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http://www.ift.org.mx/sites/default/files/lineamientos_para_la_presentacion_de_denuncias_a_traves_de_medios_electronicos_-_vigente_integrada_al_22-nov-19.pdf

FEDERAL TELECOMMUNICATIONS INSTITUTE

AGREEMENT whereby the Board of the Federal Telecommunications Institute issues the Guidelines for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, before the Investigative Authority of the Federal Telecommunications Institute, through electronic means.

On the sidelines a logo, which says: Federal Telecommunications Institute.

AGREEMENT WHEREBY THE BOARD OF THE FEDERAL TELECOMMUNICATIONS INSTITUTE ISSUES THE GUIDELINES FOR FILING COMPLAINTS OF MONOPOLISTIC PRACTICES AND UNLAWFUL CONCENTRATIONS IN THE TELECOMMUNICATIONS AND BROADCASTING SECTORS, BEFORE THE INVESTIGATIVE AUTHORITY OF THE FEDERAL TELECOMMUNICATIONS INSTITUTE, THROUGH ELECTRONIC MEANS.

BACKGROUND

- I. By means of Agreement P / IFT / 090518/339 dated ninth May, two thousand eighteen, the Board of Commissioners (Board) of the Federal Telecommunications Institute (Institute) in its XVII Ordinary Session, determined to submit to public consultation for a period of thirty working days the "Preliminary Draft of Guidelines for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, before the Investigative Authority of the Federal Telecommunications Institute, through electronic means"; and the Investigative Authority, as the proposing area, executed and processed the public consultation, including the reception of the comments and opinions that were expressed on the occasion of it. This agreement states:

"FIRST. It is determined to submit to public consultation the "PRELIMINARY DRAFT GUIDELINES FOR FILING COMPLAINTS OF MONOPOLIC PRACTICES AND UNLAWFUL CONCENTRATIONS IN THE TELECOMMUNICATIONS AND BROADCASTING SECTORS, BEFORE THE INVESTIGATIVE AUTHORITY OF THE FEDERAL TELECOMMUNICATIONS INSTITUTE, THROUGH ELECTRONIC MEANS" (Single Annex), for a period of thirty business days, counted from the business day following that in which the extract is published on the Official Gazette of the Federation.

[...]

THIRD. The Investigative Authority of the Institute, as the proposing area, shall execute and process the public consultation subject matter of this Agreement..."

This public consultation was carried out for a period of thirty business days, which took place from the twenty-first May to twenty-ninth June, two thousand eighteen, which began with its publication on the Official Gazette of the Federation on the eighteenth May, two thousand eighteen.

- II. Once the thirty-day period for public consultation was completed, the Investigative Authority was responsible for receiving and collecting comments and contributions and, in accordance with article 138, section II of the Federal Economic Competition Law (LFCE) , on twenty-fourth August, two thousand eighteen, issued the report with a summary of the comments received, as well as the considerations thereto, which was published on the date of issuance on the Institute's webpage for general dissemination. .
- III. By official letter number IFT / 110 / AI / 095/2018 dated seventh September, two thousand eighteen, the Investigative Authority sent to the General Coordination of Regulatory Improvement of this Institute, the Project of the "Guidelines for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, before the Investigative Authority of the Federal Telecommunications Institute, through electronic means" (Guidelines) and the Null Regulatory Impact Analysis of the project, in order to request its non-binding opinion in terms of the provisions of the Guidelines for Public Consultation and Regulatory Impact Analysis of the Institute.
- IV. By official letter number IFT / 211 / CGMR / 201/2018 dated second October, two thousand eighteen, the General Coordination of Regulatory Improvement of this Institute sent the non-binding opinion on the Null Regulatory Impact Analysis.

- V. By official letter number IFT / 110 / AI / 120/2018 dated thirty-first October, two thousand eighteen, the Investigative Authority of this Institute requested the Federal Economic Competition Commission the opinion referred to in article 138, section I of the LFCE, regarding the Guidelines.
- VI. By official letter number ST-CFCE-2018-286 dated sixth November, two thousand eighteen, the Federal Economic Competition Commission responded to the official letter referred to in the previous paragraph, making it known that they have no comments on the Guidelines.

