

COFECE imposed fines in two cases for failure to notify a concentration: *Santander* and *USB Americas*; and *KKR Rainbow Aggregator* and *Coty*

- *COFECE fined diverse subsidiaries of Santander, Elavon and USB Americas a total of 2 million 172 thousand Mexican pesos because they modified the non-competition clause originally notified and authorized.*
- *In the second case, COFECE fined KKR Rainbow Aggregator and Coty a total of 868 thousand Mexican pesos, for having notified their concentration after its implementation.*

Mexico City, August 10, 2020.- The Board of the Mexican Federal Economic Competition Commission (COFECE or Commission) sanctioned two concentrations that were not notified as they were legally required. On the one hand, it imposed fines totaling 2 million 172 thousand Mexican Pesos on *Banco Santander México, Santander Merchant Platform Solutions, Santander Global Facilities, Elavon Latin American Holdings* and *USB Americas Holdings Company*. On the other, it sanctioned *KKR Rainbow Aggregator* and *Coty Inc.*

In November 2019, the Commission authorized a transaction by which *Santander* acquired a payment processing business from *USB Americas* through *Elavon*.¹ This transaction included a non-competition clause which was later modified once the transaction was completed. The modification to the non-competition clause implied that the concentration that was carried out is different from the one originally authorized; hence it was deemed that the notification was omitted when it was legally required. Consequently, the economic agents involved in the transaction were sanctioned.

The second case involved *KKR Rainbow Aggregator*, which is part of a global company that in Mexico participates in the energy, health, travel and financial services sectors, among others. This economic agent indirectly acquired part of *Coty's* capital, an American firm focused on beauty products. Given that this transaction was presented before COFECE after its implementation and it exceeded the thresholds foreseen in the Federal Economic

¹ <https://resoluciones.cofece.mx/CFResoluciones/docs/Concentraciones/V6021/21/4986301.pdf> (in Spanish).

Competition Law (LFCE, as per its initials in Spanish)² for its mandatory notification, the economic agents were sanctioned for omitting the notification when it was legally required.

Additionally, in this case, it was found that the transaction does not represent risks to the competition and free market access process, hence was authorized.

Once the resolutions have been notified to the parties involved in these proceedings, the sanctioned economic agents may go before the Federal Judiciary so the legality of COFECE's actions is reviewed.

Read: [What is a concentration and why is it analyzed? \(in Spanish\)](#) and [Sanctions for unnotified or unlawful concentrations \(in Spanish\)](#).

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The Federal Economic Competition Commission is responsible for ensuring competition and free market access. In this way, it contributes to consumer welfare and the efficient functioning of the markets. Through its work, COFECE seeks better conditions for consumers, greater output and better services and a “level playing field” for companies

² Subsection III of Article 86 of the LFCE.