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TAILORING ANTITRUST CORRECTIVE MEASURES: COMPLIANCE PROGRAMS AND EFFECTIVE ENFORCEMENT IN PERU[1]

Adequando as medidas corretivas antitruste: programas de conformidade e aplicação eficaz no Peru

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STRUCTURED ABSTRACT

Objective: to analyse the effectiveness of corrective measures imposed by Indecopi in cartel cases in Peru, focusing on the implementation of mandatory compliance programs.

Method: this qualitative study is based on the review of landmark Indecopi cartel decisions, a normative analysis of the Peruvian legal framework, and a comparison with guidance and practices adopted by international organisations and competition authorities, especially the Organisation for Economic Co-operation and Development (OECD), the International Competition Network (ICN), and the United Nations Conference on Trade and Development (UNCTAD). Case selection focused on representative decisions involving different sectors and firms of different sizes.

Results: the analysis shows that current corrective measures often lack proportionality and effectiveness because they tend to replicate standardised compliance programs that are insufficiently sensitive to the specific infringement, the economic size of the firms involved, and the real conditions of implementation.

Conclusions: compliance programs can be valuable instruments for restoring competition and preventing recidivism, but their effectiveness depends on proportional design and adequate supervision. In Peru, the uniform imposition of compliance obligations, without taking into account firms' capabilities, especially those of small and medium-sized enterprises (SMEs), weakens the preventive purpose of the remedy. Alternatives such as internal training, firm-size-adjusted monitoring solutions, and mechanisms that preserve the independence of compliance officers may produce better outcomes.

Keywords: competition law; corrective measures; compliance programs; Indecopi; Peru.

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RESUMO ESTRUTURADO

Objetivo: analisar a eficácia das medidas corretivas impostas pelo Indecopi em casos de cartel no Peru, com foco na implementação de programas de conformidade obrigatórios.

Método: estudo qualitativo baseado na revisão de decisões emblemáticas do Indecopi em casos de cartel, análise normativa do marco jurídico peruano e comparação com documentos e práticas de organismos e autoridades internacionais, especialmente da Organisation for Economic Co-operation and Development (OECD), da International Competition Network (ICN) e da United Nations Conference on Trade and Development (UNCTAD). A seleção dos casos considerou decisões representativas de distintos setores econômicos e empresas de diferentes portes.

Resultados: a análise mostra que as medidas corretivas atualmente impostas carecem, em vários casos, de proporcionalidade e efetividade, pois tendem a reproduzir programas padronizados, pouco sensíveis às especificidades da infração, ao porte econômico das empresas e às condições reais de implementação.

Conclusões: os programas de conformidade podem ser instrumentos relevantes para restaurar a concorrência e prevenir reincidências, mas sua eficácia depende de desenho proporcional e supervisão adequada. No Peru, a imposição uniforme de obrigações de compliance, sem considerar a capacidade das empresas, especialmente das pequenas e médias empresas (PMEs), enfraquece o objetivo preventivo da medida. Alternativas como treinamento interno, soluções de monitoramento ajustadas ao porte da firma e mecanismos que preservem a independência do compliance officer podem produzir melhores resultados.

Palavras-chave: direito da concorrência; medidas corretivas; programas de conformidade; Indecopi; Peru.

Classificação JEL: K21; L41; L51; L38.

1 INTRODUCTION

Effective enforcement of competition law requires not only punitive sanctions, but also forward-looking corrective measures designed to restore competition and prevent repeat offences. Traditional antitrust enforcement was largely rooted in deterrence theory, according to which firms will comply if the expected cost of infringement outweighs the gains from the unlawful conduct (Becker, 1968; OECD, 2021). In contemporary competition policy, however, there is increasing recognition that deterrence alone is insufficient. Fostering an internal culture of compliance within firms is equally relevant to reducing the likelihood of future infringements (ICN, 2021).

Around the world, competition agencies have intensified efforts to promote corporate compliance programs as a complement to enforcement. Many authorities now encourage, and some require, firms to implement antitrust compliance measures, especially in cartel cases, in order to detect and deter unlawful conduct from within the organisation (OECD, 2021). International organisations have reinforced this trend. The OECD has highlighted the growing use of compliance programs in cartel enforcement, while the International Competition Network (ICN) has stressed that an effective program depends on genuine management commitment and on the integration of compliance into the company's culture (OECD, 2021; ICN, 2021). United Nations Conference on Trade and Development (UNCTAD) has likewise noted that a well-functioning compliance system is one of the best tools available to prevent antitrust violations or at least detect them early (UNCTAD, 2023).

