

APRIL 29, 2025



**PROPOSAL TO AMEND THE FEDERAL
ECONOMIC COMPETITION LAW**

On April 24, 2025, the Federal Executive sent to the Senate a draft decree to amend, add and repeal several provisions of the Federal Economic Competition Law (“LFCE” or *Ley Federal de Competencia Económica*) and the Federal Law of Parastatal Entities (the “LFEP” or *Ley Federal de las Entidades Paraestatales*) (the “Proposed Amendment”). The Proposed Amendment states that its objectives are to (i) amend the organizational structure and adjust the attributions for a new antitrust authority to be called the National Antitrust Commission (the “CNA” or *Comisión Nacional Antimonopolio*), (ii) strengthen the powers and improve proceedings to fight monopolies, and (iii) amend certain provisions regarding telecommunications and broadcasting.

The Proposed Amendment has yet to be discussed and approved by both chambers of the Mexican Congress. The following is a summary of the most relevant aspects of the Proposed Amendment:

1 Organizational Configuration and Functions of the CNA

At the core of the Proposed Amendment is the elimination of the current Federal Economic Competition Commission (“COFECE”) and its replacement with the CNA, conceived as a decentralized public agency of the Ministry of Economy (*Secretaría de Economía*) with legal personality and its own assets, administrative autonomy and technical and operational independence in its decisions, organization and operation, which will also assume the functions that the Federal Telecommunications Institute (the “IFT”) has in competition matters in the telecommunications and broadcasting sectors. Notwithstanding the proposed management autonomy and technical and operational independence to be provided to the CNA, the Proposed Amendment eliminates important powers that COFECE currently has to issue opinions on laws and initiatives of laws, regulations and preliminary drafts of regulations and administrative acts in general.

The Proposed Amendment contemplates that the CNA will have a governing body, also called Board of Commissioners (*Pleno*), composed of five commissioners (as opposed to the seven commissioners that currently make up COFECE's Board). All commissioners would be appointed by the President of Mexico, subject to ratification by a majority vote of the Senate. The Proposed Amendment maintains the functional separation between the unit in charge of antitrust investigations and the Board of Commissioners of the new CNA, which will decide on the findings on the proceedings related to such investigations.

2 Revamped Powers and Sanctions

In this regard, the Proposed Amendment addresses several key areas, including the following:

I. Increased powers of investigation

The Proposed Amendment seeks to strengthen the investigative tools to be made available to the CNA, empowering it to conduct inspections, market surveys and collect statistical data, in addition to providing mechanisms for international cooperation. The Proposed Amendment seeks to modify the Immunity Program (*Programa de Inmunidad*) and the Procedure for Waiver and Reduction of Fines (*Procedimiento de Dispensa y Reducción de Multas*).

For example, it is proposed that, prior to the initiation of the formal investigation, only the first economic agent that cooperates fully may benefit from full immunity, while those who cooperate at later stages would only be granted partial reductions in penalties. This differs from the current regime, in which full immunity only applies to the first economic agent to request it before a finding of probable liability is issued. Likewise, the procedural moments in which the waiver or reduction of fines may be requested are limited.

It is also proposed to amend Article 94 of the LFCE, with the purpose of making the investigation proceedings related to essential inputs and antitrust barriers more efficient and to speed up the issuance of resolutions, reducing applicable terms from 60 to 40 business days.

II. Amendments relating to Absolute Monopolistic Practices and Relative Monopolistic Practices

In relation to absolute monopolistic practices (*prácticas monopolísticas absolutas*), the Proposed Amendment seeks to eliminate the requirement set forth in the current Article 53 of proof of a prior agreement to sanction the exchange of information between competitors, so that the mere exchange of information could be sanctioned if the rest of the requirements set forth in said Article are met. In addition, the definition of such practices now refers to potential competitors and not only actual competitors. The Proposed Amendment also broadens the scope of relative monopolistic practices (*prácticas monopolísticas relativas*) including, as an object or effect to establish a relative monopolistic practice in accordance with Article 54 of the LFCE, the unlawful limitation of the ability of other Economic Agents to compete in the markets. Finally, the maximum terms to investigate monopolistic practices are reduced from 600 business days to 480 business days.

