



Elements for innovation in MSME and antitrust policies considering the challenges of the COVID-19 pandemic and economic recovery

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Introduction

As part of the project “Global Initiative towards post-COVID-19 resurgence of the MSME sector”, in August 2020 the Economic Commission for Latin America and the Caribbean (ECLAC) and the United Nations Conference on Trade and Development (UNCTAD) organized the first regional dialogue between competition authorities and those in charge of programmes targeting micro, small and medium-sized enterprises (MSMEs). Participants highlighted the importance of generating opportunities for exchange between the authorities in question, with a view to stimulating mutual learning. Examples were given of how these two areas of production-development support policies have reacted to the health crisis caused by the coronavirus disease (COVID-19) pandemic, and how they were preparing to support the post-pandemic economic recovery.

To obtain a more in-depth analysis of experiences and learn about the best practices developed by the authorities responsible for these two policy areas, ECLAC launched a study involving nine countries of the region.

The following paragraphs summarize some of the main findings.

I. Policy to help MSMEs confront the emergency and prepare for recovery

To learn about the experience of the region's governments in implementing measures to support MSMEs in the context of the COVID-19 pandemic, interviews were held in October–November 2020 with MSME authorities from nine countries of the region (Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama and Uruguay).

This produced 180 measures for analysis, which have been classified according to their general objectives in four thematic areas, as summarized in table 1.

Table 1
MSME support measures for by thematic area

Subject area	General objectives	Measures
Liquidity	Maintaining short-term liquidity: these measures include the postponement of payments in respect of utilities, taxes, employer social security contributions and loan obligations.	47
Employment	Labour market protection: these measures include payment by the State of a portion of wages and employer contributions, together with rules restricting layoffs, and flexibility in contractual terms (such as a reduction of working hours or suspension of contracts).	38
Production support	Fostering the production of goods and services: these measures focus on support for entrepreneurship and innovation in terms of solutions to address the pandemic, together with actions to promote the revival of activities (biosecurity protocols, online sale platforms, among others). Simplification of procedures also included.	39
Financing	Facilitating access to credit: the measures in this group include both new programmes and existing ones that have undergone significant adjustments in terms of loan amounts, access requirements, extension of payment terms, among other aspects. Special credit lines and guarantee funds also included.	56

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of official information.

A. Liquidity

The set of liquidity measures mainly involves the postponement of payments in respect of utilities, tax liabilities, employer social security contributions and loan obligations with public and private banks. The liquidity measures were introduced (mostly in March 2020) as a short-term response to alleviate the economic hardship that MSMEs were enduring as a result of the health emergency. Owing to the evolution of the pandemic, however, most of them were extended until December 2020, and in some cases until the first quarter of 2021, as ECLAC had suggested in its *COVID-19 Special Report*, No. 4 (ECLAC 2020).

The nine countries analysed have implemented a total of 47 liquidity support measures, many of which are related especially to tax and employer obligations. Most of the countries deferred payments on income tax and sales tax, in particular. In this area, Argentina's moratorium plan promotes the regularization of small and medium-sized enterprise (SME) debts, including the remission of fines and penalties for overdue obligations; Brazil established special conditions for processing MSME tax debts; and Chile refunded the VAT tax credit accumulated between January and May 2020 for SMEs that have recorded a 30% drop in sales.

In the case of employer contributions, Argentina and Costa Rica granted temporary reductions; Ecuador provided payment facilities; and Colombia and Uruguay gave exemptions for sectors related to accommodation services, tourism and events. In addition to this, countries such as Argentina and Colombia introduced a rent freeze and suspended evictions to alleviate rental costs on both housing and commercial properties.

B. Employment

The mechanisms introduced to protect employment during the emergency aim to mitigate the effects of the drastic reduction in economic activity. In general, the measures adopted have focused on allowing for reduced working hours and temporary suspension of contracts, as well as the payment of economic contributions by the State. Of the 38 measures recorded by the nine countries interviewed, over half involve subsidies, which have been paid both directly to employees and as contributions to firms to enable them to safeguard jobs.

C. Production support

The measures included in the production support category refer mainly to actions taken to maintain the operational capacity of MSMEs amid the pandemic. This topic was analysed with special attention during the interviews, to gain an understanding of the countries' experience in adopting economic reactivation instruments, and to identify initiatives that aim to modify MSME support systems permanently after the emergency.

The 39 measures in this category included the following: public-private collaboration to design sector level biosecurity protocols; the promotion of formalization to be able to access the support measures; incentives for the production of equipment, inputs and solutions to address the health crisis, fostering business innovation and the development of entrepreneurship; and increased use of digital platforms, both to support the activation of MSME marketing channels, and for the virtual deployment of support services, especially those that promote digital skills and disseminate knowledge on the opportunities of digital transformation in business.

Sector level biosafety protocols: a public-private endeavour

Biosafety protocols that take account of the specific reality of each sector have generally been adopted by all countries to enable them to gradually resume activities. In this domain, the public and

private sectors have collaborated closely, particularly in Colombia and Brazil. In Colombia, for example, business associations made a fundamental contribution to generating appropriate protocols in each sector; and this was supported by the Foreign Trade Bank of Colombia (Bancóldex) which launched special credit lines to support business efforts in implementing the protocols. In Brazil, collaboration between the Ministry of Economy, the Ministry of Health and various business associations made it possible to design protocols for around 50 sectors, according to their individual needs and capacities. Information material for more than 30 types of small businesses was made available free of charge through the portal of the Brazilian Micro and Small Business Support Service (SEBRAE).

