

## Federal passenger transportation regulation generates competition problems that hinder price reduction

- *Current legal framework inhibits the participation of additional suppliers on diverse national routes, reducing the number of better priced options.*
- *29 economic interest groups are identified as market participants in the study, only four are noteworthy for the quantity of routes in which they participate. 76.8% of the 5,877 identified routes are covered by a sole operator.*
- *COFECE, among other recommendations, suggests modifying bus terminal entry conditions to foster competitive pressure in the market.*
- *To the benefit of users, market entry of participants on routes lacking competition may diminish the average price in 40% per km.*

**Mexico City, April 10, 2019.-** The Federal Economic Competition Commission (COFECE or Commission) presented this morning the publication: *Estudio de competencia en el autotransporte federal de pasajeros (Study on competition in federal passenger transportation)*, which identifies the lack of competition on the majority of routes offered in the country. This is due, in part, to regulation that inhibits the participation of additional economic agents on different routes, which hinders the availability of a greater range of service options at better prices, to the detriment of users' well-being.

As a result, the high market participation of four Economic Interest Groups (IEG), which were present in 95.2% of the 5, 877 routes identified in this study, may be observed. Furthermore, a sole operator participates on 76.8% of said routes.

Among the regulatory obstacles detected, the obligation to comply with requirements and paperwork which, as a result of the lack of clarity in their application, provide authorities with ample discretion in the granting of new terminal permits. This failure in the legal framework has a negative impact on competition levels as, to offer a route, access to origin and destination terminals is mandatory, which represents a substantial investment if there is no access to an established terminal, thus limiting the entry of new participants. Nevertheless, several established companies pick-up and drop-off passengers at stops other



than terminals, which confirms the need to update the legislative framework to adjust to reality and enable new competitors to offer a wider range of options.

This is exacerbated by state legislations that impose criteria that favor established companies, such as requiring the favorable opinion of local transporters to authorize route operation permits for new competitors.

Current regulation does not require terminal operators to have access rules or to publish them, when they exist. Therefore, new route entrants, that would like to operate from a terminal, need to come into an agreement with the concessionaire or company that controls the bus terminal, which would have incentives to deny access or provide it under disadvantageous conditions.

Likewise, the Mexican road transportation model is rigid, as it requires operators to: register maximum fares at least seven days in advance; notify a route cancelation 30 business days in advance, and use the authorized bus on a sole route, without the possibility of making use of it on a route with greater demand.

When large EIG coincide on a route, they tend to offer different types of services; for instance, one offers first class service whilst the other offers a low-cost service.

#### Routes lacking competition by Economic Interest Group

EIG	Total	Routes lacking competition	Proportion of routes lacking competition
GIE 1	723	642	88.8%
GIE 2	2,019	1,239	61.4%
GIE 3	1,986	1,193	60.1%
GIE 4	76	39	51.3%

Note: the percentages were obtained considering the different types of services are substitutes.

Source: COFECE with information from [www.mexicoautobuses.com](http://www.mexicoautobuses.com)

Lack of competition on routes has generated high prices, that, in terms of federal passenger transportation users' purchasing power, has resulted in family welfare loss. The study estimates that competitor entry on routes previously covered by a sole operator would



result in a 40% price decrease. Herein lies the relevance of improving regulation conditions for this market.

To this end, COFECE proposes three essential interventions:

1. Foster the possibility of greater competitive pressure among operators:

The Ministry of Communications and Transportation (SCT for its initials in Spanish) could:

- Analyze the pertinence of modifying the condition of having terminals for the obtention of an operation permit (reform to the Roads, Bridges and Federal Transportation Law and the Federal Transportation and Ancillary Services Regulation [Regulation]).
- Suppress the logging of maximum fares (reform the Regulation).
- Eliminate the requirement of notifying the cancelation of a route or section, 30 days in advance (reform the Regulation).
  - The obligation to notify the user a week in advance would remain in its place.
- Not link operation permits to a specific route (reform the Regulation).

2. Foster access to established bus terminals as follows:

➤ At central terminals given on concession, the SCT could:

- Publish the list of central terminals given on concession.
- Receive public central terminals at the end of a concession and grant its management via public tender, conditioning its allocation to the provision of open and non-discriminatory access.
- This process may initiate soon, as there are concessions that will expire during 2019: Central del Norte, in Mexico City; and the following cities and states respectively; Mazatlán, Sinaloa; Acapulco, Guerrero; Nuevo Laredo and Reynosa, Tamaulipas; and Mexicali, Baja California. There is information that the concession for the terminal in Oaxaca, in the state of Oaxaca expired.

➤ For the remaining central terminals:

- Include in the Regulation the obligation to publish access rules.



- The SCT should have the power to resolve disputes among administrators and access applicants.
- 3. To provide the sector with greater legal certainty and transparency:
  - The disclosure of the public version of resolutions of rejected permit applications by the SCT.
  - The suppression of discretionary criteria in the Regulation for the granting of permits to establish terminals.
  - The inclusion in Regulation of a practical and effective procedure to exercise *afirmativa ficta* in permit applications for the operation of federal road transportation services.
  - The improvement of the procedures portal to facilitates the monitoring of applications by the General Directorate of Federal Road Transportation.
  - The improve statistics on the volume of operations in the sector and update its terminal directory by the SCT.

COFECE calls on the SCT to update current regulation, a task in which this Commission reaffirms its will to, from the scope of competition, accompany the technical actions the federal government decides to carry out to the benefit of passengers in this type of transportation.

The results of this study do not constitute a prejudgment regarding the current ex officio investigation, filed under IO-003-2017, por the possible commission of absolute monopolistic conducts in the market for road passenger transportation services in the state of Tamaulipas and the Central and South-Central regions of the country, which COFECE's Investigative Authority initiated on November 15, 2017.

See the study in Spanish at: [Estudio de competencia en el autotransporte federal de pasajeros](#)

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