III. Amendments relating to Concentrations

With respect to merger control, the Proposed Amendment extends from one to three years the term to investigate those transactions that, despite not being subject to merger control notification, may generate negative effects on competition.

In addition, the economic thresholds and the percentage of accumulation of assets or shares to determine whether a transaction must obtain prior authorization from the CNA are reduced, as described in the table below, and the general maximum period for the CNA to issue a resolution regarding notified concentrations is also reduced from 60 to 30 business days.



Thresholds	Art. 86 LFCE	New Art. 86 LFCE
Section I	18 million UMAs ⁽¹⁾	16 million UMAs
	MXN\$2,036,520,000	MXN\$1,810,240,000.00
	US\$103,756,916.21	US\$92,228,369.97
Section II	35% or more of assets/shares	30% or more of assets/shares
	18 million UMAs	16 million UMAs
	MXN\$2,036,520,000	MXN\$1,810,240,000.00
	US\$103,756,916.21	US\$92,228,369.97
Section III - First Part	8.4 million UMAs	7.4 million UMAs
	MXN\$950,376,000	MXN\$837,236,000.00
	US\$48,419,894.23	US\$42,655,621.11
Section III - Second Part	48 million UMAs	40 million UMAs
	MXN\$5,430,720,000	MXN\$4,525,600,000.00
	US\$276,685,109.90	US\$230,570,924.91

Regarding the issuance of authorizations in respect of concentrations considered as a succession of acts, within the framework of Article 90, paragraph V, the Proposed Amendment requires that the CNA analyze the entire succession of acts that originate the concentration and, if competition concerns are identified, the Proposed Amendment enables CNA to order the restitution of matters to the state in which they were before the succession of acts commenced.

Finally, the Proposed Amendment seeks to eliminate from Article 93 of the LFCE two exceptions to the obligation to notify a concentration. Such exceptions are related to foreign acts that do not result in a modification in the shareholding structure of a company established in Mexico, nor the accumulation of assets in Mexico, and to the acquisition of shares or other securities that are carried out by investment funds for purely speculative reasons and that do not participate in the same market. In our experience, such exceptions have had no practical relevance given the generality of their terms and the rigor of COFECE in interpreting them.

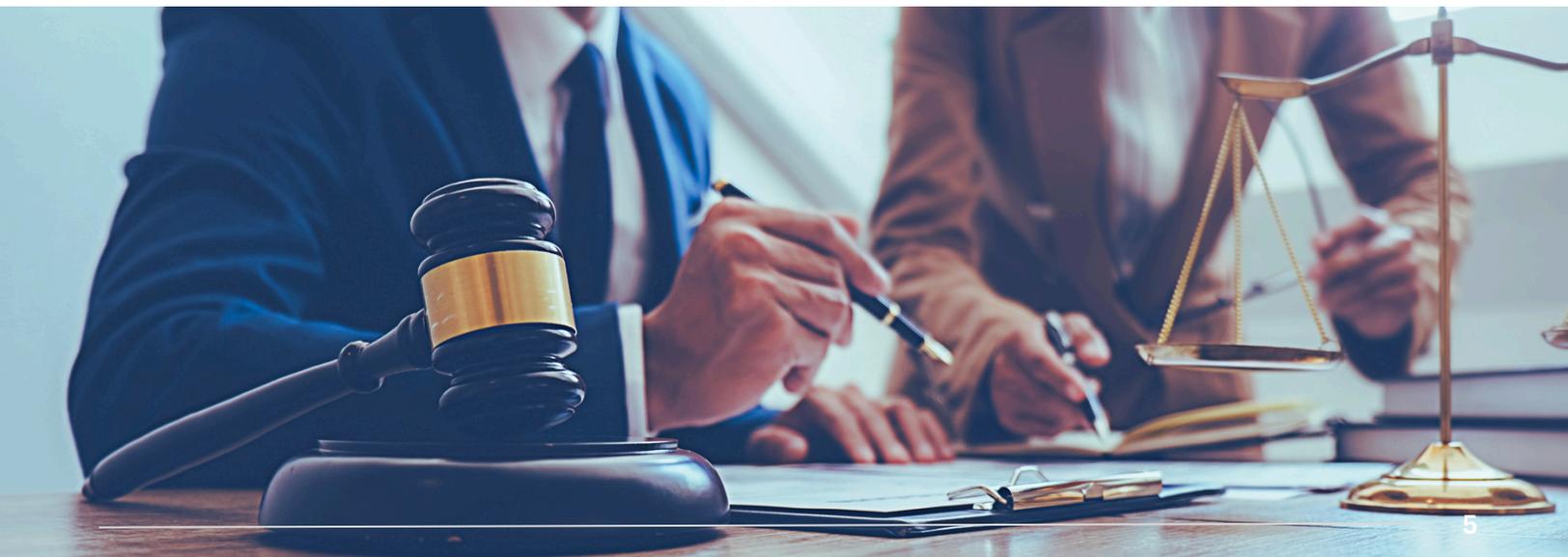
⁽¹⁾ Please consider that the daily value of the Unit of Measure and Update ("UMA" or *Unidad de Medida y Actualización*) for the year 2025 is MXN\$113.14 pesos and that the exchange rate used for calculation purposes is the amount of MXN\$19.6278 Mexican pesos per Dollar, corresponding to the exchange rate to settle obligations denominated in foreign currency payable in the Mexican Republic, published by the Bank of Mexico in the Official Gazette of the Federation on April 24, 2025.