Promoting formalization to gain access to support measures

The need to address informality was cited as one of the greatest challenges posed by the pandemic by all of the countries interviewed. Argentina, Costa Rica, Ecuador and Panama all saw MSME registration systems as a way of stimulating access to support measures to address the crisis. In Argentina, for example, the MSME Registry makes it possible to apply for permanent tax benefits; and, in the context of the pandemic, it also served as a gateway to preferential credit lines and assistance programmes. As of July 2020, the registry contained around 1.4 million firms with a current MSME certificate, compared to the 530,000 registered in the whole of 2019. In Panama, the Business Registry affords access to financial and non-financial programmes offered by the Micro, Small and Medium Enterprise Authority (AMPYME). Participation in the business management courses run by AMPYME became one of the main requirements for accessing the financial resources deployed specifically to address the effects of COVID-19. Between March and October 2020, a total of 4,444 firms were registered on the online platform—an unprecedented number in the history of Panama’s Business Registry.

Virtual deployment of technical assistance services

The health crisis has undoubtedly accelerated digitalization processes. Most of the region’s countries have programmes aimed at promoting various facets of digital transformation—digital skills and competencies, digital economy, e-government, teleworking, tele-education, and so forth. Public actions to promote the adoption of digital technologies in firms have mainly targeted training and raising awareness of the benefits and opportunities involved in digitally transforming business models. Today there is much greater awareness of the usefulness of digital tools than there was before the crisis, owing to the impact that quarantining has had on economic activities. In most countries, therefore, the focus of development policies is shifting towards how these technologies can be adopted in greater depth and how to support firms in the consequent adjustment of their business models.

The countries interviewed emphasized that significant progress has been made in the digitization of support measures, starting with technical assistance and training services, which have migrated totally to the virtual domain. In the case of Brazil, SEBRAE made changes to its business assistance model (*acompanhamento empresarial assistido*), reformulating instruments and creating new ways of responding to business needs through mentoring services. The *Up Digital* programme, for example, promotes the practical use of digital technologies in small firms, through expeditious online training sessions, where closed groups of up to 15 firms share best practices and are accompanied by specialists. Overall, the online courses taught by SEBRAE in 2020 attracted almost twice the number of participants than in 2019, and the web portal registered 50% more hits.

In Chile, the *Digitaliza tu Pyme* [Digitalize your SME] platform—which deploys a number of tools to boost digitalization based on different stages (understand, learn and adopt)—took on 212,699 firms in the different digitalization programmes in 2020, compared to the 20,000 registered in 2019. The target proposed for the platform is to reach 250,000 MSMEs in 2021. In Colombia, greater acceptance of the use of digital technologies is reflected in the momentum seen in training programmes, which, by November 2020, had created digital transformation plans for a total of 11,400 firms, thereby surpassing the initial target of 10,000.

Use of digital platforms to support domestic marketing

Most countries reported the use of digital platforms to promote local commerce, provide market information and connect small businesses with consumers and strategic partners during the emergency. Programmes such as Brazil's *Compre do Pequeno* [Buy from small business], Colombia's *Yo me quedo en mi negocio* [I'm staying in my business], Ecuador's *Juntos Ecuador* [Together Ecuador] and Mexico's *Mercado Solidario* [Solidarity market] are all examples of this type of measure. The use of these platforms helped MSMEs enter the market during the pandemic —promoting an online presence, the creation of product and service portfolios and common spaces for interaction with customers and as suppliers for other firms. These platforms also promoted access to training on e-commerce issues, such as payment buttons, logistics services, etc.

Supporting the development of pandemic-critical products and solutions

Among the countries interviewed, Argentina and Uruguay had both introduced measures to support the development of pandemic-related goods, services and other solutions. In the case of Argentina, the National Production System Support Programme was created to assist SMEs, industries, entrepreneurs and public institutions in developing projects to produce medical supplies and hospital equipment. Under this programme, 139 projects were approved and received grants from the National Production Development Fund (FONDEP) and the Inter-American Development Bank (IDB). In Uruguay, the National Development Agency (ANDE) tackled this task through instruments that were already in place. Two calls for proposals were launched to promote the development of projects to respond to the pandemic through seed capital; and another one was launched for sectoral reactivation in the framework of the sectoral public goods for competitiveness programme. This programme makes grants covering up to 80% of the total cost of projects that generate solutions to improve the environment of a production sector, which must be available to all agents of the beneficiary sector. In the emergency, six out of 21 projects submitted under this modality were approved.

D. Financing

Facilitating access to financing to enable MSMEs to cope with the pandemic was one of the key emergency response measures in most countries. The nine countries interviewed reported a total of 56 financing measures, including special credit lines and public guarantee coverage. Two key features can be generally highlighted in the implementation of these instruments: flexibility of access requirements, to be able to adjust the instruments to needs that vary as the pandemic evolves; and the formulation of differentiated strategies, aligned with the local reality to expand beneficiary coverage.