Consistent with these global developments, Peru's competition agency, the National Institute for the Defense of Competition and Intellectual Property (Indecopi), has increasingly relied on mandatory compliance programs as corrective measures in antitrust enforcement decisions. In recent years, the scope of these corrective measures has expanded significantly. A 2018 legal reform expressly authorised the Competition Commission to require training and compliance measures, and in 2020 Indecopi issued Guidelines on Antitrust Compliance Programs to encourage the adoption of effective internal systems (Indecopi, 2020). Those Guidelines identify core elements such as management commitment, risk identification, training, monitoring, and oversight. They also recognize that program design should consider the size and characteristics of the company (OECD, 2019).

Despite these efforts, Indecopi has encountered significant practical difficulties in enforcing compliance programs on companies sanctioned for antitrust infringements. In most recent cartel cases, the Commission has required firms to implement internal Competition Compliance Programs; however, ensuring effective implementation has proven challenging.

One major issue is the adoption of uniform, "one-size-fits-all" programs. The Commission has tended to impose identical requirements on all firms, without considering differences in size, resources, or degree of involvement in the infringement. This approach can overwhelm smaller firms while being suboptimal for larger ones, leading to concerns about proportionality and effectiveness.

Closely related are the financial constraints faced by small and medium-sized enterprises (SMEs). Some corrective measures require hiring an independent compliance officer, often a competition law expert. For SMEs, the cost of recruiting and maintaining such a professional can be prohibitive, creating a paradox in which the firms most in need of compliance improvements are the least able to afford them.

Finally, challenges arise regarding the role and independence of compliance officers. In some cases, officers become too integrated into the company's legal or management structure, effectively acting as advocates rather than independent monitors. In others, companies resist their presence by limiting access to information or support, reducing their role to a mere formality. These dynamics undermine the purpose of the measure and hinder effective detection of anticompetitive conduct.

In light of these challenges, this article examines each issue in depth, situating them within the legal and institutional framework of Indecopi's corrective measures. It then proposes targeted recommendations, drawing on comparative experiences, to enhance the effectiveness of compliance-based remedies and prevent recidivism in antitrust violations.

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This article adopts a qualitative methodology. It combines, first, a review of representative cartel cases decided by Indecopi, selected because they span different sectors, years, and firm sizes; second, a normative analysis of the Peruvian legal framework governing corrective measures; and, third, a comparative reading of international guidance and specialised literature on compliance programs. The objective is not to test causal hypotheses statistically, but to interpret how Peru's enforcement design operates in practice and to assess whether the current model promotes effective compliance.

Against that background, this article advances three analytical propositions. First, uniform compliance program mandates are less effective than tailored approaches in promoting meaningful compliance with competition law. Second, SMEs face disproportionate burdens when compliance measures are imposed without explicit proportionality criteria. Third, the deterrent value of compliance-based remedies depends in significant part on the independence and practical effectiveness of compliance officers within firms.

The article proceeds as follows. Section 2 reviews the legal and institutional framework for Indecopi's use of corrective measures and explains how compliance obligations evolved in Peru. Section 3 examines the challenges involved in implementing compliance programs. Section 3.1 analyses the drawbacks of one-size-fits-all remedies. Section 3.2 addresses the financial constraints faced by SMEs. Section 3.3 discusses how to ensure the independence and effectiveness of compliance officers. The final section presents the main conclusions.

2 LEGISLATIVE BACKGROUND

The authority of Indecopi's Competition Commission to impose corrective measures is grounded in Peru's competition law. Legislative Decree No. 1034 of 2008, the Peruvian Competition Act, empowered the Commission to order various measures whenever a company or individual is found liable for anticompetitive conduct. According to Article 14 of Decree 1034, the Commission may impose any remedial action necessary to halt the infringement and restore competitive conditions (Peru, 2008).

Article 16 of the law provided a non-exhaustive list of possible measures, including: (i) the cessation of the anticompetitive conduct; (ii) an obligation to contract or deal with certain parties under specified conditions; (iii) the nullification or unenforceability of anticompetitive clauses in contracts or other legal acts; and (iv) the granting of access to an association or intermediary organisation when such access had been improperly denied. These measures were primarily behavioural or structural obligations aimed at reversing the effects of the violation.

