

COFECE-038-2020

## COFECE proposes 12 measures on economic competition matters to support the recovery of the Mexican economy

- *As a result of the health crisis, markets could further concentrate.*
- *Guaranteeing inclusion and permanence of a wide range of companies is the best way to ensure a sustainable recovery in which markets work for the benefit of consumers.*

**Mexico City, October 13, 2020.-** The Mexican Federal Economic Competition Commission (COFECE or Commission) presented the document *Proposals on Economic Competition Matters to Support the Recovery of the Mexican Economy (Propuestas en materia de competencia económica para contribuir a la reactivación de la economía mexicana)*, which contains 12 actions to encourage the participation of the largest possible number of companies in markets that are relevant for the Mexican economy, either because of its cross-cutting impact in several markets, or because of its effect on the purse of Mexican families. The proposals mainly originate from diverse market studies and opinions previously issued by COFECE.

The health emergency caused a fall in production and, consequently, small and medium-sized companies are the most affected. In the meantime, companies with greater capital are more likely to remain in the markets, thus increasing the risk of observing a greater concentration in some of these markets. Therefore, it is relevant to ensure that public policy decisions for the economic reactivation promote the participation of the largest possible number of companies. That is to say, the recovery will only be sustainable and focused on generating benefits for consumers if concurrence of economic agents in the diverse markets is sought, and that they compete adapting to the needs, tastes and possibilities of consumers, and not for having been favored by the decision of any authority, often in a discretionary manner.

The actions proposed by COFECE are:

1. **To expand access to credits for a greater number of Mexicans and small companies, by facilitating their credit score assessment through the data held by the Government,** through the creation of a public bureau, that contains data on the compliance of payment of utilities, such as water, electricity, credits granted by Infonavit or Fovissste housing funds, granting access to such data to both traditional banks and *Fintechs*.

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2. **To increase purchase options for medicines at better prices for families, expediting the entry to the market of generic drugs**, through greater transparency of the information on validity and expiration of patents, as well as coordination between the Mexican Institute of Industrial Property (IMPI) and the Federal Commission for the Protection against Sanitary Risks (COFEPRIS); in addition to establish in the Regulation of the Industrial Property Law restrictions on the granting of secondary patents, which are prone to be used abusively to block the entry of competitors.
3. **To make electricity costs as competitive as possible, by guaranteeing compliance with the legal framework in force concerning the economic dispatch of electricity and the non-unduly discriminatory access to transmission and distribution grids**, as well as ensuring that all rules on matters of reliability and stability of the system use mechanisms that do not compromise these principles, in accordance with best international practices.
4. **To promote the lowest possible prices of gasolines, through expedite and non-unduly discriminatory granting of import and retail permits for gasolines and diesel, encouraging competition along the whole value chain**, with the elimination of several requirements that hinder the issuance of import permits, avoiding delays in the granting of authorizations by the Energy Regulatory Commission (CRE) for the operation of service stations and by bringing transparency on the status of these applications, as well as extending the validity of one-year import permits that are close to their expiration while the Ministry of Energy resumes its legal deadlines for the processing of these permits (stopped since March 2020).
5. **Guaranteeing that, for the benefit of taxpayers, the government timely contracts goods and services at the best price and quality conditions, through a reform to the Procurement Law to maximize competition and free market access in public procurement procedures**, which limits the causes for exceptions in public tenders so that direct awards are the exception rather than the rule, facilitates conducting international bidding in markets with few buyers, establish collusion as a cause of disqualification to participate in public procurement procedures and to make COFECE's opinion binding in the bidding bases for "large scale" contracts.
6. **To induce the reduction of the price of federal land transportation of passengers, with a modification to the regulation that fosters competition among offeror companies and that allows the participation of new players**, through mandatory open and non-discriminatory access to bus terminals, and by allowing more locations to offer these services, as well as to



re-concession - through contested processes – the bus terminals that are expired or about to expire (Northern Terminal [Central del Norte], 2019, and Querétaro, 2020).

- 7. To achieve the entry of more companies at the state-level in markets for gasolines, Liquefied Petroleum Gas and freight transport, through the expedite issuance of guidelines from the National Council for Regulatory Improvement**, so that state and municipal governments eliminate the restrictions to competition that prevail in these markets, issues that have been undergoing work in the framework of said Council.
- 8. To maintain the Mexican public's purchase options open through commercial exchange, avoiding the imposition of restrictive measures on foreign trade without prior assessment of harm to consumers.** Among several measures, it is proposed that countervailing duties have the opinion of consumers and industrial importers; to apply them only if it is proved that they are not against the general public interest and, when justified, for them to be exclusively for the amount of the caused damage; to avoid that different trade measures are imposed simultaneously on the same sector, as prevails in steel, footwear and textiles; to review the operation of the Foreign Trade Commission to ensure that before reaching a final decision on a quota or tariff, the affected parties are heard, and the versions of its sessions are transparent and publicly available.
- 9. To recover public goods whose concessions are about to expire and grant new concessions through tenders, so that the winners are those that really offer the best conditions for users** in services such as passenger transportation, ports and railway transport, on which the corresponding regulatory authority must publish information concession titles that have expire or are about to expire, and that when these expire, it should transparently and publicly evaluate the convenience of extending them, or, where appropriate, grant new concessions through public bidding.
- 10. Increasing the efficiency of entry of goods by sea, with a reform to the Ports Law that incorporates competition principles**, with the establishment of sanctions to acts from APIs that fail to comply with COFECE's resolutions and to make mandatory the favorable opinion of the Commission prior to any modification of the contract of a concessionaire. Moreover, it is proposed to facilitate tariff regulation when there is only one supplier for port maneuvering services.
- 11. Ensure that products reach consumption centers at a lower cost through the development of an articulated network of rail transport, for which a reform to the Regulatory Law of the Railway Service is proposed**, incorporating precepts so that the Regulatory Agency of



the sector has sufficient information to evaluate the concessionaires; to typify the infractions of their obligations and, where appropriate, to establish the respective sanctions; to expedite the procedures for determining compensations, granting or establishing new rights of way and/or the tariff basis for this service; and to transparently evaluate compliance of the concessionaires' commitments when they request extensions to the exclusivity term or the validity of their concession titles.

**12. To guarantee that market rules do not hinder competition, with a reform to Article 105 of the Mexican Constitution that empowers COFECE to file constitutional actions on general rules that violate competition principles.**

Read the full document at: [Proposals on Economic Competition Matters to Support the Recovery of the Mexican Economy](#) (in Spanish).

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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 welfare 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.*