In several countries, the deployment of special credit lines was accompanied by a major injection of resources to broaden the coverage of public guarantees. In Argentina, for example, the Specific Allocation Fund (FAE) was set up within the Argentine Guarantee Fund (FOGAR), to guarantee working capital loans for MSMEs affected by the pandemic. The guarantees provided up to 100% coverage and involve an investment of approximately US\$ 358 million. Globally, FAE-FOGAR mobilized over US\$ 1 billion in 2020; and FONDEP, which facilitates access to financing for production projects through interest rate subsidies and direct loans to SMEs, estimated that it would reach a total of US\$ 5.313 billion. In Chile, the government invested US\$3 billion to strengthen the Small Businesses Credit Guarantee Fund (FOGAPE).

In Costa Rica, the National Guarantees Fund of the National Development Fund (FONADE) granted portfolio guarantees on MSME credit operations with 50% coverage. In addition, the development banking system allowed the issuance of individual guarantees for the first time, providing up to 90% coverage for new credit operations.

Some countries created guarantee lines with different conditions for specific segments, including specific lines to support large firms affected by the pandemic. In Chile, FOGAPE created guarantees of up to 85% for MSME loans and allowed coverage of up to 60% for large firms. In Colombia, the Special

Guarantee Programme of the National Guarantee Fund (FNG) launched loan guarantees of up to 90% for MSMEs and up to 80% in the case of large firms. Uruguay promoted the SIGa Emergencia line through the National Guarantee System (SIGa), to enable MSMEs to access coverage for 80% of the principal in new loans and up to 70% of outstanding balances in debt restructuring operations; and the SIGa Plus line enabled large firms to access 50% coverage in new loans, for either working capital or investment.

Financial inclusion with a territorial approach

Countries such as Argentina and Colombia highlighted the adoption of a territorial approach to promote the coverage of credit instruments. In Argentina, 70% of the loans granted in 2020 were concentrated in four provinces, which made it necessary to define a strategy that took into account local characteristics of the different territories. Credit lines were activated through an IDB loan, for working capital and for investment by province. Both lines also have a specific quota of 20% for MSMEs led by women. Colombia generated nine credit lines with territorial considerations, creating partnerships with governors' and mayors' offices to pool resources and make sure requirements are adjusted to local conditions and needs.

Direct allocations

To make criteria for implementing credit instruments to confront the pandemic more flexible and expeditious, several countries have opted for direct allocation mechanisms. In Uruguay, ANDE granted interest-free soft loans to single payers directly without carrying out any credit analysis, during the period April–July 2020. A similar step was taken by Bancóldex in Colombia. Although coverage has been relatively modest, this direct action has made it possible to extend the coverage of financial services to areas not served by commercial banks. Mexico, on the other hand, highlighted the *Crédito a la palabra* [Credit on your word] programme, which supports family microenterprises and firms that maintained sources of employment in the first quarter of 2020. Funds are delivered through banks participating in the programme, with the beneficiaries committing to repayment within three years.

E. Changes and lessons learned in MSME support policies in Latin America

As discussed in the previous section, the COVID-19 outbreak has elicited major changes in policies to support Latin America's MSMEs, while also raising new questions and challenges for the future. The pressure on public institutions to deal with the pandemic has clearly exposed the fragilities of the MSME support system; but it has also stimulated new responses which, if capitalized on, could prove useful for overcoming historical inadequacies in development policies and give life to new programmes or more efficient operating modalities.

The purpose of this section is to identify these critical aspects and, based on the strategies adopted in the emergency, to extract and share the practical lessons learned by their protagonists (especially the authorities responsible for MSME support policies) for enhancing the design of policies to support smaller enterprises in Latin America.

Tight budgetary constraints predominate

A first point to consider is resource availability. A recently conducted study on the MSME support policies being implemented by seven Latin American governments found that the funding channelled by development entities to smaller firms was not negligible (Dini and Rueda, 2020). This conclusion, however, was valid considering the four macrocomponents of the policies (credit, public procurement, tax deductions and subsidies) as a whole. Nonetheless, the most direct means of financing technological, commercial and organizational improvements in firms and training for their staff, namely subsidies, seldom attained significant amounts.

During the pandemic, the support policies adopted were concentrated on credit, tax facilities and subsidies. The interviewees hardly mentioned government procurement.

Although it has not been possible to quantify the resources involved in these three areas, the predominant efforts have clearly focused, firstly, on providing credit under better access conditions, lower interest rates, longer grace periods and/or better coverage of the guarantee system; and, secondly, on safeguarding enterprise liquidity through measures that reduce or postpone their tax burden,¹ their expenses² or their financial commitments.³ In contrast, initiatives to stimulate the adoption of new technologies or modalities for organizing production have generally received very limited funding. In four of the nine countries analysed (Brazil, Chile, Colombia and Ecuador), the authorities responsible for MSME support policies have had to operate with a meagre budget that did not meet the needs generated by the pandemic. In another four (Costa Rica, Mexico, Panama and Uruguay), funding has shrunk as a result of budget cuts. The only exception in this scenario has been the MSME Secretariat of the Ministry of Production Development of Argentina, which in 2020 received over US\$920 million in funding, compared to a budget of around US\$40 million in previous years.

Towards a more selective approach

In this context, the public authorities have had to maximize the effectiveness of development policies, by reconsidering some of the guiding principles of the predominant business support model in the region.

