

Cofece identifies possible barriers to competition in retail e-commerce

- *The Investigative Authority preliminarily determined the absence of effective competition conditions in the retail e-commerce market, thus proposing measures to correct its anti-competitive effects.*
- *If the findings of the preliminary opinion are confirmed, the Board of Commissioners could issue orders to economic agents to eliminate the barriers affecting the process of economic competition and free market access.*

México City, February 13, 2024.- As a result of the inquiry into the retail e-commerce market in the national territory, the Investigative Authority (IA) of the Federal Economic Competition Commission (Cofece or Commission) preliminarily determined that there are no conditions of effective competition in the retail e-commerce market (marketplaces) in Mexico, affecting both sellers and buyers. This market is very important because, since the beginning of the Covid-19 pandemic, more and more consumers use this option to purchase goods or services. Likewise, e-commerce is key for small and medium-sized businesses to offer their products to a larger number of consumers.

The IA preliminarily determined that there are no conditions of effective competition because said markets:

1. Have a high concentration, meaning they are composed of few participants.
2. Are characterized by network effects; that is, the value of a product or service increases as more people use it.
3. Have other types of barriers to entry, such as high investment amounts for their development, the need for technological tools, as well as investments in advertising, marketing, and public relations.

Considering the above, the IA determined that there are three possible barriers to competition that could be affecting the functioning of this market:

1. **Artificiality in some components of the loyalty programs** of marketplaces: there are services included in the loyalty programs of some companies, such as streaming services or others, that affect the behavior of buyers, which generates an artificial strategy that attracts them.
2. **Lack of transparency in the operation of offer management within** marketplaces: marketplaces have an offer management system that, through a series of algorithms, selects and highlights a particular offer that considers and displays to buyers as the best, so the lack of transparency in its operation could be affecting the efficient functioning of these markets.
3. **Preferences for own logistic solutions:** Some platforms do not allow their sellers to freely choose the logistics company to use based on convenience, price, and shipping time criteria, which favors the exposure of the products of sellers who contract the service offered by the same platform, encouraging sellers to purchase logistics services from the platforms.

To eliminate these barriers, a series of corrective measures were proposed in the preliminary opinion to restore conditions of effective competition in this market. These mainly consist of:

1. **Dissociate memberships from streaming services, as well as any other service not related to the use of the Marketplace**, and also avoid promoting these within the marketplaces. This implies that platforms are free to offer streaming programs and any other service, but these cannot be offered as part of the same package of services related to the Marketplace.
2. Create a section on company portals in which sellers are informed of **all the variables and weights that the offer management algorithm takes into consideration to select the featured offer, providing transparency and certainty.**
3. **Modify the criteria of the offer management algorithm** so that contracting of logistics solutions with a specific economic agent is not considered a variable.
4. **Make transparent the standards considered adequate to provide the logistics service** and thus allow interested logistics companies to integrate into their platform.

If the sense of the preliminary opinion is confirmed and the measures proposed by the IA are implemented, benefits are expected to materialize in greater entry and competition in the marketplaces for the benefit of both buyers and sellers, thus providing greater and better sales alternatives for small and medium-sized companies, as well as better prices and options for the final consumer.

The excerpt of the preliminary opinion of file IEBC-001-2022 was published today in the Federal Official Gazette. As of this moment, the economic agents with a proven interest in this procedure may present the statements and arguments they consider pertinent, so that the Board of Commissioners issues the final resolution of this case.

[Read the public version of the preliminary opinion](#) (in Spanish)

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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.