In accordance with the indicated Background and,

CONSIDERING

FIRST. - Institute competence. In accordance with articles 28, fifteenth and sixteenth paragraphs of the Constitution; 7, first and third paragraphs of the Federal Telecommunications and Broadcasting Law; and 5, the first paragraph of the LFCE, the Institute is an autonomous body with legal personality and its own assets, whose objective is the efficient development of broadcasting and telecommunications.

Furthermore, it is the authority in the field of economic competition in the broadcasting and telecommunications sectors, which is why they will exclusively exercise the powers established in article 28 of the Constitution and the laws established by the Federal Economic Competition Commission.

Thus, in terms of the provisions of article 12, section XXII, third paragraph, subparagraph b), of the LFCE, in relation to the diverse 187 of the Regulatory Provisions of the Federal Economic Competition Law for the telecommunications and broadcasting sectors, the Institute has the authority to issue, prior public consultation, directives, guides, guidelines and technical criteria regarding investigations of monopolistic practices and unlawful concentrations, among others.

Based on Article 138 of the LFCE, the Board of the Institute has powers to issue this Agreement, to issue the *“Guidelines for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, before the Investigative Authority of the Federal Telecommunications Institute, through electronic means”*.

SECOND. - Origin of the issuance of Guidelines. Article 12, section XXII, third paragraph, subparagraph b) of the LFCE states that the Institute shall issue, among others, guidelines on investigations of monopolistic practices and unlawful concentrations, the review of which must be carried out at least every five years, in accordance with the second paragraph of article 138 of the LFCE.

In relation to investigations of monopolistic practices and unlawful concentrations, it is convenient to issue the Guidelines in order to establish the terms applicable to filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, through electronic means.

The use of electronic means to present the complaint document is optional and is established with the purpose of making available to the general public an alternative mechanism that reduces the administrative burden and facilitates denouncing the probable existence of anti-competitive behaviors prohibited in the LFCE, making use of information and communications technologies.

In this sense, the complainant may choose to submit the complaint document through electronic means or in the central filing office of the Institute.

The submission of complaints through electronic means will be through the Electronic Complaint System before the Investigative Authority of the Institute, which may be used from that moment and until the issuance of the agreement ordering the start of the investigation, dismiss the complaint by notorious inadmissibility or not considered, as appropriate, in accordance with the provisions of Article 69 of the LFCE.

For the reasons stated above, based on articles 28, fifteenth and sixteenth paragraphs, of the Political Constitution of the United Mexican States; 7, first and third paragraphs, and 15, section XVIII, of the Federal Telecommunications and Broadcasting Law; 5, first paragraph, 12, section XXII, third paragraph, subsection b) and 138, section III of the Federal Economic Competition Law; 187 of the Regulatory Provisions of the Federal Economic Competition Law for the telecommunications and broadcasting sectors, as well as 1, first and third paragraphs, 4, section I, and 6, section XXXVIII, of the Organizational Statute of the Federal Telecommunications Institute, The Board of the Institute issues the following:

AGREEMENT

FIRST. Issuance of the *"Guidelines for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors are issued to the Investigative Authority of the Federal Telecommunications Institute, through electronic means"*, which are attached to this Agreement.

SECOND. Publish in its entirety on the Official Gazette of the Federation and on the Internet portal of the Federal Telecommunications Institute the *"Guidelines for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, before the Investigative Authority of the Federal Telecommunications Institute, through electronic means"*.

The President Commissioner, **Gabriel Oswaldo Contreras Saldívar**. - Signature. - Commissioner, **María Elena Estavillo Flores**. - Signature. - Commissioner, **Mario Germán Fromow Rangel**. - Signature. - Commissioner, **Adolfo Cuevas Teja**. - Signature. - Commissioner **Javier Juárez Mojica**. - Commissioner, **Arturo Robles Rovalo**. - Signature. - Commissioner, **Sóstenes Díaz González**. - Signature.