Specifically, the need to provide differentiated responses in each sector or territory has made it necessary to rethink the resource allocation model. Until now, this has been based on business demand and “neutral” criteria, which do not discriminate by sector or territory.⁴

The heterogeneous impact of the pandemic has helped legitimize selective attention that takes different sector needs into account, prioritizing those hardest hit. In practice, nearly all of the countries analysed (especially Colombia and Uruguay) have adopted measures to support specific sectors such as tourism, cultural activities, and transportation, among others.

The territorial dimension has been built into MSME support policies even more explicitly. This is reflected in agreements between central and local institutions to define development instruments tailored to territorial needs;⁵ the development of ad hoc instruments for the different territories, such as the regional credit lines created in Colombia, in partnership with governors’ and mayors’ offices; the creation of coordination mechanisms between national development entities and local (especially regional) government representatives;⁶ and the mobilization of local resources to expand the coverage of support policies. On this last point, at least four countries⁷ have received significant contributions from local governments. In Colombia, this has made it possible to serve numerous intermediate cities, while in Chile regional funds have accounted for one third of the total amount invested to support MSMEs. Lastly, local governments have also contributed at the technical level, especially by adapting security protocols to the conditions prevailing in the respective territories.

¹ The measures in question include the following: extension of income tax payment deadlines (Brazil, Chile, Costa Rica, Ecuador); postponement or reduction of employer contributions to the social security system (Argentina, Brazil, Chile, Costa Rica, Uruguay); extension of VAT payment deadlines (Chile, Colombia, Costa Rica, Uruguay); tax amnesty or deferment (Argentina, Brazil and Panama) and suspension of taxes on stamps and seals (Chile).

² Especially by making it illegal to cut off basic services for customers in arrears (Argentina, Costa Rica, Ecuador); exemption from payment for such services (Uruguay); rent freeze and suspension of evictions (Argentina); or definition of rules to agree on payment conditions in the rental of property for residential or commercial use (Colombia).

³ As in the case of the deferral of credit obligations adopted in Ecuador, Mexico and Uruguay, or authorization in Panama to modify the terms and conditions of loans already granted to debtors affected by the pandemic.

⁴ The aforementioned study (Dini and Rueda 2020), which analyses the targeting of 246 MSME support measures in force in 2017 found that over 50% did not select either by production sector or by territory; almost a quarter included sectoral (but not territorial) preferences; 8% considered territorial but not sectoral selection criteria; and just 16% used both selection criteria.

⁵ Agreements of this type were reached in Argentina and Colombia. In Costa Rica, however, the National Learning Institute (INA) has also adapted its training courses to the specifics of the largest territories.

⁶ As in the case of Argentina’s National Production Council, where ministers and authorities from the 24 provincial production portfolios participated with the Minister of Production Development.

⁷ Chile, Colombia, Mexico and Uruguay.

Minimize fragmentation and maximize coverage

Another feature of the support policies, which some countries have tried to correct in order to make them more effective, is their excessive fragmentation. As has been noted in previous studies,⁸ the resources available to support smaller enterprises are often dispersed over a wide range of specific initiatives of very limited scope, which do not generate economies of scale and have less visible impacts but do generate considerable administrative costs.

In a context of scarce resources and pressing needs, it has been necessary to retarget and concentrate resources on a limited number of instruments; this process has taken place in varying degrees in Chile, Ecuador and Uruguay. For example, Chile decided to direct a large proportion of business promotion funds to the *Reactiva* programme.

While these efforts are necessary, they are not sufficient. To achieve mass coverage that would produce a perceptible change in predominant MSME behaviour patterns, the number of firms served needs to be multiplied several times over. In the months of the pandemic, several programmes have actually increased their coverage significantly. As noted above, *Digitaliza tu Pyme* is a leading example of programmes that aim to facilitate the adoption of digital technologies. In terms of credit, it is worth mentioning the experience of Argentina which has achieved unprecedented results in terms increasing the use of banking services by SMEs, thanks to collaboration between the Ministry of Production Development and local governments.

Increasing the flexibility and gradualness of the support system: towards an adaptive approach?

Another hard-learned lesson from the health crisis is that, in a complex context such as that caused by the COVID-19 pandemic, an institutional framework that is rigid and slow in its decision-making is unable to generate timely responses. In contrast, the adjustments made during these months make it possible to reconsider the current governance model and move towards the construction of an institutional framework that is more dynamic, capable of adjusting its actions in line with changes in its environment. This is referred to herein as the “adaptive approach”.

MSME support measures are not immune to this problem; and the authorities have recognized that policy implementation and management modalities need to be adjusted to respond rapidly to the demands of the business sector (and not just in the emergency). This is critical for underpinning the effectiveness of the system; and the lessons learned from the pandemic could help overcome shortcomings in this regard.

In practical terms, the interviews revealed a certain willingness to be gradual and flexible, both of which are attributes of an adaptive model. For example, gradualness can be discerned in the decision to prioritize the sectors hardest hit by the pandemic and then include others progressively as the effects of the crisis spread (this was the approach of Colombian authorities); or in speeding up the implementation of programmes that required a longer time frame and became crucial for dealing with the emergency (such as seed capital in Costa Rica).

Flexibility implies adjusting support measures as results are achieved. Examples of this include the review of requirements for gaining access to credit or seed capital in Chile or Panama; or the process of adapting the development programmes promoted in Argentina or Brazil, in the light of the opinions expressed by local governments and business chambers and associations.

