

COFECE issues recommendations to Draft Decree aimed at regulating bank commissions

- *The Initiative provides an opportunity to discuss and propose, based on a sound and objective analysis, measures to design the best intervention mechanisms and foresee its consequences.*
- *Eliminating fees without a previous technical analysis could lead to greater market concentration, inhibit the entry of potential competitors, and increase other charges financial entities charge to users.*
- *COFECE recommends the Senate to request from the Bank of Mexico, a study on the fees considered in the Draft Decree, as well on the regulatory measures that may be required.*

Mexico City, November 26, 2018.- The Federal Economic Competition Commission's (COFECE or Commission) Board of Commissioners issued an opinion on the *"Draft Decree adding several provisions to the Law for Transparency and Regulation of the Financial Services and the Law of Credit Institutions in the matter of bank charges"* (Initiative) in which it recommends the Senate request the Bank of Mexico (Banxico or Central Bank) conduct a study on each of the bank fees considered by the project so, if deemed necessary, it issues the specific regulatory measures to address the market failures identified, without unduly distorting competition.

To do so, and according to article 4 of the Law for Transparency and Regulation of Financial Services, Banxico "may request the opinion of the National Banking and Securities Commission (CNBV), the National Commission for the Protection and Defense of Users of Financial Services (Condusef) or the Federal Economic Competition Commission (COFECE)."

Banning bank charges without differentiating them, could generate negative effects to those expected by the Initiative. Regulating collection of different fees as it is proposed by Initiative requires a detailed analysis to identify the best possible regulatory measures for each case, either to define that it is necessary to establish fixed maximum commissions, prohibit them, or where appropriate, that it is not necessary to regulate or legislate these.



For instance, in 2014, after analyzing the financial sector, COFECE identified an opportunity for rethinking regulation for ATM fees and point-of-sale terminals. Those recommendations were made to Banxico and remain valid today.¹

Prohibiting the collection of some commissions, as the Initiative proposes, in unjustified cases could generate the following effects, contrary to competition and efficiency:

- a) **Greater fees in other concepts.** Banks will try to compensate for the prohibited fees, increasing other charges. For example, in 2010 fees for cash withdrawal, balance checking, account deposits and credits payments over-the-counter and at ATMs were prohibited. Some studies show that when the measure came into effect, banks increased prices for opening an account.
- b) **Increase in market concentration.** Charges for using banks' infrastructure such as branches or ATMs are eliminated, this would favor the companies that have the largest networks, which are generally the largest and with the highest participation market, since usually the cancellation of the internal commission is accompanied by a significant increase by using the infrastructure of another bank. Additionally, not being able to charge for the use of the infrastructure would hinder the expansion of the network of new entrants. For example, when charging commissions for one's own ATM operations was prohibited, banks with the largest networks attracted more customers.
- c) **Impact on the innovation and technological development incentives.** If regulation prevents recovering investment under this concept, emergence of new products or innovative businesses would be affected.

[Check the opinion \(in Spanish\)](#)

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The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. This 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.

¹ COFECE's Recommendations to the Financial Sector include the need for Banxico and the CNBV to establish rules for fees that allow reducing the ATM network's distortions, particularly low interbank use of ATMs; and the underutilization of point-of-sale terminals in stores, which could be due to the large fees paid to banks.