



FEDERAL ECONOMIC COMPETITION LAW

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CURRENT WORDING

Last amendment published in the OGF on 01-27-2017

At the margin the Mexican Coat of Arms stamped seal reading: United Mexican States.- The Presidency of the Republic.

ENRIQUE PEÑA NIETO, the President of the United Mexican States, to its inhabitants:

The Honorable Congress of the Union has addressed to my attention the following

DECREE

“THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES DECREES:

THE ISSUING OF THE FEDERAL ECONOMIC COMPETITION LAW AMENDING AND ADDING A NUMBER OF ARTICLES OF THE FEDERAL CRIMINAL CODE.

ARTICLE ONE.- The Federal Economic Competition Law is enacted.

FEDERAL ECONOMIC COMPETITION LAW

**BOOK ONE
ORGANIZATION AND OPERATION**

**TITLE I
GENERAL PROVISIONS**

Article 1. This Law regulates article 28 of the Political Constitution of the United Mexican States regarding free market access, economic competition, monopolies, monopolistic practices and concentrations, is of public order and social interest, applicable to all economic activity areas and a law to be generally observed in the entire Mexican Republic.

Article 2. The purpose of this Law is to promote, protect and guarantee free market access and economic competition, as well as to prevent, investigate, fight, effectively prosecute, severely punish and eliminate monopolies, monopolistic practices and unlawful concentrations, barriers to free market access and economic competition and all other restrictions preventing the efficient operation of markets.





Article 3. For the purposes of this Law, it is understood as:

- I. Economic Agent: Any for profit or nonprofit individual or legal person, dependencies and entities of the federal, state or municipal public administration, associations, business chambers, professional groups, trusts or any other form of participation in the economic activity;
- II. Investigative Authority: That referred to under article 26 of this Law;
- III. Public Authority: Any authority of the Federation, the States, the Federal District and the Municipalities, their entities and dependencies, as well as of their respective state-owned and municipal-owned administrations, public trusts, autonomous institutions and bodies, and any other public entity;
- IV. Barriers to Competition and free market access: Any structural feature of the market, fact or act of Economic Agents the purpose or effect of which is to prevent competitors from accessing or limiting their ability to compete in markets; prevent or distort competition and free market access process, as well as legal provisions issued by any government order, unduly preventing or distorting the competition and free market access process;
- V. Commission: The Federal Economic Competition Commission;
- VI. Commissioner: Each of the seven members of the Commission's Plenum;
- VII. Internal Control Body: Commission's Internal Control Body;
Subsection amended in the OGF on 27-01-2017
- VIII. Regulatory Provisions: Administrative provisions, general in nature, that the Commission may issue for the execution of its own regulatory function in accordance with the provisions of subsection IV, paragraph twenty of article 28 of the Political Constitution of the United Mexican States;
- IX. Confidential Information: That which, if disclosed may cause damage or detriment to the competitive position of who provided it, contains personal data whose disclosure requires consent, may represent a risk to their security or when disclosure is prohibited by law;
- X. Public Information: That which has been made known to the public by any means of public dissemination, is in records or in sources with public access;
- XI. Reserved Information: That which is only accessible to Economic Agents with legal right in the procedure;
- XII. Body in charge of instruction: The Commission's agency in charge of the instruction of procedures referred to in this Law, in terms established by the organizational statute;





- XIII. Plenum: Commission's government body integrated by seven Commissioners, including the President Commissioner;
- XIV. Consumer Agency Office: The Federal Consumer Protection Agency;
- XV. Ministry: The Ministry of Economy.

Article 4. All Economic Agents are subject to the provisions of this Law. Those Economic Agents who have made or adopted the decision to incur in any conduct prohibited in this Law, as well as the Economic Agents who have instructed or exercised decisive influence over decision-making, and the one directly involved in the prohibited conduct shall be jointly liable.

Article 5. The Federal Telecommunications Institute is the authority on economic competition of the broadcasting and telecommunication sectors; therefore, in said sectors it shall exercise exclusively the powers that article 28 of the Political Constitution of the United Mexican States and the laws establish for the Commission, in line with the structure determined in its organizational statute.

Upon any of the bodies named in the above paragraph becoming aware that the other is dealing with a matter corresponding to the former, such body shall request to have the respective file dispatched. If the body recipient of the request considers having no jurisdiction, such file shall be dispatched within five days following reception of request. Otherwise, its resolution shall be made known to the requesting party within such same term, in which event the procedure shall be suspended and the file shall be dispatched to the Collegiate Circuit Court specialized on economic competition, broadcasting and telecommunication matters to render a resolution as to jurisdiction within ten days.

In the event any of the bodies referred to under paragraph one of this article becomes knowledgeable of a case as to which such body believes it has no jurisdiction, such body shall, within next five days, dispatch pertinent file to the other body. If the latter acknowledges having jurisdiction, it shall engage in knowing about the case; otherwise its resolution shall be notified to the body who rejected the case on the grounds of lack of jurisdiction, within five days, and shall dispatch the records to the Collegiate Circuit Court specialized on economic competition, broadcasting and telecommunication matters to render a resolution as to jurisdiction within ten days.

The terms established in this Law shall be suspended upon inception of any procedure provided for in this article up to its resolution.

Article 6. The functions that the State exercises exclusively in the strategic areas determined in the Political Constitution of the United Mexican States, shall not be deemed as monopolies.

Notwithstanding the above, the Economic Agents who are in charge of the functions referred to in the preceding paragraph, shall be subject to the provisions of this Law regarding acts that are not expressly included therein.





Article 7. Worker associations, established under the pertinent statutory law for the protection of their own interests, shall not be deemed as monopolies.

Any privileges granted to authors and artists for the production of their work or those granted to inventors and improvers for the exclusive use of their own inventions or improvements, during a particular term, are not deemed monopolies either.

Economic Agents referred to in the preceding two paragraphs shall be subject to the provisions of this Law regarding acts that are not expressly included under the protection given by article 28 of the Political Constitution of the United Mexican States.

Article 8. Producer associations or cooperative partnerships directly selling national or industrial products in foreign markets, established to defend their own interests or the general interest, shall not be deemed as monopolies, provided:

- I. Such national or industrial products are the productive region's main source of wealth or are not basic need items;
- II. Sale or distribution of such domestic or industrial products is off national territory;
- III. Such associations or cooperative partnerships are under surveillance or protection of Federal Government or State Governments and their incorporation, on each case, is previously authorized by the statutory laws of their corporate domicile;
- IV. Membership in such associations or cooperative partnerships is voluntary, permitting free entry and exit of its members; and
- V. Do not grant nor distribute permits or authorizations which issuance pertains to the entities or dependencies of the federal public administration.

Economic Agents referred to in this article shall be subject to the provisions of this Law regarding acts that are not expressly protected by article 28 of the Political Constitution of the United Mexican States.

Article 9. In order to set price caps to goods and services that are necessary for national economy or for popular consumption pursuant to article 28 of the Political Constitution of the United Mexican States, the following is to apply:

- I. The Federal Executive is vested with the exclusive power to decree those goods and services which may be subject to price caps, as long as the relevant market in question lacks effective competition conditions. The Commission shall determine, by means of declaration, the absence of effective competition conditions.





- II. The Ministry, without detriment of any powers vested onto other dependencies or entities and with Commission's prior opinion, shall set prices corresponding to goods and services decreed in accordance with the preceding subsection, based on criteria averting insufficiency of supply.

The Ministry may organize and coordinate any actions or modalities that may be required on this matter, with producers or distributors in an attempt to minimize the effect on competition and free market access.

The Consumer Agency Office, under the coordination of the Ministry, shall be in charge for inspecting, overseeing and applying penalties, as to prices determined in accordance with this article, in terms with that provided for under the Federal Consumer Protection Law.

TITLE II FEDERAL ECONOMIC COMPETITION COMMISSION

Chapter I About the Commission

Section I Its Nature, Purpose and Domicile

Article 10. The Commission is an autonomous body with its own legal personality and patrimony, independent as to decision-making and operation, of professional performance, unbiased acting, with capacity to autonomously spend its own budget, its purpose being to guarantee free market access and economic competition and prevent, investigate and fight monopolies, monopolistic practices, concentrations and any other restrictions preventing efficient operation of markets.

Article 11. The Commission shall be domiciled in Mexico City and, subject to budget availability, may establish branches off Mexico City.

Section II Commission's Powers

Article 12. The Commission shall be vested with the following powers:

- I. To guarantee free market access and economic competition; prevent, investigate and fight monopolies, monopolistic practices, concentrations and any other restrictions preventing efficient operation of markets and the imposition of any penalties deriving from such conducts, in terms with this Law;
- II. To provide measures to eliminate barriers to competition and free market access; to establish the existence of essential facilities and regulate access thereto, as well as to order the divestiture of





- assets, rights, equity interests or shares of Economic Agents in the extent required to eliminate anticompetitive effects;
- III. To perform verification visits in terms with this Law, to summon those individuals and legal persons in relation with the subject matter of an investigation and require the exhibit of documents, books, papers, files and information generated by electronic, optical or any other means in order to verify compliance with this Law, and request support of public enforcement agents or any Public Authority for efficient performance of the powers referred to in this Law;
 - IV. To establish agreements and coordination agreements with Public Authorities to fight and prevent monopolies, monopolistic practices, unlawful concentrations, barriers to free market access and economic competition and any other restrictions preventing efficient operation of markets;
 - V. To file complaints and accusations with Public Prosecutor as to probable criminal conduct regarding free market access and economic competition of which it becomes aware;
 - VI. To submit a request of dismissal as to probable criminal conduct against consumer and national wealth foreseen under Federal Criminal Code, when acting as a complainant or plaintiff;
 - VII. To autonomously spend its budget;
 - VIII. To create administrative bodies and units required for professional, efficient and effective performance, within its authorized budget;
 - IX. To order the suspension of any acts or facts constituting probable conduct prohibited by this Law, impose any other cautionary measures, as well as set a bond to withdraw such measures;
 - X. Resolve on matters under its jurisdiction and administratively sanction any violation to this Law;
 - XI. Resolve on conditions of competition, effective competition, existence of substantial power in relevant market and other matters that relate to free market access or economic competition process referred to in this or in any other laws and regulations;
 - XII. To issue an opinion when deemed pertinent, or at the request of the Federal Executive, by itself or through the Ministry, or at the request of any party, regarding adjustments to programs and policies carried out by Public Authorities, whenever they may have effects contrary to free market access and economic competition process in accordance with applicable legal provisions, without such opinions having binding effects. Such opinions are to be published;
 - XIII. To issue an opinion when deemed pertinent, or at the request of the Federal Executive, by itself or through the Ministry, or at the request of any party, regarding drafts of any provisions, rules, agreements, circulars and all other general nature administrative acts that any Public Authorities is intending to render, whenever they may have effects contrary to free market access and





economic competition process in accordance with applicable legal provisions, without such opinions having binding effects. Such opinions are to be published;

- XIV.** To issue an opinion when deemed pertinent, or at the request of the Federal Executive, by itself or through the Ministry, or by any of the Chambers of the Congress of the Union or at the request of any party, as to any initiatives of laws and draft regulations and decrees with respect to free market access and economic competition, without such opinions having binding effects. Such opinions are to be published;
- XV.** To issue an opinion when deemed pertinent, or at the request of the Federal Executive power, by itself or through the Ministry, or by any of the Chambers of the Congress of the Union, as to laws, regulations, agreements, circulars and general nature administrative acts on matters related to free market access and economic competition, without such opinions having binding effects. Said opinions are to be published;
- XVI.** Resolve on formal opinion requests and issue general guidelines on free market access and economic competition that are formulated in accordance with articles 104 to 110 of this Law;
- XVII.** Issue Regulatory Provisions exclusively for the exercise of its powers, as well as its organizational statute which must be published in the Official Gazette of the Federation;
- XVIII.** To issue an opinion when deemed pertinent, or at the request of the Federal Executive, by itself or through the Ministry, or the Senate of the Congress of the Union on matters related to free market access and economic competition in the execution of international agreements in terms of that provided for on the pertinent law;
- XIX.** To issue an opinion as to incorporation of protective measures promoting free market access and economic competition in public entities and assets divestiture processes, as well as in biddings, assignments, concessions, permits, licenses or analogous forms by Public Authorities, when so determined under any other laws or by the Federal Executive through agreements or decrees;
- XX.** To promote, jointly with Public Authorities, that their administrative acts observe the principles of free market access and economic competition;
- XXI.** To promote the study, dissemination and application of free market access and economic competition principles, and participate in forums and national and international forums having that purpose;
- XXII.** To publish Regulatory Provisions that are necessary for the fulfillment of its powers, among which the following matters must be included:
 - a) Imposition of sanctions;





- b) Monopolistic practices;
- c) Determination of substantial power for one or several Economic Agents;
- d) Determination of relevant markets;
- e) Barriers to competition and free market access;
- f) Essential facilities; and
- g) Divestiture of assets, rights, equity interests or shares of Economic Agents.

For the issuance of regulatory provisions, a public consultation must be carried out, except when in the opinion of the Commission, the effects intended to achieve with such provisions may be compromised or there are emergency situations.

Regardless of the publication of regulatory provisions referred to in this Law, the Commission must issue directives, guides, guidelines and technical criteria, prior public consultation, in terms of article 138 of this Law, on the following matters:

- a) Concentrations;
- b) Investigations;
- c) Exemption and fine reduction benefit;
- d) Suspension of acts constituting probable monopolistic practices or probable unlawful concentrations;
- e) Determination and granting of bonds to suspend the application of precautionary measures;
- f) Request for the dismissal of the criminal process in the cases referred to in the Federal Criminal Code; and
- g) Those that are necessary for the effective compliance with this Law.

XXIII. Perform or order studies, research projects and general reports in subjects related to free market access and economic competition, if applicable, with liberalization, deregulation or regulatory modification proposals, when risks to free market access and economic competition process are detected, a competition issue is identified or is so requested by other Public Authorities;

XXIV. Approve guidelines for operation of the Plenum;





- XXV.** Prepare the annual work program and the quarterly activity report to be presented to the Federal Executive and Legislative Powers through the President Commissioner;
- XXVI.** Request or require, for the exercise of its powers, any information deemed necessary;
- XXVII.** Establish coordination mechanisms with Public Authorities regarding free market access and economic competition policies and for the compliance with all other provisions of this Law or any other applicable provisions;
- XXVIII.** File class actions, in accordance with that provided for under Book Five of the Federal Code of Civil Procedures;
- XXIX.** Request studies assessing the performance of the powers granted to the Commission, which shall be prepared by academics and experts on the matter independently from the authority, and
- XXX.** All other conferred thereto in this and any other laws.

Chapter II Integration and Powers of Plenum

Section I Integration through Evaluation Committee

Article 13. The Evaluation Committee for candidates to be appointed as Commissioners referred to under article 28 of the Political Constitution of the United Mexican States, shall not have its own structure or budget, therefore, for the exercise of its powers, it shall be assisted by personnel ascribed to the institutions of which its members are holders and may use their material and financial resources in terms agreed upon by the members of the Evaluation Committee.

Legal acts adopted by the Evaluation Committee shall be formalized through the public servants of the institutions of which its members are holders and designated thereto by the Committee itself.

Article 14. For the exercise of powers under article 28 of the Political Constitution of the United Mexican States, the Evaluation Committee shall have the following powers:

- I. To issue the pertinent public announcements to occupy Commissioner vacancies;
- II. To integrate and remit to the Federal Executive, lists of candidates to occupy vacancies referred to in the above subsection;
- III. To select at least two higher education institutions to render their opinion for the preparation of knowledge test to be applied to the candidates and refrain from making public the names of such





institutions pending remittance to the Federal Executive of the lists referred to under subsection II;

- IV. To apply, based on opinion received and best practices, knowledge tests that should be applied to Commissioner candidates, following verification of satisfaction with the requirements imposed thereto by article 28 of the Political Constitution of the United Mexican States, and prepare the test item bank integrating such tests;
- V. To agree on the establishment of a mechanism for the registration of candidates interested in occupying the respective Commissioner position, as well as to determine the documents and information required to demonstrate that they meet the requirements referred to in the above subsection;
- VI. To issue bases for its operation and establish the procedures the candidate's selection shall follow, the integration of the lists to be remitted to the Federal Executive, as well as the standards of conduct of the Evaluation Committee members to be observed during such selection procedure;
- VII. In compliance with constitutional principles regarding transparency, to classify information received and generated by reason of their functions, and agree information to be classified as reserved or confidential and the way in which it must guarantee, in every case, the protection of the candidate's personal data;
- VIII. To select candidates who obtain the highest passing grades in the pertinent test to integrate the lists referred to under subsection II in this article;
- IX. To appoint Secretary, Alternate Secretary and two Evaluation Committee advisors, who are to be public servants of the institutions represented by Evaluation Committee own members;
- X. To resolve how expenses required for the fulfillment with Evaluation Committee functions shall be covered, and those incurred in the development of evaluation procedures;
- XI. Resolve and execute any other actions that may apply to complete the procedure for the creation of Commissioner candidate's lists, and
- XII. Resolve and execute all other acts that are necessary for the attainment of its purpose.

