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Mexico looks at airport slots in first "barriers to competition" investigation

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Mexico City International is Latin America's second-largest airport.

Mexico's competition enforcer has begun investigating how take-off and landing slots at Mexico City's international airport are allocated to find out whether there is enough competition among airlines at the hub.

The probe marks the first time Mexico's Federal Economic Competition Commission, or CFCE, has used its power to investigate possible "barriers to competition". Under Mexico's recently overhauled competition law, the enforcer can order behavioural and structural remedies if such barriers are found to exist.

The law, enacted in 2014, also allows Mexico to pinpoint and regulate "essential inputs", and set prices for access to infrastructure.

In a statement, the CFCE said it has reason to believe the provision of slots at Latin America's second busiest airport is uncompetitive. Domestic airlines have broadly welcomed the announcement.

Currently slots at Mexico City are allocated by the airport authority according to unclear criteria. In the past factors including the age of the airline have been taken into account; Aeromexico, the country's largest airline which was founded about 80 years ago, has the largest number of slots.

The airport also suffers from a capacity shortage owing to restrictions on expansion. The airport, which serves 93,000 passengers per day, is located in a densely populated area of the city.

Some observers of Mexico's antitrust authority have welcomed the decision to investigate the allocation process. Fernando Carreño, at Von Wobeser y Sierra in Mexico City says airport slots are an ideal area for the commission to focus its new trust-busting powers.

"This is the perfect example of an essential input. If you want to participate in the airline industry in Mexico, you really need to have slots at Mexico City," Carreño said.

Airlines including Aeromexico, Volaris and VivaAerobus have all said they intend to cooperate with the authority in its investigation, according to local press reports.

In an entry in the official Gazette earlier this week, CFCE chief investigator Carlos Mena said the procedure did not reflect any conclusions about competition in the market. The authority now has up to 120 days to complete its investigation.

Mexico's new competition law, passed last April, came after an ambitious batch of constitutional reforms designed to shore up uncompetitive industries and spur economic growth. The changes overhauled Mexico's enforcer, splitting its investigative and decision-making functions and granting it new powers to punish price fixers, conduct market studies and force divestitures.

The changes attracted attention for provisions outlawing "barriers to competition" and "essential inputs", however. Multiple observers said the terms were ill-defined and threatened to chill innovation and investment.

In November the commission published guidelines on how it will use its new powers after hearing from the American Bar Association and local practitioners. The authority said it will allow companies to propose remedies if it finds insufficient competition after a market investigation.

The authority has also committed to order divestitures only when other routes are insufficient. Observers will now watch closely to see how the authority carries out its investigation of Mexico City International, and what measures it takes to inject competition among airlines.

The probe comes a few months after Mexico's president announced that construction will start on a new international airport in Mexico City with six runways. The building will take eight years to build.

The result of the CFCE's investigation could influence how slots at the new airport are divvied up between the various airlines.