

COFECE has partially authorized purchasing collaboration between retail gasoline operators and creates a mechanism to incorporate new partners

- *COFECE has allowed the concentration of 54 retail gasoline operators into the partnership G500, to jointly purchase fuels and other related products.*
- *The Commission has objected the participation of an undetermined number of "potential partners" whose membership is not definitive, as not enough information on these partners has been provided, mandatory requirement to assess their impact on competition.*
- *A quick, timely and cost-efficient mechanism has been approved, through which G500 will be able to notify the Commission, about the incorporation of new partners.*
- *This is the first purchase collaboration scheme analyzed by COFECE, following the liberalization of the retail fuel markets.*

Mexico City, March 22, 2017.- The Federal Economic Competition Commission (COFECE) reviewed for the first time a transaction in which several retail gasoline operators concentrate into a partnership to purchase fuels, after the imminent liberalization of the retail fuel markets.

Prior to the energy reform, production, import, transportation and storage of fuel were activities exclusively carried out by the State-owned company Pemex, which took all the decisions regarding production, supply and logistics, guaranteeing a profit margin to its franchises (the only allowed scheme to sell gasoline to the public). In the new context, the operators should seek the highest efficiency in its fuel supply sources, so that they can offer attractive retail prices that will allow them to compete and remain in the market.

This is the case of the transaction notified by Grupo G500, which aims at obtaining efficiencies in purchasing products sold in their service stations, whose initial partners coincide in the purchase of gasoline (Magna and Premium) and diesel.

The concentration was partially authorized in the following terms:

- The integration of 54 retail gasoline operators into the partnership G500, to purchase fuels and other products was approved. The Commission concluded that these service stations all together would have a low participation in the purchase of fuels in the markets in which they participate. In this case, it was expressly stated that the partners will operate independently in the retailing of these products.
- However, COFECE objected the proposal of G500 on "the incorporation of potential partners", as there is not enough information to analyze the effects on the competition process of their participation in the partnership.
- Considering that it is a purchasing collaboration, the Commission has approved a mechanism for G500, so that in the future, new partners can join the agreement, by notifying and providing information about them to COFECE. Thus, a quick, timely and cost-efficient mechanism to assess the impact of the new partner on the competition conditions in the market, is established.

Recently, other retailers could have entered collaboration agreements through acquisitions, mergers, partnerships or alliances, aiming at preparing businesses, mainly small and medium-sized ones, for the challenges of a market which is open to competition, following the entry of new foreign companies or new international or national business models.

Such agreements between competitors may be lawful and pursue objectives that are desirable in a competitive market, such as: (i) reducing costs, which could be passed on to consumers; (ii) improve the supply of inputs, the logistics conditions and the technology used in the industry; and (iii) expand fuels supply. However, such agreements may also favor price symmetry, coordinated conduct between competitors, price manipulation and / or lead to undue levels of concentration.

Therefore, COFECE considers that these partnerships must be analyzed as a concentration per the provisions of the Federal Economic Competition Law (FECL), to analyze their possible impact on the competition conditions prevailing in these fuels markets. In this regard, the Commission recommends the economic agents to notify any agreement when the transaction meets the thresholds provided in the FECL.

In those cases where thresholds are not exceeded, it is recommended that economic agents voluntarily notify the concentration before the COFECE, to evaluate its possible impact on

competition and to avoid the initiation of investigations for unlawful concentrations or monopolistic practices.

[The transition to competitive retail gasoline and diesel markets](#)

[Merger notification thresholds \(in Spanish\)](#)

[What is an unlawful concentration? \(in Spanish\)](#)

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