

COFECE determines possible barriers to competition in the supply of raw milk to the dairy industry in the state of Chihuahua

- *COFECE's Investigative Authority identified barriers to competition and free market access that limit other states participants' entry and favor local producers.*
- *Barriers to competition could generate inefficiencies in the supply and dairy production processes and increases in prices for both industry and consumers.*
- *These restrictions eliminate the competitive pressure exerted by raw milk suppliers from other Mexican states: Guanajuato, Jalisco and San Luis Potosi.*

Mexico City, November 30, 2018.- The Federal Economic Competition Commission's (COFECE or Commission) Investigative Authority determined, on a preliminary basis, that the Law for Livestock in the state of Chihuahua (Law) and the Protocol for the Inspection and Analysis of Milk Quality and Safety (Protocol) create unnecessary distortions in the competition process in the supply of raw milk to the dairy industry in the Mexican state of Chihuahua, as these norms establish dispensable requirements for milk quality and safety, as well as rules that hinder, restrict or eliminate entry of suppliers from other Mexican states.

The investigation, under file IEBC-002-2017, initiated in October 2017, identified the following barriers to competition:

- Compulsory authorization to take the product (raw milk) into or out of the state of Chihuahua**, without specifying the specific documentation needed for their procurement by other states' suppliers.
- Inspections points, specifications, procedures and methods for the milk inspection** are regulated by the Protocol and are enforced in a discretionary manner to products from other states.
- Powers that favor the establishment of regulatory barriers.** The Law grants the Ministry of Rural Development of the State of Chihuahua with the power to establish regulations and additional requirements to those established by the federal authorities.¹ This was materialized in the issuance and publication of the Protocol, which came into force in May 2017, preventing free market access of raw milk into the state.

The investigation found that the mentioned barriers have generated anticompetitive effects in the investigated market, including the following:

¹ The National Service for Agri-food Health, Safety and Quality (SENASICA) has the power to authorize inspections points for regulated livestock products. Raw milk does not fall into this category.

1. Advantages for local suppliers from the state of Chihuahua, and restrictions on suppliers from other states, which could represent artificial barriers to interstate commerce. In particular, 29 suppliers from municipalities in the states of Guanajuato, Jalisco and San Luis Potosi have been displaced.
2. Eliminating supply of raw milk from other states affects the efficiency of the dairy industry. For example, LICONSA – the state-owned company responsible for processing and distributing subsidized milk for social assistance – incurs in larger costs, affecting its poverty alleviation programs, by purchasing only from Chihuahua’s suppliers at higher prices.

This caused a surcharge on the product purchased by the dairy processing industry, as well by Liconsa and other consumers. The price increase of raw milk from other states was on average 9% and 4% for milk purchased in the state of Chihuahua.²

To eliminate the detected barriers to competition, the Investigative Authority proposed COFECE’s Board of Commissioners recommend that the State Congress reform the law and eliminate barriers to competition, as well as the repeal of the Protocol by the Ministry of Rural Development of Chihuahua. With these actions, entry to suppliers from other states would be allowed and the requirements and inconsistencies on health supervision eliminated.

The publication of the Preliminary Opinion establishes the initiation of the second stage of the procedure in which the interested parties may argue in their favor. At the end of this stage, COFECE’s Board of Commissioners will reach a decision, confirming the implementation of the measures proposed by the Investigative Authority to eliminate barriers to competition detected in the market for the production, distribution and commercialization of raw milk to and from the state of Chihuahua.

[See in Spanish the Extract of the Preliminary Decision under file IEBC-002-2017](#)

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The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. This contributes to people’s well-being and the efficient functioning of markets. With its work, COFECE seeks better conditions for consumers, a wider choice of products and services of higher quality and a “level playing field” for companies.

² In the case of milk purchased in the state of Chihuahua, the price considered that registered by the Rural Average Price registered by the Agri-Food and Fisheries Information Service, which is commonly known as the price at the stable.