maintain confidential the identity of the economic agent and individuals seeking the benefit of this article and shall process the reduction of fine resolution separately for each economic agent.</p>
<p><b>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</b></p>	<p>The law does not provide for the existence of an appeal, however, it must be analysed in relation to all applicable rules and principles.</p>
<p><b>Q. Contact point where a leniency application can be lodged [telephone and fax including the country code, plus out of hours contacts (if any)]:</b></p>	<p>The phone number is: +506 2549-1400          Competent officer: Ana Victoria Velázquez – Head of Investigation Unit.          Email address: <a href="mailto:clemencia@coprocom.go.cr">clemencia@coprocom.go.cr</a></p>
<p><b>R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?</b></p>	<p>COPROCOM Superior Body shall revoke the conditional granting of exoneration or reduction of the payment of the fine for not complying with the requirements provided for by Law 9736.</p>
<p><b>S. Does your policy allow for “affirmative leniency”, that is the possibility of the agency approaching potential leniency applicants?</b></p>	<p>Costa Rica's law does not include that possibility. However, when there is some certainty about the existence of a cartel, the staff undertaking some investigations can suggest the economic agent to participate in the program or may give information about its functioning and benefits.</p>
<p><b>T. Does your authority have rules to protect leniency material from disclosure? If yes, please elaborate which parts are protected and what does protection actually mean.</b></p>	<p>The COPROCOM Superior Body shall maintain confidential the identity of the economic agent and individuals seeking the benefit of this article and shall process the reduction of fine resolution separately for each economic agent</p> <p>In order to protect the confidentiality of the application and the identity of the beneficiary of the Program, resolutions granting reductions in fines should be notified only to the respective beneficiary.</p>

## 7. Settlement

<p><b>A. Does your competition regime allow settlement?</b></p> <p><b>If yes, please indicate its public availability (link to the relevant rules, guidelines, etc.).</b></p>	<p>Yes, Costa Rica's competition regime allow settlement. According Articles 66-69 of Law 9736</p> <p>Law 9736 introduces new mechanisms for the early termination of an investigation. This includes the adoption of settlements.</p> <p>The settlement regime will have to be implemented by secondary regulation. There are still no details available about how this policy will be implemented.</p>
<p><b>B. Which types of restrictive agreements are eligible for settlement [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?</b></p>	<p>The three early termination mechanisms are: termination due to manifest inadmissibility, early termination with acknowledgement of the commission of the infraction (settlements), and early termination with an offer of commitments.</p> <p>Parties that are being investigated for a hard-core collusive practice may benefit from a fine reduction by acknowledging liability or guilt.</p>
<p><b>C. What is the reward of the settlement for the parties?</b></p>	<p>In the event the aforementioned application for early termination is accepted, the Supreme Body shall impose a fine, the amount of which shall be reduced by ten percent (10%) from what would correspond for the investigated violation. The foregoing is without prejudice to the appropriate corrective measures pursuant to law.</p>
<p><b>D. May a reduction for settling be cumulated with a leniency reward?</b></p>	<p>The Costa Rica competition law does not provide an express provision in this regard.</p>
<p><b>E. List the criteria (if there is any) determining the cases which are suitable for settlement.</b></p>	<p>No, the only possible case to consider a settlement is the recognition of the infringement by the investigated party.</p>
<p><b>F. Describe briefly the system [who can initiate settlement – your authority or the parties, whether your authority is obliged to settle if the parties initiate, in which stage of the investigation settlement may be initiated, etc.].</b></p>	<p><b>Application for Early Termination of the Special Procedure with Recognition of a Violation</b></p> <p>The special procedure early in cases where an economic agent investigated for absolute monopolistic practices recognizes its participation in the illegal conduct and its consequent responsibility, helping to speed up the special procedure and facilitating the issuance of the respective resolution by the respective competition authority. The proposed early termination shall take effect solely for the economic agent or individual that has requested it.</p> <p>The time period for the special procedure shall be suspended from the filing of the request to its final resolution by the respective Supreme Body. The Supreme Body shall issue and notify the parties of the suspension resolution.</p> <p>No administrative appeal shall be admitted against said resolution.</p>

