

## COFECE sanctions *Frutas y Hortalizas de Calidad* and a natural person for not notifying a concentration

- *The Commission imposed fines for a total amount of 2 million 345 thousand 760 Mexican pesos.*
- *The transaction will not have legal effects until, upon the corresponding payment of rights, they present the respective concentration notification with the documents and information established by the Federal Economic Competition Law and, as the case may be, it is authorized by the Board of the Commission.*

**Mexico City, January 20, 2022.-** The Board of the Federal Economic Competition Commission (COFECE or Commission) imposed a fine to *Frutas y Hortalizas de Calidad (FHC)* and a natural person for a total amount of 2 million 345 thousand 760 Mexican pesos for having omitted the notification of a concentration before carrying it out, as established in the Federal Economic Competition Law (LFCE, per its initials in Spanish).

In November 2020 a transaction was carried out through which a natural person acquired a percentage of representative stocks of the social capital of *HBC International*, owned by *FHC*. The foregoing implied the indirect acquisition of a part *Interjet's* assets, since *HBC* holds a participation in said airline.

Upon detecting this operation, the Commission opened a file<sup>1</sup> to verify if the involved economic agents complied with the respective concentration notification. Despite that the infringers were duly noticed of the foregoing, they did not submit statements, evidence nor arguments to defend themselves against the possible failure to comply with the LFCE, therefore the analysis was conducted with the available information.

The omission to notify the transaction before carrying it out made it impossible the exercise of COFECE's attributions to assess the impact that it would have on the markets and thereby preventing, if applicable, possible damages and/or risks to the process of competition and free market access.

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<sup>1</sup> File number VCN-001-2021.

Likewise, they were informed that the operation will not produce legal effects therefore it cannot be registered in the corporate books, formalized in a public instrument or be registered in the Public Registry of Commerce until it has, if applicable, the favorable authorization of the Commission, prior payment of rights along its written notification with the information and documents, in accordance with the LFCE, for the corresponding analysis to be carried out and the Board resolves in this regard.

Once the matter is resolved and the parties have been notified, the sanctioned economic agents have the right to appear before the Judicial Power of the Federation to review the legality of the actions of COFECE.

*Find out what are the [Thresholds for notifying a concentration \(in Spanish\)](#), [Factors to assess a concentration \(in Spanish\)](#) and [Sanctions to unnotified or unlawful concentrations \(in Spanish\)](#)*

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*The Mexican Federal Economic Competition Commission is responsible for ensuring competition and free market access. In this way, it contributes to the people's welfare and the efficient functioning of the markets. Through its work, it seeks better conditions for consumers, that more services are offered with higher quality and that there is "level playing field" for companies.*

