

COFECE's position for enforcing the Federal Economic Competition Law in light of the current health emergency

- *Collaboration agreements between economic agents will not be prosecuted as long as they don't have the objective of displacing competitors and are necessary, given the present context, for maintaining or raising supply, satisfying the demand, protecting the supply chain and avoiding the shortage or hoarding of goods.*
- *Increasing or setting prices must be each company's individual and independent decision; these cannot be induced, promoted or recommended by business associations, confederations or chambers.*
- *Those markets in which indiscriminate price hikes are observed will be reviewed to evaluate, and rule out, that these are being caused by possible agreements between competitors, in which case an investigation would have to be initiated.*
- *The Commission will expedite the review of filed concentrations to create synergies and contribute to the increase of production capacities for satisfying the demands derived from this crisis.*

Mexico City, March 27th, 2020.- In the context of the COVID-19 epidemic, caused by the SARS-CoV2 virus, recognized as a serious disease for immediate attention,¹ and considering that the Federal Ministry of Health has announced that Mexico entered into phase 2, the Federal Economic Competition Commission (COFECE or Commission) is aware of the inconveniences this situation may cause to companies, consumers and the general functioning of the markets. To contribute to uninterrupted operation of supply chains or to an artificial restriction of the supply that raises prices of goods and services, the Commission states the following:

- Agreements between competitors breach the Federal Economic Competition Law and are investigated and sanctioned when their purpose or effect is manipulating prices, allocating the market, and/or restricting the supply of goods and services in

¹ Agreement by which the General Health Council recognizes the epidemic of the disease caused by the SARS-CoV2 virus (COVID-19) in Mexico, as a serious disease for priority attention, as well as the activities of preparation and response to said epidemic, published in the Federal Official Gazette on March 23rd, 2020.

detriment of the consumer. Therefore, any collaboration agreement between economic agents that, in the present context of a health emergency, is necessary for maintaining or raising the supply, satisfying the demand, protecting supply chains, avoiding the shortage or hoarding of goods, will not be prosecuted as long as they comply with the law and do not displace competitors in the market.

- In addition to the COVID-19 crisis, we have recently experienced price variations in some inputs such as gasoline, a devaluation of the Mexican currency, as well as drastic changes (increase or decrease) in the demand for some goods and services. These situations could result, although not necessarily, into increases in the prices of goods and services for final consumption; this due to a hike in import costs and a possible temporary shortage. In this regard, the Commission warns economic agents that any increase in prices should obey individual and independent decisions and not be induced, promoted or recommended by business associations, confederations or chambers.
- Pursuant to its constitutional mandate, COFECE has always prosecuted and severely sanctioned violations to competition law. Given the current circumstances, it is particularly serious that competitors engage in any agreement to manipulate prices, restrict the supply of goods and/or services, allocate markets or rig bids for public procurement. COFECE will prosecute and sanction these conducts in accordance with the law.
- The Federal Economic Competition Law does not bestow COFECE with powers to prosecute and sanction *per se* high margins or price hikes set unilaterally by companies in the market. However, COFECE will keep close attention to the behavior of sensible markets in which indiscriminate price hikes are observed, to evaluate and rule out that these are not a result of undue barriers or agreements between competitors which would derive in a formal investigation proceeding.
- COFECE is committed to an expedite review of notified concentrations derived from the need for creating synergies and increase production capacities to timely and sufficiently satisfy the needs of products of popular consumption, as well as those goods for addressing this crisis.



COFECE is available to both public and private sectors to solve immediately any doubt or concern derived from activities, programs, policies or collaborations between competitors and their compliance with competition law. These can be sent to consultacofece@cofece.mx or to the following phone number +52.55.27.89.66.69.

COFECE joins, from its area of expertise, to the efforts to successfully face the COVID-19 pandemic. The welfare of consumers will always be the guidance for our interventions and decisions.

What is a monopolistic practice?

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A BETTER MEXICO IS EVERYBODY'S BUSINESS

The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. Through this, it contributes to consumer welfare and the efficient functioning of the markets. Through its work, it seeks better conditions for consumers, greater output and better services and a "level playing field" for companies.

