

COFECE-044-2019

## COFECE initiates investigations for probable infringements to the competition law in oil markets

- *The probes will be carried out in the gasoline and diesel markets, as well as the aviation fuel for national territory.*

**Mexico City, October 31, 2019.-** Today, the Federal Economic Competition Commission's (COFECE or Commission) Investigative Authority published in the Federal Official Gazette and on its website, three investigation initiation notifications in diverse oil markets, as a result of indications of the probable commission of conducts or conditions that infringe the Federal Economic Competition Law (FECL).

The investigations made public refer to:

- i) The probable Commission of absolute monopolistic practices in the market for the national **public retailing of gasolines and diesel at service stations** (DE-009-2019), as a result of a report initiated on June 10, 2019.
- ii) The probable Commission of an unlawful concentration in the market for the **commercialization and distribution of gasolines and diesel as well as the national public retail of the aforementioned at service stations** (IO-001-2019), an *ex-officio* investigation initiated on September 25<sup>th</sup>, 2019, and
- iii) The probable existence of barriers to competition and essential inputs in the national market for **aviation fuels, which include the production, import, storage, transport, distribution, retail, and related services** (IEBC-002-2019) initiated this day.

The energy sector is a priority for COFECE because of its crosscutting impact on the development of all other economic sectors in the country. In addition to being a recently liberalized sector, the Commission must oversee the successful transition to competed markets, to obtain efficiencies that may be transferred via price and quality to end consumers.

The possible investigated conducts and market conditions are:

- **Absolute monopolistic practices**, which are contracts, agreements or arrangements among economic agents with the purpose of dividing or segmenting a market, bid rigging, as well as the exchange of information to carry out any of the aforementioned conducts. Should the commission of absolute monopolistic practice be proven, the economic agents involved might be fined with up to 10% of their income, among other sanctions.
- **Unlawful concentrations**, they are transactions, mergers, acquisitions, alliances, among others, that have the purpose or effect of diminishing, hindering, damaging or blocking competition. These may be fined with up to 8% of the income of the economic agent found responsible of the conducts, among other sanctions.
- **Barriers to competition**, any structural characteristic, legal provision, as well as the fact or act carried out by economic agents, with the purpose or effect of blocking competitor's access, the limiting of their capacity to compete or the distortion of the competition process. To eliminate them, COFECE's Board of Commissioners, may, in accordance with each case: i) order the corresponding economic agent to cease the conduct, and/or ii) issue recommendations to public authorities, when legal dispositions hinder or distort competition and free market access.
- **Essential inputs**, the input or set of inputs that are indispensable for the production or provision of goods and services, that have the characteristic of not being substitutable. The Competition Law establishes that the Board of Commissioners may indicate guidelines to regulate their access.

The three investigations that are reported are independent from each other. Upon their conclusion, the Investigative Authority may not find elements that demonstrate the commission of the conducts and/or conditions under investigation, in which case the Board of Commissioners may resolve to close the respective cases. In case evidence to presume the infringement of the FECL is found, those responsible will be called to a trial-like procedure, at which they may present their defense, before the Board of Commissioners issues their final resolution.

These procedures should not be construed as a prejudgment of the responsibility of any economic agent or of the existence of barriers to competition and essential inputs as violations of the applicable regulations have not been determined, nor have any individuals or undertakings been considered as offenders.

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### ***A BETTER MEXICO IS EVERYONE'S BUSINESS***

*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,*



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*COFECE seeks better conditions for consumers, more services of higher quality and a “level playing field” for companies.*

Courtesy translation of press release in Spanish. For information purposes only.

