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1 Relevant authorities and legislation

1.1 Who is/are the relevant merger authority(ies)?

The Federal Competition Commission, which is an administrative agency independent from the Mexican Ministry of Economy, has technical and operational autonomy to issue its resolutions. The Commission is integrated to exercise merger authority by public officials, divisions and administrative units, of which the main authority is the Commission in Plenary session, comprised by 5 commissioners, including the Commission President. Resolutions are issued by majority votes of its members.

1.2 What is the merger legislation?

Listed in order of hierarchy: (i) Article 28th of the Mexican Constitution which establishes the antitrust prohibition and the monopoly exception regime, given that in the case of intellectual property (patents, trademarks and copyrights) and certain state monopolies (oil, electricity, postal service, among others) exceptions regime; (ii) international treaties to which Mexico is a party, containing antitrust provisions, include, among others, NAFTA and EUFTA; and (iii) the Federal Economic Competition Law (the "Law") and its regulations, Industrial Property Law, Copyright Law and Foreign Investment Law.

1.3 Is there any other relevant legislation for foreign mergers?

Not in terms of Economic Competition but certain requirements and limitations apply with respect to foreign investment.

1.4 Is there any other relevant legislation for mergers in particulars sectors?

Not in terms of Economic Competition but certain requirements and limitations apply with respect to foreign investment.

2 Transactions caught by merger control legislation

2.1 Which types of transaction are caught – in particular, how is the concept of "control" defined?

The types of transactions caught under merger control provisions are subject to threshold tests related to the underlying value of each transaction. The Law defines concentration as any merger, control acquisition or any act resulting in the concentration of two different entities, including trust or assets in general among and between competitors, suppliers, customers or any economic agents. Notwithstanding the foregoing, the Commission is able to challenge and sanction, subject to express criteria, any concentration with the purpose of diminishing, damaging or not allowing competition, with respect to identical, similar or substantially similar goods and services. The Commission may issue a restrictive order not to execute the underlying transaction, until a favourable resolution is issued, during a term of 10 days following the filing of the concentration notice. Although Control is not a defined term, the Law regulation applies a control test as it relates to:

1. the merger control notice, establishing that notice shall be filed prior to exercising direct or indirect control, in fact or by law; and

2. allowing for the notice to be made by the party acquiring control of the corporation, in absence of the parties directly involved in the underlying transaction.

2.2 Can the acquisition of a minority shareholding amount to a “merger”?

The acquisition of a minority shareholding does not amount to a merger; however, if such acquisition is within the scenarios and thresholds specified under question 2.5 it would be subject to notice.

2.3 Are joint ventures subject to merger control?

Yes, please refer to questions 2.1 and 2.4.

2.4 What are the jurisdictional thresholds for application of merger control?

Based on the foregoing, the following transactions are subject to prior notice:

1. When the transaction, irrespective of the place of execution, results in the direct or indirect amount in Mexico being the equivalent to more than 18M times the minimum general daily wage applicable in Mexico City (MGDW), $1,034,280,000.00 M.N., Pesos.

2. When the actions originating the transaction imply an aggregate of 35% or more of the assets or shares of a party, whose annual assets in Mexico or annual sales originated in Mexico, are equal to more than 18M times the MGDW, $1,034,280,000.00 M.N., Pesos.

3. When the actions originating the transaction imply an aggregation in Mexico of assets or capital stock amount to more than the equivalent of 8.4M times the MGDW $482,664,000.00 Pesos and two or more entities participate, which assets or annual sales volume on an individual or aggregate basis are equal to more than 48M times MGDW, $2,758,080,000.00 Pesos.

For reference purposes, the foreign exchange rate as of October 21, 2010 is 12.41 Pesos per Dollar as quoted by Mexico's Central Bank on the Official Gazette of the Federation (Diario Oficial de la Federación).

2.5 Does merger control apply in the absence of a substantive overlap?

Merger control applies in the scenarios and thresholds described above, regardless of whether monopolistic conduct is incurred, which in turn may result in a discretionary antitrust investigation originated under the Commission

authority or based on a third party claim.

2.6 In what circumstances is it likely that transactions between parties outside Mexico ("foreign to foreign" transactions) would be caught by your merger control legislation?

Foreign transactions may be caught by merger control provisions in Mexico, when and if, the value of such transactions exist in the Mexican territory, either as a result of capital stock, assets or sales,

respectively.

2.7 Please describe any mechanisms whereby the operation of the jurisdictional thresholds may be overridden by other provisions.

There are none.

2.8 Where a merger takes place in stages, what principles are applied in order to identify whether the various stages constitute a single transaction or a series of transactions?

The principles that apply are the relevant market, the parties involved, the term between the stages and type of transaction.

3 Notification and its impact on the transaction timetable

3.1 Where the jurisdictional thresholds are met, is notification compulsory and is there a deadline for notification?

Yes, notification is compulsory when thresholds are met, and must be made prior to the implementation of the underlying transaction (for a more detailed deadline schedule, see our response to question 3.5).