In September 2018, Peru updated its competition law through Legislative Decree No. 1396, which amended the framework for corrective measures. Article 46 was modified to explicitly include compliance-oriented remedies. The amendment added that the Commission may order "the development of training programs and risk mitigation measures for non-compliance with competition law" as a type of corrective measure (Peru, 2018). The reform also clarified that the Commission can impose measures aimed at reversing the harmful direct and immediate effects of the anticompetitive conduct and authorised the Commission to issue guidelines detailing the scope of such measures.

Shortly after the law was amended, Indecopi moved to provide more specific guidance on compliance programs. In September 2019, the Commission released a draft of the Guidelines on Antitrust Compliance Programs for public consultation. The draft identified the main components of an antitrust compliance program, including management commitment, risk identification and management, internal protocols, training, periodic monitoring, audit mechanisms, channels for consultations or whistleblowing, and the designation of a compliance officer or committee. Importantly, the draft Guidelines recognised that program design should consider firm-specific characteristics such as company size (OECD, 2019).

After receiving feedback from public and private stakeholders, the Commission issued the final Guidelines in March 2020. The final Guidelines closely mirrored the draft and became an official reference for companies and for the Commission itself. Indecopi's stated purpose was dual: to guide firms in voluntarily establishing internal compliance measures and to guide the Competition Commission when imposing compliance programs as injunctive remedies on firms that violated the law (OECD, 2019). In the cases decided after 2020, the structure of the imposed compliance programs increasingly reflected the logic of the Guidelines, including commitments by senior management, risk identification, training obligations, internal procedures, and complaint mechanisms. One notable exception concerns "continuous internal monitoring and updating", which the firms do not always perform autonomously because Indecopi's Directorate has often assumed part of the supervisory role through regular follow-up.

Frame 1 - Cartel cases and compliance measures imposed by Indecopi

Case	Conduct	Corrective measures
Pharmaceutical industry (2016)	The pharmaceutical companies Arcangel, Fasa, Inkafarma, Mifarma, and Felicidad agreed to increase the prices of 36 pharmaceutical and nutritional products between 2008 and 2009. The laboratories that supplied the products facilitated the coordination of the cartel.	The compliance program was mandatory for three years. A competition specialist had to identify risky areas and implement mitigation measures. Annual training for staff on competition rules.
Toilet paper and tissue case (2017)	Cartel between Kimberly Clark and Protisa involving prices and commercial conditions in Peru from 2005 to 2014. The cartel imposed price increases on clients, including distributors, wholesalers, and supermarkets.	The compliance program was mandatory for five years. A competition specialist had to perform risk identification and mitigation and submit an annual report to the agency. Annual training on competition rules for at least 60 hours. A compliance officer, approved by the Directorate, had to be hired.
Vehicular LPG cartel in Chimbote (2017)	Price-fixing cartel involving the sale of liquefied petroleum gas for vehicular use in the city of Chimbote from June 2012 to February 2014. Fifteen companies were sanctioned.	The compliance program was mandatory for three years. Training on competition law had to be provided by Indecopi. Each company had to hire a compliance officer who was an expert in competition law.

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Case	Conduct	Corrective measures
Liquefied petroleum gas price collusion (2017)	The Commission sanctioned three companies for colluding for two years in the market for liquefied petroleum gas. The conduct was implemented across several cities in Peru.	The compliance program was mandatory for three years. The company had to hire a consulting firm to identify, assess, mitigate, and review competition-law risks. Annual training on competition law had to last at least 48 hours. A compliance officer with expertise in competition law had to be hired.
Vehicular LPG cartel in Chiclayo (2017)	Price-fixing cartel involving the sale of liquefied petroleum gas for vehicular use in the city of Chiclayo between December 2009 and November 2014. Fourteen companies were sanctioned.	The compliance program was mandatory for three years. Training on competition law had to be provided by Indecopi. Each company had to hire a compliance officer who was an expert in competition law.
Vehicular natural gas cartel (2018)	The Commission sanctioned sixty-three companies and twenty-nine employees for fixing prices in the vehicular gas market. The cartel lasted from 2011 to 2015 and involved Lima and Callao.	The compliance program was mandatory for three years. Annual training on competition law had to last at least 24 hours. If the companies proved that they could not afford such training, Indecopi would provide it. Each company had to hire a compliance officer who was an expert in competition law.
Printing cartel in the private sector (2020)	Cartel involving the coordinated allocation of private clients in the commercial printing services market. The conduct lasted from 2011 until 2016.	The compliance program was mandatory for three years. The company had to hire a consulting firm to identify, assess, mitigate, and review competition-law risks. Annual training on competition law had to last at least 20 hours and be delivered by experts. A compliance officer with expertise in competition law and compliance had to be hired.
Printing services cartel in the public sector (2021)	Four companies agreed to divide the market in public procurement procedures for textbook printing services of the Ministry of Education. The conduct occurred between 2009 and 2016. Eight employees were also sanctioned.	The compliance program was mandatory for three years. Senior management commitment to compliance was required. Identification and management of current and potential risks had to be carried out by a consulting firm. Internal procedures and protocols had to be implemented. Annual training on competition law had to last at least 20 hours. Procedures for consultations and complaints had to be implemented. A compliance officer with expertise in competition law and compliance had to be hired.