<p><b>F. Describe the procedural efficiencies of your settlement system [e.g. shorter decision, etc.].</b></p>	<p>As the presumed offender must recognize the anticompetitive behaviour, this tool allows the Entity to use its resources in an efficient way in order to protect free economic competition.</p>
<p><b>G. Does a settlement necessitate that the parties acknowledge their liability for the violation?</b></p>	<p>Yes, the settlement implies a confession or an admission of the illegality of the conduct.</p>
<p><b>H. Is there a possibility for settled parties to appeal a settlement decision at court?</b></p>	<p>No administrative appeal shall be admitted against said resolution.  However, the final resolution of the competition authorities can be appealed to the judicial courts.</p>

## 8. Commitment

<p><b>A. Does your competition regime allow the possibility of commitment?</b></p> <p>If yes, please indicate its public availability [link to the relevant rules, guidelines, etc.].</p>	<p>Yes, Costa Rica's competition regime allow commitments. According Articles 70 -81 of Law 9736</p>
<p><b>B. Which types of restrictive agreements are eligible for commitment [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?</b></p> <p>Are there violations which are excluded from the commitment possibility?</p>	<p>The COPROCOM Supreme Body may wind up the special procedure early in cases where the economic agents investigated for <i>relative monopolistic practices</i> so request and offer commitments to eliminate the conduct and counteract its effects.</p> <p>This application shall not imply the acceptance of an illegal conduct.</p>
<p><b>C. List the criteria (if there are any) determining the cases which are suitable for commitment.</b></p>	<p>COPROCOM does not have criteria list to determine the cases which are suitable for commitments.</p> <p>COPROCOM is working in guidelines for these cases.</p>
<p><b>D. Describe, which types of</b></p>	<p>Article 74 of the Law 9736 establishes: a) The early termination of the special procedure with offer of</p>

<p><b>commitments are available under your competition law.[e.g.: behavioural / structural]</b></p>	<p>commitments proposed by the investigated economic agent eliminates the investigated conducts and the potential anticompetitive effects attributable to the investigated conducts;</p> <p>b) The commitments offered can be implemented quickly and effectively; and</p> <p>c) Oversight of the performance and effectiveness of the commitments is viable and effective.</p> <p>In all cases, there should be a correspondence between the events involved in the special procedure according to the order for initiation of the examining stage, the potential anticompetitive effects attributable to the conducts under investigation, and the conditions established for the investigated economic agent.</p>
<p><b>E. Describe briefly the system [who can initiate commitment – your authority or the parties, in which stage of the investigation commitment may be initiated, etc.]</b></p>	<p>Accordance with article 72 of the law 9736: The application for early termination with offer of commitments may be filed at any time from the start of the examining stage to the start of the oral and private appearance before the respective competition authority's Supreme Body, which shall be responsible for resolving on it within thirty business days after its receipt.</p> <p>In the event the proposal is filed at another body of the respective competition authority, such body shall remit it to the respective competition authority's Supreme Body without further ado within three business days.</p>
<p><b>I. Does a commitment decision necessitate that the parties acknowledge their liability for the violation?</b></p>	<p>No it doesn't necessary. Parties do not have to acknowledge their guilt, as explained above the commitments must be aimed at eliminating or avoiding the effects that may be attributable to the actions investigated.</p>
<p><b>J. Describe how your authority monitors the parties' compliance to the commitments.</b></p>	<p>If a commitment is breached, the SIC will consider it as an infringement of the competition regime and sanctions can be imposed. Prior to the imposition of a sanction, the SIC will request an explanation from the committed party. The Deputy Superintendence has the faculty to monitor the compliance of the commitments, by revising the resolutions and commitments agreed between the authority and the offender. Visits to the companies can be made as well. Articles 25 and 26 of Law 1340 of 2009 will be applied in case of non-compliance.</p> <p>When COPROCOM imposes commitments, it establishes the verification measures, the commitments (documents to be provided, the time limit, checks to be carried out), since non-compliance with commitments implicate a penalty.</p> <p>Also, to ensure compliance with the commitments acquired by the investigated economic agent, COPROCOM Supreme Body may ask for the rendering of a financial guarantee to the order of said authority. In no case may the guarantee amount exceed the maximum fine provided for the conduct to which the offered commitments refer.</p>
<p><b>K. Is there a possibility for parties to appeal a commitment decision at court?</b></p>	<p>The final resolution of the competition authorities can be appealed to the judicial courts.</p>