This Agreement was approved by the Board of the Federal Telecommunications Institute at its XXXIV Ordinary Session held on the fourteenth day of November, two thousand eighteen, unanimously by Commissioners Gabriel Oswaldo Contreras Saldívar, María Elena Estavillo Flores, Mario Germán Fromow Rangel, Adolfo Cuevas Teja, Javier Juárez Mojica, Arturo Robles Rovalo and Sóstenes Díaz González; based on paragraphs twentieth, sections I and III; and twenty-first, of article 28 of the Political Constitution of the United Mexican States; Articles 7, 16 and 45 of the Federal Telecommunications and Broadcasting Law; 5 and 8 of the Federal Economic Competition Law; as well as in articles 1, 7, 8 and 12 of the Organizational Statute of the Federal Telecommunications Institute, through Agreement P / IFT / 141118/778.

Commissioner Javier Juárez Mojica attended, participated and cast his reasoned vote in the Session, by remote electronic communication, in terms of articles 45, fourth paragraph of the Federal Telecommunications and Broadcasting Law, and 8 third paragraph of the Organizational Statute of the Federal Telecommunications Institute.

GUIDELINES FOR FILING COMPLAINTS OF MONOPOLISTIC PRACTICES AND UNLAWFUL CONCENTRATIONS IN THE TELECOMMUNICATIONS AND BROADCASTING SECTORS, BEFORE THE INVESTIGATIVE AUTHORITY OF THE FEDERAL TELECOMMUNICATIONS INSTITUTE, THROUGH ELECTRONIC MEANS.

CHAPTER 1

GENERAL PROVISIONS

Article 1. The purpose of these Guidelines is to establish the terms applicable to filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, before the Investigative Authority of the Federal Telecommunications Institute, through electronic means.

The use of electronic means to present the complaint is optional and is established with the purpose of making available to the general public an alternative mechanism that reduces the administrative burden and facilitates denouncing the probable existence of anticompetitive conduct prohibited in the Federal Economic Competition Law, making use of information and communications technologies.

The complainant may choose to submit the written complaint through electronic means or at the central filing office of the Federal Telecommunications Institute.

The submission of complaints through electronic means will be through the Electronic Complaint System before the Investigative Authority of the Federal Telecommunications Institute, which may be used from that moment and until the issuance of the agreement ordering the start of the investigation, reject the complaint if notoriously inadmissible or if it is not presented, as appropriate, in accordance with the provisions of article 69 of the Federal Economic Competition Law.

Article 2. For the purposes of these Guidelines, in addition to the definitions provided in the Federal Economic Competition Law, in the Regulatory Provisions of the Federal Economic Competition Law for the telecommunications and broadcasting sectors, as well as in the Organizational Statute of the Federal Telecommunications Institute, the following shall apply:

- I. Acknowledgment of Notification:** Data message that is issued or generated through SEPDAI to certify in a reliable manner the date and time at which the complainant was notified of the actions issued by the Investigative Authority in the said electronic system;
- II. Electronic acknowledgment:** Data message that is issued or generated through SEPDAI to certify in a reliable manner the date and time of receipt of electronic documents related to the acts that are carried out in the said electronic system;
- III. Investigative Authority:** Investigative Authority of the Federal Telecommunications Institute;

- IV. Complainant:** Individual or legal person that files a complaint with the Investigative Authority, for the probable commission of anticompetitive conduct prohibited in the LFCE;
- V. Regulatory Provisions:** Regulatory Provisions of the Federal Economic Competition Law for the telecommunications and broadcasting sectors;
- VI. Complaint Letter:** Independent writing through which any person makes known to the Investigative Authority the possible commission of absolute monopolistic practices, relative monopolistic practices or unlawful concentrations, which must contain at least the requirements set forth in Article 68 of the LFCE;
- VII. Advanced electronic signature issued by the Tax Administration Service:** Set of data and characters that allows the identification of the signer, which has been created by electronic means under its exclusive control, so that it is linked only to it and to the data to which it refers, which allows any subsequent modification of these to be detectable, thus producing the same legal effects as the autograph signature;
- VIII. Guidelines:** Guide for filing complaints of monopolistic practices and unlawful concentrations in the telecommunications and broadcasting sectors, issued by the Board of the Federal Telecommunications Institute;
- IX. Institute:** Federal Telecommunications Institute;
- X. LFCE:** Federal Economic Competition Law;
- XI. Register:** Process to be carried out by the complainant through the SEPDAI, with the purpose of presenting the complaint through electronic means, and
- XII. SEPDAI:** Electronic Complaint System before the Investigative Authority of the Federal Telecommunications Institute.

