

COFECE publishes guidelines for the use of electronic means in its proceedings

On March 2, 2023, the Federal Economic Competition Commission (“COFECE”) published the Guidelines for the use of electronic means during the investigation, the sequel of the proceeding, the verification and the incidents processed before the Commission (the “GUIDELINES”)¹, which provide new alternatives to submit documents, make notifications and carry out different proceedings (appearances as well as the presentation of testimonial, confessional, expert and ocular inspection evidence). In general terms, the GUIDELINES provide the possibility of using technological tools to process procedures electronically, benefiting users by reducing time and making processes more efficient.

These GUIDELINES will enter into force once COFECE’s Board of Commissioners determines that the conditions that motivated the issuance of the Emergency Regulatory Provisions of the Federal Economic Competition Law on the use of electronic means in certain proceedings before COFECE (“PROVISIONS”)², which were issued on June 25, 2020 as a result of the health emergency generated by the SARS-CoV2 virus, to facilitate and expedite proceedings before the COFECE, no longer exist.

In accordance with the GUIDELINES, users who intervene in any of the procedures indicated below, may at any time declare whether they choose to use electronic means in the entire procedure or in certain actions or proceedings.

The following are the applicable procedures and some issues to be highlighted regarding various proceedings:

- **Processing of complaints regarding monopolistic practices and unlawful merger.** There are two ways to file complaints or requests through electronic means: (i) Through the OPE (*COFECE’s Electronic Filing Office*), when they are Users of SITEC (*System of Electronic Proceedings before COFECE*), or (ii) By e-mail addressed to COFECE’s e-mail address, when they are not Users of SITEC.

1 The Guidelines are available [here](#).

2 [Regulatory Provisions of the Federal Economic Competition Emergency Law on the use of electronic means in certain proceedings before the Federal Economic Competition Commission.](#)

- **Initiation and conduct of investigations for monopolistic practices or unlawful merger; as well as investigations to determine essential inputs and/or barriers to competition, as well as to resolve market conditions.**
- **Benefit of waiver or reduction of of fines.**
- **Leniency Program.** In those cases, in which economic agents intend to avail themselves of the benefit of the reduction of sanctioned provided for in Article 103 of the Federal Competition Law, the GUIDELINES state that, exclusively during the investigation stage, such procedure may be processed by electronic means.
- **Trial-like procedure.**
- **Procedures related to the qualification of information resulting from attorney-client privilege.**
- **Procedures related to the verification of compliance with the obligation to notify a merger.**
- **Incidents related to any of the aforementioned procedures.**
- **Verifications and incidents related to compliance with and enforcement of COFECE's resolutions.**
- **Complaints, investigations and trial-like-procedures, derived from the provisions of the Law for Transparency, Prevention and Combating of Undue Practices in Advertising Contracting³.**

If you have any questions about what is described in this document, please do not hesitate to contact our experts:

Fernando Carreño, Partner:

+52 (55) 5258-1042 | fcarreño@vwys.com.mx

Sergio López, Partner:

+52 (55) 5258-1042 | slopez@vwys.com.mx

Déborah Luengo, Associate:

+52 (55) 5258 1042 | dluengo@vwys.com.mx

S I N C E R E L Y

VON WOBESER Y SIERRA, S.C.

Mexico City, March 7, 2023.

The information contained in this note does not constitute, nor is it intended to constitute, nor shall be construed as legal advice on the topic or subject matter covered herein. This note is intended for general informational purposes only. To obtain legal advice on a particular matter in connection with this topic, please contact one of our attorneys referred to herein.



VON WOBESER Y SIERRA, S.C.

Paseo de los Tamarindos 60, 05120 Mexico City

+52 (55) 5258 1000

vonwobeser.com