

## COFECE sanctions Airlines for collusion in the market for air passenger transportation on national territory

- *Aeroméxico and Mexicana, as well as three individuals that acted on their behalf were sanctioned.*
- *The unlawful conducts consisted in an agreement, which took place between 2008 and 2019, to set, increase, agree upon or manipulate the base prices of air passenger transportation services.*
- *The fines total 88 million 211 thousand 29 pesos.*

**Mexico City, April 1, 2019.-** The Federal Economic Competition Commission's (COFECE or Commission) Board of Commissioners sanctioned *Aerovías de México (Aeroméxico)*, *Mexicana de Aviación (Mexicana)*<sup>1</sup> and three individuals, for the commission of absolute monopolistic practices (collusive agreements or horizontal restraints) in the market for public air passenger transportation services with Mexico as origin and destination.

The conducts sanctioned consisted in contracts, agreements, arrangements or combinations thereof with the purpose or effect of coordinating the prices charged to the users of air passenger transportation services, through the establishment of base or minimum prices on diverse routes, having the national territory as origin or destination, which occurred between April 2008 and February 2010.

As per the investigation initiated in February 2015, diverse individuals acted on behalf of these airlines, exchanged information regarding disaggregated rates or future rates, which were used to define the base or minimum price each economic agent's air transportation service charged for determined routes, with Mexico as the origin or destination. This was done through diverse e-mails from official and non-official accounts, which were also used to monitor that participants adhered to the established collusive agreements, which

---

<sup>1</sup> Mexicana de Aviación operated until August 2010.



resulted in complaints when an airline offered lower rates on the agreed-upon routes or complaints that resulted in rate adjustments.

The participants of the anticompetitive agreement used aliases and monikers in the aforementioned e-mails to cover identities (“*Mañanero*” and “*Mediodía*” were used respectively for *Aeroméxico* and *Mexicana*), which demonstrated the intentionality and knowledge of the illegality of the conduct carried out, as per the Federal Law on Economic Competition (FLEC).

The Commission identified at least 112 routes implicated in this conduct, for instance: León-Tijuana, México-Tijuana, Puebla-Monterrey, Ciudad de México-Cancún, Guadalajara-Puerto Vallarta, México-Acapulco, México-Mérida, México-Los Cabos, México-Monterrey and México-Guadalajara,<sup>2</sup> among others.

Based on the information on file, during the period in which the monopolistic conduct was executed, the sanctioned airlines transported approximately 42.1% of total air passenger transportation on national flights. It is estimated that the conduct directly affected more than three-and-a-half million passengers. In this sense, the Commission estimated damages for a total of 2 thousand 8 hundred million 689 thousand pesos.

Therefore, COFECE’s Board of Commissioners resolved to:

- i) Confirm *Aeroméxico* and *Mexicana*’s responsibility regarding the execution of the collusive agreements previously described.
- ii) Fine *Aeroméxico* a total of 86 million 190 thousand pesos, which were calculated in accordance with the 1992 Federal Law on Economic Competition, which was modified in 2006 (FLEC 2006), as it was the current legislation during the period in which the conducts were executed.
- iii) Fine *Mexicana*. Although the corresponding fine would have been similar in the amount of the former fine, it was determined the minimum applicable fine be set, considering the company has been formally declared bankrupt.
- iv) Fine the three individuals for a total of 2 million 20 thousand 972 pesos.

---

<sup>2</sup> These routes were operated by *Aeroméxico* and *Mexicana*.

It is noteworthy that although the investigation included other airlines, COFECE did not charge additional economic agents with liability, as the evidence found in the file regarding the probable participation is outside of the specified term that COFECE has to sanction said types of conducts. This is, based on the FLEC 2006, five years prior to the initiation of the investigation (February 2015).

Air passenger transportation service is a highly relevant activity subject to a public service regime, which allows for millions of people to transport themselves daily with diverse purposes, such as business, commerce and tourism. Its impact cross-cuts diverse sectors of the national economy.

Once the parties have been notified, the Law grants the sanctioned economic agents the right to go before the Judiciary, so the legality of the Commission's actions may be reviewed.

*See in Spanish, [What is an absolute monopolistic practice?](#)*

– 000 –

### **MORE COMPETITION FOR A STRONGER MEXICO**

*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, more services of higher quality and a "level playing field" for companies.*