## 9. Investigative powers of the enforcing institution(s)<sup>8</sup>

<p><b>A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids<sup>9</sup>, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</b></p>	<p>The Competition Reform Act adopted a new, special procedure for competition investigations.</p> <p>In that way, the COPROCOM can request and obtain information from investigated and third parties, including other government entities; obtain oral testimony from individual witnesses; and impose sanctions for non-compliance with mandatory requests and for obstruction of investigations.</p> <p>In addition, COPROCOM may authorize personnel, with prior judicial authorization, to visit and inspect industrial and commercial establishments where this is essential to collect or prevent the loss of evidence for the investigation of absolute or relative monopolistic practices provided for in the law; to date this power has not been used.</p> <p>While it is legally possible for COPROCOM to conduct dawn raids, COPROCOM does not have all means to do inspections.</p> <p>Coprocom is working in guidelines and getting the resources, such a laboratory equipped with the hardware and software and the human resources.</p>
<p><b>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</b></p>	<p>In theory, COPROCOM's personnel may review and copy all accounting books, agreements, mails, emails and any other document and electronic data related to the manufacturing, promotion, marketing, and sale strategies of the inspected economic agents. The officials in charge of an inspection are authorised to interview and request information, on the spot, from any employee, representative, director or shareholder during the visit. These individuals are required to provide any useful information related to the existence and location of data and documents that are relevant to the investigation</p> <p>Yes, It is necessary a prior judicial authorization, to visit and inspect industrial and commercial establishments.</p>
<p><b>C. Can servers located outside the territory (abroad or in a cloud) be inspected? Are there special rules for this investigative power? Please explain.</b></p>	<p>No. The faculties to request information and practice dawn raids exists exclusively within the national territory.</p>
<p><b>D. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a</b></p>	<p>The inspection must be judicially authorized, if evidence found is not part of what is authorized to inspect, it would be required to request another authorization, in order to obtain new evidence.</p>

<sup>8</sup> “Enforcing institutions” may mean either the investigating or the decision-making institution or both.

<sup>9</sup> “Searches/raids” means all types of search, raid or inspection measures.



<p>post-search court warrant needed)?</p>	
<p><b>E. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</b></p>	<p>As explained above, Costa Rica is legally possible for COPROCOM to conduct dawn raids, however COPROCOM does not possess the means to actually engage in unannounced inspections.</p> <p>Coprocom is working in Technical Regulation for Conducting Dawn Raids and a Manual for Conducting Dawn Raids.</p> <p>Also, Coprocom must have trained specialised staff and adequate hardware and software equipment</p>

