

## COFECE sanctions APEAM for failing to comply with Board of Commissioners' resolution

- *The association of avocado producers (APEAM) failed to submit the Annual Report through which the Commission would verify the implementation of the commitments acquired to eliminate and correct anticompetitive conducts that could damage the competition process.*
- *COFECE sanctioned APEAM with 40.7 million pesos and ordered the immediate submission of the missing report.*

**Mexico City, May 3, 2017.-** The Mexican Federal Economic Competition Commission (COFECE or Commission) has fined the Association of Producers, Packers and Exporters of Avocado in Mexico, (APEAM for its acronym in Spanish) 40.7 million pesos for failing to submit the Annual Report, within the first two months of the year, in accordance with the resolution by which the association accepted commitments, under file DE-030-2011. This omission prevented COFECE to verify, in a timely manner, APEAM's compliance with the commitments undertaken.

In April 2014, COFECE issued a statement of responsibility to the APEAM for incurring in a monopolistic practice known as tied sales – a conduct consisting in conditioning the sale of a product, good, or service to the acquisition or procurement of another–. Through this practice, exportation of Hass avocado to the United States of America (U.S.A.) was rendered impossible for all packers unaffiliated to this organization.

APEAM is the only body authorized by the U.S. to administrate, bill, and collect on plant health inspection supervision and verification services, necessary to export Mexican Hass avocado to the U.S.A. This association conditioned its services to the compulsory affiliation of all packers to APEAM and the payment of an access quota, as well as the payment and/or procurement of additional services, not necessary to export the product to the neighboring country.

In March 2015, the Board of Commissioners resolved to conclude the procedure in advance of the investigation and accept the commitments offered by the APEAM, which included giving access to the services to other agents, allowing them to export without joining the APEAM and without introducing requirements other than to those established by the U.S. authorities to allow the entry of Mexican avocado. These actions eliminated possible damages to the competition process.

The resolution of this case established several obligations for the APEAM, one of them, consisting of the presentation of an Annual Report during the first two months of each year with information on sales volumes, costs, expenses, requests and lists of packers in the avocado export program, without establishing some type of exception for this obligation. Thus, the APEAM was obliged to submit the Annual Report by February 28, 2017, and failed to do it.

For not complying with COFECE's resolution, and after verifying the event, COFECE sanctioned APEAM 40.7 million pesos.

Failure to comply with the conditions imposed by COFECE is a serious violation since competition is considered a public matter and is above any particular interest. In addition, failure to comply with a commitment proposed and accepted by the economic agent to terminate an investigation procedure in advance puts the process of competition on the market in question at risk.

COFECE will continue to exercise its powers mandated by the Constitution and oversee that all compromises forced upon during monopolistic practices or illicit concentrations procedures, as well as the conditions imposed in concentrations are complied with for the benefit of markets.

Furthermore, once the matter has been resolved and notified to the parties, the Law grants the right to the sanctioned economic agents to come before the Federal Judiciary Branch to review the legality of COFECE's actions.

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*The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. With this, it contributes to consumer welfare and efficient functioning markets. Through its work it seeks better conditions for consumers, greater output, better services and a "level playing field" for businesses.*