

# Mexico's Federal Economic Competition Commission position on the COVID-19 crisis

April 3, 2020

In the context of the COVID-19 epidemic situation, the Mexican Federal Commission of Economic Competition (*Comisión Federal de Competencia Económica*) ("COFECE"), has issued the following:

1. A ruling published in the Federal Register (*Diario Oficial de la Federación*) on March 24, 2020, whereby all statutory terms and deadlines applicable to any proceedings before COFECE shall be suspended from March 23 through April 16, 2020, except for those related to (i) pre-merger notification and clearance procedures; (ii) the opinions that COFECE is required to issue in connection with the granting or award of concessions, permits and licenses; and (iii) procedures related to omitted pre-merger notifications. The ruling also contemplates that any filings submitted during the suspension period with respect to proceedings subject to suspension will be deemed filed on April 20, 2020.

In light of the additional sanitary measures recently enacted in Mexico, we anticipate that the suspension period may be further extended, but no extension has been informed yet.

2. On March 27, 2020, COFECE made a public statement indicating that, as part of the efforts to assist in preventing the interruption of supply chains and the artificial restriction and price increases of any products or services, COFECE's position with respect to certain situations that may arise in the context of the COVID-19 epidemic is as follows:
  - Collaboration agreements among competing economic agents required to maintain or increase the offer of products or services, satisfy their demand, protect supply chains and/or avoiding scarcity or hoarding of any products, are considered legal and not subject to prosecution, provided they are not intended to displace other economic agents supplying the same market;
  - Price increases shall be determined individually and independently by each company, and should not be induced, promoted or recommended by any associations, chambers or confederations; COFECE will monitor price increases to evaluate and rule out undue barriers and illegal arrangements among competitors;
  - Agreements among competitors intended to manipulate prices, restrict the supply of products or services, allocate market shares or coordinate bids are considered particularly serious offenses in the current circumstances and will be prosecuted by COFECE in accordance with applicable regulations; and
  - COFECE will expedite the review of pre-merger notifications filed as a result of the need to implement synergies and aggregate production capacities to cope with the demand of any products required by the population and those necessary to face the crisis.

It is important to note that COFECE's statement should not be read as a relaxation of any rules concerning agreements among competitors. Companies should continue being mindful of the antitrust regulation applicable to agreements among competitors and anti-competitive practices, and obtain legal guidance as to the merits and risks of

each proposed arrangement, on a case-by-case basis.

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