Any Evaluation Committee act shall be unassailable; therefore, no ordinary or extraordinary means of defense shall proceed, including *amparo* trial, nor such act may be modified or revoked by any authority.

Article 15. The Evaluation Committee shall be vested with broadest powers to analyze and resolve on the documents and information that Commissioner candidates may submit, as well as the information the Committee itself may require.





Article 16. For the fulfillment of its powers, the Evaluation Committee may be aided by any federal, state and municipal authority and federal or state autonomous bodies, which are obliged to provide, within the scope of their jurisdiction, the assistance that may be needed for the execution of Evaluation Committee powers.

The aforementioned authorities, as well as individuals who are required to provide information, must provide it to the Evaluation Committee within the term identified thereto in the bases referred to under subsection VI of article 14 of this law, to verify or confirm the information submitted by candidates, and any other information deemed necessary by such committee for the fulfillment of its powers.

Such authority and individuals shall under no event invoke secrecy or reservation that results in failure to satisfy such requirements.

Article 17. The acts that the Evaluation Committee resolves to publicize, shall be disclosed through the Official Gazette of the Federation, when so determined thereby, as well as any other means identified to such effect.

Information and documents related to tests and test items referred to under article 14, subsection IV, of this Law, and such test grading methodology and all other information on grades obtained by respective Commissioner candidates shall be confidential, therefore, the Evaluation Committee members and all other public servants intervening in processing of such information and documents shall under no event be able to disclose such information to any person, but to competent authorities on oversight or investigation as to each such aspirants, only the resulting grade may be communicated thereto, without detriment that, upon termination of candidate selection process, the Evaluation Committee may publish the grade assigned to those candidates who took the assessment test identified only by folio or registration code. Obligation to keep secrecy referred to in this paragraph shall apply to individuals who, if any, intervene in preparing the above referred test items and tests.

Lists of candidates to occupy vacancies as Commissioners in the Commission and in the Federal Telecommunications Institute integrated by Evaluation Committee and remitted to the Federal Executive must be accompanied by the documentation candidates submitted to demonstrate satisfaction with requirements established under article 28 of the Political Constitution of the United Mexican States, and the grade resulting from the evaluation.

Section II Plenum Powers

Article 18. The Plenum shall collegiately deliberate and decide cases by majority of votes, except resolutions requiring a qualified majority in terms of this Law.

In Plenum deliberations all Commissioners must cast their votes. Commissioners may not refrain from voting. Commissioners who are absent during Plenum sessions must cast their vote in writing, prior the holding of the session or within five days following pertinent session.





In cases Commissioners are unable to exercise their vote due to duly justified causes, or are prevented to such effect, and there is a tie in Plenum vote, President Commissioner shall have a casting vote to resolve these cases.

Plenum sessions shall be public, except those parts when Confidential Information issues are dealt with. Confidential Information shall only be considered as such pursuant to this Law and all other applicable provisions. The Plenum must provide the grounds and motivate any resolution resolving the existence of a nonpublic session.

The Commission shall publicly disclose the stenographic version of its sessions.

Plenum decisions and rulings shall also be of public nature and only any portions containing Confidential or Reserved Information in terms established in this Law and in all other applicable provisions shall be reserved.

The Plenum shall exercise the powers identified under subsections II, VI, VIII, IX, X, XI, XII, XIII, XIV, XV, XVII, XVIII, XIX, XX, XXII, XXIII, XXIV and XXV of article 12 in this Law, and all other powers expressly granted in this Law to the Plenum. The powers identified under article 12, subsection II, when they derive from procedure foreseen under article 94 of this Law, as well as those foreseen in its subsections XVII and XXII, may only be exercised by the Plenum upon their adoption by the affirmative vote of at least five Commissioners.

In the organizational statute, the Plenum shall establish direct exercise or by delegation of the powers foreseen under article 12 of this Law not included in the preceding paragraph.

In the Commission's organizational statute, the powers to be exercised by its different units shall be established, which units shall be reporting to and supervised by the Plenum or the President Commissioner, as the case may be.

Article 19. President Commissioner shall chair the Plenum and the Commission. In the absence of the President Commissioner, the Commissioner with the longest period in office shall act as substitute and, in equal conditions, the eldest person shall act as substitute.

Article 20. President Commissioner must:

- I. Act as Commission's legal representative with general and special powers for acts of administration and ownership, lawsuits and collections, even those requiring special clause in terms with the Law;
- II. Grant powers on behalf of the Commission for acts of ownership, administration, lawsuits and collections, and to be represented before any administrative or court authority, before labor courts or individuals, and resolve the appointment of authority corresponding thereto, in terms





established by the organizational statute. In the case of acts of ownership over properties assigned to the Commission or to grant of powers of attorney to such end, the Plenum's prior authorization shall be required. The President shall be vested with powers to promote, prior Plenum approval, constitutional controversies in terms of that provided for by subparagraph I), subsection I, of article 105 of the Political Constitution of the United Mexican States;

- III. Govern and administer Commission's human, financial and material resources and report to Plenum on the management concern in terms established under the organizational statute;
- IV. Participate with Commission representation in forums, meetings, events, conventions and congresses held with national organizations in matters related to the scope and jurisdiction of the Commission, in accordance with the provisions of this Law, or appoint representatives to such effect, maintaining the Plenum reported on such activities;
- V. Convene and chair the Plenum sessions;
- VI. Execute the decisions and rulings adopted by the Plenum;
- VII. Report to the Evaluation Committee described under article 28 of the Political Constitution of the United Mexican States and the Chamber of Representatives, any vacancies that may exist in the Plenum or Internal Control Body, as applicable, for purposes of appointment;
Subsection amended in the OGF on 27-01-2017
- VIII. Annually propose to the Plenum a Commission a draft budget for approval and reissue, following approval, to the Ministry of Treasury and Public Credit for its inclusion in the federal disbursement budget decree draft;
- IX. Submit for approval of the Plenum, within the month of January of each year, the Commission's annual work program project and on a quarterly basis, the activities report projects;
- X. Receive, from the head of the Internal Control Body, reports of the reviews and audits completed in order to verify the accurate and legal application of resources and assets of the Commission and inform them to the Plenum;
Subsection amended in the OGF on 27-01-2017
- XI. Submit for consideration to the Plenum any matter within the jurisdiction of Commission, and
- XII. All others conferred by this Law, the organizational statute, the Plenum and all other applicable provisions.

Article 21. Upon termination of President Commissioner's assignment, within a term equivalent to one third of the time the Commissioners exercise their function, Commissioners may not act as members of the board, administrators, directors, managers, officers, executives, agents, representatives or attorneys-in-fact





of any Economic Agent subject to any procedure foreseen in this Law during the performance of such Commissioner's office.

Section III Causes for Removal

Article 22. Commissioners shall be subject to political trial in terms of Title Four of the Political Constitution of the United Mexican States and Title Two of the Federal Public Servant Liability Law.

Article 23. The Senate of the Republic may remove Commissioners from office due to the following severe causes:

- I. The performance of a job, appointment or commission other than those applicable to the office of Commissioner, except for teaching positions;
- II. Dealing with any matters of own jurisdiction with individuals representing interests of Economic Agents other than in cases foreseen in this Law;
- III. Participating in campaign acts of political parties in name and behalf of the Commission;
- IV. Failure to comply with the Plenum's definite decisions;
- V. Use, to own benefit or to the benefit of third parties, Confidential or Reserved Information available thereto by reason of their office, and the disclosure of such information in contravention with this Law;
- VI. Refrain from resolving, without justified cause and repeatedly, any matters under their jurisdiction within terms foreseen in this Law;
- VII. Intentionally submit to consideration of Plenum false or misstated information in order to influence their decision, and
- VIII. Not excuse themselves from participating and voting in matters in which holds a director or indirect interest.

The Internal Control Body, upon becoming knowledgeable of any facts resulting in realization of any removal applicability causes and considering there are elements of evidence, shall immediately notify without delay to the Senate of the Congress of the Union.

Paragraph amended in the OGF on 27-01-2017

In these cases, the Senate shall render a resolution on the removal, following the procedure below:

- a) The Senate shall resolve the creation of a Special Commission acting as procedure instructor.





- b) The Special Commission shall order Commissioner subject to removal process to appear at a hearing notifying that Commissioner is to personally appear to make a statement surrounding the facts attributed thereto that may be grounds for liability in terms of this Law and all other applicable provisions. The notice shall express place, day and time in which the hearing shall be held; any acts or omissions attributed thereto, and his right to appear in the company of a defense counselor. The notice referred to in this subparagraph shall be personally delivered. Between the date of notice delivery and hearing a term no less than five without exceeding fifteen days should exist;
- c) Upon termination of hearing, Commissioner subject to removal proceeding shall be granted ten days to submit evidence elements deemed pertinent in relation to facts attributed thereto, and
- d) Upon having dealt with any evidence admitted, the Special Commission, within forty-five following days, shall submit an opinion with draft ruling to the Plenum of the Senate.

Removal shall require the favorable vote of two thirds of members at session. The Board of Trustees shall be in charge of notifying applicable resolution and execute removal, without detriment of any other penalty that may apply in accordance with Federal Public Servant Administrative Liability Law.

Section IV Prohibitions

Article 24. Commissioners shall be prevented and are to immediately excuse themselves from hearing matters in which there is any or a number of scenarios reasonably preventing such Commissioner to render a resolution in a matter of such Commissioner jurisdiction entirely independently, in a professional manner and unbiased. For the above purposes, Commissioners shall be prevented to hear any matter in which they hold a director or indirect interest.

Direct or indirect interest shall be deemed to exist any time a Commissioner:

- I. Is a relative at any degree of kinship if in direct line, up to fourth degree if collaterally related by blood and up to second degree if collaterally related by affinity, with any interested party or representatives;
- II. Hold a personal, family or business interest in the matter, including those from which the Commissioner, Commissioner's spouse or relatives up to degrees expressed under subsection I of this article may derive a benefit;
- III. The Commissioner, the Commissioner's spouse or any relative in direct line without limit as to degree, is the heir, legatee, donee or guarantor of any interested party or its representatives if they have accepted the inheritance, legacy or donation;





- IV. Has been an expert, witness, attorney-in-fact, employer or champion in the matter at issue, or has previously dealt with the matter in favor or against any interested party, and
- V. Has publicly and unequivocally established the sense of Commissioner's vote prior Plenum's resolution on the matter.

Only those causes listed in this article may be asserted as impediment to hear matters that may be submitted to consideration of the Commission. Recusing shall under no event be decreed for having expressed a technical opinion or for publicly explaining grounds and motivation of a resolution rendered by Commission or for having rendered a particular vote.

Commissioners are to excuse themselves from hearing matters in which any impediment identified in this article exists upon becoming knowledgeable of such impediment, specifically expressing cause of grounds of impediment, in which event the Plenum shall qualify the excuse, without need of intervention of any Economic Agent having interested in the matter.

Article 25. Other than hearings foreseen under procedures established in this Law, the Commissioners may deal with matters within their jurisdiction with individuals representing interests of Economic Agents only by interview.

To such end, all Commissioners must be convened, however, the interview may be held before only one of them.

A record is to be kept from each interview at least containing place, date, time of inception and time of adjournment of interview, full names of every individual in attendance thereat and issues dealt with.

This information is to be published in the Commission's webpage.

Interviews shall be recorded and stored in electronic, optic or any other kind of technology media, maintaining it as reserved information, except for the other parties to the trial-like procedure, all other Commissioners, the head of Internal Control Body and the Senate in the event a Commissioner removal proceeding has been filed. The recording of each interview must be available to all the other Commissioners.

Paragraph amended in the OGF on 27-01-2017

Commissioners may not be recused based on statements made during interviews, except when such statements demonstrate affecting the unbiased principle. In this case, recusing must be qualified by the Plenum.

The provisions of this article shall be without detriment of the Commissioner's participation at forums and public events.

The Plenum shall issue contact rules applicable to the Investigative Authority through the organizational statute.





TITLE III INVESTIGATIVE AUTHORITY

Chapter I Integration and Operation

Article 26. The Investigative Authority is the Commission's body in charge of conducting the investigation stage, and is a party to the trial-like procedure. In the exercise of its powers, the Investigative Authority shall be vested with technical and administrative autonomy to decide on its operation and resolutions.

Article 27. The Investigative Authority shall be represented by a head, and shall have the organizational structure, personnel and resources required for the fulfillment of its purpose, which shall be subject to the provisions of the Commission's organizational statute.

Chapter II Its Powers

Article 28. The Investigative Authority shall have the following powers:

- I. Receive and, if necessary, process or reject if notoriously inadmissible, any complaints filed before the Commission for probable infringements to this Law;
- II. Conduct investigations on probable violations to this Law, to which it may request reports and documents needed, summon those related those matters and, if such is the case, perform verification visits;
- III. Request any Public Authority or foreign authority any information and documents required to investigate possible infringements to this Law;
- IV. Issue certified copies or issue certified collated documents or information for their integration into files;
- V. Provide information requested thereto by any administrative or court authority, as well as by the Plenum, in the last case except if related to ongoing investigations;
- VI. Issue the statement of probable responsibility and exercise actions and complete information processing corresponding thereto during the stages in the proceeding;





- VII. File complaints and claims before the General- Attorney's Office as to probable criminal conduct regarding free market access and economic competition and, if the case may be, act as adjuvant in the investigation deriving from referred to complaints or claims;
- VIII. Procure application and compliance with this Law, its Regulatory Provisions and the Commission's organizational statute;
- IX. Collect statements from witnesses or Economic Agents, and all other required means of evidence, to which end it may request the assistance of Public Authorities;
- X. Contribute with the Plenum in the preparation of Regulatory Provisions, as well as directives, guides, guidelines and technical criteria drafts referred to under subsection XXII of article 12 of this Law, and
- XI. Exercise all other powers established in this Law, in Regulatory Provisions and the Commission's organizational statute.

Article 29. For the performance of its functions, the Investigative Authority may apply any enforcement measures established in this Law.

Chapter III About Appointment and Removal

Article 30. The head of the Investigative Authority shall be appointed and removed by the Commission's Plenum by qualified majority of five Commissioners.

Article 31. The head of the Investigative Authority shall hold the office assigned thereto four years and may be reelected a single time, prior objective assessment of such person's performance.

To become a head of the Investigative Authority, the following requirements are to be satisfied:

- I. Be a Mexican citizen, in full exercise of civil and political rights;
- II. Be of at least thirty-five years old on the date of the appointment;
- III. Hold as of the date of the appointment a bachelor's degree for at least ten years, issued by an authority or institution with legal power to such effect;
- IV. Enjoy of sound prestige and not having been convicted of an intentional crime punishable with imprisonment for more than a year;
- V. Have at least three years' experience in public service;





- VI. Demonstrate, in terms of article 30 of this Law, technical knowledge required for the exercise of such office;
- VII. During the three years prior the appointment, shall demonstrate not having held any job, office, director function or having represented in any manner interest of any Economic Agent subject to any procedure foreseen in this Law.

Upon termination of such person's tenure for a term equivalent to one third of time during which such person exercised the function assigned thereto, the head of the Investigative Authority may not act as member of the board, administrator, director, manager, executive, agent, representative or attorney-in-fact of any Economic Agent subject to any procedure under the Investigative Authority's charge during the performance of head of the Investigative Authority's obligations.

Nonperformance with this provision shall be penalized in terms of article 8 of the Federal Public Servant Administrative Liability Law.

Article 32. The head of the Investigative Authority may be removed from office by the Plenum by qualified majority of five votes due to the following:

- I. Failure to perform with Plenum's final resolutions;
- II. Refrain from resolving, without justified cause, any matters under Investigative Authority's jurisdiction within terms foreseen in this Law;
- III. Knowingly submit false or misstated information to consideration of the Plenum, and
- IV. Severely or repeatedly fail to perform with obligations of the Investigative Authority's own office.

For the purposes of this article, systematic nonperformance with this Law or procurement of undue benefit for the Investigative Authority's own benefit or the benefit of third parties is deemed as a severe cause.

The foregoing, independently of any liability referred to under Title Four of the Political Constitution of the United Mexican States and the Federal Public Servant Administrative Liability Law.

Article 33. In the performance of the office assigned thereto, the head of the Investigative Authority shall maintain independency in resolutions rendered thereby and operation thereof, such authority's performance shall be professional and unbiased in acting, adhering to legality, objectivity, certainty, honesty, thoroughness and transparency principles, as well as to the contact rules established in organizational statute.

Chapter IV **Head of the Investigative Authority's Responsibilities**





Article 34. When complaints or claims are filed against the head of the Investigative Authority, the Internal Control Body shall render pertinent resolution only upon completion of any cases to which such cases refer.

Article amended in the OGF on 27-01-2017

Article 35. For the purposes of this Law, in addition to assumptions established under Federal Public Servant Administrative Liability Law, the head of the Investigative Authority may be removed from office due to the following administrative liability grounds:

- I. Participate in campaign acts of political parties on behalf of the Commission;
- II. Use to own benefit or third parties Confidential Information available thereto by virtue of office assigned thereto;
- III. Knowingly submit false or misstated information to consideration of Plenum, and
- IV. Knowingly contravene Plenum provisions as to contact rules.