## 10. Procedural rights of businesses / individuals

<p><b>A. Key rights of defence in cartel cases: [e.g.: right of access to documents in the possession of the enforcing authority, right to a written statement of the case against the defendant, right to respond to that case in writing, right to confront orally, right to confront companies or individuals that make allegations against the defendant, right to legal representation before the enforcing authorities, right not to self-incriminate, etc.]Please indicate the relevant legal provisions.</b></p>	<p>The procedure follow for cartel cases shall be governed by respect for the principles of due process, speed, orality, simplicity, informality, real truth, ex officio investigation, impartiality, transparency, nondiscrimination and good faith.</p> <p>The special procedure that brings together all the elements of due process, which are summarized in: are summarized in:</p> <ul style="list-style-type: none"> <li>a) notification to the interested party of the nature and purposes of the procedure;</li> <li>b) the right to be heard and the opportunity to present arguments and produce relevant evidence;</li> <li>c) opportunity to prepare its defence, which necessarily includes access to the file and information related to the issue in question;</li> <li>d) the right to be represented and advised by lawyers, technical experts, and other qualified persons;</li> <li>e) adequate notification of the decisions issued by the administration and the reasons on which they are based; and</li> <li>f) the right to appeal</li> </ul>
<p><b>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation? Please indicate the relevant legal provisions.</b></p>	<p>The Administration may collect the information for the fulfilment of its purposes, but that such information remains private and that it cannot be transferred to third parties without the consent of the right or, in cases where the order establishes it to satisfy a public interest.</p> <p>The fundamental issue is that confidential data or information, once collected, cannot be used for purposes and conditions other than those for which it was collected unless otherwise ruled. In this sense, confidentiality is a guarantee against the supply, voluntary or imposed by the law, as is the case with the tax matter, of information to a third party.</p> <p>In general, the case-law has referred to multiple cases in which confidential information has been upheld, since this determination is due to a case-by-case analysis, since the circumstances involved, the impact of disclosure and the actual secrecy that each information may have at a given time must be assessed.</p>

## 11. Limitation periods and deadlines

<b>A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings must begin or a decision on the merits of the case must be made? Please describe potential suspension or interruption opportunities of this limitation period and the requirements for such rules to apply.</b>	The term for reporting or initiating the investigation ex officio for the purpose of prosecuting the offences set forth herein, in Law No. 7472, <i>Promotion of Competition and Effective Consumer Protection</i> , expires in four years as of the moment in which the offence occurred or the respective competition authority effectively learned of it. For continued events, the term shall start to run from the occurrence of the last event.
<b>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision on the merits? Please describe potential suspension or interruption opportunities of this limitation period and the requirements for such rules to apply.</b>	The law shall be extinguished in four years as of notification to the investigated economic agent of the order for initiation of the examining stage of the respective procedure.
<b>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions? (see also 15A)</b>	According to Article 60 of the Law 9736 the term for filing appeals against the resolutions shall be fifteen business days, starting on the next business day after the last notification of the act.  Appeals shall be resolved within fifteen business days. .

## 12. Types of decisions

<b>A. List which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1. [E.g.: finding of an infringement, ordering to bring the infringement to an end, imposition of fines, etc.]</b>	The types of decisions in a cartel investigation are: <ul style="list-style-type: none"><li>- Imposition of fines. Sanction decisions also orders to end the infringement.</li><li>- Closing of the investigation. This option can be given, either because there is no evidence to prove the commission of the restrictive agreement, or because settlements have been accepted.</li></ul>
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<p><b>B. List any other types of decisions on the merits of the case relevant particularly in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 12/A).</b></p>	<p>Article 11 of Law 7274 also specifies as unlawful, certain conducts within those categories. For example, the price fixing provision prohibits information exchanges with the purpose or effect of fixing or manipulating the price of goods and services. The output restriction provision prohibits commitments related to the volume or frequency with which goods and services are produced. The market allocation provision covers potential as well as existing markets. Finally, the bid-rigging provision contains agreements respecting both participation in tenders and establishment of the bid prices.</p> <p>Since its foundation, the COPROCOM has punished 18 absolute monopolistic practices.</p>
<p><b>C. Can interim measures<sup>10</sup> be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both<sup>11</sup>.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</b></p>	<p>According to Article 37 of Law 9736, COPROOM can order interim measures At any time in any stage of the special procedure, the respective body may order, ex officio or at the request of the complainant or interested third parties, those cautionary measure deemed appropriate and necessary to provisionally protect and guarantee the object of the special procedure and effectiveness of the potential resolution.</p>

