

Cofece-023-2022

Cofece sanctions five economic agents for not notifying a concentration

- *The Commission imposed fines for a total amount of 1 million 884 thousand 966 Mexican pesos*
- *The concentration was authorized after verifying that it does not affect competition and free market access.*

Mexico City, August 05, 2022.- The Federal Economic Competition Commission (Cofece or Commission) sanctioned Banco Invex, S.A., Institución de Banca Múltiple, INVEX Grupo Financiero —exclusively in its capacity as trustee of the Fideicomiso Irrevocable de Emisión de Certificados Bursátiles Fiduciarios de Desarrollo No. 2695 (2695)—; Banco Invex, S.A., Institución de Banca Múltiple, INVEX Grupo Financiero —exclusively in its capacity as trustee of the Fideicomiso Irrevocable de Administración número F/3436 (3436)—; Neology Inc. (Neology EUA); Neology, S. de R.L. de C.V. (Neology mx), and a natural person for a total of 1 million 884 thousand 966 Mexican pesos, for omitting the notification of a concentration in terms of the Federal Economic Competition law (LFCE or Law).

The imposed sanctions are due to the fact that, at the time, the involved economic agents requested the authorization of a concentration, consisting of the acquisition or subscription by Fideicomisos Inversionistas 2695 and 3436, of a portion of the social capital of Neology mx, property of Neology EUA, in partnership with Controles Electromecánicos, S.A. de C.V; however, after the operation, the investment trusts were associated to a natural person and Neology EUA; that is, in a different manner from what had been proposed in the notified operation and how it was authorized by the Board of Commissioners of Cofece.

The concentration exceeded the thresholds established in Article 84, section III, of the LFCE, for which it was mandatory to notify the operation prior to its completion. Thus, the Commission was prevented from assessing in a timely and preventive manner the impact and risk that said concentration could generate on competition and free market access.

Consequently, the file (VCN-002-2022) was opened and a procedure was initiated to verify compliance with the obligation to notify a concentration when legally required to do so and it was found that the operation did not imply risks to the process of competition and free market access, therefore it was authorized. Nonetheless, the corresponding sanctions were imposed for failing to comply with what the Law mandates, in its Article 86, section III.

Once the matter has been 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.¹

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MORE COMPETITION FOR A STRONGER MEXICO

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.

¹ The public version of the resolution may be consulted on the portal for opinions and resolutions of the Cofece's website within the legal timeframe established in Article 47 of the Regulatory Provisions of the Federal Economic Competition Law.