

COFECE sanctions several companies and natural persons for agreeing retail gasoline prices in Tijuana and Mexicali, in Baja California

- *The Board of Commissioners imposed fines totaling 51 million Mexican pesos to companies of the economic interest groups: Gasmart, Rendichicas, Apro, Magigas and Eco; to the partnerships Colorado, Florido, Becktrop, Ravello, Dagal, Cargas; and -as contributing parties- to the associations Onexpo Baja, Onexpo Mexicali and APEGT; as well as to the natural persons who acted on their behalf.*
- *The estimated harm to the market amounted to 27 million 431 thousand pesos.*

Mexico City, September 14, 2020.- The Board of Commissioners of the Mexican Federal Economic Competition Commission (COFECE or Commission) determined that several companies that belong to the following economic interest groups; *Gasmart, Rendichicas, Apro, Magigas, Eco*; and the partnerships *Colorado, Florido, Becktrop, Ravello, Dagal* and *Cargas*; as well as 11 natural persons who acted on their behalf, committed absolute monopolistic practices in the retail gasoline market in the municipalities of Tijuana and Mexicali, in the Mexican state of Baja California. The Board also concluded that *Onexpo Baja*, the Association of Gasoline Stations of Tijuana (*APEGT*, as per its initials in Spanish), the Association of Gas Stations of Mexicali (*Onexpo Mexicali*) and four natural persons incurred in the illicit act of having contributed to, encouraged or induced said anticompetitive conducts.

The sanctioned anticompetitive conducts consisted of agreements between the competitors to maintain gasoline prices at the maximum price determined by the Federal Executive, through the Ministry of Finance and Public Credit (SHCP, as per its initials in Spanish). Consequently, they were fined a total 51 million Mexican pesos.

As a prior measure to the liberalization of gasoline prices, pursuant the applicable regulations at the time, the SHCP announced that from January 2015 maximum retail gasoline prices would come into force. Drawing from this new policy, retailers could offer, in an independent manner, prices below the maximum price to win consumers' preference.



Given this situation, *Onexpo Baja*, an entity that groups several service stations in the Mexican state of Baja California, and the *APEGT* convened several gas station operators with the aim of achieving “unity within the sector” concerning gasoline prices in Tijuana. Consequently, *Gasmart*, *Appro*, *Ravello* and *Eco*, agreed to maintain retail gasoline prices at the maximum determined by the SHCP and to abstain from offering discounts. The prices reported by these same gas station operators, show that they maintained the maximum prices established by the SHCP from 1 January 2015 until the first half of February 2015. After this date and until the end of February of the same year, these groups – in addition to *Florida* – changed the type of collusive agreement and began to coordinately apply discounts to gasoline prices in certain areas.

Later, in early 2017, the agreement was repeated in Mexicali, Baja California. In this case, *Gasmart*, *Rendichicas*, *Colorado*, *Magigas*, *Cargas*, *Dagal*, *Becktrop* and *Eco* held a series of meetings, exchanges of emails and of *WhatsApp* Messages aimed at maintaining the maximum price determined by the SHCP and not to apply the fiscal stimulus¹ in the prices for gasoline established for the zone of the Northern border of Mexico. This conduct was also carried out with the assistance of *Onexpo Mexicali* and *APEGT*. The application of the stimulus was an option for gas stations that allowed benefiting the consumer through discounts; therefore, the coordinated agreement for not applying it, harmed consumers. This caused that in Mexicali, the retail prices remained at the maximum price from January to early March 2017.

The calculated overprice of gasolines caused by the anticompetitive conducts was at least 10 cents per liter in Tijuana, and up to 60 cents per liter in Mexicali, which generated a damage to the market estimated at 27 million 431 thousand Mexican pesos. Likewise, it is considered that the sanctioned conducts were serious, as they were intentional, and generated a direct harm to consumers who use motor vehicles, as well as other sectors that utilize gasoline as an input, such as public and freight transport.

¹ The fiscal stimulus object of the second agreement consisted in a percentage of discount for each liter of fuel sold at service stations located in the 20 kilometers border strip parallel to the border with the United States. The gas station operators could recover this discount afterwards, by proving it against income tax or requesting its reimbursement to the Tax Administration Service.

Consequently, the COFECE's Board determined to impose fines totaling 51 million Mexican pesos to the economic agents responsible for committing the practices.

Once the matter has been resolved and the parties notified, the sanctioned economic agents have the right to go before the Federal Judiciary so the legality of COFECE's actions is reviewed.

This authority reiterates that it will prosecute and sanction with the severity applicable pursuant the law, any conduct contrary to the competition framework that harms consumers and the economy in general.

Read: [What is an Absolute Monopolistic Practice \(AMP\)?](#) (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

