

Cofece-028-2022

## **Cofece fines Infra and Cryoinfra for not complying with commitments undertaken to restore competition in the oxygen, nitrogen and argon markets**

- *In 2018, during the trial-like procedure for possible relative monopolistic practices, both economic agents presented commitments, which were accepted by the Board of Commissioners, in order to restore competition conditions in these markets.*
- *These commitments were not complied with, for which the Board of Commissioners of Cofece imposed fines for more than 296 million Mexican pesos.*

**Mexico City, September 14, 2022.-** The Board of the Federal Economic Competition Commission (Cofece or Commission) imposed fines for a total 296 million 323 thousand 915 pesos to Cryoinfra, S.A. de C.V. (Cryoinfra) and Infra, S.A. de C.V. (Infra), for not complying with commitments they assumed before this authority to restore competition in the markets of oxygen, nitrogen and liquid industrial argon, and that were established due to the request for an early termination of file number DE-006-2014 and accumulated, for the possible realization of relative monopolistic practices.

In April 2014, the Investigative Authority initiated an investigation derived from a complaint for the possible participation of various economic agents in acts, contracts or agreements with the object or effect of unduly displacing their competitors or preventing their access to the market. Specifically, the markets in which the possible anticompetitive conducts were investigated were those of the bulk distribution and commercialization of oxygen, nitrogen and liquid industrial argon through cryogenic tanker trucks unloaded unto a cryogenic container at the client's premises, with a regional geographic dimension.

Oxygen, nitrogen and liquid argon serve as inputs in the production of other goods and are used in various industries, for example, aerospace, aeronautics, automotive, food, chemical, oil and gas, metallurgical, pharmaceutical and biotechnology, refining, water treatment and/or welding and metal fabrication.

Through the use of the instrument provided for in the Federal Economic Competition Law (LFCE, per its initials in Spanish) of 1992, in 2018 Infra and Cryoinfra requested the early

closure of the trial-like procedure, for which they presented to the Board of the Commission various commitments to suppress the investigated conduct and restore the process of competition and free market access, which were accepted.

However, derived from the verification process, it was proven that the economic agents generally failed to comply with several of the commitments assumed. The foregoing breached the verification process and the corrective effect of the resolution of the Board of Commissioners to restore competition in the markets.

Infra and Cryoinfra failed to comply with obligations of the agreed commitments by submitting extemporaneously or not submitting the information related to the verification process, as well as by not modifying the existing contracts to eliminate the exclusivity clauses or the automatic renewal of the contracts for more than one year.

The Board of Commissioners resolved the non-compliance by Infra and Cryoinfra and imposed fines for 296 million 323 thousand 915 Mexican pesos. Additionally, it granted them a timeframe of 45 working days from the notification of the resolution to prove compliance with all the commitments. Otherwise, fines may be imposed on them as an enforcement measure up to the equivalent to one thousand 500 times the daily value of the Unit of Measurement and Update for each day that elapses without them complying with what was ordered.

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.

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***MORE COMPETITION FOR A STRONGER MEXICO***

*The Federal Economic Competition Commission safeguards competition and free market access.  
Through its work, it seeks better conditions for consumers, that more services  
are supplied with higher quality and that there is a “level-playing-field” for companies*