

COFECE sanctions the Cancun Airport for refusal to deal in the market for federal land transportation

- *The Cancun International Airport conducted a set of actions to prevent new participants from providing services, as the only agent that can rent and grant spaces for taxi access.*
- *The harm to the market caused by the estimated average overcharge of 8% to millions of taxi journeys was of approximately 98 million Mexican pesos.*
- *The imposed fine amounts 72 million 540 thousand Mexican pesos. The sanction included the order to provide access to holders of permits granted by Ministry of Communications and Transport (SCT) to provide taxi services at the Cancun International Airport.*

Mexico City, August 22, 2019.- The Board of Commissioners of the Mexican Federal Economic Competition Commission (COFECE or Commission) resolved that *Aeropuerto de Cancún S.A. de C.V.* (Airport) committed a relative monopolistic practice in the form of refusal to deal by blocking the access of new participants to the market for land transportation of passengers (taxis) from the Cancun International Airport (AIC as per its initials in Spanish). Therefore, the Commission imposed a fine of 72 million 540 thousand Mexican pesos.

Relative monopolistic practices consist in the abuse of market power of one or several economic agents with the purpose or effect of unduly displacing other economic agents from the market, hindering their access or establishing exclusive advantages in favor of one or diverse economic agents. In this case, the Board of Commissioners determined that the Airport has said power as, in its role as the concession holder of the Cancun airfield, it is the only entity authorized to lease spaces and grant access rights to the airport infrastructure to taxi concessionaires so they can offer their services. These services include, for example, the sale of tickets at booths, or the waiting space for fleets before being sent to the passenger boarding and disembarking zone.

Authorized taxi concessionaires must meet certain requirements to offer taxi services at the AIC, amongst which the following are noteworthy: i) procurement of a federal permit from the Ministry of Communications and Transport (SCT), whose prerequisite is a favorable opinion from the Airport; in addition to ii) signing a contract with the Airport to offer services as well as contract for the leasing of spaces.



The corresponding file (DE-008-2016 and accumulated), provides evidence that since February 2010 and until at least April 2018, the Airport refused to grant access to certain agents through the following actions:

- Issuing negative opinions to prevent the parties interested in accessing the market from obtaining the permit from the SCT, and
- In one case, despite the applicant being granted the corresponding permit, the Airport refused unilaterally and without justifiable cause, to sign the requested access and leasing contract.

The Board of Commissioner's resolution indicates the Airport has incentives to hinder the access of new competitors, since rates charged to concessionaires to access the AIC to provide their services are equivalent from 10 to 12% of each rides' fare. That is to say, as more competitors gain access to the market, competition would increase, prices would decrease; consequently, the imbursement in Mexican pesos payed by every taxi to the Airport would decrease, potentially causing a reduction in revenue earned for this concept.

According to the Commission's estimations, the harm to the market caused by the estimated average overcharge of 8% to millions of taxi journeys was of approximately 98 million Mexican pesos.

Therefore, the Board of Commissioners fined the Airport 72 million 540 thousand Mexican pesos. The severity of the conduct, the size of the affected market, the damage caused, the intentionality, and the economic capacity of the sanctioned economic agent was considered to calculate the fine. Additionally, on the grounds of the Federal Economic Competition Law, the Airport was ordered to correct and suppress the anticompetitive conduct through the following actions:

- When new parties interested in offering taxi services request a permit to operate in the Airport or to increase the existing car fleet, the Airport shall, on every occasion, justify and prove its opinion on the grounds of technical evidence.
- The opinion shall bring transparency to the criteria used for the issuance of permits.
- In a maximum period of 30 business days, the Airport shall provide access to economic agents that applied for and have been granted with a permit from the SCT for the provision of taxi services, in accordance with the terms and provisions set forth in the permit.



In order to verify the suppression of this conduct, the Commission may request the Airport, over a period of five years and at any given moment, documentation proving the compliance with obligations imposed in this resolution.

After the Airport has been notified of this resolution, the economic agent has the right to appear before the Federal Judiciary to review the legality of the Commission's action through an indirect *amparo*.

[What is a relative monopolistic practice under the Mexican Competition Law ? \(in Spanish\)](#)

– 000 –

MORE COMPETITION FOR A STRONGER MEXICO

The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. This contributes to people's well-being and the efficient functioning of markets. With its work, COFECE seeks better conditions for consumers, more services of higher quality and a "level playing field" for companies.

– 000 –

