

Cofece determined the existence of barriers to competition in the relevant markets of the value chain of jet fuel

- *The barriers to competition identified generate restrictions to the efficient functioning of the markets for the commercialization, storage, and sale of jet fuel, the main input for air transport.*
- *We issued recommendations to the Energy Regulatory Commission; the Ministry of Economy; the Ministry of Energy; the Ministry of Infrastructure, Communications and Transportation; the Ministry of Finance and Public Credit; and the Ministry of Public Administration; and ordered measures to Aeropuertos y Servicios Auxiliares to restore the conditions of effective competition in these markets.*

Mexico City, March 17, 2023.- Jet fuel is the main input for air transport and it represents, according to the information of the file, between 25% and 30% of the airlines' operating expenses. In addition, according to data from the National Institute of Statistics and Geography, air transport services contributed 3.08% of the transport GDP in Mexico in 2021. Therefore, the existence of barriers to competition in the markets of its value chain impacts airlines, and could indirectly impact consumers on the prices of air transport services.

The Board of Commissioners of the Federal Economic Competition Commission (Cofece or Commission) determined the existence of five barriers to competition and free market access that generate restrictions on the efficient functioning of the markets for primary and secondary commercialization, internal and external storage, as well as sale of jet fuel.

The barriers identified, as well as recommendations and orders to eliminate it are:

Barrier B-1 in the relevant market of **primary commercialization**. There are provisions of the regime of prior import permits that limit the entry and permanence of economic agents.

- It was recommended to the Ministry of Economy and the Ministry of Energy to modify various agreements that limit the importation of jet fuel¹.

¹ *Acuerdo que establece las mercancías cuya importación y exportación está sujeta a regulación por parte de la Secretaría de Energía [Agreement that establishes the goods whose import and export is subject to regulation by the Ministry of Energy]*, published in the Federal Official Gazette on December 26, 2020, available at: https://dof.gob.mx/nota_detalle.php?codigo=5608832&fecha=26/12/2020#gsc.tab=0

Acuerdo por el que se abroga el diverso por el que se suspenden las consecuencias derivadas del Acuerdo que establece las mercancías cuya importación y exportación está sujeta a regulación por parte de la Secretaría de Energía, publicado en el Diario Oficial de la Federación el veintiséis de diciembre de dos mil veinte, en términos de

Barrier B-2 in the relevant market of **external storage**. There is shortage and lack of access to the external storage infrastructure for jet fuel, which inhibits the ability of current and potential participants to compete in the relevant markets of commercialization.

- It was recommended to the Energy Regulatory Commission to increase the possibility of traders to access external storage infrastructure without discriminatory restrictions.

Barrier B-3 in the relevant market of **external storage**. Most of the capacity in the country is contracted with *Pemex Transformación Industrial* and there are no maximum limits to its capacity reserve, limiting the entry of competitors.

- It was recommended to the Energy Regulatory Commission to establish a regulation that determines the maximum participation of *Pemex Transformación Industrial* in the reserve capacity in external storage facilities at the regional level.

Barrier B-4 in the relevant markets of **secondary commercialization and supply**. *Airports and Auxiliary Services* is vertically integrated in various segments of these relevant markets, and it has not completed its functional, operational and accounting separation, which restricts competition in secondary commercialization and supply.

- It was recommended to the Ministry of Infrastructure, Communications and Transportation, the Ministry of Finance and Public Credit and the Ministry of Public Administration to assess and, if necessary, modify the Organic Statute of *Aeropuertos y Servicios Auxiliares* in force, so that it complies and guarantees the obligations of separation of the commercialization and storage activities, in the terms ordered by the Energy Regulatory Commission
- It was ordered to the Administration Board of *Aeropuertos y Servicios Auxiliares* to comply with the obligations of functional, operational and accounting separation, making a clear distinction in the separation of the functions, procedures and staff of the administrative units responsible for the commercialization and storage activities, ordered by the Energy

la resolución del incidente de suspensión derivado del juicio de amparo 16/2021, del índice del Juzgado Segundo de Distrito en Materia Administrativa Especializado en Competencia Económica, Radiodifusión y Telecomunicaciones, con residencia en la Ciudad de México y jurisdicción en toda la República [Agreement that abrogates the Agreement that suspends the consequences derived from the Agreement that establishes the goods whose import and export is subject to regulation by the Ministry of Energy, published in the Federal Official Gazette on December twenty-sixth, two thousand twenty, in terms of the resolution of the suspension incident derived from the amparo trial 16/2021, from the index of the Second District Court in Administrative Matters Specialized in Economic Competition, Broadcasting and Telecommunications, with residence in Mexico City and jurisdiction throughout the Republic, published in the Federal Official Gazette on March 3, 2021], published in the DOF on February 17, 2022 available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5643185&fecha=17/02/2022#gsc.tab=0

Regulatory Commission, including the publication in the Federal Official Gazette of the Organization Manual of *Aeropuertos y Servicios Auxiliares*.

Barrier B-5 in the relevant market of **internal storage and sale**. Some concession titles for the operation and administration of airports contain exclusivity clauses in favor of *Aeropuertos y Servicios Auxiliares* and, although these provisions ceased to be in force with the entry into force of the Hydrocarbons Law, indirectly it could be limiting competition to new entrants into the sale market.

- It was recommended to the Ministry of Infrastructure, Communications and Transportation to issue and publish in the Federal Official Gazette a general notice indicating that such exclusivities of *Aeropuertos y Servicios Auxiliares* are no longer in force.

With compliance with the recommendations and ordered measures, a greater entry of competitors is expected that more competitors in the markets of the jet fuel value chain, which will be reflected in better prices for the final consumer. Cofece reaffirms its commitment to monitor public or private actions that may affect competition conditions to the detriment of the efficient functioning of the markets and to the detriment of consumer welfare.

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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.