### 13. Sanctions for procedural breaches (non-compliance with procedural obligations) in the course of investigations

<p><b>A. Grounds for the imposition of procedural sanctions / fines[e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.]:</b></p>	<p>Law 9736:</p> <p>Article 116. Minor Offences</p> <ul style="list-style-type: none"> <li>a) Providing incomplete or late information, without justification attested by the respective competition authority, in the delivery of the required information.</li> <li>b) Notifying an economic concentration transaction after its implementation, when notification is required by law.</li> <li>c) Impeding or obstructing an inspection or investigation ordered pursuant to the provisions hereof.</li> </ul> <p>ARTICLE 117. Serious Offences</p> <ul style="list-style-type: none"> <li>a) Unjustifiably refusing to provide information to the respective competition authority.</li> <li>b) Providing false, altered or misleading information.</li> </ul>
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<sup>10</sup> In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

<sup>11</sup> Only for agencies which answered “yes” to question 2.B. above

	<p>c) Omitting notification of a concentration, when said notification is required by law, or engaging in implementing acts for said concentration without the authorization of the respective Superior Body.</p> <p>d) Helping, facilitating, fostering or inducing third parties to engage in monopolistic practices or illegal concentrations.</p> <p>e) Impeding, by any means, the respective competition authority's task of investigation and inspection.</p>
<b>B. Type and nature of the sanction (civil, administrative, criminal, combined; pecuniary or other):</b>	The sanctions that Coprocom can impose are administrative sanctions, by imposing financial penalties.
<b>C. On whom can procedural sanctions be imposed?</b>	The competition law provides for effective sanctions to deter firms and individuals from participating in absolute monopolistic practices – including bid rigging – and incentivise cartel members to defect from the cartel and co-operate with the competition agency.
<b>D. Criteria for determining the sanction / fine:</b>	<p>When imposing a fine, COPROCOM have to consider:</p> <ol style="list-style-type: none"> <li>1. the seriousness of the infringement,</li> <li>2. the threatened or caused damage, whether the infringement was intentional,</li> <li>3. the perpetrators' market share,</li> <li>4. the size of the affected market,</li> <li>5. the duration of the illegal conduct or merger,</li> <li>6. the recidivism of the perpetrator and its ability to pay.</li> </ol> <p>Coprocom is working on a new Guidelines on "Methodology and Criteria Used for the Imposition of Fines"</p>
<b>E. Are there maximum and / or minimum sanctions / fines?</b>	<p>The Competition Reform Act increases the types of conduct that infringe competition law and the severity of sanctions that businesses can be subject to.</p> <p>Fines are now to be calculated by reference to the economic agent's gross income during the previous tax year.</p> <ul style="list-style-type: none"> <li>• Fines for minor infringements go up to 3% of this amount,</li> <li>• severe infringements can be sanctioned with fines of up to 5% and</li> <li>• very severe infringements can be sanctioned with fines of up to 10% of turnover.</li> </ul>

## 14. Sanctions on the merits of the case

<b>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</b>	Costa Rican legislation for competition authorizes the imposition of sanctions of an administrative nature upon verification of an anti-competitive behaviour.
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<p><b>On whom can sanctions be imposed? [E.g.: representatives of businesses, (imprisonment for individuals), businesses, in the case of associations of companies the associations or the individual companies?]</b></p>	<p>COPROCOM included corrective measures and the obligation to annul anti-competitive agreements, as well as the payment of fines.</p> <p>The competition law provides for effective sanctions to deter firms and individuals from participating in absolute monopolistic practices – including bid rigging – and incentivise cartel members to defect from the cartel and co-operate with the competition agency.</p> <p>Also, Article 119 of the law 9736 establishes:</p> <p>g) Individuals who participate directly in monopolistic practices or illegal concentrations in representation of or on behalf and to the order of legal or de facto entities shall be imposed a fine equal to an amount from one base wage to six hundred eighty base wages.</p> <p>h) Public officials who contribute to, facilitate, foster or participate in any way in monopolistic practices shall be imposed a fine equal to an amount from one base wage to six hundred eighty base wages.</p>
<p><b>B. Criteria for determining the sanction / fine: [e.g.: gravity, duration of the violation, benefit gained from the violation]</b></p>	<p>When imposing a fine, COPROCOM have to consider the seriousness of the infringement, the threatened or caused damage, whether the infringement was intentional, the perpetrators' market share, the size of the affected market, the duration of the illegal conduct or merger, the recidivism of the perpetrator and its ability to pay.</p>
<p><b>C. Are there maximum and / or minimum sanctions / fines?</b></p>	<p>Fines are now to be calculated by reference to the economic agent's gross income during the previous tax year.</p> <ul style="list-style-type: none"> <li>• Fines for minor infringements go up to 3% of this amount,</li> <li>• severe infringements can be sanctioned with fines of up to 5% and</li> <li>• very severe infringements can be sanctioned with fines of up to 10% of turnover.</li> </ul>
<p><b>D. Guideline(s) on calculation of fines: [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]</b></p>	<p>Coprocom is working in a new Guidelines on "Methodology and Criteria Used for the Imposition of Fines"</p>
<p><b>E. Does a challenge to a decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?</b></p>	<p>In Costa Rica, only the authorities or the courts of justice can review and, if appropriate, annul all or part of the acts issued by the competition authorities. The Contentious-Administrative Jurisdiction are competent to protect the legal rights of any person, and to guarantee or re-establish the legality of any behaviour that is subject to Administrative Law, as well as to decide on any aspect of the relationship governed by Administrative Law.</p> <p>The appeal to the Court does not automatically suspend the sanction, they have to request it specifically and justify it.</p>