Chapter V Prohibitions

Article 36. The head of the Investigative Authority shall refrain from performing any other job, office or commission, whether public or private, except teaching positions. The head of the Investigative Authority shall also be prevented from and is to immediately self-recuse from hearing matters in where there is one or several situations reasonably preventing the head of the Investigative Authority from settling any matter within the jurisdiction conferred thereto with absolute independency, professionalism and unbiased nature.

For the above purposes, the head of the Investigative Authority shall be prevented from hearing any matter upon realization of any impediment assumptions foreseen in this Law for the Commissioners.

In the event of impediment to hear any matter, the head of the Investigative Authority shall be substituted by the public servant designated under the Commission's organizational statute.

TITLE IV FEDERAL ECONOMIC COMPETITION COMMISSION'S INTERNAL CONTROL BODY

Amended title heading OGF 27-01-2017

Chapter I Integration and Operation

Article 37. The Internal Control Body is a body with technical and management autonomy to resolve its operation and resolutions. This Internal Control Body shall have under its charge the prevention, correction,





investigation and qualification of acts or omissions that may constitute administrative liability of Commission's public servants and individuals linked to severe faults; to penalize those other than any under the jurisdiction of the Federal Administrative Justice Court; to review income, disbursement, management, custody, application of federal public funds; and to file, with Specialized Anticorruption Attorney's Office, complaints for acts or omissions that may constitute a crime.

The Internal Control Body, its head and personnel ascribed thereto, shall be prevented from intervening or in any manner interfering in the performance of such Internal Control Body's authority and exercise of powers thereof regarding free market access and economic competition conferred in this Law and in all other applicable provisions Commission's public servants.

Article amended in the OGF on 27-01-2017

Article 38. The Internal Control Body shall have a head who shall act as its representative and shall have such organic structure, personnel and resources required to attain its purpose, which is established under Commission's organizational statute.

Article amended in the OGF on 27-01-2017

Chapter II Its Powers

Article 39. The Internal Control Body shall have the following powers:

Paragraph amended in the OGF on 27-01-2017

- I. Those contemplated under General Administrative Liability Law;
Subsection amended in the OGF on 27-01-2017
- II. Verify that the Commission's expenditures be in accordance with applicable regulations, approved schedules and authorized amounts;
- III. Derogated.
Subsection derogated in the OGF on 27-01-2017
- IV. Submit to consideration of the Commission's Plenum review and audit reports of those reviews and audits completed in order to verify accurate and lawful application of resources and assets of the Commission;
- V. Review that budgetary operations by the Commission are in adherence to applicable legal and administrative provisions and, if any, establish deviations thereto and originating causes;
- VI. File with pertinent instances administrative and legal actions deriving from audit results;
- VII. Investigate, within its jurisdiction, any acts or omissions implying any irregularity or unlawful conduct in income, disbursement, management, custody and application of funds and resources of the Commission;





- VIII.** Evaluate financial management progress reports as to authorized schedules and those related to completed processes using any methodology determined by the Internal Control Body;
Subsection amended in the OGF on 27-01-2017
- IX.** Evaluate the attained purposes and goals set in administrative programs contained in Commission's disbursement budget using any methodology it so determines for such effect;
- X.** Receive complaints and claims in terms with applicable laws;
Subsection amended in the OGF on 27-01-2017
- XI.** Derogated
Subsection derogated in the OGF on 27-01-2017
- XII.** Derogated
Subsection derogated in the OGF on 27-01-2017
- XIII.** Request information and complete site visits to Commission areas and bodies for performance of their functions;
- XIV.** Receive, process and settle any nonconformity procedure and administrative resources filed regarding acquisitions, leasing, services and public works;
Subsection amended in the OGF on 27-01-2017
- XV.** Derogated.
Subsection derogated in the OGF on 27-01-2017
- XVI.** Intervene in the middle and superior office public servant delivery-reception acts in terms of applicable regulations;
- XVII.** Participate, in accordance with current laws, in committees and subcommittees in which Internal Control Body is a party, and intervene in any acts deriving therefrom;
Subsection amended in the OGF on 27-01-2017
- XVIII.** Derogated.
Subsection derogated in the OGF on 27-01-2017
- XIX.** Derogated
Subsection derogated in the OGF on 27-01-2017
- XX.** Derogated
Subsection derogated in the OGF on 27-01-2017
- XXI.** Derogated
Subsection derogated in the OGF on 27-01-2017





- XXII.** Respond to requests made by the different Commission bodies in matters within its jurisdiction;
- XXIII.** Propose amendment or updating drafts to its organic structure, personnel and/or resources;
- XXIV.** Elaborate the Internal Control Body's budget draft;
Subsection amended in the OGF on 27-01-2017
- XXV.** Submit to consideration of Commission's Plenum prior and annual reports illustrating the results of its acting and appear before Plenum when so demanded by President Commissioner;
- XXVI.** Submit to consideration of Commission Plenum reports as to files related to administrative faults and, if any, as to application of penalties on administrative liability, and
Subsection amended in the OGF on 27-01-2017
- XXVII.** All other conferred thereto by any other ordinances.

Chapter III Appointment

Article 40. The head of Internal Control Body shall be appointed by the Chamber of Representatives of the Congress of the Union with the vote of two third parts of its members in attendance, in accordance with procedure established under United Mexican States General Congress Organic Law.

Article amended in the OGF on 27-01-2017

Article 41. The head of Internal Control Body is to meet the following requirements:

Paragraph amended in the OGF on 27-01-2017

- I.** Be a Mexican citizen in full exercise of civil and political rights and be at least thirty-five years on the date of the appointment;
Subsection amended in the OGF on 27-01-2017
- II.** Enjoy of sound prestige and not having been convicted of an intentional crime punishable with imprisonment for more than a year;
- III.** Have at the time of the appointment as such, a minimum experience of five years in control, management or oversight of resources, administrative responsibility, government accounting, government auditing, public works, acquisitions, leasing and services to public sector;
Subsection amended in the OGF on 27-01-2017
- IV.** As of the date of appointment, have a bachelor's degree for at least five years in relation to activities referred to in the above subsection issued by an authority or institution with legal power to such effect;
Subsection amended in the OGF on 27-01-2017





V. Be known of sound morality;

Subsection amended in the OGF on 27-01-2017

VI. Not belong nor have belonged to consultancy or auditing firms who have rendered services to Commission in the four years prior appointment or having acted as Commission independent consultant or auditor individually during such term nor having rendered referred to services to an agent regulated by Commission's applicable laws;

Subsection amended in the OGF on 27-01-2017

VII. Have held no director office nor having represented in any manner interests regulated by Commission applicable laws during four years prior appointment;

Subsection amended in the OGF on 27-01-2017

VIII. Not be disqualified to perform a public service job, office or commission, and

Subsection added in the OGF on 27-01-2017

IX. Have not acted as State Secretary, Republic General-Attorney's Office or Justice in any federal entity, Major Officer of a public entity, Senator, Federal Popular Representative, Governor of any State or Head of Government of Mexico City, leader, member of a governing body, high executive or person responsible of public resource management of any political party, nor having been nominated to hold a popular election office in the four years prior the appointment itself.

Subsection added in the OGF on 27-01-2017

Article 42. The head of Internal Control Body shall hold such office for four years and may be designated for a term immediately following the one already performed, prior nomination and in satisfaction with requirements foreseen in this Law and the procedure established by the United Mexican States General Congress Organic Law.

As to hierarchical level, the head of Internal Control Body shall be justas that of a General Director or its equivalent in Commission's organic structure and shall maintain technical coordination with the Federal Superior Oversight Entity referred to under article 79 of the Political Constitution of the United Mexican States.

On the date of termination of tenure and for a term equivalent to one third the term in office, the head of Internal Control Body may not act as member of the board, administrator, director, manager, executive agent, representative or attorney-in-fact of any Economic Agent subjected to any penalized procedures foreseen in this Law, throughout such head of Internal Control Body's tenure.

The head of Internal Control Body is to submit half yearly and annual reports of activities to Commission, copy of which is to be sent to the Chamber of Representatives.

Article amended in the OGF on 27-01-2017





Article 43. When performing in such office, the head of Internal Control Body shall adhere to principles foreseen in the General Administrative Liability Law.

Article amended in the OGF on 27-01-2017

Chapter IV Liability of Head of Internal Control Body

Chapter Heading amended in OGF on 27-01-2017

Article 44. The Commission's head of Internal Control Body shall be liable in terms of the General Administrative Liability Law and may be penalized in accordance with procedure foreseen under applicable regulations.

As to all other public servants ascribed to Commission's Internal Control Body, they shall be penalized by the head of Internal Control Body or public servant in whom such power is delegated, in terms of the General Administrative Liability Law.

Article amended in the OGF on 27-01-2017

Article 45. The head of Internal Control Body is to register and maintain updated pertinent information in patrimonial growth System, interest declaration and proof of submittal of tax declaration, of all Commission public servants, in accordance with General National Anticorruption System Law and the General Administrative Liability Law.

Article amended in the OGF on 27-01-2017

Chapter V Prohibitions

Article 46. The head of Internal Control Body shall refrain from performing any other job, employment or commission, whether public or private, except for teaching positions.

For the above purposes, the head of Internal Control Body shall be prevented from hearing any matter upon realization of any impediment assumptions foreseen in this Law, applicable to Commissioners.

In the event the head of Internal Control Body faces an impediment to hear any matter, such head shall be substituted by most senior second level public servant of Internal Control Body, in accordance with the provisions in Commission's organizational statute.

Article amended in the OGF on 27-01-2017

TITLE V FEDERAL ECONOMIC COMPETITION COMMISSION MANAGEMENT

Chapter I Budget





Article 47. In accordance with the provisions of article 5 of the Federal Budgetary and Financial Responsibility Law, Commission shall subject its budgetary treatment to the following:

- I. Shall approve its budget draft and submit it to the Ministry of Treasury and Public Credit for integration into Federal Disbursements Budget draft, observing general economic policy criteria;
- II. Shall exercise its budget in adherence to the provisions of the Federal Budgetary and Financial Responsibility Law, without adhering to general provisions issued by the Ministries of Treasury and Public Credit and Public Office. Such exercise is to be based on efficiency, efficacy and transparency principles, and shall be subject to evaluation and control by pertinent bodies;
- III. Shall authorize any changes to its budget without requiring the Ministry of Treasury and Public Credit's authorization, provided not in excess of its approved budget's global cap;
- IV. Shall make its own payments;
- V. Shall determine any adjustments to its budget in the event of income reduction, observing as applicable the provisions of article 21 of the Federal Budgetary and Financial Responsibility Law, and
- VI. Shall keep accounting books and prepare reports in accordance with the provisions of the Federal Budgetary and Financial Responsibility Law and shall remit them to the Ministry of Treasury and Public Credit for their integration into quarterly reports and to Public Accounts.

The Chamber of Representatives shall guarantee budgetary sufficiency in order to allow Commission's efficient and prompt exercise of its powers.

Chapter II Patrimony

Article 48. The Commission's assets are integrated by:

- I. Property and real estate acquired for the fulfillment of its purpose, including any assigned by the Federation to such end or for exclusive use thereof;
- II. Resources annually approved by the Chamber of Representatives of the Congress of the Union for Commission, in the Federal Disbursements Budget;
- III. Donations received for the attainment of its purpose, and
- IV. Income received under any other concept.





The Commission may not have more immovable property than those strictly needed for the attainment of its purpose.

Chapter III Transparency and Accountability

Article 49. The Commission shall publish the stenographic version of its sessions and plenum resolutions and agreements in its website and in the Official Gazette of the Federation when so determined by this Law, in any event preserving the secrecy of investigations and procedures, Confidential Information and Reserved Information.

The President Commissioner is to annually appear before the Senator's Chambers of the Congress of the Union, in accordance with the provisions of article 93 of the Political Constitution of the United Mexican States. The President Commissioner shall also submit to the consideration of the Federal Executive and Federal Legislative powers an annual work schedule and a quarterly report on Commission's activity progress to be delivered within thirty calendar days following completion of the quarter in question. The annual work schedule and quarterly activity report must at least include the following elements:

- I. Analysis as the Commission's management, identifying vision, mission and objectives, and considering performance, production and efficiency aspects of its acts, challenges faced by the Commission, the general financial position, application of controls and internal measures and performance with Regulatory Provisions and organizational statute;
- II. The Commission's performance in relation with its objectives and strategic goals, including an explanation as to how the data submitted is verified and validated, and independent studies assessing Commission's performance and progress in its annual work schedule execution;
- III. A summary of opinions rendered by the Commission and consultations submitted to its consideration;
- IV. An expenses report for the immediately prior year, including relevant remarks made by the Internal Control Body, if any, and
Subsection amended in the OGF on 27-01-2017
- V. A report, summary, justification and effects of procedures and resolutions rendered in accordance with article 94 of this Law.

The annual work schedule referred to in this article must be submitted no later than on January 31 of each year.

The Commission shall make public its annual work schedule and its quarterly report of activity progress, in adherence to that provided for under Regulatory Provisions.





The provisions contained in this article shall be without detriment of data and reports to be rendered by the Commission in terms of the Federal Budgetary and Financial Responsibility Law, the Federal Superior Oversight Law and all other applicable provisions.

Chapter IV Labor Regime

Article 50. Personnel rendering services to the Commission shall be subject to provisions under Section B of article 123 of the Political Constitution of the United Mexican States and the Federal State-Service Workers Law. Such personnel shall be incorporated into the State Workers Social Security and Service Institute.

Any and all public servants integrating the Commission's workforce shall be deemed as trusted employees given the nature of the functions they perform.

Chapter V Liability Regime

Article 51. Any person holding a job, office or assignment of any nature in the Commission shall be subject to liability regime under Title Four of the Political Constitution of the United Mexican States and shall be subject to penalties established under Federal Public Servant Administrative Liability Law.

The Commission's public servants shall be subject to contact rules determined by the Commission in its organizational statute.

BOOK TWO ANTICOMPETITIVE PRACTICES

SOLE TITLE ANTICOMPETITIVE PRACTICES

Chapter I Anticompetitive Practices Prohibition

Article 52. Monopolies, monopolistic practices, unlawful concentrations and barriers which in terms of this Law may diminish, damage, prevent or in any manner condition free market access or economic competition in production, processing, distribution or marketing of goods or services are hereby prohibited.

Chapter II Absolute Monopolistic Practices





Article 53. Absolut monopolistic practices such as contracts, agreements, arrangements or combinations between competing Economic Agents are deemed illegal when its purpose or effect is any of the following:

- I. Fixing, rising, agreeing or manipulating the sale or purchase price of goods or services supplied or demanded in markets;
- II. Establishing an obligation not to produce, process, distribute, market or acquire but only a restricted or limited amount of goods, or the provision or transaction of a restricted or limited number, volume or frequency of services;
- III. Dividing, distribute, allocating or imposing portions or segments of a current or potential market of goods and services, by customers, suppliers, times or spaces determined or that may be determined;
- IV. Establishing, agreeing or coordinating bids or abstentions at biddings, contests, auctions or buyouts, and
- V. Exchanging information with any of the purposes or effects referred to in the above subsections.

Absolute monopolistic practices shall be null and void, therefore, shall have no legal effect and the Economic Agents incurring in such practices shall be subject to penalties established in this Law, regardless of any civil or criminal liability that may apply, if any.

Chapter III Relative Monopolistic Practices

Article 54. Relative monopolistic practices are those consisting in any act, contract, agreement, procedure or combination:

- I. Falling in any of the assumptions referred to under article 56 of this Law;
- II. By one or more Economic Agents individually or jointly having substantial power in the same relevant market where the practice is performed, and
- III. Having or may have as purpose or effect in the relevant market or in any related market to unduly displace other Economic Agents, prevent substantial access or establish exclusive advantage in favor of one or a number of Economic Agents.

Article 55. These practices shall be deemed illegal and shall be punished if the foregoing elements are demonstrated, unless when the Economic Agent demonstrates the generation of efficiency gains favorably impacting the economic competition and free market access process, exceeding potential anticompetitive





effects, and resulting in improvement to consumer welfare. Among the efficiency gains may be included any of the following:

- a) Introduction of new goods or services;
- b) Use of remains, defective products or perishable products;
- c) Reduction in costs deriving from creation of new production techniques and methods, from integration of assets, increase in production scale and production of different goods or services with same production factors;
- d) Introduction of technological advancements producing new or improved goods or services;
- e) Combination of productive assets or investments and their recovery, improving quality or broadening attributes of goods or services;
- f) Quality improvement, investment and recovery, opportunity and service with a favorable impact to distribution channel, and
- g) All other demonstrating that net contributions to consumer welfare deriving from such practices exceed anticompetitive effects.