Case	Conduct	Corrective measures
Construction cartel (2021)	The Competition Commission sanctioned 33 construction companies and 26 executives for participating in a bid-rigging cartel. The companies divided 112 public procurement processes among themselves between 2002 and 2016.	The compliance program was mandatory for five years. Senior management commitment to compliance was required. Identification and management of current and potential risks had to be carried out by a consulting firm. Internal procedures and protocols had to be implemented. Annual training on competition law had to last at least 24 hours. Procedures for consultations and complaints had to be implemented. A compliance officer with expertise in competition law and compliance had to be hired.
No-poach agreements in the construction sector (2023)	Six companies reached a no-poach agreement regarding the hiring of workers in the construction sector. The cartel lasted between 2011 and 2017 and operated at national level.	The compliance program was mandatory for six years. Senior management commitment to compliance was required. Identification and management of current and potential risks had to be carried out by a consulting firm. Internal procedures and protocols had to be implemented. Annual training on competition law had to last at least 24 hours. Procedures for consultations and complaints had to be implemented. A compliance officer with expertise in competition law and compliance had to be hired. Most of the companies had also been sanctioned in the construction cartel; therefore, they only had to update the program to mitigate risks in no-poach agreements.

Source: prepared by the author based on Indecopi decisions in the cases listed above (2020).

As Frame 1 shows, the scope of compliance-related measures in Peru has expanded considerably over time. Early cases, such as the 2016 pharmaceutical cartel, involved relatively simple obligations, including risk identification and annual training. More recent cases, especially those decided from 2020 onwards, require multifaceted programs with senior-management commitment, risk mapping, internal procedures, complaint mechanisms, and dedicated oversight functions. This evolution reflects both the 2018 legal reform and the growing influence of the 2020 Guidelines.

A particularly important external influence was the Apple e-books antitrust case (United States v. Apple Inc., 2013). In that case, Apple was found to have colluded with major publishers to fix e-book prices, and the court's remedy included the appointment of an external antitrust compliance

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monitor for two years (Neuman, 2013). The case illustrated how an independent compliance overseer could be used to prevent recidivism. Indecopi's Directorate drew lessons from that experience and, from 2017 onwards, the Competition Commission began consistently requiring compliance officers in cartel decisions.

Another milestone was the issuance of Indecopi's own Guidelines on Antitrust Compliance Programs in 2020. The cases decided after 2020 clearly reflect the structure recommended in those Guidelines, including risk identification, internal procedures, training, and reporting channels. In practice, however, Indecopi's Directorate of Investigation and Promotion of Competition has also assumed part of the supervisory role by regularly following up with companies, rather than leaving all aspects of implementation to the firms themselves. One element from the Guidelines, continuous internal monitoring and updating of the compliance program, is generally not entrusted to the companies themselves in these orders, instead, Indecopi's Directorate of Investigation and Promotion of Competition has taken on a supervisory role, regularly following up (often monthly) with companies under such orders to verify that the program is being implemented properly. In sum, Indecopi's approach to corrective measures in antitrust cases has evolved from minimal behavioral remedies to comprehensive compliance program mandates, in line with global trends and informed by high-profile cases and international best practices.

