

Notification of Economic Concentrations to the Mexican Antitrust Commission

By Tracy Delgadillo and Jaime A. Treviño

The Mexican Federal Antitrust Law (the “Law”) defines an economic concentration as the merger, control acquisition or any act through which companies, associations, shares, equity interests, trusts or assets in general are grouped, and which is carried out among competitors, suppliers, clients or other economic agents (hereinafter referred to as a “Concentration”).

With the purpose of ensuring free competition and avoiding monopolistic practices, the economic concentrations must be notified and previously approved by the Mexican Antitrust Commission (the “Commission”) if:

- I. the Mexican portion of the Concentration, notwithstanding the place there it takes place, involves consideration in excess of 16 million times the daily value of the Unit of Measurement and Update (“UMA”) in force, i.e. an amount higher than MxP\$1,810,240,000.00 (One Thousand Eight Hundred Ten Million Two Hundred and Forty Thousand 00/100 Mexican Pesos), or approximately U.S.\$98,650,681.00 (Ninety-Eight Million Six Hundred and Fifty Thousand Six Hundred and Eighty-One 00/100 Dollars of the United States of America);
- II. it results in the accumulation of 30% or more of the capital stock or assets of who carries out the Concentration (the “Buyer”), whose Mexican assets or annual sales originated in Mexico exceed 16 million times the daily value of UMA, i.e., an amount higher than MxP\$1,810,240,000.00 (One Thousand Eight Hundred Ten Million Two Hundred and Forty Thousand 00/100 Mexican Pesos), or approximately U.S.\$98,650,681.00 (Ninety-Eight Million Six Hundred and Fifty Thousand Six Hundred and Eighty-One 00/100 Dollars of the United States of America); or
- III. it involves an accumulation in Mexico of assets or capital stock which value exceeds 7.4 million times the daily value of UMA, i.e., an accumulation higher than MxP\$837,236,000.00 (Eight Hundred and Thirty-Seven Million Two Hundred and Thirty-Six Thousand 00/100 Mexican Pesos), or approximately U.S.\$45,625,940.00 (Forty-Five Million Six Hundred and Twenty-Five Thousand Nine Hundred and Forty 00/100 Dollars of the United States of America), and that the Concentration is entered into by two or more entities or persons which jointly or individually have Mexican assets or annual sales originated in Mexico exceeding 40 million times the daily value of UMA, i.e. that they sum up more than MxP\$4,525,600,000.00 (Four Thousand Five Hundred and Twenty-Five Million Six Hundred Thousand 00/100 Mexican Pesos), or approximately U.S.\$246,626,703.00 (Two Hundred and Forty-Six Million Six Hundred and Twenty-Six Thousand Seven Hundred and Three 00/100 Dollars of the United States of America).

For purposes of the foregoing, please note that (i) the daily value of UMA in force as of the date herein is of MxP\$113.14 (One Hundred and Thirteen 14/100 Mexican Pesos), or approximately U.S.\$6.17 (Six 17/100 Dollars of the United States of America); (ii) the amounts expressed in U.S.

Dollars are approximate and vary daily on the basis of the fluctuation of the exchange rate between the Mexican Peso and the U.S. Dollar; and (iii) the amounts reflected in this memo are being provided for reference purposes only and considering an exchange rate of MxP\$18.35 (Eighteen 35/100 Mexican Pesos) per U.S.\$1.00 (One 00/100 Dollar of the United States of America).

After the Concentration has been notified to the Commission, and in case no request of additional documents is issued, the Commission has a 30 (thirty) day period following the notification to issue its corresponding resolution, during which term the Concentration shall not be recorded in the corporate books of the companies involved, formalized through a public deed, or registered at the Public Registry of Commerce.

It is important to consider that the notification can include or propose conditions for the Transaction which are targeted to avoid a reduction, damage or negative effect in free competition, which may include:

- (a) Perform or refrain from a determined behavior;
- (b) Divestiture of certain assets, rights or stock;
- (c) Modification or removal of terms and conditions that will apply to the Transaction; or
- (d) Actions which encourage the competitors' participation in the market and/or provide access, services or sale of goods to competitors.

Independently from and in addition to the notification obligation set forth above, the Commission may at any time request information or start an investigation if they deem the Concentration could imply or result in a monopolistic practice or illegal economic concentration.

The Law contains a number of specific cases in which a monopolistic practice is presumed to exist, which consist of any act, agreement, contract or procedure that, among others, is carried out by the Buyer if it has substantial power in the same relevant market where the practice is performed. To determine the existence of "substantial power", the following elements are considered:

- (a) The Buyer's participation in the relevant market;
- (b) The Buyer's ability to fix prices unilaterally or restrict the supply in the relevant market by itself, without the competitors being able to counteract such power;
- (d) The existence of entry barriers for the relevant products;
- (e) The existence of the Buyer's competitors in the market, and their respective power;
- (f) The Buyer's access possibilities to raw materials or components, compared to that of its competitors;
- (g) The level of positioning of the goods or services in the relevant market;
- (h) The lack of access to imports or the existence of high entry costs for the respective products; and
- (i) The existence of great differences in costs that may be faced by the consumers when reaching out to other suppliers.

By virtue of the foregoing, prior to performing any acts that lead to a Concentration, it is important to determine if the Concentration must be notified to the Commission for its authorization, or if it

could be subject to an investigation for a potential illicit concentration or antitrust practices, to avoid administrative, civil or criminal sanctions.

September 2025.

Please send any questions or comments to info@jatabogados.com. The author of this note is an Associate at JATA – J.A. Treviño Abogados, and may be reached at crios@jata.mx. JATA is a Mexican firm with offices in Monterrey, Mexico and Houston, Texas.



JATA - J.A. Treviño Abogados S.A. de C.V.
www.jata.mx

Monterrey Office:
Tel. +52 (81) 8335-4200.

Houston Office:
Tel. +1 (713) 963-3677.
info@jata.mx

Disclaimer: J.A. Treviño Abogados S.A. de C.V. (the "Firm") does not necessarily endorse, and is not responsible for, any third-party opinion expressed in this article, and therefore the Firm will not be liable for the content of such opinions. Any article, comment, quote, or any other information appearing under the authorship of any person or legal entity other than the Firm, even if related to the Firm, solely represents the opinion, comment, or position of such author. The information contained in this article is provided for informational purposes only, and should not be construed as legal advice on any subject matter. The information contained in this article is protected as the property of the Firm. No recipient of this article, client of the Firm or otherwise, should act or refrain from acting based on any content included in the article without seeking the appropriate legal or other professional advice on the particular facts and circumstances at issue from an attorney licensed in the relevant jurisdiction. This article contains general information and may not be updated. The Firm expressly disclaims all liability in respect to actions taken or omitted based on any or all of the contents of this article.