

COFECE closes probe to determine competition conditions in interconnection services and trackage rights for freight rail transportation

- *The file did not provide enough elements and information which could allow the Board of Commissioners determine the lack of effective competition conditions across the rail network.*
- *This closure is without prejudice to possible procedures that COFECE could conduct, in the exercise of its powers, in any of the railway sector markets.*

Mexico City, March 8, 2018.- The Board of Commissioners of the Federal Economic Competition Commission (COFECE or Commission) decided to close the procedure to determine effective competition conditions in interconnection services, trackage and haulage rights used for freight rail transportation on national territory.

This is because file DC-002-2016 did not provide sufficient information for the Board of Commissioners to determine the lack of competition throughout the rail network. The Board of Commissioners' resolution clarifies that this closure is without prejudice to possible procedures that COFECE could conduct, in the exercise of its powers, in any of the railway sector markets. Nor does this imply a statement, in any sense, on whether there are effective competition conditions in this market.

In August 2016, the Investigative Authority received a request to review the effective competition conditions in interconnection services, trackage and haulage rights between rail networks in the national rail service. In September of the same year, COFECE opened an investigation which ended in March 2017 with a preliminary statement. This statement concluded that there were enough elements to demonstrate, on a preliminary basis, the lack of effective competition in the trackage rights necessary to provide freight rail transportation in any route using the networks owned by *Kansas City Southern de México (KCSM)*, *Ferrocarril Mexicano (Ferromex)*, and *Ferrocarril y Terminal de Valle de México (Ferrovale)*.

In accordance with due process, when the Investigative Authority presented its preliminary statement, individuals and entities with a legal interest in the matter had the opportunity to submit any information they considered to be in their best interest. Having heard the parties, the Board of Commissioners assessed all the arguments put forward in the file and

determined that the information provided was insufficient to issue a statement on the competition conditions in the investigated market. Due to lack of evidentiary elements, the Board determined the closure of this file, without issuing a pronouncement, in any sense, on whether there are effective conditions of competition in this market.

This decision is the normal result of the Commission's checks and balances system; which is the functional separation within COFECE. This means that from the preliminary outcomes of the investigations conducted by the Investigative Authority and the economic agents' declarations and allegations, it is the responsibility of the Board of Commissioners to issue the final resolution.

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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 markets. Through its work, COFECE seeks better conditions for consumers, greater output, better services and a "level playing field" for businesses