Article 3. The specific objectives of these Guidelines are:

- I.** Make available to the general public an alternative mechanism that reduces the administrative burden and allows and facilitates actions before the Investigative Authority to file complaints for the probable existence of anticompetitive behaviors, through the SEPDAI;
- II.** Establish the actions that the Investigative Authority may receive and notify through the SEPDAI;
- III.** Establish the notification mechanism through the SEPDAI;
- IV.** Determine cases of exception in the use of the SEPDAI, and
- V.** Establish the way in which the Investigative Authority shall integrate the file when the complaint is filed through the SEPDAI.

CHAPTER 2

ABOUT SEPDAI AND ITS OPERATION

Section I

About SEPDAI

Article 4. The SEPDAI is the electronic means available on the microsite of the Investigative Authority, of the Internet website of the Institute, which can be accessed at the following hyperlink: <http://www.ift.org.mx/industria/autoridad-investigadora> and by means of which a complaint can be filed for the probable commission of anticompetitive conduct prohibited by the LFCE and notify the actions of the Investigative Authority provided for in these Guidelines.

Section II

Filing the complaint

Article 5. Any person may submit, at any time, a complaint through the SEPDAI, prior registration in the said system.

Article 6. The complaint may be submitted by independent writing, or by filling out the form available for this purpose in the SEPDAI. In both cases, the complainant must comply with the requirements established in Article 68 of the LFCE, for which he shall consult the Guide in order to know the information and the appropriate documents to fulfil them.

The complaint shall be signed through the use of the advanced electronic signature issued by the Tax Administration Service, either of the complainant or its legal representative, through the SEPDAI.

The complainant shall provide an email to receive notification that are made through the SEPDAI and, additionally, will indicate address to hear and receive notifications in Mexico City, in accordance with the provisions of Article 117 of the LFCE.

Article 7. Once the complaint is signed and sent, the SEPDAI will generate an electronic acknowledgment that will be sent to the email provided by the complainant to receive notification alerts, which shall contain at least the following:

- I. Name or registered name of the complainant;
- II. Email of the complainant;
- III. Type of procedure being processed;
- IV. Electronic folio assigned to the complaint;
- V. List of electronic or digitized files that, where appropriate, have been attached to the complaint, and
- VI. Date and time of receipt.

The issuance of the electronic acknowledgment does not prejudice the content and scope of the electronic or digitized files sent through the SEPDAI.

Article 8. If the complainant acts through a legal representative and he is already registered in the Public Registry of Concessions of the Institute, he may indicate the folio and proof of registration before such registration and any other data that allows its prompt location, with the purpose that the Investigative Authority can corroborate the representation of the complainant.

In the event that the legal representative of the complainant is not registered in the Public Registry of Concessions, when submitting the complaint, he will attach a digital copy of the document with which he accredits his personality, notwithstanding that, in case of establishing it the prevention agreement, submit through the central filing office of the Institute, the original document or certified copy by issuing the prevention agreement formulated by the Investigative Authority in accordance with the provisions of article 69, section III, of the LFCE.

Section III

On the actions and notifications of the Investigative Authority through SEPDAI

Article 9. The Investigative Authority shall notify through SEPDAI:

- I. The prevention agreement referred to in article 69, section III, of the LFCE;
- II. The extract of the agreement that corresponds to the request to extend the deadline to present the prevention referred to in section I above;
- III. The agreement whereby the complaint is dismissed or considered as not filed, and
- IV. The notice of the beginning of the investigation.