3.2 Please describe any exceptions where, even though the jurisdictional thresholds are met, clearance is not required.

There are no exceptions to notification when thresholds are met.

3.3 Where a merger technically requires notification and clearance, what are the risks of not filing?

The Commission is entitled to: (i) order the cancellation of the underlying merger; (ii) order the partial or total divestment of assets acquired; and (iii) impose penalties of up to the equivalent of

400,000 times the MGDW ($22,984,000.00 Mexican Pesos).

3.4 is it possible to carve out local completion of a merger to avoid delaying global competition?

Yes, it is possible to carve out local competition through the establishment of conditions precedent applicable to the perfection of the merger in Mexico, such as the issuance of a favourable resolution issue by the Commission.

3.5 At what stage in the transaction timetable can the notification be filed?

Notification must be filed at any time before any of the following events occur:

1. the underlying act is perfected in accordance with the applicable legislation or, should it be the case, the condition precedent to which such act is subject, is fulfilled;

2. control is acquired de facto or de jure, or exercised directly or indirectly over another entity; or before assets, participation in trusts, partners'capital contributions or shares of another party are acquired de facto or de jure;

iii. a merger agreement is signed between the parties to it; or

1. in the case of a succession of acts, before executing the last one that would result in exceeding the applicable threshold amounts.

With respect to mergers resulting from acts executed abroad, these must be notified before they have legal or material effects within Mexican territory.

3.6 What is the timeframe for scrutiny of the merger by the merger authority? What are the main stages in the regulatory process? Can the timeframe be suspended by the authority?

Within the following 15 days from filing date, the Commission is entitled to request additional information or documentation, which must be delivered by the interested parties within the following 15 days after the request, is served. After the documentation delivery process is completed, the Commission has a 35-day term to issue its resolution; however, the President of the Commission is entitled to extend each Commission term for up to an additional 40 days, only in extraordinary complex transactions.

3.7 Is there any prohibition on completing the transaction before clearance is received or any compulsory waiting period has ended? What are the risks in completing before clearance is receieved?

If within the following ten days from filing date, the Commission does not order the parties to refrain from executing the underlying merger until a favourable resolution is issued, then the parties, at their own risk, can execute the merger. Provided, however, that, if such order is not issued within such term, it shall not be interpreted as an implied authorisation for the execution of the underlying merger, unless the term granted to the Commission for issuance of its resolution expires, in which case it shall be interpreted as if the Commission has no objection against the merger. As for the risks in executing the merger before clearance is received, the interested parties are subject to those sanctions specified in response to question 3.3.

3.8 Where notification is required, is there a prescribed format?

The notice shall be made in writing through a free form writ, to which a copy of the underlying agreements shall be enclosed. Such writ must include the names or corporate names of the corresponding parties, the financial statements of the last fiscal year, their market share and any additional information through which the merger is documented.

3.9 Is there a short form or accelerated procedure for any type of mergers?

The Law does not provide for an accelerated procedure per se; however, if, at the time of filing the notice, the parties provide as much information as available such as analysis, reports, evidence, etc. to support the fact that such merger will notably not result in diminishing, damage or preventing competition, then the Commission is granted a term of 15 days to issue its resolution. If such term is not extended by the President of the Commission and expires, it shall be interpreted as if the Commission has no objection against the merger. Notwithstanding the foregoing, if the Commission determines that the merger does not notably diminish, damage or prevent competition, then the notification process shall be subject to the terms set forth under question 3.6.

3.10 Who is responsible for making the notification and are there any filing fees?

The parties participating in the underlying merger are responsible for filing the notification, and appointing a sole representative. In addition when the parties cannot, for any reason, provide the notice, the merging entity, the party acquiring control of the corporation, the entity intending to enter into the transactions or to aggregate the shares, equity interest, trust interests or assets, is responsible for filing the notice. The filing fees are $124,849.00 M.N. Pesos, regardless of the value of the underlying transaction. For reference purposes, the foreign exchange rate as of October 21, 2010 is 12.41 Pesos per Dollar as quoted by Mexico's Central Bank on the Official Gazette of the Federation (Diario Oficial de la Federación).

4 Substantive assessment of the merger and outcome of the process

4.1 What is the substantive test against which a merger will be assessed? Are non-competition issues taken into account?

The parties are subject to scrutiny in order to determine if, as a result of the concentration the parties are able to fix prices, restrict in a material way competitors access to the relevant market or engage in illicit monopolistic practices. Non-competition issues are taken into account on a case-by-case basis (i.e. the scope of the noncompetition provision, the term of the obligation not to compete and the size of the relevant market, among others).

