

A close-up photograph of a hand moving a golden chess piece, likely a king, on a chessboard. The background is blurred, showing other chess pieces and the texture of the board.

## Newsletter Antitrust Practice Group

### Retail E-commerce market in Mexico has antitrust barriers, according to COFECE

Since the beginning of 2022, the Federal Economic Competition Commission ("COFECE") initiated an investigation in the Mexican retail e-commerce market to determine if adequate competition conditions exist in such market.

Derived from such investigation, in recent days, the Investigative Authority of COFECE issued an extensive preliminary report based on that investigation, in which it determined that said market has various barriers to competition.

Furthermore, certain corrective measures are ordered for the economic agents involved, in order to favor competition and free access in that market.

This case becomes especially important given that, due to the COVID pandemic, the retail e-commerce market exponentially increased its importance.

As for Mexico, COFECE had an interesting approach to determining the way in which the retail e-commerce market is comprised and determined, among other matters, that such is represented by "marketplaces" whose main feature is the interaction between two markets: the buyers and retailers.

Furthermore, it determined that the agents known as Amazon and Mercado Libre are the key market players in Mexico, given that they jointly hold more than 85% of the market share in the retailers' market and more than 61% of the buyers' market, jointly with an additional economic agent.

The three main barriers identified by the authority are:

1. Artificial components in the loyalty programs within those marketplaces;

2. Absence of clarity in how offer management works within those marketplaces; and

3. Preference for their own logistical solutions.

As a result of the determination of the abovementioned barriers, COFECE resolved to impose on the involved agents a series of corrective measures that must be implemented within a term that varies from 20 working days up to 6 months, and include, the disassociation of the marketplace service from other non-related "loyalty" services such as streaming services, providing their retailers clarity about the operation of the offer management algorithm within the platform and promoting user choice among logistic services suppliers.

This preliminary report represents a valuable precedent, given that in its issuance, COFECE is establishing its current criteria on the definition of the relevant market and market share regarding digital markets.

Our team of specialists in economic competition is at your disposal to address any questions regarding this matter.

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