Article 56. The criteria referred to under subsection I of article 54 of this Law consist in any of the following:

- I. Amongst Economic Agents not competing amongst each other, the fixing, imposing or establishing of exclusive marketing or distribution of goods or services by virtue of undertakings, geographic locations or specific periods of time, including the division, distribution or allocation of clients or suppliers, as well as imposing the obligation not to manufacture or distribute goods or provide services for a determined or determinable period of time;
- II. Imposing price or all other conditions a distributor or supplier must observe in supplying, marketing or distributing goods or services;
- III. Conditioning a sale or transaction to the purchase, acquisition, sale or provision of another good or service generally different or distinguishable or on reciprocity bases;
- IV. Conditioning a sale, purchase or transaction to not using, acquiring, selling, marketing or providing goods or services that have been produced, processed, distributed or marketed by a third party;
- V. Unilateral refusing to sell, market or provide to certain individuals goods or services that are available and normally offered to third parties;





- VI. Agreement between several Economic Agents or invitation thereto to pressure against a certain Economic Agent or to refuse to sell, market or acquire goods or services from such Economic Agent, in order to dissuade it from a particular conduct, subject it to retaliation or compel it to act in a specific direction;
- VII. Selling below medium variable cost or below medium total cost, but above its medium variable cost, if there are elements to assume the Economic Agent shall be able to recover losses by future price increases, in terms of the Regulatory Provisions;
- VIII. Granting discounts, incentives or benefits from producers or suppliers to buyers under the condition not to use, acquire, sell, market or provide goods or services produced, processed, distributed or marketed by a third party, or the acquisition or transaction subject to the condition to not sell, market or provide goods or services subject matter of sale or transaction to a third party;
- IX. Using profits the Economic Agent attained from the sale, marketing or provision of a good or service to finance losses by reason of sale, marketing or provision of a different good or service;
- X. Setting different prices or selling conditions for different buyers or sellers under equivalent conditions;
- XI. The acts of one or several Economic Agents with the purpose or effect, whether directly or indirectly, of increasing costs or hinder productive processes or reducing the demand favoring one or a number of different Economic Agents;
- XII. The denial, restriction to access or access under discriminatory terms and conditions to an essential facility by an Economic Agent or Agents, and
- XIII. The margin squeeze, consisting in reducing the existing margin between the price of accessing an essential facility provided by one or several Economic Agents and price of good or service offered to the final consumer by such same Economic Agents using the same essential facility for its production.

In order to investigate and, when applicable, penalize practices referred to under subsections XII and XIII of this article, the Commission may determine the existence of essential facilities without following the procedures foreseen under article 94 of this Law.

Chapter IV **Prohibition of Free Market Access and Economic Competition Barriers**

Article 57. The Commission shall perform the required actions to prevent and eliminate barriers to free market access and economic competition, to the extent necessary to eliminate anticompetitive effects, through the procedures established in this Law.





Chapter V

Determination of Relevant Market, Substantial Power and Essential Facilities

Section I

Determination of Relevant Market

Article 58. In order to determine the relevant market, the following criteria shall be considered:

- I. The possibilities of substituting the good or service in question by others, both of domestic or foreign origin, considering technological possibilities, the extent consumers have substitutes and the time required for such substitution;
- II. The costs for distribution of the good itself; relevant inputs; complementary goods and substitutes from other regions and abroad, considering freight, insurance, tariffs and nontariff restrictions, restrictions imposed by Economic Agents or associations thereof, and the time required to supply market from such regions;
- III. The costs and possibilities users or consumers have to access other markets;
- IV. The federal, local or international regulatory restrictions limiting user or consumer access to alternative sources of supply or provider access to alternative clients;
- V. All other established under the Regulatory Provisions and technical criteria issued by the Commission to such effect.

Section II

Determination of Substantial Power

Article 59. In order to establish whether a single or a number of Economic Agents have substantial power in the relevant market, or else, to resolve on competition conditions, effective competition, existence of substantial power in the relevant market or other matters related to the competition process or free market access referred to in this Law or any other Laws, rules or administrative provisions, the following elements shall to be considered:

- I. Their market share and whether capable of setting prices or restricting supply in the relevant market directly, without competitors being actually or potentially able to counteract such power.

To determine market share, the Commission may consider indicators such as sales, number of clients, productive capacity as well as any other factor deemed appropriate;





- II. The existence of barriers to entry and elements that may foreseeably alter either such barriers or the supply of other competitors;
- III. The existence and market power of competitors;
- IV. The economic Agent or Agents and their competitor's ability to access input sources;
- V. The recent behavior of Economic Agent or Agents participating in said market, and
- VI. All other established under the Regulatory Provisions, as well as technical criteria issued to such effect by the Commission.

Section III Determination of Essential Facility

Article 60. In order to determine the existence of an essential facility, the Commission shall consider:

- I. Whether the facility is controlled by one or several Economic Agents having substantial market power or having been found by the Federal Telecommunications Institute to be preponderant;
- II. Whether the facility replication is not feasible from a technical, legal or economic point of view by a different Economic Agent;
- III. If the facility is indispensable for the supply of goods or services in one or more markets, and there are no close substitutes;
- IV. The circumstances under which the Economic Agent came to control the facility, and
- V. All other criteria which, if the case may be, are established in the Regulatory Provisions.

Chapter VI Concentrations

Section I Definition of a Concentration

Article 61. For the purposes of this Law, a concentration is understood as a merger, acquisition of control or any act by means of which companies, associations, shares, equity interests, trusts or assets in general are joined together, and is carried out among competitors, suppliers, clients or any other Economic Agents. The Commission shall not authorize or, as the case may be, shall investigate and punish the concentrations having as purpose or effect to reduce, damage or prevent competition and free market access as to equal, similar or substantially related goods or services.





Section II Unlawful Concentrations

Article 62. Unlawful concentrations are those concentrations having as purpose or effect to hinder, diminish, harm or impede free market access or economic competition.

Section III Concentration Review

Article 63. In order to establish whether a concentration should be authorized or must be punished in terms provided for in this Law, the following elements shall be considered:

- I. The relevant market, in terms provided for in this Law;
- II. Identification of the main Economic Agents supplying the market in question, an analysis of their power in the relevant market in accordance with this Law, and the degree of concentration in said market;
- III. The effects of the concentration in the relevant market as to all other competitors and those demanding such good or service, as well as in other related markets and Economic Agents;
- IV. The equity participation of those involved in the concentration in other Economic Agents and participation of other Economic Agents in those involved in the concentration, provided such Economic Agents directly or indirectly participate in the relevant market or in related markets. When such participation is not possible to identify, this circumstance must be fully justified;
- V. The information provided by the Economic Agents in order to demonstrate greater market efficiency that would be achieved as a result from the concentration, favorably influencing in competition and free market access process, and
- VI. All other criteria and analytical instruments established under the Regulatory Provisions and technical criteria.

Article 64. The Commission shall consider as indication of an unlawful concentration, that the concentration or the attempt thereof:

- I. Confers or may confer substantial market power, in the terms provided in this Law, to the surviving entity, the acquirer or the Economic Agent resulting from the concentration, or increases or may increase such substantial market power, as a result of which the free market access and economic competition might be hindered, diminished, harmed or impeded;





- II. Having or that may have as purpose or effect the establishment of barriers to entry, preventing third parties from accessing the relevant market, related markets or to essential facilities, or displacing other Economic Agents, or
- III. Having as purpose or effect to substantially facilitate, to those participating in said concentration, to incur in conducts prohibited by this Law, particularly, monopolistic practices.

Section IV Concentrations that may not be investigated

Article 65. Concentrations approved by the Commission may not be investigated under this Law, except if such resolution was obtained based on false information, or when the resolution has been subject to subsequent conditions and the same were not performed within the term established to such effect.

Concentrations not requiring a previous notification to the Commission may not be subject to investigations following one year of the occurrence.

BOOK THREE PROCEDURES

TITLE I THE INVESTIGATION

Sole Chapter The Investigation

Section I Initiation of an Investigation

Article 66. An investigation by the Commission shall initiate ex officio or at the request of the Federal Executive, directly or through the Ministry, the Consumer Agency Office or at the request of a party and shall be under the responsibility of the Investigative Authority.

The investigation requests submitted by the Federal Executive, directly or through the Ministry or Consumer Agency Office, shall have a preferential status.

Article 67. Any person may file a complaint with the Investigative Authority regarding violations to this Law in connection with absolute monopolistic practices, relative monopolistic practices or unlawful concentrations.

Article 68. The writ of complaint must contain, at least:





- I. Name, registered name or company name of the complainant;
- II. Name of legal representative, if any, and appropriate document proving legal personality, domicile to hear and receive notices and authorized individuals, as well as telephone numbers, e-mail or any other information allowing prompt location;
- III. Name, registered name or company name and, if any, the defendant's domicile;
- IV. Thorough description of facts motivating the complaint;
- V. In the event of relative monopolistic practices or unlawful concentrations, description of the main goods or services involved, providing details as to their use in the market and, if known, the listing of equal, similar or substantially related goods or services of the defendant and those of the main Economic Agents processing, producing, distributing or marketing such goods or services in the country;
- VI. Listing of documents and means of evidence accompanying such complaint, accurately related to alleged facts, and
- VII. Any other elements the complainant may deem pertinent and, if not available thereto, provide details as to place or file where these may be located, in order to take the necessary actions during the investigation.

Article 69. The Investigative Authority shall analyze the complaints filed and, within fifteen days following the date of filing through the filing office, the Investigative Authority shall issue a decision:

- I. Ordering the initiation of an investigation;
- II. Partially or entirely dismissing the complaint, due to it being notoriously inadmissible, or
- III. Issuing a single prevention to the complainant, when its writ of complaint fails to satisfy the requirements foreseen in this Law or foreseen in the Regulatory Provisions, to clarify or complete within a term not exceeding fifteen days, which the Investigative Authority may extend for an equal term in cases duly justified. After the complaint is clarified or completed, the pertinent pronouncement must be rendered within fifteen following days. Following expiration of term without acknowledging receipt of prevention or without satisfying the requirements identified in this Law as to those to be satisfied in the writ of complaint, the complaint shall be deemed as not filed.

The Investigative Authority's decision for establishing that the complaint is deemed as not filed must be notified to the complainant within fifteen days following the date term for prevention acknowledgment of receipt has expired, without detriment that complainant may refile a complaint.





If no decision is rendered within the above stated terms, the investigation shall be considered as initiated, in which case the Investigative Authority, at the request of complainant or ex officio, shall issue the admission decision.

Article 70. Investigative Authority shall reject a complaint when notoriously inadmissible upon:

- I. Facts matter of the complaint do not constitute violations to this Law;
- II. It is evident that the Economic Agent or agents involved have no substantial power in the relevant market in the event of complaints due to relative monopolistic practices or unlawful concentrations;
- III. The Economic Agent against whom complaint has been filed and facts and conditions in relevant market indicated, have been matter of a prior resolution in terms of articles 83, 90 and 92 of this Law, except in cases of false information or noncompliance with conditions foreseen in the resolution itself;
- IV. A proceeding with the Commission as to same facts and conditions in relevant market is pending following serving notice to the probable responsible Economic Agent, and
- V. The facts complained against refer to a concentration notified in terms of article 86 of this Law, not yet resolved by the Commission. However, the Economic Agents may act as adjuvant to the Commission upon presenting data and documents determined pertinent to be taken into consideration upon rendering resolution. The complainant shall have no access to documents in relation to such concentration and may not challenge the proceeding, however, complainant must be notified the decision, itemizing information into the concentration file.

Section II Investigation Process

Article 71. In order to initiate an investigation on monopolistic practices or unlawful concentrations, an objective cause shall be required.

Any indicia of the existence of monopolistic practices or unlawful concentrations is objective cause.

The investigation period shall begin as from the issuance of the corresponding initiation decision and may not be shorter than thirty days nor longer than one hundred twenty days.

This period may be extended up to four times for periods of up to one hundred twenty days, when there are duly justified causes to such effect in the opinion of the Investigative Authority.

Article 72. The Investigative Authority may order the joinder of files related by reason of matter. The Investigative Authority may also order the opening of new investigations by facts different and independent





from those initially under investigation, as deemed adequate for the prompt and expeditious processing of investigations.

Article 73. The Investigative Authority may request any person to submit reports and documents as may deem necessary for completing investigations, identifying the role of the requested person as defendant or collaborating third-party, summon those individuals that are related to facts in question to testify, and order and perform verification visits anywhere there is a suspicion as to the existence of elements for due integration of the investigation.

The persons and Public Authorities shall have a ten days term to submit the reports and documents required by the Investigative Authority, which term that, at the request of persons and Public Authorities receiving the request, may be extended a single time for up to ten more days, if so merits the complexity or volume of requested information.

Article 74. Public Authorities shall, within their jurisdiction, provide the aid requested by the Investigative Authority's public servants for the exercise of their powers and application of this Law.

Article 75. The Investigative Authority, through its head, may order the performance of verification visits, subject to the following rules:

- I. The Investigative Authority shall issue a visit order including purpose, scope and length to which the diligence must be limited, name of visited person, location of domicile or domiciles to be visited, name or names of authorized personnel completing the visit whether jointly or individually, and a warning that in the event of not allowing access, hindering the process of diligence or refusing to provide information or documents requested, shall be subjected to enforcement measures established under the law;
- II. The Investigative Authority shall complete the verification visits in order to obtain data and documents in relation to the investigation.

The performance of visits may not exceed two months which may be extended for up to an equal term in the event the investigation so justifies;

- III. Visits shall be carried out during business days and hours only by personnel authorized to complete them, prior identification and production of respective visit order to the person at the domicile at the time the verification visit is occurring.

The Investigative Authority may authorize that a visit initiates or continues during nonbusiness days and hours, for a visit that has been initiated during business days and hours, in which event the official instrument ordering the visit shall include pertinent authorization;





- IV.** Visited person, officers, representatives or persons in charge of facilities or establishments of visited Economic Agents must allow the diligence giving facilities to the personnel authorized by Investigative Authority, who shall be vested with power to:
- a) Access to any office, outlet, land, means of transportation, computer, electronic device, storage device, filings or any other means that may hold evidence when performing acts or facts subject matter of visit;
 - b) Verify books, documents, papers, files or information, regardless the means of support in relation to visited person's economic activity;
 - c) Make or obtain copies or excerpts in any format of such books, documents, papers, files or information stored or generated by electronic means;
 - d) Guarantee that all books, documents and all other means visited Economic Agent owned during the time and to the extent needed for the performance of verification visit, and
 - e) Request to any officer, representative or member of visited Economic Agent personnel any explanation as to facts, information or documents in relation to the purpose and the end of verification visit and enter their replies as proof.

Information obtained by Commission from verification visits may only be used for the purposes of this Law.

For efficient performance of a verification visit, the Investigative Authority may authorize to public servants performing verification visit to request immediate support of public enforcement agents.

The authority may under no event attach or confiscate any visited information.

Personnel authorized by the Investigative Authority to complete verification visits may, during the development of diligences, take photographs or video films or reproduce papers, books, documents, files and information generated by any technology or material support by any means when related with subject matter of proceeding. Photographs taken, videos recorded and any other information element collected in terms provided for in this article, may be used by the Investigative Authority as elements with full evidentiary value.

Upon sealing and securing offices, facilities, books, documents and all other means owned by the visited Economic Agent, public servants performing the diligence may seal them and mark them and order they be maintained in deposit under the charge of the visited or the person attending the diligence, prior inventory made to such effect.





When a document or object secured in accordance with the above paragraph is essential for the development of the Economic Agent's activities, its use or extraction may be allowed, prior reproduction of information contained in such document by authorized public servants.

At the time verification visits are performed, an attempt shall be made not to affect production, distribution and marketing of goods and services capacity in order to prevent damage to the Economic Agent or consumer.

Should the verified party, officers or supervisors in charge of the verified facilities prevent the access thereto to the authorized personnel in order to perform the verification visits, or fail to provide the requested information and documents, or if there was an opposition to perform the verification visit in any way, such circumstance shall be recorded in the pertinent minutes and the facts attributed to potential violator shall be presumed true in the statement of probable responsibility, without disregarding the application of enforcement measures as deemed pertinent and criminal liability in which such party may incur;

- V. The verified party shall be entitled to make remarks to authorized public servants during the performance of the diligence, which remarks are to be entered in minutes. The verified party may also offer evidence in relation to facts contained in such minutes or exercise such right in writing within five days following the date minutes were drafted;
- VI. The minutes shall be drafted from any verification visit evidencing in detail facts or omissions the authorized personnel learned about. The minutes shall be drafted by authorized personnel before two witnesses proposed by the person attending the diligence or appointed by authorized public servants performing the diligence if the former had refused to propose them, including an entry in the minutes to such effect.

If a verification visit is simultaneously carried out in two or more places, minutes must be drafted at each of such places. In which case, the presence of two witnesses shall be required at each visited facility where minutes are drafted, in terms of the above paragraph.

Minutes shall evidence:

- a) Name, registered name or company name of the visited Economic Agent;
- b) Time, day, month and year of start and completion of diligence;
- c) Street, outdoor and indoor numbers, neighborhood, population, federal entity and zip code of the place where the visit is carried out, and if not possible, enter any information identifying the place where the diligence is carried out;
- d) Number and date of official instrument ordering verification visit;





- e) Purpose of visit;
- f) Name and data identifying the authorized personnel to complete verification visit;
- g) Name and position or job of the person attending the diligence;
- h) Name and domicile of individuals acting as witnesses;
- i) A reference as to any opportunity to visited person to exercise the right to make any remarks to public servants during the diligence, inserting statements that visited person may make and any evidence offered thereby;
- j) Detailed narration of facts related to diligence and a reference whether documents or information were reproduced or photographs were taken, video was filmed or other elements of evidence were collected during the length of diligence. If any, such elements that are to be attached to pertinent minutes;
- k) A reference to the opportunity the visited person is given to make clarifications or remarks in minutes drafted within five days as from date of drafting, and
- l) Name and signature of the parties intervening in diligence and, if any, indication that the visited person refused to sign the minutes;

VII. Before the verification visit is carried out or throughout its duration, the Investigative Authority may request to dependencies and entities of the Federal Public Administration aid in technical or specific matters for the performance of the visit.