	<p>The country does not have a specialized court in Competition Law, so the cases are assigned to the different sections of the Contentious-Administrative Court in accordance with the parameters established by the Judicial Power. Thus, practically all the sections that comprise said jurisdiction have known challenges to rulings or acts issued by the competition authorities, which evidently is a weakness of the system</p>
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## 15. Possibilities of appeal

<p><b>A. Does your law provide for an appeal against a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?</b></p>	<p>According to article 59 of Law 1437 of 2011, appeals for reversal or reconsideration shall only be admissible against the following acts of the COPROCOM Supreme Body:</p> <ul style="list-style-type: none"> <li>a) Resolutions resolving on an early termination request;</li> <li>b) Final resolutions of special procedures;</li> <li>c) Resolutions establishing the need to render an economic guarantee, according to Article 78 hereof;</li> <li>d) Resolutions resolving a cautionary measure;</li> <li>e) Resolutions issued on the confidential nature of the items in the case file; and</li> <li>f) Information requests.</li> </ul> <p>The term for filing appeals against the resolutions in sections (a), (b) and (d) shall be fifteen business days, starting on the next business day after the last notification of the act.</p> <p>In the remaining cases, the term shall be three business days, starting on the next business day after the last notification of the act.</p> <p>All appeals shall be resolved by the Supreme Body within fifteen business days.</p>
<p><b>B. Before which court or agency should such a challenge be made? [if the answer to question 15/A is affirmative]</b></p>	<p>In Costa Rica, only the authorities or the courts of justice can review and, if appropriate, annul all or part of the acts issued by the competition authorities.</p> <p>The Contentious-Administrative Jurisdiction are competent to protect the legal rights of any person, and to guarantee or re-establish the legality of any behaviour that is subject to Administrative Law, as well as to decide on any aspect of the relationship governed by Administrative Law.</p> <p>The country does not have a specialized court in Competition Law, so the cases are assigned to the different sections of the Contentious-Administrative Court in accordance with the parameters established by the Judicial Power. Thus, practically all the sections that comprise said jurisdiction have known challenges to rulings or acts issued by the competition authorities, which evidently is a weakness of the system.</p>