In this context, speed of response has become a critical factor which depends mainly on two factors: diagnostic capacity and the rigidity of administrative procedures. These are analysed in the following sections.

⁸ See Dini and Rueda (2020).

Diagnostic capacity and relations with the business sector to enhance response capacity

With very few (and partial) exceptions, the MSME authorities have neither adequate information systems for local analysis (which has to capture the different territorial realities), nor reliable and timely data. The cost of traditional tools (censuses and surveys), and their implementation times, have meant that only a handful of countries in the region maintain this important research exercise over time. On the other hand, the experience of the Employment and Business Dynamics Observatory (OEDE) of Argentina and the Labour and Business Dynamics Laboratory of the National Institute of Statistics and Censuses (INEC) of Ecuador show that administrative records can be exploited as a feasible way to generate information flows—with a periodicity appropriate to the needs of policy design (under “normal” conditions) and at a cost compatible with the constraints on public budgets. However, in an emergency scenario such as the current one, the analyses needed to adjust support measures have to be completed in even shorter time frames and in contexts of uncertainty that make decision making even more complex.

In view of this, several MSME authorities (including those of Argentina, Brazil and Colombia) have stressed the importance of establishing and/or consolidating a permanent dialogue with the private sector. This makes it possible to capture the demands of the business sector more accurately, make support actions more relevant, and enrich development initiatives with this sector’s own resources (both human and financial). Examples include the agreement signed between the Argentine government and the Association of Metallurgical Industrialists of the Republic of Argentina (ADIMRA), to create a digital hub and a network of experts to advise 24,000 firms in the metallurgical and metal-mechanical sector; the steps taken by the MSME authority in Ecuador to stimulate production linkages; and the creation of a dialogue forum with business chambers in Uruguay to draw up guidelines for a strategy to reactivate the country’s economy.

Relaxation of formalities

Another factor hindering the development of adaptive capacity in the development system is the rigid nature of the established resource-management procedures. This situation has two very different causes: the need to ensure transparent use of resources; and the demand-driven approach that guides most of the MSME-strengthening strategies adopted by countries in the region.

On the first point, there is a clear need to review the legitimacy of the rules imposed by oversight bodies (such as the Office of the Comptroller-General of the Republic or similar entities) to ensure that resources are administered transparently and with full traceability (especially those sourced from the national budget). Without denying this need, all authorities interviewed recognize that procedures can be improved; and they note that, during the pandemic, they have redoubled efforts to reduce time and eliminate unnecessary steps.

The pandemic has speeded up the introduction of digital technologies in the management of support programmes. Firms can now use digital media and the Internet for an increasing number of procedures, such as applying for available assistance, documenting the conditions of the applicant firms, submitting projects, etc. At the same time, technical assistance activities themselves, especially training courses, have been converted to digital format so that they can be delivered even in quarantine situations. Among the benefits of this process, interviewees highlighted the increased coverage of policies at very low marginal costs. However, two issues need careful consideration: first, the digitalization of support actions is relatively simpler when dealing with standard activities that involve predictable and (to some extent) repetitive dynamics. Its feasibility is much less clear in the case of complex, customized programmes that confront *ad hoc* problems. An example is the *Up Digital* programme in Brazil, which creates closed training groups, trained by specialists over 10 days, to promote the exchange of good practices among firms. Secondly, the digitalization process in development policies or programmes raises a very serious question about how to ensure coverage for segments of the target population that do not have access to the necessary digital technologies.

The other cause of administrative rigidity in the support system is the demand-driven approach, mentioned above, which many countries use to allocate resources. The attempt to sterilize any interference by public authorities in the direction the policy support system should take, results in very detailed (ex ante) definitions of the programmes to be promoted and the procedures to be followed. It also reduces the powers of the support agency, since the relevant decisions are based on regulatory automatism that are ultimately administered at the central level. Signs of the emergence of an adaptive approach in the culture of support institutions, as alluded to above, may mean that possibilities are emerging to tackle this problem at root. In this connection, it is worth noting the reflection offered by the Brazilian authority on a new business support model. This is based on less structured processes and a closed dialogue between the support agency and sectorally homogeneous business units that help to identify problems and intervention proposals, and collectively supervise their deployment.

II. Competition policy in the pandemic and the recovery of MSMEs

The competition authorities' main objective is to keep markets functioning properly and, in particular, prevent processes of adjustment to new demand conditions from provoking price wars or predatory behaviour (ECLAC, 2021).

During the pandemic, competition policy has played a key role in the assistance that several countries have provided to enable the production sector to adapt to the new economic conditions. The main actions have included allowing temporary agreements between smaller firms to pool technical know-how and resources with the aim of limiting business failures, supporting the continuity of supply chains and boosting economic recovery. Of the seven countries analysed, five have adopted measures of this type: Brazil, Chile, Colombia, Mexico and Peru.

The other focus of their actions has been the digital transformation and the competitive changes this can bring about. The pandemic has accelerated the adoption of digital channels, and it is highly likely that this change in consumer habits will persist after the crisis. Coupled with the intensification of economies of scope and "winner-takes-all" dynamics, this has sharply increased the concentration of profits, thereby consolidating the rise of digital platforms and reliance on them by many firms that supply goods and services (Da Silva and Núñez, 2021).

