

Cofece challenges concentration between companies that participate in the entertainment services market in dolphinariums in Quintana Roo

- *If carried out under the proposed terms, the concentration would reduce the number of existing competitors or limit their level of competition, which would have a negative impact on the price of the services offered.*
- *High barriers to entry, among others, were identified related to the difficulty of developing commercialization channels and regulatory restrictions so that the likelihood of new competitors would decrease if the transaction had been approved under the proposed terms.*

Mexico City, October 24, 2023.- The Board of Commissioners of the Federal Economic Competition Commission (Cofece or Commission) resolved to challenge, in the proposed terms, the concentration between *Ejecutivos de Turismo Sustentable, S.A. de C.V. (Ejecutivos de Turismo)*, *Triton Investments Holdings LLC (Triton)*, *Controladora Dolphin, S.A. de C.V. (Controladora Dolphin)*, and together with *Ejecutivos de Turismo and Triton*, the purchasers), *Ventura Entertainment, S.A.P.I. de C.V. (Ventura Entertainment)*, and *Venturalive, S.A.P.I. de C.V. (Venturalive)*, as it posed high risks to competition in the market of entertainment services in dolphinariums. However, it was partially authorized with regards to the services offered in water, amusement and adventure parks.

During the analysis of this concentration (under file CNT-107-2022), Cofece noticed that the notified transaction is part of a succession of acts, so its analysis, in accordance with the Federal Economic Competition Law (LFCE by its initials in Spanish), considers each and every one of the acts that comprise it.

The notified concentration consisted of the intention of *Ejecutivos de Turismo* and *Triton* to acquire two adventure parks and a water park in Quintana Roo and an amusement park in Jalisco; as well as five dolphinariums in Quintana Roo, three of which ("*Dolphinaris Cancún*", "*Dolphinaris Tulum*" and "*Dolphinaris Riviera Maya*") are under the control of *Controladora Dolphin*.

The buyers belong to an economic interest group that has several types of amusement attractions in Mexico. In Quintana Roo they have seven dolphinariums, as well as an adventure park. They also have a recreational tourism boat operator that offers catamaran and yacht trips. Therefore, the notifying parties participate in the markets for entertainment services in dolphinariums and adventure parks in Quintana Roo.

From this analysis, the Commission concluded that, with respect to entertainment services in amusement, adventure and water parks, the concentration was unlikely to affect the process of economic competition and free market access, since the market shares meet the Commission's criteria and there are no additional elements that generate risks in such markets. However, the Commission challenged the operation regarding the entertainment services in dolphinariums since the concentration would imply the absorption by the purchasers of a competitor with the capacity to exert competitive pressure in the market.

Additionally, high entry barriers were identified in the market, among others, related to the difficulty of developing commercialization channels, high investment amounts to open

dolphinariums and acquire dolphins, and regulatory restrictions because the entertainment services in dolphinariums is a highly regulated activity, so new competitors are not identified and there are no possibilities for the market to grow and incentivize their entry.

The LFCE allows the notifying parties to present conditions to eliminate the risks to the competition process generated by the concentration. However, in this case, the proposed conditions were deemed insufficient since they did not avoid the possible risks to the competition process and free market access that were identified by the Commission.

Therefore, the Board of Commissioners of Cofece resolved to only authorize the acquisition of amusement, water, and adventure parks, since the operation implied risks for competition regarding the entertainment service in dolphinariums. Likewise, it resolved to challenge the concentration with regard to:

1. The acquisition of control by the purchasers of the dolphinariums identified as "*Dolphinaris Cancún*", "*Dolphinaris Tulum*" and "*Dolphinaris Riviera Maya*".
2. The acquisition by the purchasers of any of the five dolphinariums or their assets.

Once the parties have been notified, the LFCE grants the economic agents notifying the concentration the right to appeal to the Judicial Power to review the legality of Cofece's actions.

- 000 -

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.