A copy of the minutes shall be delivered to the person attending the diligence, even if refused to sign it, which circumstance shall not affect its validity.

Article 76. The information and documents obtained by the Investigative Authority in the exercise of its powers shall be deemed as reserved, confidential or public in terms of this Law.

Article 77. At any time, the Investigative Authority may file complaint or accusation with the Office of the General- Attorney as to probable criminal conduct on free market access and economic competition and, if any, actras adjuvant during investigations deriving from such complaint or accusation.

If from the investigation means, evidence arise assuming an act causing harm and damage to consumers, the statement of probable responsibility shall be notified to the Consumer Agency Office for any applicable effects.

Section III Investigation Closing





Article 78. Upon closing of investigation, the Investigative Authority, within a term not exceeding sixty days, shall file before the Plenum a statement proposing:

- I. The formal initiation of trial-like procedure due to the existence of objective elements of probable responsibility of an Economic Agent or Agents under investigation, or
- II. The closing of file if there are no elements to initiate trial-like procedure.

In the event described under subsection I, the Plenum shall order the body in charge of the procedure instruction in terms with organizational statute the initiation of such procedure by serving notice to those probable responsible.

In the event of subsection II, the Plenum, based on evidence contained in the investigation file, may decree the closing of file or order the initiation of trial-like procedure in terms provided for in the above paragraph, due to the existence of objective elements when there is probable responsibility by the Economic Agent or Agents under investigation.

Article 79. The statement shall at least contain the following:

- I. Identification of the Economic Agent or Agents under investigation and, as applicable, those probable responsible;
- II. Facts under investigation and probable purpose or effect in the market;
- III. Evidence and all other evidentiary elements in the investigation file and analysis, and
- IV. Elements supporting the statement's sense and, if any, legal provisions deemed in violation, as well as the consequences that may derive from such violation.

TITLE II TRIAL-LIKE PROCEDURE

Chapter I Procedure

Section I Serving Notice

Article 80. Procedure shall initiate by serving notice to those probable responsible parties accompanied by the statement of probable responsibility referred to under article 79 of this Law.





Article 81. Parties to trial-like procedure are the Economic Agent against whom a statement of probable responsibility is issued by the Investigative Authority.

Article 82. The party filing the complaint that initiated the investigation shall act as adjuvant of the Investigative Authority throughout the trial-like procedure in terms determined by the organizational statute.

Section II Process of Procedure

Article 83. Trial-like procedure shall be processed in the following terms:

- I. Following serving notice, the probable responsible person may have access to the file and within a forty-five-day term, non-extendable, the alleged liable person is to express what such person may lawfully think fit, accompanying such reply by documented means of evidence in possession thereof and offer evidence that merit any reviewing.

The person upon whom notice is served shall make a reference to each fact expressed in the statement of probable responsibility. Facts as to which the person served makes no statement shall be deemed true, except evidence to the contrary. The same shall occur if no reply is filed within the term established in the above paragraph;

- II. With the arguments by the probable responsible person, the Investigative Authority shall be notified to the effect that within a maximum term of fifteen business days the Investigative Authority renders a resolution as to arguments and offered evidence;
- III. Upon completion of the term established in the above subsection, rejection or admission of evidence shall be resolved as applicable and a place, day and time for review shall be set. Reviewing of evidence shall be within a term not exceeding twenty days as from date of their admission.

Any and all means of evidence are admissible, except confession and testimony of authorities. Those not offered in terms with the law or those having no relation with facts matter of the procedure, as well as those that are unnecessary or unlawful shall be rejected;

- IV. Following review and study of evidence and within ten following days, the Commission may obtain and order the review and study of evidence to best render a resolution or issue an order to appear for allegations in terms of the following subsection;
- V. Upon completion of evidence reviewing and studying for best rendering of a resolution, the Commission shall set a term not exceeding ten days to allow the probable responsible party and the Investigative Authority make written allegations that may apply, and





- VI.** The file shall be understood as integrated on the date of filing of allegations or upon termination of term referred to in the above subsection. Once the file is integrated, it shall be remitted by pronouncement of the President Commissioner to reporting Commissioner, then in a rotation rigorously following the Commissioner order of appointment and the chronological order in which the file was integrated, having obligation to submit the resolution draft to the Plenum for approval or amendment.

In the latter case, reporting Commissioner shall incorporate to the draft any amendments or corrections suggested by the Plenum.

Within ten days following the date in which file was integrated, the probable responsible or the complainant shall be entitled to request the Plenum an oral hearing in order to make statements such person may deem pertinent.

Commission shall decide within a term not exceeding forty days.

Section III Assessment of Evidence

Article 84. The Commission enjoys of the broadest attribution to complete evidence analysis in order to establish their value ones before others to set the final result of such assessment.

Assessment of evidence by the Commission is to be based on appreciation of direct, indirect and indicative evidentiary elements appearing in the process as a whole.

Chapter II Final Resolution

Article 85. The final resolution shall contain, at least, the following:

- I.** Appreciation of applicable means of evidence that demonstrates or not the existence of monopolistic practices or unlawful concentrations;
- II.** In the event of a relative monopolistic practice, determination that liable Economic Agent or agents have substantial powers in terms of this Law;
- III.** Determination whether definitive suppression of monopolistic practice or unlawful concentration or effects is ordered, or determination as to performing acts or actions the omission of which has caused the monopolistic practice or unlawful concentration, as well as means and terms in order to demonstrate compliance of such determination before the Commission, and
- IV.** Determination as imposition of sanctions.





TITLE III CONCENTRATION NOTIFICATION PROCEEDING

Chapter I Concentration Notification Proceeding

Article 86. The following concentrations are to be authorized by the Commission prior their occurrence:

- I. When the act or successive acts originating them, independently of the place of execution, directly or indirectly, import into domestic territory an amount exceeding the equivalent to eighteen million times the general daily minimum wage in force in the Federal District;
- II. When the act or successive acts originating them imply the accumulation of thirty-five percent or more of assets or shares of any Economic Agent, whose annual sales originated in domestic territory or assets in domestic territory represent more than the equivalent to eighteen million times the general daily minimum wage in force in the Federal District, or
- III. When the act or successive acts originating them imply the accumulation in domestic territory as to assets or capital stock exceeding that equivalent to eight million four hundred thousand times the general daily minimum wage in force in the Federal District, and two or more Economic Agents are party to such concentration the annual sales of whom originated in domestic territory or assets in domestic territory, whether jointly or individually, represent more than forty eight million times the general daily minimum wage in force in the Federal District.

Acts in contravention with this article shall have no legal effects without detriment of administrative, civil or criminal liability of the Economic Agents and persons ordering or acting as adjuvants in the execution, as well as public notaries intervening in such acts.

Acts in relation to a concentration shall not be recorded in corporate books, be formalized in public instrument nor be entered in the Public Registry of Commerce until favorable authorization from the Commission is obtained or a term referred to under article 90, subsection V, has transpired without the Plenum having rendered a resolution.

Economic Agents involved not in the assumptions foreseen under subsections I, II and III in this article may voluntarily notify the Commission.

Article 87. Economic Agents must obtain authorization for completion of concentration referred to under above article prior occurring any of the following:

- I. The perfection of the legal, in accordance with applicable statutory law or, if any, the occurrence of a condition precedent to which such act is subject;





- II. Factual or legal control is directly or indirectly acquired or exercised over another Economic Agent, or assets, interest in trust, equity interests or shares of another Economic Agent are factual or legally acquired;
- III. A merger agreement is executed between involved the Economic Agents, or
- IV. As to a succession of acts, the last of them is perfected by virtue of which the amounts established in the prior article are exceeded.

Concentrations deriving from legal acts abroad are to be notified prior the entry into legal or material effects in domestic territory.

Article 88. Economic Agents directly participating in a concentration are obliged to notify it.

When those directly involved are unable to deliver notice, whether legal or factual, and so demonstrated to the Commission, or in the event foreseen under article 92 of this Law, the surviving entity, the party acquiring control of companies or associations or that intending to complete the act or produce the effect of accumulating shares, equity interests, interest in trust or assets matter of the transaction may grant notice.

In its writing of notice, the parties delivering notice must appoint a common representative, except due to duly justified cause, they are unable to do so. In the event no justified cause is offered to refrain from appointing a common representative, the Commission shall designate such common representative ex officio.

Those involved in the transaction must refrain from exchanging information that may result in acts matter of a punishment in terms of this Law.

Article 89. Concentration notice shall be in writing and is to contain and be accompanied by:

- I. Name, registered name or company name of the Economic Agents notifying concentration and of those directly and indirectly participating thereat;
- II. If any, name of legal representative and document or instrument containing powers of representation in accordance with formalities established under applicable statutory laws. Name of common representative and domicile to hear and receive notices and authorized individuals, as well as data allowing prompt location;
- III. Description of concentration, type of operation and the draft of legal act in question, and the draft of clauses by virtue of which the parties agree not to compete in the event of any and the reasons why they are included;
- IV. Documents and information explaining the purpose and reason of concentration;





- V. Articles of incorporation and amendments or collated documents, if any, of bylaws of the involved Economic Agents;
- VI. Financial statements for the immediately prior year of involved the Economic Agents;
- VII. Description of capital stock structure of those Economic Agents involved in the concentration, whether Mexican or foreign companies, identifying the share of each director indirect partner or shareholder, prior and after the concentration, and those currently or in the future holding control;
- VIII. Reference as to the Economic Agents involved in the transaction who, directly or indirectly, hold an interest in the capital stock, in management or in any activity of other Economic Agents producing or marketing goods or services of equal, similar or substantial related matter with those goods or services of the Economic Agents participating in the concentration;
- IX. Information as to participation of the involved Economic Agents in the market and their competitors;
- X. Location of manufacturing facilities or establishments of the Economic Agents involved, the location of their main distribution centers and the relationship therewith;
- XI. Description of main goods or services produced or offered by each Economic Agent involved, providing details of use in relevant market and a list of similar goods or services and those of main Economic Agents producing, distributing or marketing such goods or services in domestic territory; and
- XII. All other elements deemed pertinent by the Economic Agents delivering notification as to the concentration for their analysis.

Documents referred to in the above subsection II shall be delivered whether in notarial testimony or certified copy.

Article 90. For the notification procedure processing, the following is to apply:

- I. When notification fails to satisfy requirements referred to under subsections I to XII of the above article, the Commission, within ten days following delivery of writing, must prevent the persons granting the notification to the effect that within a term not exceeding ten days, they submit any missing information. Such term may be extended at the request of the party delivering the notification in duly justified cases;
- II. In the event the above referred prevention is not complied within the term foreseen in the above subsection, the Commission, within ten days following the termination of the above mentioned





term, shall issue and notify pronouncement by means of which the absence of concentration notification is determined;

- III. The Commission may request further data or documents within fifteen following days as of the notification reception date, which interested parties must deliver within the same term, which may be extended in cases duly justified by the requesting party.

The Commission may request further information deemed necessary for the analysis of the concentration. When no further information is delivered within the term foreseen in the above paragraph, the concentration shall be deemed as not notified and the Commission is to issue and notify the pertinent decision within ten days following termination of the above referred term.

The Commission may request information other than the above identified to any other Economic Agents that are related to the concentration, as well as to any person, including parties granting notice and any Public Authority as to reports and documents deemed relevant to analyze the concentration in terms of this Title, without such act being understood as an acknowledgment of the party in the proceeding.

Requirements identified in the above paragraph shall not suspend terms to render notice. Those persons who receive a request are to file requested information within ten days following request notice, which may be extended for an equal term at the request of party obliged to deliver information and when justifiable;

- IV. Following the terms referred to under subsections I and III above, without the Commission rendering and delivering notice of a decision not acknowledging the notification of the concentration, the proceeding shall continue;
- V. To render a resolution, the Commission shall have sixty days as from notice reception or, if any, from the date of additional documents requested. Upon termination of term without rendering a resolution, such act shall be understood as the Commission not objecting the notified concentration.

In concentrations in which the Commission believes there is an existence of potential risks to competition and free market access process, the Commission shall notify the parties granting notice at least ten days in advance to the date the matter is listed to the effect that they may present available conditions allowing correction of identified risks.

The Commission's resolution may authorize, object or subject concentration's authorization to conditions in order to prevent potential effects contrary to free market access and competition process that may arise from the notified concentration;

- VI. In the event of exceptionally complex cases, the Commission may extend terms referred to under subsections III and V of this article, for up to another forty days;





- VII.** For the purposes provided for under subsections III and V of this article, the notification shall be understood as received and the acknowledgment of receipt pronouncement for processing issued:
- a) The day of the notification writing filing, if the Commission had not prevented the parties notifying the concentration, in terms provided for under subsection I in this article, or
 - b) The day missing information matter of the prevention is filed, when the Commission had not issued any pronouncement, and notified the party, not acknowledging concentration in terms provided for under subsection II of this article;
- VIII.** The Commission's favorable resolution shall not render a prior judgment on the incurrance of monopolistic practices or any other anticompetitive practices which in terms of the Law may reduce, damage or prevent free market access or economic competition, therefore, shall not relieve the involved Economic Agents from any other liability.

The Commission's favorable resolution shall have an effect of six months that may be extended by a single time due to justified causes.

Parties granting notice may deliver, from the moment of their notice writing up to one day following the matter is listed in the Plenum session, any proposals of conditions to prevent the reduction, damage or prevention of competition and free market access process as a result of the concentration.

In the event condition proposals are not submitted accompanying the writing of notice, the term granted for rendering resolution shall be interrupted and the term shall start counting from the beginning.

Article 91s The conditions the Commission may establish or accept from the Economic Agents in terms of the above article may consist in:

- I. Performing a particular conduct or refraining from it;
- II. Disposing of certain assets, rights, equity interests or shares in favor of third parties;
- III. Amending or eliminating terms or conditions of any instruments intended to be executed;
- IV. Binding to perform acts leading to foster participation of competitors in market and give access or sell goods or services thereto, or
- V. All other that have as purpose preventing that the concentration may reduce or prevent competition or free market access.

The Commission may only impose or accept conditions directly related to the correction of the concentration's effects. Conditions imposed or accepted must be proportionate to the intended correction.





Article 92. Upon notifying a concentration, the Economic Agents may expressly request the Commission that the procedure be carried out in accordance with the provisions of this article, to which end requesting Economic Agents must submit information and evidentiary elements to the Commission in order to demonstrate that the concentration shall not have as purpose or effect the reduction, damaging or prevention of free market access and economic competition in a notorious manner, in accordance with the provisions of this article.

A concentration shall notoriously not have as purpose or effect the reduction, damaging or preventing of free market access and economic competition upon acquirer not participating in markets related to relevant market where concentration shall occur, nor a current or potential competitor of acquirer and, in addition, any of the following circumstances:

- I. The transaction implies first time participation by acquirer in the relevant market. To this purpose, the relevant market structure is not to be modified and shall only involve total or partial substitution of the Economic Agent acquired by acquirer;
- II. Prior transaction, acquirer does not have control over acquired Economic Agent and, through transaction, the former increases its relative share in such Economic Agent, without granting greater power to influence in operation, management, strategy and main policy of company, including appointment of members of the board of directors, officers or managers of the acquired Economic Agent itself;
- III. The party acquiring shares, equity interests or interest units holds control of a company or increases its relative share in the capital stock of such company, or
- IV. In cases provided for under the Regulatory Provisions.

The concentration notification in accordance with the procedure established in this article shall be in writing and is to contain and be accompanied by information and documents referred to under subsections I to XII of article 89 of this Law.

Within five days following reception of the concentration notification, the Commission shall render applicable admission pronouncement, or else, in case of last paragraph of this article, shall order its inadmissibility and have the matter be resolved in accordance with article 90 of this Law.

The Plenum is to resolve whether the concentration is in satisfaction with notoriously assumption foreseen in this article within a term not exceeding fifteen days following the date of admission decision. Upon termination of term without the Plenum having rendered a resolution, it shall be understood as the absence of any objection to carry out the concentration.

When in the opinion of the Commission the concentration is not under the assumptions foreseen under subsections I to IV of this article, or the information contributed by the Economic Agent is incomplete, the





Commission shall issue a pronouncement acknowledging receipt for processing in accordance with the provisions of article 90 of this Law.