4.2 What is the scope for the involvement of third parties (or complainants) in the regulatory scrutiny process?

The Law allows for third party written complaints, in the event of absolute monopolistic practices (absolute monopolistic practices are contracts, agreements, arrangements, or combinations among

competitive economic agents, whose aim or effect are any of the following: (i) to fix, raise, to agree upon or manipulate the purchase or sale price of the goods or services supplied or demanded in the markets, or to exchange information with the same aim or effect; (ii) to establish the obligation to produce, process, distribute or market only a restricted or limited amount of goods, or to render a specific volume, number, or frequency of restricted or limited services; (iii) to divide, distribute, assign or impose portions or segments of the current or potential market of goods and services, by means of a determinable group of customers, suppliers, time or spaces; or (iv) to establish, agree upon or coordinate bids or to abstain from bids, tenders, public auctions or bidding), for affected party complaints in the case of other monopolistic practices (subject to verification of articles 11, 12 and 13 of the Law, relative monopolistic practices are deemed to be those acts, contracts, agreements or combinations, which aim or effect is to improperly displace other agents from the market, substantially hinder their access thereto, or to establish exclusive advantages in favour of

one or several entities or individuals) or transactions subject to merger control. Such claims need to be filed against the alleged responsible party, with a description of the facts deemed in violation of the Law and the concepts for

which the claimant has suffered, or that will result in the presumption of, damages, if any. Once that the claim is filed, and during the investigation process, the Commission will not allow access to the claim file, and, during the process, only those entities with legal standing will have access to such information, except for that identified as confidential.

4.3 What information gathering powers does the regulator enjoy in relation to the scrutiny of a merger?

When exercising its powers, the Commission may request from the relevant parties information deemed material as well as summon those involved in the corresponding cases for purposes of merger scrutiny, request and verify information from third parties, including competitors and clients, among others. Additionally, the Commission with the assistance of the competent judicial authority may request to be authorised to perform on-site inspections. Notwithstanding the foregoing, if a merger is approved, the Commission is not authorised to initiate an investigation procedure, but only in those cases when such resolution was obtained based on false information.

4.4 During the regulatory process, what provision is there for the protection of commercially sensitive information?

Any information filed before the Commission or obtained by it during an investigation process will be classified as reserved, confidential or public. Reserved information is that available only to those entities with legal standing in the investigation process; confidential information means information that if disclosed to any entity with legal standing in the investigation process, such disclosure will result in damages to the disclosing party. Confidential information will only be treated as such if the disclosing party requests so.

5 The end of the process: remedies, appeals & enforcement

5.1 How does the regulatory process end?

The regulatory process concludes with a resolution by the Commission, and may end at different stages, depending on the process: 35 days (which may be extended) and, when merger control notice is given and parties demonstrate

that the merger will not result in diminishing, damaging or obstructing free competition, the Commission will resolve within 15 days (which may be extended), following the admission date of the notice, respectively. If the Commission has not resolved after the applicable term expires, the notice is deemed not to be subject to objection by the Commission. This final resolution is subject to appeal.

5.2 Where competition problems are identified, is it possible to negotiate "remedies" which are acceptable to the parties?

Yes, provided that such remedies are agreed upon, then parties are notified to the Commission, prior to the issuance of the resolution. The Commission may notify either formally or informally the criteria that needs to be met: i.e. excessive terms for non-compete provisions, which parties may reduce to comply with the set criteria and allow for the favourable resolution to be issued.

5.3 At what stage in the process can the negotiation of remedies be commenced? Please describe any relevant procedural steps and deadlines.

During the assessment period and before the resolution is issued, the negotiation of remedies can be commenced. There is no particular procedure to negotiate remedies which shall be agreed on before the resolution is issued.

5.4 If a divestment remedy is required, does the merger authority have a standard approach to the terms and conditions to be applied to the divestment?

No. The divestment remedy is customarily resolved as a condition precedent to the clearing the merger notice.

5.5 Can the parties complete the merger before the remedies have been complied with?

The parties may execute the underlying transaction, assuming any liability resulting from non-compliance of the Law. In the case of transactions that require filing before the public registry, filing is conditioned upon favourable resolution of the Commission.

5.6 How are negotiated remedies enforced?

Negotiated remedies need to be complied with in order for a favourable resolution to be issued.

5.7 Will a clearance decision cover ancillary restrictions?

No, ancillary restrictions are customarily resolved as conditions precedent to the clearance decision.

5.8 Can a decision on a merger clearance be appealed?

Yes, decisions can be appealed.

5.9 Is there a time limit for enforcement of merger control legislation?

The authority of the Commission to initiate investigations that may result in the application of sanctions expire in a term of 5 years, following the date the underlying conduct was performed. In the case of merger control, the transactions not subject to notice cannot be investigated after a one year term, following the date of completion of the transaction.

6 Miscellaneous

6.1 To what extent does the merger authority in Mexico liaise with those in other jurisdictions?

Mexico is a party to international treaties and arrangements to cooperate in competition enforcement matters, among which are NAFTA, UEFTA, and treaties with the USA, Japan, Korea and the European Free Trade Association. Such treaties and arrangements include commitments related to international coordination and cooperation matters.

6.2 Please identify the date as at which your answers are up to date.