## 16. Private enforcement

<p><b>A. Are private enforcement of competition law and private damage claims possible in your jurisdiction? If there is no legal provision for private enforcement and damage claims, what are the reasons for it?</b></p>	<p>Yes. Any person who considers that has been affected by a cartel might take civil actions against the undertakings involved in the illegal anticompetitive conduct.</p> <p>In accordance with Article 21 of Law No. 7472, the administrative instance before the Coprocom is mandatory, prior to going to the Court.</p>
<p><b>B. Laws regulating private enforcement of competition law in your jurisdiction [indication of the provisions and languages in which these materials are available; availability (homepage address)]</b></p>	<p>Does not apply.</p>
<p><b>C. Implementing regulation(s) on private enforcement (if any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]</b></p>	<p>In accordance with article 135 of the law 9736, Resolutions of competition authority shall not prejudice on losses and damages caused by the monopolistic practices, which shall be heard exclusively by the competent judicial authorities.</p> <p>Actions may be filed by any individual or legal entity that has sustained losses as a result of the conducts declared monopolistic practices by the respective competition authority. The foregoing applies even if they have not been a party in the special administrative procedure, provided they are able to show a causal nexus between the claimed loss and the conduct declared anticompetitive by the respective competition authority.</p>
<p><b>D. On what grounds can a private antitrust cause of action arise? / In what types of antitrust matters are private actions available?</b></p>	<p>Does not apply.</p>
<p><b>E. What pleading standards must the plaintiff meet to file a stand-alone or follow-on claim?</b></p> <ul style="list-style-type: none"> <li>• <b>is a finding of infringement by a competition agency required to initiate a private antitrust action in your jurisdiction? What is the effect of a finding of infringement by a competition agency on national courts/tribunals?</b></li> <li>• <b>if a finding of infringement by competition authority is</b></li> </ul>	<p>In Costa Rica there is no experience in the matter, however, to go to the Court and collect damages, it is necessary that the Competition Authority has analysed the conduct and issued a decision.</p>

<b>required, is it also required that decision to be judicially finalised?</b>	
<b>F. Are private actions available where there has been a criminal conviction in respect of the same matter?</b>	Does not apply.
<b>G. Do immunity or leniency applicants in competition investigations receive any beneficial treatment in follow-on private damages cases?</b>	Full or partial waiver of the administrative sanction does not exempt the economic agents responsible for the absolute monopolistic conduct from payment of eventual losses and damages caused to third parties. Notwithstanding, the civil liability of the first economic agent to claim the benefit shall be subordinate to that of the other offenders.
<b>H. Name and address of specialised court (if any) where private enforcement claims may be submitted to</b>	Costa Rica does not have a specialized court in Competition Law, so the cases are assigned to the different sections of the Contentious-Administrative Court in accordance with the parameters established by the Judicial Power
<b>I. Information about class action opportunities</b>	They are not usual in Costa Rica.
<b>J. Role of your competition agency in private enforcement actions (if at all)</b>	According to article 275 of the General Procedure Code, the judge in the judicial procedure could request to the Competition Authority a report about the administrative investigation. Also, the judge could request documents or information belongs the investigation files. In that case, according to article 27 of Law 1437 of 2011, the Competition Authority may not enforce against the judge the confidentiality of the information but this last have the duty to preserve de confidentiality.
<b>K. What is the evidentiary burden on plaintiff to quantify the damages? What evidence is admissible?</b>  • <b>Role of your competition agency in the damage calculation (if at all)</b>	COPROCOM does not quantify the damages in the final decision.
<b>L. Discovery / disclosure issues:</b>  • <b>can plaintiff obtain access to competition authority or prosecutors' files or documents collected during investigations?</b>  • <b>is your competition agency obliged to disclose to the court the file of the case (in follow-on cases)?</b>  • <b>summary of the rules regulating the disclosure of confidential information by the competition agency to the court</b>	Interested parties would not be able to request confidential information from the file, however, if the Court so requests, the competition authority is required to submit the information.



<ul style="list-style-type: none"> <li>• <b>summary of the rules regulating the disclosure of leniency-based information by the competition agency to the court</b></li> </ul>	
<p><b>M. Passing-on issues:</b></p> <ul style="list-style-type: none"> <li>• <b>how is passing-on regulated / treated in your jurisdiction?</b></li> <li>• <b>is standing to bring a claim limited to those directly affected or may indirect purchasers bring claims?</b></li> </ul>	<p>Normally, civil actions must be initiated by the group of people, or the victim, respectively, that have suffered the damage directly.</p> <p>This confers the legitimacy to take part in the procedure as a plaintiff and prove the relation among the anticompetitive practice and the damage.</p>