3 CHALLENGES IN THE IMPLEMENTATION OF COMPLIANCE PROGRAMS

The introduction of compliance program mandates in Peru has been well-intentioned and has even garnered international recognition. For example, Indecopi's 2020 Guidelines on Antitrust Compliance Programs (Indecopi, 2020) received an Antitrust Writing Award in 2021 for their contribution to promoting a compliance culture in business (Concurrences, 2021). Other competition agencies in Latin America have also looked to Peru's experience as a useful reference point. Nevertheless, ensuring that firms effectively implement these mandatory programs has proven difficult.

Indecopi's enforcement team faces recurring issues that may dilute the benefits of compliance-based remedies and allow anticompetitive conduct to recur. Three interrelated challenges stand out. The first concerns the standardized design of programs imposed on firms with very different characteristics. The second concerns the financial burden that these programs, particularly the obligation to hire compliance officers, may impose on SMEs. The third concerns the practical conditions required to ensure that compliance officers operate independently and effectively. Each of these challenges is analyzed below.

3.1 One-size-fits-all compliance programs vs. tailored approaches

One major issue is the uniform manner in which compliance programs have been imposed. In a typical cartel decision, the Competition Commission issues substantially similar compliance requirements for all infringing firms. This one-size-fits-all approach does not account for important differences among companies. In practice, sanctioned firms may range from large multinationals to very small local businesses, and they may also have played different roles in the infringement. Imposing the same obligations on all of them, including similar training requirements, documentation

processes, and external appointments, can create disproportionate burdens and uneven outcomes.

Indecopi's approach to fines offers a useful contrast. Peru's competition law already recognises the principle of proportionality in sanctions by capping fines as a percentage of the company's turnover. This mechanism seeks to ensure that the sanction is meaningful without becoming destructive. No equivalent calibration is ordinarily used when compliance programs are imposed. As a result, a small firm and a large firm may both be required to implement a multi-year compliance program with a dedicated compliance officer and extensive training obligations, even though their capacities differ substantially.

As ICN has noted, the smaller the firm, the greater the relative cost of implementing a rigorous compliance system, because many compliance costs are fixed and do not scale down linearly with firm size (ICN, 2021). SMEs therefore often find comprehensive compliance programs cost-prohibitive or difficult to justify. This can lead to superficial implementation or even non-compliance.

The problem can be illustrated with the Chimbote LPG cartel case. In that case, fifteen small fuel retailers were sanctioned. Yet, despite significant differences in size and capacity, they were subject to very similar compliance obligations. For a larger company with hundreds of employees and substantial revenue, it is feasible to allocate staff and budget to training, internal procedures, and oversight. For a micro-enterprise with only a few employees and modest profits, the same obligations may be extremely difficult to implement in practice. The result is that a uniform remedy may be feasible for one firm and nearly impossible for another.

Fairness and effectiveness therefore both require a more tailored approach. Just as fines are scaled by company size to avoid undue harm, compliance obligations should also be calibrated. Where a smaller firm is involved, the program may need to be simpler and more focused on the highest-risk issues. Larger firms, by contrast, can and should be held to more comprehensive requirements. The OECD has observed that agencies designing compliance remedies should ensure that such measures remain fit for purpose within the broader enforcement framework (OECD, 2021).

In Peru, Indecopi's Guidelines hint at flexibility by mentioning company size as a relevant factor (OECD, 2019), but that principle has not yet been fully operationalised in actual decisions. A practical option would be to link the scope and duration of compliance obligations to annual turnover or another objective size metric, in a manner analogous to the logic used for fines. Companies below a certain threshold could be subject to a shorter or simplified compliance program.

A one-size-fits-all strategy is therefore ill-suited to compliance remedies in antitrust enforcement. Tailoring programs to a company's risk profile, role in the infringement, and economic capacity is likely to produce better outcomes. It would also help preserve the preventive character of corrective measures. If a program is so burdensome that a small firm cannot realistically comply with it, the measure fails in its purpose and may simply generate a new cycle of non-compliance.

3.2 Financial constraints in hiring compliance officers (SME perspective)

The second significant challenge is closely related to the first: the financial difficulty that smaller companies face when they are required to hire a dedicated compliance officer. In many cases, Indecopi's standard injunction requires firms involved in a cartel to appoint a compliance officer

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with expertise in competition law. The rationale is understandable, since an internal specialist can guide the firm's adherence to the law and help prevent future infringements. For SMEs, however, this requirement may be prohibitively expensive.