The SEPDAI will send an alert to the email provided by the complainant, to inform them that the Investigative Authority has issued an agreement related to their complaint and that they may enter the SEPDAI from that moment and within a period of five working days counted from the date of sending the notification alert, to be notified.

To access the agreement issued by the Investigative Authority and to be notified, the complainant shall have to open the document through the use of the advanced electronic signature issued by the Tax Administration Service, with which the system shall generate the corresponding acknowledgment of notification. Once the notification of acknowledgment has been issued, the SEPDAI shall send an alert to the Investigative Authority.

The agreement that prevents the complainant, rejects the complaint or considers it not filed, shall also be notified personally.

Article 10. The actions shall be deemed notified at the moment in which the corresponding acknowledgment of notification has been generated, or on the business day following the expiration of the period of five business days referred to in the second paragraph of Article 9 above, in which case the SEPDAI shall send an alert to the email provided by the complainant to record it.

The notifications made through the SEPDAI shall take effect on the day they are practiced and the deadlines shall begin to run from the next business day, in accordance with the provisions of article 175 of the Regulatory Provisions.

In the event that the acknowledgment of notification is generated in non-working hours or days, the notification shall be considered as practiced the next business day.

Article 11. The complainant must present the prevention referred to in article 69, section III, of the LFCE within the period granted for that purpose, which shall not exceed fifteen business days. Such prevention must be submitted through SEPDAI, except as provided in the last paragraph of article 8.

The complainant may request through the SEPDAI the extension of the period referred to in the previous paragraph, request that the Investigative Authority may agree favorably, in duly justified cases, for an equal term.

Article 12. The extract of the agreement that corresponds to the request for extension of the period referred to in the previous article shall also be notified by publication in the daily list of notifications of the Investigative Authority, which can be consulted in its microsite on the Institute's webpage or in its facilities.

Article 13. The actions issued by the Investigative Authority under this section must contain at least the following information:

I. Reference to the electronic sheet assigned to the complaint, and

II. Character chain of authenticity of the advanced electronic signature issued by the Tax Administration Service of the public servant of the Investigative Authority issuing the agreement.

Article 14. In the event that the Investigative Authority orders the initiation of an investigation, in addition to publishing the notice on the Official Journal of the Federation, it may publish a notice on the Institute's webpage or in any other means of communication determined by the Investigative Authority, so that any person can assist in the said procedure, in accordance with the provisions of article 60 of the Regulatory Provisions.

Article 15. The SEPDAI will be available and in operation 24 hours a day, 365 days a year; However, the calculation of the deadlines referred to in these Guidelines will be made on business days, in accordance with the annual work schedule issued for this purpose by the Board of the Institute.

Section IV

Cases of exception in the use of SEPDAI

Article 16. In the event that on the day of expiration of a period granted to the complainant to comply with the actions of the Investigative Authority, a technical failure is presented in the operation of the SEPDAI, the complainant shall send on that date the following to the email oficialiaai@ift.org.mx:

- a) The information and documents that comply with the requirements of the Investigative Authority, and
- b) Screenshot(s) in which the technical failure(s) in the operation of the SEPDAI is (are) visible, the time and date on which it was presented, as well as a brief explanation of the problem presented.

The above information and documents will be uploaded digitally to the SEPDAI by the Investigative Authority.

CHAPTER 3

ABOUT THE INTEGRATION OF THE FILE

Article 17. Once the Investigative Authority issues the agreement that corresponds to the complaint filed in accordance with the provisions of Article 69 of the LFCE, it will order the integration of the certification of the documents provided by the complainant through the SEPDAI, as well as the actions that has issued the Investigative Authority, to a physical file with the number under which the investigation was based.

Article 18. The substantiation of the investigation by the probable existence of anticompetitive behaviors in the markets of the telecommunications and broadcasting sectors will be carried out in accordance with the LFCE and the Regulatory Provisions.

TRANSITORY PROVISIONS

Sole. - These Guidelines shall enter into force 180 calendar days after their publication on the Official Gazette of the Federation.