

COFECE proposes Senate modify draft decree of the General Law for Regulatory Improvement

- *The Commission recognized the importance of establishing a National System for Regulatory Improvement covering all different tiers and levels of government, including autonomous bodies.*
- *Regulatory improvement, as it reduces regulatory burdens and obstacles, has the potential to promote competition and free market access.*
- *Nevertheless, certain aspects of the draft law could violate COFECE's autonomy and affect the effective implementation of some of its powers.*
- *The draft law should differentiate and adjust accordingly to the legal nature and activities of the compelled subjects.*

Mexico City, September 13, 2017.- The Board of Commissioners of the Federal Economic Competition Commission (COFECE or Commission) submitted to the Senate Committees on Commerce and Industrial Development and on Legislative Studies, an opinion requesting the modification of the draft decree of the General Law for Regulatory Improvement (draft law), since its approval in its original terms could violate COFECE's powers and affect the efficiency of its actions.

The draft law results from the constitutional reform on regulatory improvement, published in February this year. The reform aims at establishing the obligation for authorities at all levels of government, including autonomous bodies, to implement public policies to improve the quality of their regulations, procedures and services

COFECE agrees with this objective, but it also considers that the reform could have implications to the detriment of the Commission's attributions in the following aspects:

1. The draft law proposes the creation of a **National Council for Regulatory Improvement**, which, in the exercise of its attributions, could bind autonomous constitutional bodies, such as the COFECE. The role of this Council with respect to the Commission should be clearly defined, and a cooperative relationship should prevail.

2. The establishment of a **National Registry of Domiciliary Visits** is proposed, which would include information (name, position, address, telephone, e-mail, etcetera) of officials from the different bodies conducting these actions, as well as information on the visits and individuals sanctioned as a result of such proceedings. These obligations would violate the procedures for investigating anticompetitive practices provided for in the Federal Economic Competition Law (FECL), as the current regulatory framework protects the identity of the economic agents being investigated.¹

On-site visits are one of COFECE's most important enforcement tools to gather evidence and support its investigations. In recent years, the use of this tool has increased, and is considered paramount to detect unlawful conducts. The disclosure of the identity and information on the officials conducting the investigations and/or on-site visits would hinder their functions. In addition, if information is not cautiously handled, their integrity could also be jeopardized.

3. The draft law could limit or restrict COFECE's constitutional powers, which aim at promoting and protecting the competition process. The draft law may even affect the exercise or generate confusion regarding the use of certain tools, such as the issuance of guidelines to regulate access to essential inputs that generate anti-competitive effects in terms of article 94 of the FECL.

In short, COFECE considers that the draft law should differentiate and adjust accordingly with the legal nature and activities of the compelled subjects. The autonomy of COFECE or the use of its enforcement tools to effectively fulfill its mandate, should not be affected when principles for regulatory improvement are implemented.

[See opinion in Spanish here.](#)

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

¹ In accordance to article 124 of the Federal Economic Competition Law.