Many of the companies sanctioned in Peru are small distributors, local businesses, or family-owned firms that do not have in-house legal departments, let alone compliance departments. Requiring these firms to create and finance a new position can be economically onerous. Market estimates for Lima indicate a monthly total pay range for compliance officers of approximately PEN 15,000 to PEN 25,000, which broadly corresponds to roughly USD 4,000 to USD 6,700 depending on the exchange rate (Glassdoor, 2025). Even if actual compensation varies across sectors, the key point is that the cost is substantial for firms with limited revenue and a small workforce.

This issue also has broader implications. Firms unable to afford a compliance officer may fail to comply, exposing themselves to additional coercive fines. Under Indecopi's framework, non-compliance can trigger fines of up to 25% of the original penalty, doubling with repeated violations. For SMEs already burdened by initial sanctions, this can create a cycle of non-compliance and escalating penalties, potentially leading to market exit, an outcome neither efficient nor desirable from an enforcement perspective.

International experience suggests more flexible alternatives. Competition agencies have increasingly recognised that the compliance function does not always need to be performed by a newly hired full-time employee. The U.S. Department of Justice, for example, evaluates whether the program is adequately resourced and empowered to function effectively, rather than mandating a single organisational model (DoJ, 2019). In practice, this may involve training an internal employee or relying periodically on external consultants instead of requiring a permanent new hire.

In the Peruvian context, a practical proposal is to establish a threshold below which the obligation to hire an external compliance officer would not apply. A company falling below that threshold could instead adopt an alternative compliance measure. One possibility, already consistent with the logic of Indecopi's Guidelines, would be to designate an existing employee to receive training in competition law compliance and to perform the relevant functions internally. Indecopi could facilitate this model by organising periodic workshops or certification courses for compliance liaisons from SMEs.

Such an approach has several advantages. It reduces the immediate financial burden on the SME while ensuring that someone within the firm acquires knowledge of competition law risks. It may also foster a more genuine internalisation of compliance values because the designated employee already understands the company's structure and daily operations. At the same time, safeguards would still be necessary. The designated person should have access to top management and should not be placed in a position where reporting problems becomes impossible.

Indecopi could support this strategy by providing manuals, templates, and simplified implementation tools. Some competition authorities and regional organisations have already developed SME-oriented compliance materials. For example, ASEAN published a Competition Compliance Toolkit for Businesses in ASEAN in 2018, specifically designed for smaller enterprises (ICN, 2021). Indecopi's outreach efforts could similarly offer a simplified roadmap focused on the main risk areas relevant to SMEs.

Reducing the financial and administrative burden on SMEs while maintaining meaningful oversight is also consistent with the broader idea of proportional enforcement. Remedies should be calibrated to the circumstances of the regulated entity and should not impose unnecessary or excessive burdens that undermine the regulatory objective itself (Ayres; Braithwaite, 1992; Baldwin; Cave; Lodge, 2012). In this context, the goal is not to dilute compliance, but to design a measure that the company can realistically implement in good faith.

Adapting the compliance-officer requirement for SMEs by allowing viable alternatives would therefore preserve the preventive rationale of the remedy while avoiding undue hardship. At the enforcement stage, the priority should be to ensure that the firm does something meaningful rather than being formally required to do something it cannot actually sustain.

3.3 Ensuring the independence and effectiveness of compliance officers

The third challenge concerns the role of the compliance officer within sanctioned companies and how to ensure that this role fulfills its intended purpose. In principle, the compliance officer is meant to act as an internal monitor and advisor, ensuring adherence to competition law. However, in practice, the interaction between the officer and the company can take problematic forms that undermine the effectiveness of the measure. Indecopi's experience reveals three recurring scenarios.

In some cases, the compliance officer may become effectively absorbed into the company's legal team. In this situation, their independence is compromised, as they are assigned duties that conflict with their monitoring role, such as defending the company in ongoing proceedings. In some cases, firms deliberately merge the compliance and in-house counsel roles to reduce costs. As a result, the officer prioritizes legal advocacy over compliance oversight, and potential antitrust risks may go unreported or unresolved.

In other cases, the company resists or marginalises the compliance officer. Management may see the externally imposed officer as an unfair burden and may therefore provide insufficient cooperation, limited access to documents, inadequate internal support, or otherwise isolating them. This can prevent the officer from carrying out the tasks that the Commission's resolution expects, such as requesting information, interviewing personnel, or recommending new internal protocols. In these circumstances, the program risks becoming a mere formality, incapable of fulfilling its preventive purpose.