Chapter II

Exceptions to Prior Authorization Obligation

Article 93. No concentration authorization referred to under article 86 of this Law shall be required in the following cases:

- I. When the transaction implies a corporate restructuring in which the Economic Agents belong to a single economic interest group and no third party participates in the concentration;
- II. When the holder of shares, equity interests or interest units increases its relative share in the capital stock of a company in which the same holds control from the time of its incorporation or startup of operations, or else, when the Plenum has authorized acquisition of such control and it subsequently increases its relative share in the capital stock of referred company;
- III. When related to incorporation of management, guarantee or any other kind of trusts in which an Economic Agent contributes its assets, shares, equity interests or interest units without having as purpose or the needed consequence is the transfer of such assets, shares, equity interests or interest units of a different company both by trustor as well as pertinent trust institution. However, in the event of guarantee trust execution, a notification is to be filed upon reaching any of the thresholds referred to under article 86 of this Law;
- IV. Regarding legal acts on shares, equity interests or interest units or under trust agreements executed abroad in relation to companies that are not Mexican residents for tax purposes, or foreign companies, provided companies involved in such acts do not acquire control over Mexican companies nor accrue in domestic territory any shares, equity interests, interest units or interest in trusts or assets in general, other than those directly or indirectly held prior the transaction;
- V. Any time acquirer is a variable income investment company and the purpose of the transaction is the acquisition of shares, obligations, securities, certificates or documents from sources originated from placement of shares representing capital stock of the investment company amongst investor public, except the result or by reason of investment company transactions it may result a significant influence in the concentrated Economic Agent decisions;
- VI. The acquisition shares, securities, certificates or documents representing capital stock of companies, or else, the underlying security of which are shares representing capital stock of legal persons offered in Mexico or in foreign stock market, when the act or successive acts do not allow buyer the holding of ten percent or more of such shares, obligations convertible into shares, securities, certificates or documents, and also the acquirer is not vested with powers to:





- a) Appoint or revoke the members of the board of directors, executives or managers of the issuer company;
 - b) Directly or indirectly impose decisions at general shareholders or partners' meetings or equivalent bodies;
 - c) Maintain the ownership of rights allowing, directly or indirectly, the casting of vote as to ten percent or more of the capital stock of a legal person, or
 - d) Directly or indirectly direct or influence management, operation, strategy or main policy of a legal person, whether through the ownership of shares, by contract or in any other manner;
- VII. When acquisition on shares, equity interests, interest units or trusts is under the charge of one or more investment funds for merely speculative purposes having no investment in companies or assets holding an interest or are used in the same relevant market than the concentrated Economic Agent, or
- VIII. In all other cases established under the Regulatory Provisions.

TITLE IV SPECIAL PROCEEDINGS

Chapter I Investigations to Determine Essential Facilities or Barriers to Competition

Article 94. The Commission shall initiate ex officio or at the request of the Federal Executive, directly or through the Ministry, an investigation proceeding when there are elements that indicate an absence of effective competition conditions in a market, and in order to establish the existence of competition barriers to free market access or essential facilities that may generate anticompetitive effects, which shall be in terms with the following:

- I. The Investigative Authority shall render an initiation decision and publish in the Official Gazette of the Federation a summary of such decision identifying the market matter of the investigation in order to allow the contribution of elements by any person during investigation. The investigation term shall start as from the publication of summary and shall not be shorter than thirty nor longer than one hundred twenty days. Such term may be extended by the Commission in up to two occasions when there are justifying causes;
- II. The Investigative Authority shall be vested with all investigation powers foreseen in this Law, including requesting reports and required documents, summoning those persons related with the case in order to testify, completing verification visits and ordering any diligence determined





pertinent. As to essential facilities, the Investigative Authority must analyze during this investigation any assumption foreseen under article 60 of this Law;

- III. Upon completion of investigation and if there are elements to establish the nonexistence of effective competition conditions in market under investigation, the Investigative Authority shall render, within sixty days following completion of investigation, a preliminary statement; otherwise, the closing of file shall be proposed to the Plenum.

Upon rendering the preliminary statement, corrective measures deemed required to eliminate restrictions to efficient operation of market under investigation must be proposed, to which end, the Commission may request, if any, a nonbinding technical opinion to coordinating instrumentality of sector or Public Authority that may apply as to such corrective measures.

As applicable, the preliminary statement is to be notified to the Economic Agents who may be affected by proposed corrective measures, including potential barriers to competition or regulation to access to an essential facilities and, if any, sector coordinating instrumentality or applicable Public Authority;

- IV. Economic Agents demonstrating holding a legal right in the matter may state what they may lawfully think fit and offer evidentiary elements deemed pertinent to the Commission, within forty-five days following the date of entry into effect of applicable notice. Following such term, rejection or admission of evidence shall be resolved and a place, day and time for study and review shall be set;
- V. Once evidence is studied and reviewed and within ten following days, the Commission may order the study of evidence to best render a resolution or issue an order to appear for allegations, in terms of the subsection below;
- VI. Following discovery, production and examination of evidence to best resolve, the Commission shall set fifteen days to make applicable allegations in writing, and
- VII. File shall be understood as integrated on the date of termination of term to make allegations. Economic Agent involved may propose to the Commission, a single time, ideal, economically feasible measures to eliminate competition issues identified at any time and just before integration.

Within five days following reception of measures proposed writing referred to in the above paragraph, Commission may prevent the Economic Agent to the effect that, if any, the Economic Agent files any pertinent clarifications within a term of five days. Within ten days following reception of proposal or clarification writing, as the case may be, an opinion shall be submitted to the consideration of the Plenum, who is to render a resolution on the requesting Economic Agent intention within twenty following days.





In the event the Plenum refuses the proposal submitted by the requesting Economic Agent, the Plenum shall justify grounds for its refusal and the Commission shall render, within five days, a procedure resumption pronouncement.

Following file integration, Plenum shall render pertinent resolution within a term not exceeding sixty days.

The Commission's resolution may include:

a) Recommendations to Public Authorities.

Resolutions in which the Commission establishes the existence of legal provisions unduly preventing or distorting free market access and competition in the market must be notified to the competent authorities to the effect that within the sphere of their jurisdiction and in accordance with procedures foreseen under current laws, they proceed as applicable. These resolutions are to be published

b) An order to the pertinent Economic Agent to eliminate a barrier unduly affecting free market access and competition process;

c) Determination as to the existence of essential facilities and guidelines to regulate, as the case may be, forms of access, prices or rates, technical conditions and quality, as well as the application schedule, or

d) Divestiture of assets, rights, equity interests or shares of the Economic Agent involved, in the extent required to eliminate anticompetitive effects, shall apply any time different corrective measures prove insufficient to solve the identified competition issue.

The resolution shall be notified, as applicable, to the Federal Executive and the coordinating authority of the pertinent sector, as well as to the affected Economic Agents, and shall be published in the Commission's diffusion means and relevant data in the Official Gazette of the Federation.

When, in the opinion of the essential facilities holder, requirements to be deemed as such are not satisfied any longer, such essential facilities holder may request to the Commission the initiation of the investigation foreseen in this article in order to allow the Commission to establish whether such requirements shall continue or not.

Should the Commission establish that good or service fails to satisfy requirements to be deemed an essential facility, resolution issued by the Commission regulating access thereto shall be rendered null as of such moment onwards.

Resolution in relation to divestiture of assets referred to in this article constitutes no punishment as referred to under article 131 of this Law.





In any event, the Commission shall verify that measures proposed shall generate market efficiency increases, therefore, they shall not be imposed if the Economic Agent holding a legal right in proceeding on due time demonstrates that barriers to competition and essential facilities increase efficiency favorably affecting economic competition and free market access process exceeding potential anticompetitive effects, resulting in an improvement of consumer welfare. Among efficiency gains, may include those resulting from innovation in production, distribution and marketing of goods and services.

Article 95. Resolutions in which the Commission establishes the existence of barriers to competition and free market access or essential facilities must be notified to authorities regulating the sector in question to the effect that, within the sphere of its jurisdiction and in accordance with procedures foreseen under current laws, said authorities proceed as applicable to achieve competition conditions.

Any time the Commission becomes knowledgeable of acts or general standards issued by a State, the Federal District, a Municipality, that may result contrary to the provisions, among other, under articles 28 and 117, subsections IV, V, VI and VII, of the Political Constitution of the United Mexican States, or invading Federal powers, the Commission shall make such fact known to the Head of the Federal Executive through its Legal Counsel, to the effect that, if pertinent, the same initiates a constitutional controversy or the pertinent body to the effect that such body, if applicable, files any unconstitutionality action.

The Commission shall express grounds why in its opinion such general acts or standards as referred to in the above paragraph are in contravention with referred to constitutional provisions.

In the event that the Federal Executive determines that the filing of a constitutional controversy not pertinent, its Legal Counsel must publish the grounds for its resolution.

In the event the Commission becomes knowledgeable of general acts or provisions by any autonomous constitutional body, the Congress of the Union or the Federal Executive, affecting the exercise of its powers, the Commission may file a constitutional controversy in terms of that provided for under subparagraph I), of subsection I, of article 105 of the Political Constitution of the United Mexican States.

Chapter II

Procedure to Render a Resolution on Market Conditions

Article 96. When legal or regulatory provisions expressly provide the resolution or rendering of an opinion as to effective competition matters, existence of substantial power in the relevant market or any other analogous terms, or when so determined by the Federal Executive by pronouncements or decrees, the Commission shall issue ex officio at the request of the Federal Executive, directly or through the Ministry, at the request of coordinating dependency of applicable sector, or at the request of affected party, the applicable resolution or opinion, subject to following procedure:

- I. In the event the request is made by an affected party or by the coordinating authority of pertinent sector, the requestor is to submit information allowing identification of relevant market and





substantial power in terms provided for in this Law and motivate the need of rendering a resolution or opinion. The Regulatory Provisions shall establish the requirements for request filing;

- II. Within following ten days, an initiation decision shall be issued or the requesting party shall be prevented to submit additional information to allow the Commission the identification of relevant market and the existence of substantial power, which the requesting party is to perform within fifteen days as from the date prevention is notified. In the event the order was not performed, the request shall be deemed as not filed;
- III. The Commission shall issue the initiation decision and publish in the Official Gazette of the Federation a summary of such decision, which is to describe the market subject matter of declaration to allow anyone to contribute in such investigation. The summary may also be made public by any other means of communication when, in the opinion of the Commission, the matter is of such relevance;
- IV. The term of investigation shall start counting as from publication of summary and may not be shorter than fifteen nor longer than forty-five days.

The Commission shall request reports and documents that may be needed and shall summon those being related to the matter in question;

- V. Upon completion of pertinent investigation and if there are elements to establish the existence of substantial power or the absence of effective competition conditions or other analogous terms, the Commission shall render a preliminary statement within thirty days as from the issuance of the decision establishing the completion of investigation and a summary thereof shall be published through the Commission's own means of diffusion and the statement's relevant information shall be published in the Official Gazette of the Federation;
- VI. Those Economic Agents demonstrating to the Commission their holding of an interest in the matter, may make statements they may lawfully think fit and offer evidentiary elements deemed pertinent within twenty days following publication of preliminary statement's relevant data in the Official Gazette of the Federation;
- VII. Within ten days following termination of term referred to in the above subsection, the rejection or admission of means of evidence shall be resolved, as applicable, setting the place, day and time for introduction of evidence;
- VIII. The introduction of evidence shall be within a term not exceeding twenty days as from the moment of its admission;
- IX. The file shall be understood as integrated following introduction of evidence or transpiration of the term granted to such effect, and





- X. Following file integration, the Commission shall render a resolution or opinion within a term not exceeding thirty days, to be notified, as applicable, to the Federal Executive and to the coordinating authority of pertinent sector, be published in the Commission's webpage and its relevant data must be published in the Official Gazette of the Federation. The above to the effect that, if applicable, coordinating authority of the sector may establish pertinent regulation and measures, to which end it may request the Commission's nonbinding opinion.

The Commission may extend the terms identified under subsections IV, VIII and X of this article only once and for equal terms when there are duly justified causes to such effect.

Article 97. In case described under article 9 of this Law, the Commission may issue an opinion at the request of the Federal Executive to be processed in terms of the above article, except when preferential attention is requested, in which case, the Commission shall issue such opinion within shortest time possible, taking into consideration the terms foreseen in this Law.

Chapter III

Procedure for Opinions or Resolutions in the Granting of Licenses, Concessions and Permits and Analogous Instruments

Article 98. Any time the Commission, as so ordered under Law or when so determined by the Federal Executive in pronouncement or decrees, or at the request of the Federal Executive, directly or through the Ministry, renders a resolution or authorization for the granting of licenses, concessions, permits, assignments, sale of shares of concession or permit holder companies, or any other analogous matters, shall file and following the procedure below:

- I. In the event of a request by a party or coordinating authority of applicable sector, the Regulatory Provisions shall establish requirements for the filing of request;
- II. Within ten following days, the Commission shall deliver to the Economic Agents acknowledgment of receipt or prevention to the effect that within the same term they file missing information and documents. Once the prevention is satisfied, the Commission shall render, within following ten days, a decision acknowledging receipt of missing information or documents. In the event the prevention is not satisfied, the request shall be understood as not filed, and
- III. The Commission shall render an opinion within thirty days as from acknowledgment of receipt or decision acknowledging submittal of missing information or documents. To render the opinion, the provisions under articles 63 and 64 of this Law shall prevail as applicable.

The request of an opinion is to be filed on the date indicated in applicable call or bidding bases. The request of an opinion shall always be prior delivery of economic offers.





The tendering entity is to send to the Commission, prior publication of public bidding, the call documents, bidding bases, contract drafts and all other relevant documents allowing the Commission to become knowledgeable of the intended transaction.

Terms identified under subsection III of this article may be extended a single time for up to an equal term by the Commission due to duly justified causes.

When there is no bidding or contest, the Economic Agents must obtain, prior the transaction or the rendering of the pertinent administrative act by competent authority, an applicable resolution from the Commission in terms with this article.

Article 99. For the purposes of the above article, the following shall apply:

- I. The tendering entity must provide to the Commission, with at least thirty days in advance to the date of tender, the information referred to in paragraph one before last of the previous article;
- II. The Commission may request to the tendering entity relevant or missing documents or information to complete pertinent analysis within ten days as from submittal of information in terms with the above subsection;
- III. Within fifteen days following submittal of information identified in the above subsections, as the case may be, Commission must render a resolution on measures to protect competition that are to be included in call, bases and exhibits, and all other bidding documents, and
- IV. The Commission must agree with the tendering entity the dates when interested parties must submit their opinion request and the date the Commission shall notify its resolution, taking into consideration terms identified under subsections II and III of the above article.

Chapter IV **Exemption and Reduction of Fine Amount Procedure**

Article 100. Prior the rendering of the statement of probable responsibility, in a procedure followed before the Commission due to relative monopolistic practice or unlawful concentration, the Economic Agent subject to investigation, for a single time may express in writing its intention to be benefited from exemption or reduction of amount of any fine established in this Law, provided such Economic Agent demonstrates to the Commission:

- I. Its commitment to interrupt, suppress or correct applicable practices or concentration in order to restore free market access and economic competition process, and
- II. Proposed means that prove legal and economically feasible and appropriate to prevent or, if any, eliminate relative monopolistic practice or unlawful concentration matter of investigation, identifying times and terms for verification.





Article 101. Within five days following the reception of the writing referred to under paragraph one in the previous article, the Investigative Authority shall suspend the investigation, may prevent the Economic Agent subject to investigation to the effect that, within following five days, the Economic Agent submits applicable clarifications, and shall notify complainant, if any, to the effect that, within an additional term of five days, complainant expresses what complainant may lawfully think fit, and within ten days submits to the consideration of the Plenum a statement regarding the Economic Agent's request and investigation file. The Commission shall render a resolution within twenty days as from the moment the Investigative Authority submits its statement.

In the event the Plenum refuses the proposal submitted by the requested Economic Agent, the Commission shall issue, with a five days term, the decision to reinstate the procedure.

Article 102. The resolution referred to in the preceding article may decree:

- I. The granting of a benefit as exemption or reduction of fine payment that may apply thereto, and
- II. The measures to restore free market access and economic competition process.

Economic Agents are to expressly accept in conformity and in writing, the final resolution within fifteen days as from the date they are served notice.

In the event of Economic Agent in question does not expressly accept the resolution, the suspended procedures shall be reinstated.

Economic Agents may only receive benefits foreseen in this article once every five years. This term shall be calculated as from the Commission's resolution acceptance.

The resolution referred to in this article shall be without detriment of any actions that affected third parties may file, claiming harm and damages deriving from civil liability for the engagement in relative monopolistic practice or unlawful concentration disclosed to the Commission in terms of the preceding article.

Article 103. Any Economic Agent who incurred or is incurring in absolute monopolistic practice; having directly participated in absolute monopolistic practices on behalf or in name and at the instruction of legal persons, and any Economic Agent or individual who has contributed or who fostered, induced or participated in absolute monopolistic practices, may acknowledge before the Commission such action and be granted the benefit of sanction reduction established in this Law, provided:

- I. Is the first, amongst Economic Agents or individuals involved in the conduct, in providing sufficient evidentiary elements at hand and any other that may be available thereto which, in the opinion of the Commission, allows for the investigation procedure to be initiated or, if any, allows for the presumption of the existence of an absolute monopolistic practice;





- II. Fully and continuously cooperates in the substantiation of an investigation and, if the case may be, in a trial-like procedure, and
- III. Undertakes all necessary actions to end its participation in violation with the Law.

Once the above requirements are satisfied, the Commission shall issue the corresponding resolution and impose a minimum fine.

