

## The Investigative Authority raises concerns to preliminary drafts aimed at reforming regulations for take-off and landing slots in saturated airports

- *The Investigative Authority is of the opinion that the preliminary drafts contain elements that would have adverse effects on competition in the aviation industry in Mexico.*
- *The reforms proposed by the Ministry of Communications and Transport leave room for discretion, uncertainty and little transparency in the procedures to allocate slots in Mexico's saturated airports.*

**Mexico City, May 21, 2017.-** The Investigative Authority of the Federal Economic Competition Commission (COFECE) is of the opinion that the preliminary drafts of both the "Decree Amending and Adding Provisions to the Regulations of the Airports Law" and the "General Bases for Allocating Landing and Take-off Slots in Saturated Airports", prepared by the Ministry of Communications and Transport (SCT for its acronym in Spanish), contain elements that would negatively impact competition in the Mexican aviation industry. Therefore, the Authority recommended the Federal Commission for Regulatory Improvement (Cofemer) not exempt the SCT from its obligation to present a High Impact Regulatory Impact Analysis (RIA) for each of the drafts, as it was proposed by the SCT.

According to the SCT, the objective of the proposed amendments is to create an "Airport Schedules Coordinator" responsible for monitoring, evaluating and qualifying compliance with landing and take-off slots in saturated airports. The "Subcommittee on Delays" would be responsible for determining the responsibility and causes of delays or cancellations.

Amendments to the Bases seek to establish general criteria for airport authorities to allocate slots to airlines in an impartial, transparent and nondiscriminatory manner, in addition to monitoring, evaluating and qualifying the use of slots.

However, based on a competition analysis of both preliminary regulation drafts, the Investigative Authority observes that the modifications proposed by the SCT have inconsistencies and leave room for discretion in favor of the airport authorities, which would result in uncertainty and little transparency in the procedures regulated under the preliminary drafts:

- 1) The duties of the “Airport Schedule Coordinator” are limited and may not be in line with the functions set forth in the World Slot Guidelines, as defined by the International Air Transport Association (IATA).
- 2) Drafts lack clear rules to ensure the “Airport Schedule Coordinator’s” technical and financial independence with respect to any interested party, such as airlines, government and airport authorities. This will jeopardize full exercise of its powers.
- 3) The decisions of the Coordinator are subject to the opinion of other bodies involved in the operation of the airport. The Coordinator delivers its reports to the latter who allocate landing and take-off slots. This decision-making design fails to ensure the independence of the Coordinator.
- 4) The “Subcommittee on Delays” is granted the power to determine those responsible for schedule delays or cancellations, and these decisions are binding to the Coordinator, limiting its independence. A more efficient scenario is one in which the Coordinator has the power to allocate slots and establish the causes demands or cancellations.
- 5) The Bases do not precisely define the consequences of non-use of, or delays in, allocated slots. These also establish criteria for selecting the most attractive slots in favor of current air carriers to the detriment of potential entrants. Likewise, these are not clear enough to limit possible abuses holding non-used slots.
- 6) In summary, the preliminary drafts proposed by the SCT do not guarantee the efficient use of the airport infrastructure.

In February 2016, the Investigative Authority issued a Preliminary Investigative Opinion on essential facilities, barriers to entry and allocation of slots at Mexico City’s International Airport (AICM). The investigation found that the airport saturation had anticompetitive effects on air transport services, such as a reduced number of market participants and inefficiencies in slot allocation and availability, causing delays at the airport and blocking the entry of potential competitors.

Hence, the importance of undertaking reforms that effectively promote conditions of competition in the allocation of take-off and landing slots necessary for the operation of air carriers, since air transport is an activity of great relevance for the country, due to its impact on economic activity, on national connectivity and, in general, on national development.

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