

COFECE-014-2018

ASA's exclusivity prevents the supply of jet fuel at competitive prices, which affects airlines and passengers in the country

- *The Commission issued an opinion that proposes to eliminate the exclusivity, which is incompatible with the Energy Reform that seeks to encourage the incorporation of new market competitors.*
- *In addition, it recommends awarding, through an open and competitive process, the contracts for the construction of storage facilities, supply and any other air fuel service in Mexico City's New International Airport.*

Mexico City, March 14, 2018.- The opinion issued by the Federal Economic Competition Commission (COFECE or Commission) communicates the need for the Ministry of Communications and Transportation (SCT) to eliminate the exclusivity enjoyed by Aeropuertos y Servicios Auxiliares (ASA) in the matter of storage, distribution and jet fuel supply services in domestic airports. ASA's regime of exclusivity, in addition to affecting retail prices to the detriment of airlines and passengers, it is incompatible with the regulatory framework set forth by the Energy Reform, which has the objective, among others, to incentivize new entrants.

According to estimates made by the International Air Transport Association (IATA), the supply of jet fuel accounts for almost 30% of an airline's operating expenses. Mexico has the highest prices of fuel supply in the region, according to the Latin American and Caribbean Air Transport Association (ATAALC), especially those observed at Mexico City's International Airport. Also, the average price of jet fuel shipped in Mexican terminals in the last five years was two pesos per liter more expensive than in the United States. The gap between national and regional prices reflects, among other issues, the restriction to the efficient operation of the jet fuel market that operates *de facto* under an exclusivity regime. Over a year ago, the ATAALC, COFECE and Senate urged the SCT to reform the conditions of commercialization of air fuels, to allow for competition in this market.

ASA's exclusivity is even more serious when considering said regime is preserved by the *Mexico City's New International Airport's* (NAICM) concession title, which states that the NAICM must comply with the provisions set forth in the Regulation of Airports Law, which prohibits economic agents other than ASA from providing storage, distribution and fuel supply services, until the SCT determines otherwise.

Moreover, the Energy Regulatory Commission (CRE) provisionally granted ASA an authorization for the distribution of fuel, to continue operating, which will only be extended on the following terms: i) there is no exclusivity in favor of ASA for said activity; and, ii) if compliance with the obligation to present a schedule stipulating the dates and actions to carry out the legal separation of its distribution and storage activities is presented.

Therefore, COFECE's Board of Commissioners calls on the SCT to proactively, promptly, clearly, and with legal certainty allow for new entrants in the market of jet fuel supply services for aircrafts in airports, by meeting the following essential measures:

First. Foster the elimination of the exclusivity regime established in the Regulation of Airports Law; make short-term amendments to the concession titles of all national airports to eliminate the exclusivity regime, as well as adapt ASA contracts with other distributors, operators and airlines; and

Second. Given the relevance of Mexico City's New International Airport and the expectation of a world-class development; it is crucial to ensure an open and competitive process to award the contracts for the construction of storage facilities, supply and any other jet fuel services, as well as avoiding that exclusive advantages be granted to ASA during the process.

A copy of the opinion was sent to Congress to evaluate the elimination of the restriction on foreign investment in fuel supply activities, in accordance with current legal framework for the hydrocarbon's industry.

Ignoring these recommendations implies running the risk of ASA fixing prices, unilaterally restricting the supply or hindering market entry of new suppliers interested in the supply of jet fuel, not only at existing airport infrastructure, but also at the NAICM. Only in competitive environments can better prices be obtained for air carriers and passengers.

The Commission will continue assessing competition conditions in the sector, to promote paramount elements for a successful transition in terms of the Energy Reform and enhance national economic growth and consumers welfare. [See the full opinion in Spanish here.](#)

– 000 –

A BETTER MEXICO IS EVERYONE'S BUSINESS

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