Economic Agents or individuals failing to perform with the provisions in the above subsection I, may obtain a fine reduction of up to 50, 30 or 20 percent of maximum allowed, upon contributing evidentiary elements to the investigation, other than those already in hand of the Investigative Authority, and also perform with all other requirements foreseen in this article. In order to establish the amount of reduction, the Commission shall take into consideration the request presentation chronological order and submitted evidentiary elements.

Individuals directly participating in absolute monopolistic practices on behalf or in name and at the order of Economic Agents being benefited from sanction reduction, may be benefited by same reduction to fine corresponding to the former, provided when they contribute evidentiary elements available thereto, fully and continuously cooperate in the substantiation of the investigation that is being carried out and, if the case may be, in trial-like procedure, and undertake all acts required to eliminate their participation in the practice that is in violation with Law.

The Commission shall maintain the identity of Economic Agents and individuals intending to be benefited from the provisions in this article as confidential.

The Regulatory Provisions shall establish the procedure under which the application of the benefit foreseen in this article is to be requested and granted, as well as that for reduction of fine amount.

Chapter V

Formal Opinion and General Guideline Requests on Free Market Access and Economic Competition Procedure

Article 104. Any Economic Agent may request to the Commission a formal opinion on free market access and economic competition when in reference to appearance of new matters or matters without having been resolved in relation to the application of this Law and it determines a relevant issue.

The Commission shall render formal opinion upon satisfaction of the following requirements:

- I. That substantive evaluation of a conduct for the purposes of applying this Law presents a matter for which applicable legal framework, including court precedent, provides no clarification whatsoever or when there are no directives, guides, guidelines and technical criteria or general advice publicly available, nor precedent in decisive practices of the Commission, nor formal and specific opinions on prior free market access and economic competition;





- II. From a preliminary evaluation of details and circumstances of opinion request, it is evident the usefulness of clarifying the new matter by providing formal opinion, considering the following elements:
- a) Economic relevance from the point of view of consumer of goods and services affected by agreement or practice;
 - b) The extent in which the conduct referred to in the formal request of opinion reflects or is probable that it may reflect a broader conduct or economic use in the market, or
 - c) The relevance of investment corresponding to conduct referred to in the formal request of opinion in relation to the size of affected companies;
- III. The fact that the Commission may issue its formal opinion based on information available thereto, without need of completing an additional investigation on facts. However, the Commission may use any additional information available thereto from public sources, from prior proceedings or from any other source, and request additional information to the Economic Agent requesting formal opinion.

The Commission shall not attend any formal opinion request upon any of the following circumstances:

- a) That the matters laid out in the request are identical or similar to matters laid out in a matter pending with the Commission or before a court;
- b) That conduct referred to in the request is being under investigation by the Investigative Authority or is pending proceeding with the Commission or before a court, or
- c) When matters laid out in request are hypotheses and not on actual, concrete scenarios or not applicable to the parties. However, the Economic Agents may submit to the Commission a request to obtain a formal opinion related to matters laid out in an agreement or conduct not yet in practice. In such event, the transaction is to have reached a sufficient advanced stage to be able to attend the request. These opinions shall not be deemed for the purposes of that provided for under subsection I in this article.

The formal opinion shall have binding effects to the Commission.

The replies to opinion requests made by the Economic Agents when on situations that are not actual and concrete, is not consistent with facts or data matter of the request, result in amendment to applicable statutory laws, or change the situations matter of the request, or refer to matters laid out in an agreement or conduct still as a project not yet in practice, shall not be binding.





Article 105. The Economic Agents may request a formal opinion in writing to the Commission clearly evidencing:

- I. The identity of affected Economic Agents and a contact address available to the Commission;
- II. Specific matters on which the opinion is requested;
- III. Full and thorough information on any relevant item for knowing evaluation of matters laid out, including pertinent documents;
- IV. A grounded explanation providing reasons why the request of formal opinion presents new matter or matters;
- V. Any other information allowing assessment under the light of that established in this chapter in this law and, particularly, a statement that the conduct referred to under the formal opinion request is not pending in a proceeding with a court;
- VI. If the formal opinion request contains elements deemed Confidential Information, a clear indication of such elements in a separate exhibit providing grounded explanation why the Commission is to give confidential treatment to such information, and
- VII. Any other pertinent information or documents for the matter at issue.

Article 106. Any time the Commission receives a formal opinion request, the following is to apply:

- I. Within ten days following reception of the formal opinion request, the President Commissioner shall submit such request to the consideration of the Plenum. The Plenum shall have five days to resolve whether the formal opinion shall be issued or not as described in the submitted request, and its resolution is to be notified to the interested Economic Agent within an additional term of five days;
- II. Within five days following the moment the Plenum resolves to render its formal opinion to the requested matter, the file shall be remitted to the body in charge of instruction who may, within the following ten days request additional information and documents to the interested party. The Economic Agent requesting a formal opinion must provide the said information and documents within five days following the requirement, or provide a grounded explanation as to why such information or documents cannot be submitted;
- III. If the information is not delivered within the term foreseen under the above subsection, the formal opinion request shall be deemed as not submitted, without detriment that the interested party may request an extension to such term or files a new request;





- IV.** The body in charge of instruction shall integrate the file, and once integrated, by pronouncement of the President Commissioner shall be submitted to the Reporting Commissioner in rotatory fashion, rigorously following the order of appointment of Commissioners and the chronological order in which the file was integrated, who shall submit a formal opinion draft for discussion within a term of fifteen days as from the date in which formal opinion request was delivered thereto or, if the case may be, the date of file integration. Reporting Commissioner may extend the term referred to in this subsection for up to an equal term in the event of justified cause to such effect, and
- V.** The Plenum shall have ten days to render a formal opinion on free market access and economic competition that may apply as from the day of holding a session in which the Plenum deals with and approves the pertinent formal opinion draft.

Article 107. The Economic Agents may withdraw the request of formal opinion at any time. However, information provided within the context of such request shall remain in the Commission, who may use such same information in other proceedings in terms with this Law.

Article 108. Formal opinions on free market access and economic competition issued by the Commission must contain:

- I.** A detailed description of facts serving as grounds, and
- II.** Underlying legal arguments in the Commission's interpretation to new matters related to this Law included in the request.

Formal opinions may be limited to dealing a portion of the matter included in the request; also, they may cover aspects other than those included in the request.

Article 109. Formal opinions shall be published in the Commission's website, keeping Confidential Information safe.

Article 110. Without detriment of procedure for the issue of formal opinions, the Commission must offer general guidance to any individual or legal person and to any Public Authority in relation to application of this law, in terms identified under the Regulatory Provisions.

TITLE V GENERAL RULES APPLICABLE TO PROCEEDINGS

Chapter I Representation





Article 111. The Economic Agent representation before the Commission must be demonstrated by means of notarial instrument or certified copy of document or instrument evidencing powers thereto, in accordance with formalities established under applicable statutory law, which may be submitted with the first writ or be entered in the registry of authorized individuals established by the Commission to such effect.

Economic Agents, or a legal representative thereof, may authorize to individuals deemed pertinent to receive notices, make motions, offer means of evidence, appear to the study of evidence, make allegations and, in general, perform any acts required for the due substantiation of proceeding. The person authorized in these terms may not substitute nor delegate the authorization granted.

Economic Agents or a legal representative thereof may appoint individuals only to hear and receive notices and documents, and receive file proof, who may not be vested with power referred to in the preceding paragraph.

When at motion Economic Agents fail to specify to what end individuals identified are authorized, they shall be understood as only authorized for the purposes described in the preceding paragraph.

Individuals not authorized or not having demonstrated its legal personality in the file accepted in such sense by the Commission may not have access to the file, nor off business hours established by filing office.

Chapter II Requirements of Motions with the Commission

Article 112. The pleads and motions are to be submitted in Spanish and be signed by those intervening therein. When any time movants or individuals intervening in an act ignore or are unable to sign, they may stamp their fingerprint in the presence of two witnesses, who are to sign the instrument.

Failure to satisfy the requirements established in the preceding paragraph for motions shall result in being deemed as not filed.

Any time a person intervening in a diligence conducted by the Commission refuses to sign or, if any, to stamp a fingerprint, such fact shall be evidenced in the minutes drafted to such effect. The absence of signature or fingerprint shall not invalidate acts.

Article 113. The movant may submit documents jointly with a motion in a language other than Spanish, to which the movant shall attach the promotion with its translation by a translator expert on matters deemed relevant at its own discretion, without detriment that the Commission may request the movant the extension or the entirety of translation by expert translator when determined pertinent.

The Commission shall not take into consideration documents in a language other than Spanish.





The Commission may collect at any proceeding being heard, documents in a language other than Spanish and attach them to file along with the translation of any matters deemed relevant in the opinion of the Commission.

Any non-Spanish speaker individual may attend a diligence accompanied by an interpreter, whose expenses shall be covered by the party offering or proposing the diligence. When the deponent so requests, in addition to enter its deposition in Spanish, the same may be entered in its own language, with the own handwriting of deponent. Interpreter, prior acting as such, shall swear to truly interpret evidencing such circumstance in pertinent minute.

For all which is not foreseen, the provisions contained in the Regulatory Provisions shall prevail.

Chapter III Terms

Article 114. Any time terms set in this Law and under the Regulatory Provisions are days, these shall be understood as business days. As to those established in months or years, calculation shall be from date to date, even considering nonbusiness days.

When term is not specified, five days for any act shall be understood.

Article 115. Acts shall be carried out during business days and hours.

Business days are every day of the year, except Saturdays and Sundays, and those declared as nonbusiness days in accordance with the pertinent annual calendar published in the Official Gazette of the Federation. Any days when works are suspended or when authority offices remain closed shall be deemed as nonbusiness days for any and all legal purposes, except in cases of express enablement for the performance or practices of diligences.

Business hours for purposes of notice and diligences shall be those from seven up to nineteen hours.

Any nonbusiness days and hours may be turned into business days and hours to act or to perform diligences and notice in the existence of any justifying cause, expressing the cause and specifying also the diligences to be carried out.

If the diligence initiated during business days and hours, it may be carried out up to its completion, without interruption and without need of express enablement.

Article 116. Motions and documents must be filed only at the Commission's filing office within business hours and according to business calendar, as published in the Official Gazette of the Federation.





Motions may be filed on their due date following termination of hours in which filling office must receive documents by electronic means to e-mail addresses published to such effect. The system must generate the applicable receipt.

Motions and documents submitted in terms of the preceding paragraph are only admissible when the original motion, its exhibits and receipt of electronic transfer are submitted at filling office the business day following the transmission.

Electronic transmission containing signed motion and detailed list of documents attached to the motion explaining its contents, including the section of its writing in which each exhibit is listed shall be sufficient.

Any document submitted in a manner other than as specified in this article does not interrupt nor suspend the term, and the document shall be acknowledged as received until delivered to the filling office.

In the event the motion and documents submitted by electronic means are different than those submitted to the filling office, the motion and document shall be deemed as not filed.

Chapter IV Notifications

Article 117. Any party appearing before the Commission, in first writ or in first diligence in which such party intervenes, must designate a domicile to hear and receive notices in the Federal District or, if the case may be, at the domicile of the applicable Commission office, if any procedure in this Law is processed thereat.

Similarly, such party must identify the domicile where the first notice to person interested in being notified is to be done due to intervention in the matter. Domicile of public servants is not needed as they shall always be notified at their official residency.

Notifications shall be served in terms of the Regulatory Provisions.

Chapter V Procedure before the Commission by Electronic Means

Article 118. All procedures referred to in this Law as well as any request may be substantiated by electronic means in accordance with the Regulatory Provisions, observing digital and open data governance principles as well as provisions applicable on electronic signature matters.

For the purposes of substantiation of acts in relation thereto, the Commission shall authorize the requesting parties the generation of an electronic signature, in satisfaction with the requirements established under the Regulatory Provisions.





Chapter VI Obligation to Cooperate with the Commission

Article 119. Any person having knowledge or is related to any fact under investigation by the Commission or to the matter of pending proceedings must, within ten days, provide information, things and documents in such person's possession in any media requested, appear to make a statement at the place, date and time ordered to, and allow the performance of verification visits.

In the event original or certified copy documents are used, the person whose information is requested may elect to reproduce such documents to have them returned upon the Commission completing its reproduction and certification.

Chapter VII Commission's Resolution

Article 120. The Commission shall adopt its resolutions based on facts known thereto as well as on information and means of evidence available, any time the Economic Agent who was served notice or the investigated Economic Agent, and people related thereto refuse to provide information or documents, make a statement, facilitate the execution of diligences ordered or hinder the investigation or pertinent proceeding.

The provisions in this article shall apply without detriment of any applicable penalties.

Any Commission's final resolution adopted under any procedure in this Law foreseen must resolve matters effectively submitted by the Investigative Authority and the Economic Agents.

Chapter VIII Supplementary Nature of this Law

Article 121. In everything not foreseen in this Law or under the Regulatory Provisions, the Federal Code of Civil Procedure shall be supplementary applied.

Chapter IX Final Provisions

Article 122. The Commission shall see that the procedures be not interrupted nor suspended, to which the Commission shall issue orders to be completed along with the applicable resolution. In addition, the Commission shall issue any measures required to legally complete the proceeding. Ex officio or at the request of any party, the procedure may be regularized.

Article 123. The Commission may obtain, prior the rendering of resolution ending applicable procedure, any means of evidence deemed necessary in order to know the truth on facts matter of the proceeding in





question, provided means of evidence are acknowledged by Law and are immediately related to said facts; no limits or provisions on evidence established in relation to Economic Agents shall apply.

TITLE VI ABOUT INFORMATION

Sole Chapter Information Classification

Article 124. Information and documents obtained by the Commission directly during its investigations procedures and verification diligences shall be deemed as Reserved Information, Confidential Information or Public Information, in terms of article 125.

During the investigation, access to file shall not be allowed and during the proceeding sequel only the Economic Agents with a legal right in such proceeding may have access thereto, except to information classified as confidential.

Public servants shall be subject to liability in the event of disclosure of information submitted to their consideration. When there is an order by competent authority to submit information, the Commission and such authority must dictate measures to safeguard such confidential information in terms of this Law.

Article 125. For the purposes of this Law, Confidential Information shall only be deemed as such upon the request of the Economic Agent demonstrating it and submitting an information summary at the Commission's satisfaction to be attached to file, or else, reasons why such summary cannot be completed, in which event the Commission may draft the pertinent summary.

The Commission shall under no event be obliged to provide the Confidential Information nor may publish such information and shall safeguard it.

The Commission's public servants must refrain from making public statements or disclose information in relation to files or procedures being heard by the Commission causing direct harm or damage to those parties involved, until the Economic Agent under investigation has been notified the Plenum's resolution, preserving at all times obligations deriving from this article.

TITLE VII ENFORCEMENT MEASURES AND SANCTIONS

Chapter I Enforcement Measures

Article 126. The Commission, for the performance of functions attributed thereto by this Law, may indistinctly apply the following enforcement measures:





- I. Warning;
- II. Fine for up to the amount equivalent to three thousand times the general daily minimum wage in force in the Federal District, which amount may be applied per day for non-compliance of the order;
- III. Aid of law enforcement or any other Public Authorities, and
- IV. Arrest up to 36 hours.

Chapter II Fines and Sanctions

Article 127. The Commission may apply the following sanctions:

- I. Order to correct or suppress the monopolistic practice or unlawful concentration in question;
- II. Order partial or entire divestiture of an unlawful concentration in terms of this Law, control termination or elimination of acts, as the case may be, without detriment of any fine that may apply;
- III. Fine for up to the equivalent to one hundred seventy-five thousand times the general daily minimum wage in force in the Federal District, for having made false statements or delivered misstated information to the Commission, independently of any criminal liability incurred;
- IV. Fine for up to the equivalent to ten percent of the Economic Agent's income, for having incurred in absolute monopolistic practice, independently of civil and criminal liability in which said Economic Agent may incur;
- V. Fine for up to the equivalent to eight percent of the Economic Agent's income, for having incurred in a relative monopolistic practice, independently of civil liability in which said Economic Agent may incur;
- VI. Order measures to regulate access to Essential Facilities under control of one or several Economic Agents, for having incurred in relative monopolistic practice foreseen under article 56, subsection XII of this Law;
- VII. Fine for up to the equivalent to eight percent of the Economic Agent's income, for having incurred in an unlawful concentration in terms of this Law, independently of civil liability in which said Economic Agent may incur;





- VIII.** Fine of up to five thousand minimum salaries and up to the equivalent to five percent of Economic Agent's income, for failure to notify a concentration when legally obliged;
- IX.** Fine for up to the equivalent to ten percent of the Economic Agent's income, for having failed to comply with conditions set in a concentration resolution, without detriment of ordering the divestiture;
- X.** Disqualification to act as a member of the board, administrator, director, manager, officer, executive, agent, representative or attorney-in-fact of a legal person for up to five years and fine for up to the equivalent to two hundred thousand times the general daily minimum wage in force in the Federal District, to those directly or indirectly participating in monopolistic practices or unlawful concentrations, on behalf or in name and order of legal persons;
- XI.** Fines for up to the equivalent to one hundred eighty thousand times the general daily minimum wage in force in the Federal District, to those having acted as adjuvants who fostered or induced the engagement in monopolistic practices, unlawful concentrations or any other restrictions to efficient operation of markets in terms of this Law;
- XII.** Fine for up to the equivalent to eight percent of the Economic Agent's income, for failure to perform with resolution rendered in terms of article 101 of this Law or subsections I and II of this article. The above independently of criminal liability in which the Economic Agent may incur, in which case the Commission shall file a complaint based on such circumstance with the Public Prosecutor;
- XIII.** Fines for up to the equivalent to one hundred eighty thousand times the general daily minimum wage in force in the Federal District, to public notaries intervening in acts related to a concentration where the Commission has granted no authorization;
- XIV.** Fine for up to the equivalent to ten percent of the Economic Agent's income, when said Economic Agent controls an essential facilities, due to its failure to comply with the regulation established in relation thereto, and anybody failing to obey an order to eliminate a competition barrier, and
- XV.** Fine for up to the equivalent to ten percent of the Economic Agent's income, for failure to comply a cautionary order referred to in this Law.