Numerous governments in the region are collaborating with international bodies and the private sector to regulate the actions of the platforms, with a view to limiting anti-competitive effects without inhibiting innovation and, at the same time, generating an environment for all economic agents that make use of them.

In this context, data is becoming an increasingly important intangible asset for firms in both the traditional and the digital economy in the new competition model. This new asset enables firms to create their algorithms, which, in these economies, are used in anti-competitive practices such as self-preferencing and even for collusion.

A key aspect of ensuring effective competition between players competing in the digital sphere of the economy concerns the data valuation process. This can drive interoperability, since data markets can emerge from the process. In a data-driven economy, data protection, privacy and assurance of cybersecurity become critical functions for the relevant authorities.

All of these elements have generated a significant modernization and innovation effort in terms of the application of policies in digital markets. In Latin America, initiatives launched by the competition authorities in this area include the following:

- In Brazil, the Administrative Council for Economic Defence (CADE) has developed the *Cérebro* interface, which provides data mining tools and automates analysis using algorithms created previously by researchers and case managers.
- In Colombia, the Superintendency of Industry and Commerce used machine learning to develop the *Sabueso* tool for data collection, price monitoring and the detection of abnormal conducts in digital markets.
- In Mexico, the Federal Commission on Economic Competition (COFECE) created the Directorate General of Market Intelligence in 2014, which later became responsible for digital evidence collection. The unit has used tools such as Apache Spark (for big data), web scraping (data mining), parallel computing, cloud computing and artificial intelligence algorithms (machine learning).
- In Chile, the National Economic Prosecutor's Office (FNE) created an innovative Intelligence Unit to improve its investigation techniques for the prosecution of cartels.
- In Costa Rica, the Commission for the Promotion of Competition (COPROCOM) and the Superintendency of Telecommunications (SUTEL) have developed a roadmap and objectives for purchasing hardware and software to support digital forensic analysis. This is slated for implementation in 2023.
- In Ecuador, the Superintendency of Market Power Control (SCPM) is in the process of implementing a digital tool that uses big data and artificial intelligence as the main inputs for detecting digital cartels.

Table 2 sets out the main regulatory and legal tools currently in force in the seven countries analysed, in the domains of free competition, telecommunications, data protection and technological platforms. Some general features of the regulatory frameworks are described in the following paragraphs.

In Argentina, the National Commission for the Defence of Competition (CNDC) is the public agency tasked with enforcing competition law. The National Communications Agency (ENACOM) is responsible for enforcement of the Telecommunications Law including some of the provisions targeting platforms. Online stores and platforms in general benefited during the pandemic, and the result of the practices was widespread price hikes.

Brazil has two government agencies tasked with implementing free competition regulations: the Administrative Council for Economic Defence (CADE) and the National Telecommunications Agency (ANATEL). During the pandemic, agreements between firms were allowed, with the dual objective of maintaining supply chains and avoiding further business failures. CADE imposed five conditions on such agreements: (i) exceptional situation; (ii) adoption of preventive measures; (iii) causal relationship between the crisis and the desired cooperation; (iv) specified period of cooperation or coordination; and (v) benefits generated and ways to pass them on to the consumer.

Two other significant events were: the presentation of a draft law in the Chamber of Deputies that permits intervention in the economic domain on the gross income of digital services provided by large technology firms (CIDE-Digital); and the fact that during the pandemic, the Central Bank of Brazil rejected Facebook's request to become a payment platform.

In Chile, there are two competition authorities: the Competition Court (TDLC) and the National Economic Prosecutor's Office (FNE), which are jointly responsible for enforcing Chile's Antitrust Law. Under the pandemic, TDLC issued a regulation allowing consulting parties to enter into cooperation agreements between competitors, as necessary to maintain the supply chain of goods or services considered essential.

Table 2
Latin America (selected countries): competition regulatory framework

	Argentina	Brazil	Chile	Colombia	Costa Rica	Peru	Mexico
Legal framework (general)	Law No. 27.442 for the Defence of Competition (2018). Law No. 27.078, "Digital Argentina" Law (2014). Supply Law No. 20.680 (1974).	Law No. 12.529 for the Defence of Competition (2011). Telecommunications Law 9.472 (1997).	Decree Law No.211 General Competition Law (1973). Law No. 18.168, General Telecommunications Law (1982).	Law No.1340 Competition Law (2009). Law No.1341, ICT Law (2009).	Law No. 7472 Competition Law (1994). Law No. 9736 Competition Reform Law (2019). Legislative Decree No. 8642 General Telecommunications Law (2008).	Legislative Decree No. 1034 Law for the Defence of Free Competition. Supreme Decree 030 Law for the Repression of Anticompetitive Conduct (). Legislative Decree No. 702 Telecommunications Law.	Federal Economic Competition Law (2017). Federal Telecommunications and Broadcasting Law (2014).
Regulatory framework	Law No. 25.326 Personal Data Protection (PDPA). Decree No. 274/2019 New Fair Trade Regime.	Law13.709 Data Protection.	Law No. 19.628 Protection of Private Life (1999). Law. No. 21.096 Personal Data Protection. Law No. 19.223 Computer Crimes and the National Cybersecurity Policy (NCSP) 2017–2022.	Law No. 1266 Financial Privacy Rules (2008). Law No. 1581 General Privacy Rules (2012). Big Data Action Plan. Colombian Criminal Code on Cybersecurity.	Law No. 8968 Personal Data Protection Law (2011). Law No. 9048 Computer Crimes (2012).	Law No. 29.733 Personal Data Protection Act (PDPA) Law No 30.096 Cybercrimes (2013).	Federal Law on the Protection of Personal Data Held by Private Parties (2010).
Platform regulation	Draft Law No. 0821-D Special Technology Platform Worker Contracts.	Law regulating transportation applications (2018). Fake News Law (PL2630/2020). Draft Law No. 2358/2020, CIDE-Digital.	Tax regulations. Draft laws on Digital Media (2015).	Draft laws on Private Transportation Service through Technological Platforms 003 (2020). Tax regulations on digital platforms (2018).	Digital platform policies. National Code of Digital Technologies (2020). Tax regulations (Resolution DGT-R-13-2020).	Draft laws on digital platforms. Law on decent employment regulating digital platform workers. Draft law to regulate collaborative economy-based service platforms. Legislative Decree No. 945 Tax regulations.	Digital platforms regime. Section III of Chapter II (Title IV) of the Income Tax Law. Tax regulations for technology platforms. Value Added Tax Law, Chapter III - VAT Provision of digital services by residents abroad without an establishment in Mexico.