IV. Increase in fines and penalties for violations of the LFCE

The Proposed Amendment significantly increases the amount and basis of calculation of most of the enforcement measures, fines and penalties, and to incorporate new categories of fines.

By way of example, the commission of absolute monopolistic practices would entail fines of up to the equivalent of 20% of the total turnover of the fined economic agent (as opposed to the 10% currently regulated in the LFCE), the commission of relative monopolistic practices and unlawful concentrations would entail fines of up to the equivalent of 15% of total turnover (as opposed to the 8% currently established as a sanction). Also, consummating a transaction without obtaining prior authorization from the CNA when legally required would entail fines of up to the equivalent of 10% of the total turnover (instead of the 5% that is established as a sanction in the current LFCE). In addition, the Proposed Amendment provides that in the event that the CNA had previously objected to a transaction and it has nevertheless been consummated, the fine would be up to the equivalent of 15% of the infringer's total turnover.

Please note that additional sanctions are introduced, such as temporary disqualification from participating in public procurement procedures, for a period of six months to five years. In addition, the Proposed Amendment strengthens the mechanisms for criminal prosecution of the most serious competition misconduct.



3 Transitional Regime

The Proposed Amendment establishes in its transitory articles that prior to the appointment and ratification of the five Commissioners of the Board of Commissioners of the CNA, including the designation of its President, which must occur no later than June 30, 2025, COFECE would continue to operate under the current legal framework and the proceedings initiated by COFECE and the IFT (in matters of economic competition, preponderance and cross participation) would continue to be processed in accordance with the provisions in force at the time such proceedings were initiated.

Once the Proposed Amendment becomes effective, the terms of all investigation proceedings conducted by the Investigating Authority of COFECE and the IFT would be suspended and would be resumed the day following the day in which the Board of Commissioners of the CNA is appointed. Likewise, within a term not to exceed one hundred eighty calendar days from the day when the Board of Commissioners of the CNA is appointed, the Organic Statute of the CNA (*Estatuto Orgánico de la CNA*) and the Regulations of the LFCE (*Reglamento de la LFCE*) would need to be issued.

Ritch Mueller has extensive experience in competition and antitrust matters, with a team of professionals available to provide advice to economic agents with ongoing proceedings before the COFECE and the IFT that may be impacted by the Proposed Amendment and with proceedings to be initiated before the new authority.

If you require additional information, please contact our leaders from the Competition and Antitrust practice area.

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