



Structural Reform in Mexico

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- **This presentation focuses on two key areas of Structural Reform:**
 - Competition Policy
 - Regulatory Reform
- **To assess progress and identify challenges, we consider the results of a recent OECD Peer Review exercise in both areas.**



Competition and regulatory policies have contributed in:

- Increasing flexibility and strengthening the economy
- Improving the environment for trade and investment
- Enhancing efficiency and productivity



Competition Policy

Peer review exercise



- The OECD's Peer Review exercise is a powerful instrument to assess Competition Law and Policy.
- Mexico has benefited greatly from two reviews: 1998 and 2004.

Strengths (I)



- The 2004 report confirms strengths identified in the 1998 report:
 - The analytical quality of the Law and its regulations;
 - The establishment of an institutional setup to enforce the law that has gained in standing and credibility over time; and
 - The Federal Competition Commission's (FCC) recognized authority and its active role in participating in formulating competition enhancing public policies.
- The report notes that “the perception of an institutional reluctance by the FCC to engage powerful opponents has largely dissipated.”

Strengths (II)



- It identifies additional strengths :
 - The FCC has become a credible and respected organization, both domestically and internationally;
 - The FCC follows the best principles of management and the highest standards of public service; and
 - The FCC has effectively focused its limited resources to the most relevant matters in promoting competition policy in Mexico.
- The report concludes: “The FCC’s accomplishments are remarkable given the difficult environment in which it operates”

Some strengths have evolved in areas that were the focus of the 1998 recommendations



1998 recommendations

- “Maintain emphasis on regulatory issues and regulated and privatising sectors ...”
- “Broaden the base of support...”
- “Enter international co-operation agreements to improve enforcement efficiently in transnational matters.”
- “Make the FCC part of the Economic Deregulation Council ...”



2004 findings

- The FCC has “maintained a focus on regulated and privatised sectors,
- sought to broaden its base of support by publicising its actions to a wider audience and conducting outreach activities
- established important international antitrust co-op agreements ...”
- “... the Chairman of the FCC is a permanent member of the present Regulatory Improvement Council.”

However, there are key pending issues



1998 recommendations

- “Broaden the base of support...”
- “Provide for effective power to ensure that regulations to remedy market power actually achieve that aim ...”
- “Broaden the available enforcement resources by expanding the right of private action.”



2004 findings

- “ ... the degree of general support for competition policy is still an open question and remains a potential vulnerability. ”
- “... the FCC has a mixed record of participation in proceedings to establish price regulation for inadequately competitive market sectors. “
- “... further maturation of Mexico’s antitrust environment, especially in the courts, is necessary before private actions can become a significant feature of competition policy enforcement.”

The 2004 report identifies additional weaknesses



- “... certain statutes and judicial processes that constrain the FCC’s ability to remedy anti-competitive conduct and market conditions ...”
- “... decline in the Commission’s budget and staffing levels.”; and
- “...some deficiencies in the Commission’s own case litigation procedures, and in its interface with other government entities, that reduce the FCC’s efficacy as a law enforcement agency and competition advocate.”

The findings go to heart of key FCC's institutional challenges



- 1. Absence of an integral competition policy**
- 2. Lack of competition culture**
- 3. Excessive litigation**
- 4. Ineffectiveness of fines**
- 5. Legal limitations**
- 6. Limited resources**

Proposed reforms



- The office of the President of Mexico is developing a package of legislative reforms that pursue the following objectives :
 - To consolidate FCC's autonomy;
 - To promote a comprehensive and consistent competition policy across all sectors;
 - To reinforce the authority of the FCC to prevent anticompetitive practices; and
 - To implement more effective administrative and judicial procedures.
- These reforms would address most of the recommendations presented in the 2004 report



Regulatory Reform

Regulatory Reform in Mexico



- In 1998 the OECD reviewed Regulatory Reform in Mexico, following 15 years of rapid expansion of reforms to transform the country from an inward-looking to an open and market-based economy.
- In 2004, the OECD reviewed Mexico's progress in implementing Regulatory Reform.