	Argentina	Brazil	Chile	Colombia	Costa Rica	Peru	Mexico
Competition authority	National Commission for the Defence of Competition (CNDC).	Administrative Council for Economic Defence.	Competition Court (TDLC) and the Office of the National Economic Prosecutor (FNE).	Superintendency of Industry and Commerce (SIC).	Commission for the Promotion of Competition (COPROCOM).	National Institute for the Defence of Competition and Intellectual Property Protection (INDECOPI). Supervisory Agency for Private Investment in Telecommunications (OSIPTEL).	Federal Commission on Economic Competition (COFECE).
Regulatory authority	National Communications Agency (ENACOM).	National Telecommunications Agency (ANATEL).	Ministry of Transport and Telecommunications (MTT) through the Undersecretariat for International Economic Relations. National Television Council.	Ministry of Information and Communication Technologies. Communications Regulation Commission (CRC). National Spectrum Agency (ANE).	Superintendency of Telecommunications (SUTEL).	Supervisory Agency for Private Investment in Telecommunications (OSIPTEL).	Federal Telecommunications Institute (IFT).
Data protection authority		National Data Protection Authority (ANPD).	Transparency Council.	Superintendency of Industry and Commerce (SIC).			National Institute for Transparency, Access to Information and Personal Data Protection (INAI).
Digital economy assets		"Cérebro" interface.	INE Intelligence Unit.	"Sabueso" market monitoring tool.	In development		Article 94 of the Federal Economic Competition Law (2017). Digital Markets Unit.

Source: R. Bustillo, "Analysis of competition policies in Latin America and the Caribbean and the post-pandemic recovery period", *Project Documents*, Santiago, Economic Commission for Latin America and the Caribbean (ECLAC), 2021, forthcoming.

In Colombia, the Superintendency of Industry and Commerce (SIC) is the competition authority and consumer protection agency, tasked with enforcing antitrust regulations. Owing to the health emergency, SIC issued a resolution allowing agreements between competitors aimed at addressing the emergency caused by the pandemic.

Costa Rica's Competition Law created the competition authority (COPROCOM) to oversee its application, while SUTEL has exclusive jurisdiction to enforce competition law and oversee mergers in the telecommunications market. The only change during the pandemic occurred in the digital platforms policy establishing the procedure for collecting VAT on digital services.

Peru has two competition agencies: the Supervisory Agency for Private Investment in Telecommunications (OSIPTEL), which has jurisdiction over all matters related to the telecommunications sector; and the National Institute for the Defence of Competition and Intellectual Property Protection (INDECOPI), covering all other sectors of the economy. During the pandemic, INDECOPI confirmed the legality of inter-firm agreements that maximize production and distribution efficiency for the benefit of consumers. Economic agents are allowed to pool efforts to reduce costs in technology or distribution. The authorities have not issued any law to control the prices charged by digital platforms. Nor have the online markets taken any action against sellers using their platforms.

Mexico has two competition authorities: COFECE, which is tasked with enforcing the Federal Economic Competition Law; and the Federal Telecommunications Institute (IFT), which is in charge of implementing the Federal Telecommunications and Broadcasting Law. COFECE presented 12 measures to address the economic recovery.⁹ Actions that concern digital platforms and, particularly, their contents and the protection of personal data, are framed by the National Digital Strategy. Coordination between the authorities (COFECE through the Digital Markets Competition Unit; IFT; the National Institute for Transparency, Access to Information and Personal Data Protection (INAI); and the Office of the Federal Prosecutor for the Consumer (PROFECO)) is still very incipient. However, the key points of public policy governing the management of technological platforms consist in defining effective coordination arrangements for the mitigation of potential adverse effects on free competition and on user privacy and security. The Competition Committee and the Digital Economy Policy Committee (CDEP), in which agencies such as COFECE and IFT participate, have the technological platforms among their topics of interest.

⁹ See COFECE (2020).

