

COFECE-007-2021

Derived from a complaint, COFECE investigates possible relative monopolistic practices in the market of conformity assessment of mezcal

Mexico City, March 04, 2021.- The Investigative Authority of the Federal Economic Competition Commission (COFECE or Commission) published today, in the Federal Official Gazette and on its website, the notice of initiation of an investigation by complaint for possible relative monopolistic practices in the market of conformity assessment of the alcoholic beverage called mezcal.

Conformity assessment consists in the determination –on behalf of certification bodies and accredited testing laboratories, among others– of the degree of conformity with distinct standards that ensure the quality, technical and/or safety characteristics of goods and services commercialized in the markets. In the case that probable anticompetitive conducts are identified these could significantly reduce the options to which mezcal producers can turn to comply with standards, increasing their costs and the price paid by final consumers for this beverage.

The production of mezcal, along with that of tequila, constitutes the second most important economic activity in the industry of alcoholic beverages of the country, and represents 32% of the total gross production¹. Thus, the lack of competition in the process of conformity assessment for the compliance with standards could negatively impact on this market.

Relative monopolistic practices are actions, contracts, agreements or procedures carried out by one or several economic agents with substantial market power and who have, or may have, as purpose or effect unduly displacing other market agents, substantially impeding their access or establishing exclusive advantages in favor of one or more economic agents. Examples of these practices are tied purchases or sales, exclusivities, discriminatory prices or treatment, raising costs for other economic agents, refusal to deal, among others.

This investigation, identified under file DE-050-2019, shall not be understood as a prejudgment on the responsibility of any economic agent, since so far no violations to the Federal Economic Competition Law have been identified, nor the subject(s) who, if applicable, would be considered as probable responsible at the end of this investigation

¹ Censos Económicos 2019, INEGI.

The timeframe for this inquiry is of up to 120 working days, starting on March 4 2020, date in which the investigation began, this timeframe can be extended for an equal term up to four times.

If by the end of the investigation no elements that presume the realization of said anticompetitive practice are found, the Board of Commissioners may resolve its closure. In case that elements that presume an infringement of the Law are found, those who result probable responsible will be called to a trial-like procedure to present their defense.

If a relative monopolistic practices is confirmed, economic agents may be sanctioned with fines of up to 8% of their income and the order to suppress the conduct.

Extract of the agreement of initiation DE-050-2019 (in Spanish)

What is a relative monopolistic practice? (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.