

## **COFECE warns the National Association of Real Estate Developers to avoid possible agreements between competitors in this market**

- *The Association has promoted among its members the granting of discounts to tenants, which could infringe the LFCE if these discounts are established or fixed through an agreement between developers with the object or effect of establishing a quota or a maximum discount to be granted.*
- *The Commission urged ADI México to promote and monitor that its members are making strictly individual decisions and in accordance with their own business strategies when granting discounts to their tenants.*

**Mexico City, March 31, 2020.-** The Mexican Federal Economic Competition Commission (COFECE of Commission) reports that the Investigative Authority, in its discretion, issued a warning to the National Association of Real Estate Developers (*ADI México*), as it has learnt that, due to the contingency that the country is experiencing because of the epidemic COVID-19, this group has promoted among its members the granting of discounts and benefits to tenants who are up to date with their payments, which is not contrary to the Federal Economic Competition Law (LFCE, per its initials in Spanish), except in the case when such discounts are established through agreements with the object or effect of determining a quota or the maximum discounts to be granted to tenants. This conduct could be an absolute monopolistic practice sanctioned by the Law.

The Commission also specified that the exchange of information between competitors with the object or effect of committing the described conduct may also be subject to a sanction. Consequently, COFECE urged *ADI México* to promote and monitor that its members are making strictly individual decisions and in accordance with their own business strategies when granting discounts and benefits to tenants. Additionally, the Commission also recommended *ADI* to review its current and future conduct to avoid the commitment of absolute monopolistic practices.

COFECE reiterates that in a context of free pricing, each economic agent must determine prices or discounts independently, in accordance with the objectives to maintain or attract clients. That is, prices or discounts must be determined individually in accordance with each



participant's market strategies. Otherwise, economic agents who engage in this type of conducts could be fined with up to 10% of their income, and even criminal liability for individuals participating in the agreements, which will be sanctioned with 5 to 10 years in prison and with fines up to 10 thousand Units of Measure

COFECE reminds economic agents that have participated in agreements that violate the LFCE, that they can adhere to the *Leniency and Immunity Program* and may be granted with a reduction of the applicable fines, including criminal liability, in exchange of full and total cooperation with the investigation. In addition, for greater certainty regarding information exchanges that could constitute an absolute monopolistic practice, the Commission recommends reading the *Guidelines on Information Exchange between Economic Agents*.

Given the current situation that Mexico faces due to the COVID-19 epidemic, the Commission will remain particularly vigilant of potential anticompetitive conducts such as agreements to manipulate prices or establishing maximum discounts.

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#### **MORE COMPETITION FOR A STRONGER MEXICO**

*The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. Through this, it contributes to consumer welfare and the efficient functioning of the markets. Through its work, it seeks better conditions for consumers, greater output and better services and a "level playing field" for companies.*