The most desirable scenario is one in which the compliance officer maintains independence and focus. In that setting, the officer operates with autonomy, receives support from management, identifies areas of risk, helps implement training and protocols, and alerts both the company and Indecopi to signs of potential new violations. The challenge for enforcement is therefore to maximise the likelihood of this third scenario and reduce the likelihood of the first two.

The first step is stronger oversight and communication by Indecopi's Directorate. The authority could adopt a more proactive monitoring role by requiring regular reports and by maintaining direct communication channels with compliance officers. Periodic meetings or workshops could remind officers of their powers and duties and make clear that the authority remains available if they encounter obstacles within the company.

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A second step is to communicate more clearly to firms that obstructing the compliance officer or failing to cooperate with the program is itself a violation of the Commission's resolution. Indecopi can reinforce this message through formal notices that explain the potential coercive fines for non-compliance. This gives the company a clearer incentive to treat the officer's work as a legal obligation rather than as a symbolic formality.

A third step is to consider mechanisms for evaluating the actual performance of compliance officers. If evidence shows that an officer has become ineffective, has been co-opted by management, or is no longer carrying out the assigned duties, Indecopi should be able to require corrective action, including, where justified, the replacement of that officer. This would reduce the risk that companies comply only superficially by appointing someone who does not really perform the role.

A fourth step is to reinforce the officer's internal authority. Best practices in corporate compliance suggest that the compliance function must have organisational autonomy, authority, and access to senior decision-makers (DoJ, 2019; OECD, 2021). Indecopi could therefore require that the compliance officer report directly to the board or to senior management outside the legal department, and that all departments cooperate with information requests.

A final step is to preserve the credible threat of sanctions for non-implementation. Article 51's coercive fine mechanism remains an important enforcement tool. If a company does not appoint a compliance officer, dismisses that person without justification, or otherwise fails to implement the program, Indecopi should be prepared to use the available sanctions. Clear enforcement signals can help transform the compliance officer from an unwelcome imposition into a role that management takes seriously.

In sum, the effectiveness of compliance officers depends on both their independence and the company's cooperation. By combining oversight, clear expectations, institutional support, and credible enforcement, Indecopi can increase the likelihood that compliance officers fulfill their intended role. Over time, this may also shift corporate perceptions, transforming the officer from an imposed burden into a valuable advisor. Ensuring independence and reinforcing the "tone at the top" remain essential, as emphasized in international guidance (ICN, 2021). Through these measures, the compliance officer can become a genuinely effective tool for preventing recidivism in antitrust violations.

4 CONCLUSIONS

This article assessed whether the current approach to corrective measures in Peruvian competition enforcement, particularly the imposition of mandatory compliance programs, effectively contributes to restoring competition and preventing repeat infringements. The analysis indicates that the present model has important limitations. In particular, the routine imposition of standardised compliance obligations on firms with very different characteristics weakens both proportionality and practical effectiveness.

The first core finding is that identical compliance programs can hinder implementation. Firms differ in size, internal structure, resources, and degree of involvement in the unlawful conduct. A program that is realistic for a large corporation may be excessively burdensome for a micro-enterprise. A more tailored approach is therefore necessary. Corrective measures should be calibrated to the company's specific context so that compliance obligations are feasible, meaningful,

and genuinely preventive.

The second core finding is that the financial burden associated with hiring compliance officers may be especially problematic for SMEs. If the remedy is too costly, the company may be driven into a cycle of non-compliance and additional sanctions, which does not advance the preventive purpose of the measure. More flexible alternatives, such as internal training and firm-size-adjusted monitoring solutions, can preserve oversight without undermining viability.

The third core finding is that the presence of a compliance officer alone does not guarantee effective monitoring. The officer must be independent, empowered, and supported both by the company and by the enforcement authority. Where those conditions are absent, the remedy may become merely symbolic. Continued follow-up by Indecopi and clearer safeguards concerning the officer's position within the company are therefore essential.

Overall, the Peruvian experience shows that compliance-based remedies can be valuable tools in antitrust enforcement, but only if they are designed and supervised in a way that responds to the real conditions of implementation. Moving away from a one-size-fits-all model and towards a more flexible and proportionate framework would strengthen the preventive function of corrective measures and improve the likelihood of long-term compliance.

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