Income referred to above subsections shall be amounts accruable of the Economic Agent involved in an unlawful conduct, excluding those obtained from a source of wealth abroad and income taxable if subject to preferential tax regime, for the purposes of income tax of the previous tax year in which applicable violation is incurred. If not available, the prior tax year base shall be used for making pertinent calculation.

The Commission may request, to the Economic Agents or competent authority, tax information required to ascertain the amount of any fines referred to in the above paragraph, with capacity to exercise, in the event the person requested is an Economic Agent, enforcement measures established in this Law.





In the event of recidivism, a fine for up to twice that determined by the Commission may be applied.

A recidivist may be defined as:

- a) Anybody who having incurred in violation and having been sanctioned, incurs in a different conduct in this Law prohibited, independently of its type or nature;
- b) At the initiation of a second or any subsequent procedure, there is prior resolution that became final and non-appealable, and
- c) Between the initiation of a proceeding and resolution becoming final and non-appealable no more than ten years have passed.

In the event of violations to this Law by public servants, the Commission must send official instrument duly grounded and motivated to the competent authority to, if applicable, initiate administrative liability proceeding that may apply, without detriment of criminal liability in which public servant may incur.

The Federal Executive shall enforce fines foreseen in this article, as well as those foreseen under article 126 of this Law.

The Commission shall under no event administer nor shall it make available funds referred to in this article.

Article 128. In the event of those Economic Agents that due to any cause fail to declare or who accrue income has been determined for purposes of income tax, they shall be subjected to the following fines:

- I. Fine for up to the equivalent to one million five hundred thousand times the general daily minimum wage in force in the Federal District, regarding violations listed under subsections IV, IX, XIV and XV of article 127 of the Law;
- II. Fine for up to the equivalent to nine hundred thousand times the general daily minimum wage in force in the Federal District, regarding violations listed under subsections V, VII and XII of article 127 of the Law, and
- III. Fine for up to the equivalent to four hundred thousand times the general daily minimum wage in force in the Federal District, regarding violations listed under subsection VIII of article 127 of the Law.

Chapter III Imposition of Sanctions

Article 129. No text (sic OGF 23-05-2014)





Article 130. In application of fines, elements to determine the severity of violation are to be taken into consideration, such as damage caused, any indication of intent, participation of violator in markets, the size of affected market, the length of practice or concentration, and economic capacity and, if any, the harm to the exercise of the Commission's powers.

Chapter IV Sanction to Divest

Article 131. When violation is incurred by any previously sanctioned Economic Agent due to incurring in monopolistic practices or unlawful concentrations, the Commission shall take into consideration the elements referred to under article 130 of this Law and, instead of the applicable sanction, may issue a resolution ordering the divestiture or disposal of assets, rights, equity interests or shares of the Economic Agents, to the extent required to eliminate anticompetitive effects.

For the purposes of the preceding paragraph, the Commission must include in its resolution an economic analysis justifying the application of such measure, identifying consumer benefits.

For the purposes of that provided for in this article, an infringer has been previously sanctioned when:

- I. Resolutions imposing penalties become final and non-appealable, and
- II. At the initiation of a second or subsequent proceeding there is a prior resolution that became final and non-appealable, and between the initiation of the proceeding and resolution final and non-appealable no more than ten years have passed.

For the purposes of this article, the sanctions imposed by a plurality of monopolistic practices or unlawful concentrations in a single proceeding shall be understood as a single penalty.

For the purposes of this article, resolutions rendered by the Commission in accordance with that provided for under article 101 of this Law shall not be deemed as a sanction.

Economic Agents shall be entitled to submit alternate divestiture programs prior the rendering of applicable resolution by the Commission.

Any time the Commission orders divestiture or disposal of assets, rights, equity interests or shares of Economic Agents, these shall be executed following resolution of amparo proceeding that may be filed, if any.

Chapter V Compliance and Execution of Resolutions





Article 132. Incidents in relation to performance and execution of the Commission's resolutions shall be performed in accordance with the incidental procedure foreseen in this Law. In everything not provided for, the provisions of the Federal Code of Civil Procedure shall apply.

Article 133. Incident may be initiated ex officio or at the request of anybody demonstrating holding a legal right. Once proceeding is filed, the Economic Agent in question is to be notified to allow such Economic Agent within five days to express what it may lawfully think fit and, if the case may be, offer evidence. Evidence admitted must be studied and dealt with within twenty days. Following the studying and dealing of evidence, the Commission shall grant a non-extendable term of five days to file written allegations.

Following allegations, the Commission shall declare the incidental file integrated and the matter shall be delivered to the Plenum to resolve as applicable within following twenty days.

TITLE VIII COMPENSATORY REMEDIES

Sole Chapter Compensation of Damages and Losses

Article 134. Those individuals suffering damages and losses as a result of a monopolistic practice or unlawful concentration may file a court action defending their rights before specialized courts on economic competition, broadcasting and telecommunications until the Commission's resolution becomes final and non-appealable.

The statute of limitations to claim payment of damages and losses shall be interrupted at the time the investigation initiation decision is made.

Once the final resolution is issued in the trial-like procedure, the unlawfulness in the Economic Agent's actions in question for the purposes of indemnifying action shall be deemed as demonstrated.

TITLE IX STATUTE OF LIMITATIONS AND INJUNCTIVE MEASURES

Chapter I Injunctive Measures

Article 135. The Investigative Authority may at any time request the Plenum to issue injunctive measures in relation to the matter of complaint or investigation deemed necessary to prevent difficult damage repair or guarantee efficacy of investigation result and proceeding resolution. Such power includes, without limitation:

- I. Orders interrupting acts constituting probable conduct prohibited by this Law;





- II. Orders to act or not to act in relation to the matter of the complaint or investigation;
- III. Procure the safekeeping of information and documents,
- IV. All other deemed necessary or convenient.

Article 136. Against the injunctive measures foreseen in the preceding article, the Economic Agent may request to the Plenum, by expedite procedure established in the Regulatory Provisions, to set a bond in order to lift such measures. The bond is to be of sufficient extent to repair damage to free market access and economic competition process if no favorable resolution is rendered. The Commission shall render applicable technical criteria to establish bonds.

A stay rendered by the Commission does not prejudice the core of the matter and shall cease upon the termination of term set by the Plenum or on the date the final resolution is rendered.

Chapter II Statute of Limitations

Article 137. The Commission's power to initiate investigations that may derive in liability or imposition of sanctions in accordance with this Law, extinguishes in ten years as from the date the unlawful concentration was realized or in other cases as from conduct prohibited by this Law ceased.

TITLE X DRAFTING OF DIRECTIVES, GUIDES, GUIDELINES AND TECHNICAL CRITERIA

Sole Chapter Procedure for the Drafting of Directives, Guides, Guidelines and Technical Criteria

Article 138. In drafting and issuing provisions containing directives, guides, guidelines and technical criteria referred to under article 12, subsection XXII, of this Law, the following shall govern:

- I. The Commission shall order the publication of a draft summary in the Official Gazette of the Federation, and a full draft in the Commission's webpage, in order to open a thirty-day public consultation period to allow any interested party the submittal of an opinion to the Commission on the respective draft. Also, request and, as applicable, collect the opinion of the Federal Telecommunications Institute;
- II. Upon completion of the term referred to in the above subsection, the Commission shall review comments made on the draft and, within following thirty days, shall prepare a report with a summary of comments received and considerations thereto, the report is to be published in the Commission's webpage; and





- III. Once the report referred to in the above subsection is published, the Commission shall have sixty days to issue directives, guides, guidelines and technical criteria and a summary of which shall be published in the Official Gazette of the Federation, and a full version thereof shall be published in the Commission's webpage.

Directives, guides, guidelines and technical criteria referred to in this article must be reviewed at least every five years in accordance with that identified under article 12, subsection XXII, of this Law.

ARTICLE TWO.- Article 254 bis is amended and article 254 bis 1 is added to the Federal Criminal Code, to read as follows:

Article 254 bis. Five to ten years imprisonment and one thousand to ten thousand days of fine shall be ordered to anyone executing, ordering or signing contracts, pacts, arrangements or combinations between competitor economic agents, the purpose or effect of which is any of the following:

- I. Setting, rising, agreeing or manipulating sale or purchase price of goods or services at which such goods or services are supplied or demanded in markets;
- II. Establishing an obligation not to produce, process, distribute, market or acquire but only a restricted or limited amount of goods or the rendering or transacting a restricted or limited number, volume or frequency of services;
- III. Dividing, distribute, assigning or imposing portions or segments of a current or potential market of goods and services by particular clients, providers, times or spaces determined or that may be determined;
- IV. Establishing, agreeing or coordinating bids or refraining from acting at biddings, contests, auctions or buyouts; and
- V. Exchanging information with any of the purposes or effects referred to in the above subsections.

The crime foreseen in this article shall be pursued by complaint filed by the Federal Economic Competition Commission or the Federal Telecommunications Institute, as applicable, which may only be filed supported on a statement of probable responsibility, in terms of that provided for in the Federal Economic Competition Law.

There shall be no criminal liability for the Economic Agents resolving to protect themselves to the benefit referred to under article 103 of the Federal Economic Competition Law, prior resolution by the Federal Economic Competition Commission or the Federal Telecommunications Institute establishing performance with terms established in said provision and all other applicable provisions.





Procedures followed due to this crime may be terminated at the request of the Plenum of the Federal Economic Competition Commission or the Federal Telecommunications Institute, when the processed parties satisfy administrative penalties imposed and also satisfy requirements foreseen on the technical criteria issued by the Federal Economic Competition Commission or the Federal Telecommunications Institute.

Criminal action shall prescribe within a term equal to the arithmetic median of incarceration penalty referred to under paragraph one of this article.

Article 254 bis 1. One to three years imprisonment and five hundred to five thousand days of fine shall be applied to anyone personally or through a third party at the time of a verification visit due to any means alters, destroys or entirely or partially modifies documents, images or electronic files containing information or data in order to deviate, hinder or prevent investigation of a potential criminal fact or the practices of administrative diligence.

TRANSITORY ARTICLES

One. This Decree shall enter into effect forty-five calendar days following the date of its publication in the Official Gazette of the Federation.

Two. The Federal Economic Competition Law published in the Official Gazette of the Federation on December 24, 1992, is abrogated.

Proceedings pending upon entry into effect of this Decree shall be substantiated in accordance with the provisions in force upon inception before administrative units established by organizational statute issued in accordance with the following transitory article. Resolutions in relation to such proceedings may only be challenged by amparo proceeding in accordance with that provided for under article 28 of the Political Constitution of the United Mexican States.

Three. In the event of first Investigative Authority appointment as to the requirement established under subsection VII of article 31 of this Law, should be satisfied in the sense that during three years prior appointment, no job, office or director function has been held nor having represented in any manner interests of any Economic Agent subject to any proceeding foreseen under Federal Economic Competition Law published in the Official Gazette of the Federation on December 24, 1992, in force prior the entry into effect of this Decree.

Four. Commission Plenum is to amend its Organizational Statute to that provided for in this Decree within a term not exceeding thirty days as from its entry into effect. While amendments enter into effect, the Organizational Statute current upon the entry into effect of this Decree shall continue applying in everything not opposed to this Decree.

Five. Within thirty days following the entering into effect of this Decree, the Chamber of Representatives of the Congress of the Union must integrate a technical work group in order to analyze and make proposals





to adjust current criminal laws on the subject matter of this Decree. The work group is to submit pertinent proposals within sixty days following that of installation.

Six. Within a term not exceeding six months as from the entering into effect of this Decree, the Plenum shall publish Regulatory Provisions referred to under article 12, subsection XXII, of the Federal Economic Competition Law.

Seven. Within a term of a year as from the entering into effect of this Decree, the Congress of the Union is to implement changes to legal framework for the purposes of its harmonization with competition and free market access principles foreseen under article 28 of the Constitution. Therefore, the Congress of the Union may request the opinion of the Federal Economic Competition Commission.

Mexico City, Federal District, April 29, 2014.- Senator **Raul Cervantes Andrade**, Chairman.- Dip. **Jose Gonzalez Morfin**, Chairman.- Senator. **Rosa Adriana Diaz Lizama**, Secretary.- Dip. **Javier Orozco Gomez**, Secretary.- Scrawls.”

In performance with the provisions of subsection I of article 89 of the Political Constitution of the United Mexican States, and for due publication and observance, I issue this Decree in the Residence of the Federal Executive Power in Mexico City, Federal District, on May twenty-two, two thousand fourteen.- **Enrique Peña Nieto**.- Scrawl.- The Minister of the Interior, **Miguel Angel Osorio Chong**.- Scrawl.





REFORM DECREE TRANSITORY ARTICLES

DECREE amending, adding and derogating a number of provisions of the Federal Economic Competition Law, the National Human Rights Commission Law, the Federal Telecommunications and Broadcasting Law, the National Statistical and Geographical Information System Law, the General Election Institutions and Procedures Law, the National Education Evaluation Institute Law, the Federal Transparency and Access to Public Information Law, and the United Mexican States General Congress Organic Law.

Published in the Official Gazette of the Federation on January 27, 2017

Article One. The following are amended: Articles 3, subsection VII; 20, subsections VII and X; 23, paragraph two; 25, paragraph five; 34; the name of Title IV to read "Internal Control Body of the Federal Economic Competition Commission"; 37; 38; 39, paragraph one, subsections I, VIII, X, XIV, XVII, XXIV and XXVI; 40; 41, paragraph one, subsections I, II, IV, V, VI, VII, VIII and IX; 42; 43; the heading of Chapter IV, Title IV "Liability of the Head of Internal Control Body"; 44; 45; 46; 49, subsection IV; and the following are derogated: subsections III, XI, XII, XV, XVIII, XIX, XX and XXI of article 39 of the Federal Economic Competition Law, to read as follows:

Transitory Articles

One. This Decree shall enter into effect the day following its publication in the Official Gazette of the Federation.

Two. The Chamber of Representatives of the H. Congress of the Union, within 180 days following publication of this Decree, shall initiate processes for the appointment of heads of Internal Control Bodies of organisms to which the Political Constitution of the United Mexican States grants autonomy and exercise of public funds from the Federal Disbursements Budget foreseen in this Decree.

The above, except those heads of internal control bodies of organisms to which the Political Constitution of the United Mexican States grants autonomy and the exercise of public funds from the Federal Disbursements Budget in office upon entry into effect of the Decree amending, adding and derogating a number of provisions in the Political Constitution of the United Mexican States, on anticorruption, published in the Official Gazette of the Federation on May 27, 2015, shall continue in office in terms of their appointment.

Three. Government bodies of organisms to which the Political Constitution of the United Mexican States grants autonomy and the exercise public funds from the Federal Disbursements Budget shall have one





hundred eighty days as from publication of this Decree to harmonize their own internal normativity in terms of this Decree.

Four. Human, financial and material resources currently assigned to comptrollerships shall be understood as assigned to Internal Control Bodies referred to in this Decree.

Five. References related to the General Administrative Liability Law shall be understood as references to the Federal Public Servant Administrative Liability Law until this legal ordinance is abrogated on July 17, 2017.

Six. Administrative proceedings initiated by pertinent federal authorities prior the entering into effect of this Decree shall be closed in accordance with applicable provisions in force at the time of inception.

Seven. The Congress of the Union, within a term not exceeding one hundred eighty days, is to harmonize its laws in terms with this Decree.

Mexico City, December 15, 2016.- Dip. **Edmundo Javier Bolaños Aguilar**, Chairman.- Sen. **Pablo Escudero Morales**, Chairman.- Dip. **Ernestina Godoy Ramos**, Secretary.- Sen. **María Elena Barrera Tapia**, Secretary.- Scrawls.”

In performance with the provisions of subsection I of article 89 of the Political Constitution of the United Mexican States, and for due publication and observance, I issue this Decree in the Residence of the Federal Executive Power in the City of Mexico on January twenty-four, two thousand seventeen.- **Enrique Peña Nieto**.- Scrawl.- The Minister of the Interior, **Miguel Angel Osorio Chong**.- Scrawl.

I, Miguel Angel Cárdenas C., Expert Translator duly authorized by the council of the Federal Court of Justice of the Judicial Power of the Federation, as published in the Daily Gazette of the Federation on November 28, 2018, DO HEREBY CERTIFY that the foregoing translation in 79 pages, to the best of my knowledge and belief, is true and correct.

Mexico City, February 19, 2019.

