

Press Release
Number 02/2015

Mexico City, January 13th, 2015

**THE PLENARY OF IFT RESOLVED THAT THE CONTRACTUAL RELATIONS
BETWEEN TELMEX AND DISH MÉXICO CONSTITUTE A CONCENTRATION
THAT SHOULD BE NOTIFIED PRIOR ITS PERFORMANCE**

- A fine was imposed for failure to report acts in which Telmex acquired control over Dish México
- This constitutes a not notified concentration in accordance to the Federal of Economic Competition Law
- Imputes liability to a company of Dish México economic group for submitting false information in the procedure
- The Institute conducted an analysis of the effects of this transaction and determined that they were not against the Federal Economic Competition Law (*Ley Federal de Competencia Económica*, LFCE)
- The penalty was not imposed as a result of a harmful practice for the market but for the breach of the obligation to notify a concentration before testing

On October 4th, 2013, the Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones*, IFT) received from the now extinct Federal Competition Commission (*Comisión Federal de Competencia*, CFC) the record of an investigation into the possible realization of prohibited conduct by Federal Economic Competition Law (*Ley Federal de Competencia Económica*, LFCE) in markets of provision of restricted television and audio service, wireline and service access to broadband Internet.

The investigation resulted for the accumulation of three complaints against Telmex, Dish México and companies belonging to their respective economic groups by the probable realization of various events which could constitute violations to the LFCE. The research is not limited to the complaints content, it aims to verify whether the operators act in compliance with the LFCE.

On February 24th, 2014 the research phase conclude. Later, during the month of May that year, the Unit for Monitoring and Verification of IFT sent the UCE various documents by Telmex and COFRESA —a company of the economic group of Dish México— that, by referring to coincide with the

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analyzed events, was considered by the Head of the UCE for the issuance of the Office of Probable Responsibility (*Oficio de Probable Responsabilidad*, OPR) of May 20th, 2014.

The OPR charged probable responsibility to Telmex, Dish México, and their respective economic groups companies for the performance of a concentration without having previously notified the authority, as mandated by the LFCE. That complaint was based on facts that had already made taken effect since 2008. Once notified of OPR, all interested operators in the procedure had the opportunity to present evidence and arguments before the IFT.

During the months of May to November the presentation of evidence and arguments were vented. Furthermore, in November 24th, 2014, in response to requests submitted by the parties, the IFT Plenary granted a hearing to the economic agents with legal interest in the proceedings, effect submit their statements directly to the Commissioners of the IFT, which took place on December 3rd of that year.

After evaluating the OPR, testing and demonstrations of the parties to the proceedings, on January 7th, 2015, the IFT Plenary resolved that:

- Telmex, through its subsidiary Teninver, acquired control of the company Dish México, through various contracts, which constitute a concentration in terms of the LFCE.
- For the amount of these acts, the concentration was subject to the obligation to be notified before its implementation. The parties failed to comply with this legal obligation, so they were sanctioned in the terms established by the LFCE.
- Cofresa, a company belonging to the same group of Dish México economic interest, was held responsible for having falsely declared to the authority for this procedure.

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Based on this and on the basis of Article 35, section VII, of the LFCE, the IFT Plenary resolved to impose the following penalties:

- 1) To Teléfonos de Mexico, S.A.B. de C.V. a fine in the amount of \$ 10,518,000.00 (ten million five hundred and eighteen thousand pesos 00/100 M.N.).
- 2) To Teninver, S.A. de C.V. a fine in the amount of \$ 3,895,600.00 (three million eight hundred ninety-five thousand six hundred pesos 00/100 M.N.).
- 3) To Comercializadora de Frecuencias Satelitales, S. de RL de C.V. a fine in the amount of \$ 3,098,249.30 (three million ninety-eight thousand two hundred forty-nine pesos M.N 30/100).
- 4) To Corporativo Mexicano de Frecuencias Dish, S.A. de C.V. a \$ 8,553,789.20 (eight million five hundred fifty-three thousand seven hundred eighty-nine pesos 20/100 M.N.).
- 5) To Dish México Holdings, S. de R.L. de C.V. a fine in the amount of \$ 10,518,000.00 (ten million five hundred and eighteen thousand pesos 00/100 M.N.).
- 6) To Dish Mexico, S. de RL de C.V. a fine in the amount of \$ 10,518,000.00 (ten million five hundred and eighteen thousand pesos 00/100 M.N.).
- 7) To Grupo Frecuencia Modulada Televisión, S.A. de C.V. a fine in the amount of \$ 10,518,000.00 (ten million five hundred and eighteen thousand pesos 00/100)
- 8) To Echostar México Holdings Corporation a fine in the amount of \$ 10'518,000.00 (ten million five hundred and eighteen thousand pesos 00/100 M.N.).

While the parties were penalized for not perform the notice to which they were bound, the Institute conducted an analysis of the effects of this transaction and determined that they were not contrary to the LFCE.

The penalty was not imposed as a result of harmful practice for the market, but by the failure to notify a concentration, which obstructed the possibility for the authority to exercise its preventive powers that both the Constitution as the LFCE give to the IFT in economic competition.

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Thus, the resolution of January 7th, 2015 concludes a procedure carried out in terms of the LFCE, which does not prejudice the effects of these events have under the Federal Telecommunications and Broadcasting Law or other applicable provisions.

The decision was notified to the sanctioned economic agents who had knowledge of this on 8th and 9th January 2015, in accordance with the provisions of the LFCE. Therefore, in attachment to the legal provisions applicable to these procedures, the Institute informs the public of this resolution until today, once the notices to sanctioned operators have produced legal effects.

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The Federal Institute of Telecommunications (IFT) is the autonomous body entrusted with the regulation, promotion and supervision of the efficient performance of broadcasting and telecommunications sectors in Mexico, and also exercises, in exclusive manner, the authorities in matters of economic competition of such sectors pursuant to the Decree whereby several provisions of Articles 6, 7, 27, 28, 94 and 105 of the Political Constitution of the United Mexican States are amended and supplemented in telecommunications matters, published in the Federal Official Gazette on June 11th of 2013.

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