Progress: Quality criteria



“Regulations are now subject to quality criteria: tools and processes used in designing regulations are themselves subject to critical assessment.”

- **Regulatory policies**
- **Regulatory institutions**
 - **The Federal Regulatory Improvement Commission (COFEMER)**
 - **Regulatory Improvement Council**
- **Regulatory tools and procedures**
 - **Regulatory Impact Assessment (RIA)**
 - **Administrative simplification**
 - **Ministry of Public Administration**
 - **Keeping rules up-to-date**
 - **Federal Registry of Formalities and Services (RFTS)**
 - **Transparency**

Progress: Transparency



“More transparent mechanisms have been introduced to attain high quality regulation. Market openness and competition are better integrated into regulatory reform.”

- **“Transparency mechanisms have also been strengthened through the creation of the Federal Institute of Access to Public Information....”**
- **The Institute “...guarantees the effectiveness of both the right to access public information and the right to privacy through data protection and promotes transparency and public sector accountability.”**

Progress: Infrastructure sectors



- **Financial services:** The regulator has been given a mandate primarily in terms of ensuring stability and prudential oversight of banking activities mainly, which has been quite successful to date.
- **Water:** “Mexico now has a record of all water concessions and discharge permits” in the regulator’s Public Register of Water Rights.
- **Telecommunications:** Regarding interconnection and service quality, the Mexican agency has comparable powers to agencies in other OECD countries.
- **Electricity:** The regulator has established a policy of consistent and timely announcements of its activity through the media.

Challenges: Close the income gap

“The most important challenge confronting the Mexican authorities is to close the very large income gap between Mexico & more advanced OECD countries...To raise productivity growth and narrow the gap in living standards, more reforms are needed.”

Challenges: Reduce heterogeneity, increase scope



“The scope and breadth of reforms remains uneven, particularly with regard to some infrastructure sectors.”

- “Regulation is applied through a wide range of heterogeneous legal instruments or administrative acts that are not clearly ordered in hierarchical fashion.”
- “Mexico’s Congress has made increasing use of its legislative faculties and generated a greater volume of legislation in recent years that is not subject to the regulatory quality requirements established in the executive branch.”
- “Weak enforcement and compliance mechanisms are hindering positive results that could benefit all sectors of society.”

Challenges: further reform in infrastructure areas



“Regulatory policy needs to adopt a “whole of government” perspective to fully reach its goals.

This involves undertaking reforms to the current regulatory framework of key infrastructure areas, in order to increase opportunities for private investment and improve economic competitiveness.”

1. Financial Services
2. Water
3. Telecommunications
4. Electricity

Pending issues in key sectors



- **Financial services:** “The low level of financial penetration is one of the most unfavourable consequences of the lack of competition in the sector”
- **Water:** “The current pathway for the use of water resources was clearly identified as unsustainable...”; “The transition from a very large integrated agency to an efficient and streamlined regulator, with clearly identified objectives is a long-term goal, and will not be easy to attain.”
- **Telecommunications:** “The COFETEL has faced a number of institutional difficulties, including the need for increasing transparency in decision-making... Mexico still faces an important challenge to reach lower income areas.”
- **Electricity:** “The best long term scenario lies in the development of a competitive market, in order to attract private investment and generate sustained pressures for efficiency.”

Reinforce competition policy



“Competition policy should be further reinforced as a core factor contributing to regulatory and trade policies, so real market access is granted to all participants.”

Conclusions



Mexico has embarked on regulatory reform but still faces important challenges

- **A “whole of government” perspective will help Mexico reach the goals of regulatory policy**
- **This involves undertaking reforms to the current regulatory framework of key infrastructure areas, to increase opportunities for private investment and improve economic competitiveness**
- **Competition policy can become a pivotal policy tool that will spur Mexico’s economic development.**