III. Conclusions

The difficult months of combating the pandemic have left a bitter human and economic legacy. The institutions that support MSMEs and promote policies to protect competition have demonstrated their capacity to react to this challenge, by making unprecedented efforts to adjust their strategies and operating modalities to the new needs. Capitalizing on this learning is important for improving the future performance of the production sector support system.

With regard to MSME policies

Each country will inevitably have its own agenda, but there are a number of common features that are worth highlighting because they could form the basis for a more intensive and sustained collaboration, based on exchange and reciprocal assistance.

In the production programmes, three areas are particularly relevant to economic reactivation:

- **Support for incorporating digital technologies:** on this front, at a time when development policies are moving from simple awareness-raising and primary literacy actions to more complex actions aimed at deepening digital adoption processes, the domains of regional collaboration among development institutions are expanding. The challenges of the new digital economy pose problems that can be addressed more effectively through concerted actions. In this regard, it is particularly important to analyse the regulatory and strategic requirements that arise with the deepening of the data economy and the consolidation of digital platforms as a means of generating new production services.
- **Stimulus for enterprise formalization:** the need for updated business registries has proven vital during the pandemic; and the measures adopted to stimulate formalization have been boosted substantially by the pressing needs of the crises. Beyond the emergency, however, there remains a structural problem related to the very low productivity of microenterprises. Without measures to narrow the relative labour productivity gap between this segment and the more developed production units, formalization processes will be sterile and possibly impermanent.
- **Biosecurity protocols:** considering a likely scenario involving long-term coexistence with the virus, the design and implementation of technical standards that guarantee safe production is an essential condition for economic reactivation. Beyond the specifics of the current crisis, building competencies in this area can lay the foundations for progress towards the generation of safer and more sustainable production environments.

There are also signs of a shift in the way policies are formulated, from rigid management methods towards an approach that allows interventions to be adapted, based on a continuous reading of the evolution of the reality in which firms operate.

Key elements of this process include the empowerment and strengthening of public institutions, the deepening of ties of dialogue and collaboration with the business sector, and the consolidation of decentralization dynamics that provide space for participation by local and regional actors. In these areas, the development of contact and exchange networks among the key leaders of MSME-support policies in the region could form a dynamic knowledge and reciprocal training laboratory.

With regard to competition policies

The digitalization of the economy requires greater involvement by the competition authorities, since new areas of analysis need to be added to their remit, such as data protection, the use of technological platforms, and so forth. It needs to be recognized that horizontal measures alone are no longer effective in combating anti-competitive practices.

Competition policy must be integrated with industrial policy, in a collaboration between public bodies and firms, as many of the actions could directly affect the latter's' business models and strategies. Competition authorities need more versatile tools to deal with the dynamics of the digital economy.

Cooperation among competitors has become a tool to hasten the recovery and maintain global value chains; but if prolonged over time this could give rise to anti-competitive practices (such as price collusion), because it gives firms the opportunity to learn more about the structure of their competitors' modus operandi.

Demarcating jurisdictions between sectoral authorities and the competition authority helps to avoid duplication of costs, inefficiencies, legal uncertainty and the risk of inconsistencies in markets, particularly digital ones (for example, COFECE and IFT in Mexico). Similarly, in digitalized economies it is crucial to achieve integration between the competition and data-protection areas. Data and their use have a powerful indirect impact, and it is very important to assess and combat these impacts in the crisis context that currently prevails. Recognizing the need for differentiated policies in different digital markets is essential to ensure free competition.

Promoting data cooperatives and initiatives that strengthen data accumulation by SMEs could become a tool to enhance competition in markets; guaranteeing the flow of data and access to them are fundamental in this regard. Data are increasingly seen as an important specialized asset in the digital economy competition model.

The health-care crisis has highlighted the increasing reliance of individuals and SMEs on digital platforms; and some competition authorities have already started to develop rules to address the post-pandemic reality of increasing digitalization. Some of these changes seek to assess market power on digital platforms more effectively. Markets with strong network effects are correlated with anti-competitive practices and the growing presence of monopolies, which require greater attention.

There is an ongoing debate on the large-platform business model, which tends to concentrate data. Yet, dismembering platforms or forcing the divestment of assets could have perverse and often negative effects for smaller firms that use platforms to promote their products. For example, the reduction of economies of scale could lead to higher prices. As data is an input for product customization and service improvement, the loss of a database could lead to a reduction in quality.

While ensuring the survival of MSMEs, it is important to combat non-neutrality and self-preference, especially in the current context in which SMEs use platforms to digitalize their business. Digital SMEs have become significant players in the digital economy and are responsible for a sizeable segment of innovation and thus for market dynamics. Sector- or firm-specific measures could help address anti-competitive practices.

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The coronavirus disease (COVID-19) pandemic has hit micro-, small and medium-sized enterprises (MSMEs) particularly hard. In this context, policies designed to stimulate their growth and to defend competition now play a key role in tackling the effects of the crisis and in the path to recovery.

To respond to the new demands and needs resulting from this crisis, the institutions responsible for the design and implementation of these policies have had to face new challenges, rethink their approaches and quickly devise creative new methods of operation.

This document summarizes the research conducted by the Economic Commission for Latin America and the Caribbean (ECLAC) on these issues. The lessons learned by public institutions show that there are various forms of innovation which, if economic actors were to leverage them, could result in a lasting improvement in the actions to support the productive sector.



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