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Slot Assignment in the Mexico City International Airport: Uncompetitive Practices that Hurt the Market.

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On February 19, 2016, the Federal Economic Competition Commission “*Comisión Federal de Competencia Económica*” (here in after COFECE) issued an extensive report entitled “*Preliminary research on essential assets used for the provision of air transport services within the Mexico City International Airport (MEX) for landing and takeoff procedures*”¹ (MEX Report) in which they documented a thorough analysis performed with regards to the procedure implemented within MEX to assign slots to all air transport service providers, in order of determining the probable existence of commercial barriers to free competition.

Said report was conducted with the support of both the Ministry of Communications and Transportations “*Secretaría de Comunicaciones y Transportes*” (here in after SCT) and the International Air Transport Association (IATA), and it is the first investigation performed by the COFECE with regards to “essential commercial assets”.

Article 60 of the Federal Economic Competition Law “*Ley Federal de Competencia Económica*” (herein after as LFCP) provides the considerations in order to determine if an asset can be deemed as an “essential commercial asset”, which are:

- I. If the asset is controlled by one, or several Economic Agents with substantial market power or that have been found to be preponderant by the Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones*);
- II. If the asset cannot feasibly be replicated/used by another Economic Agent due to technical, legal or economic conditions; and
- III. If the asset is indispensable for the provision of goods or services in one or more markets, and has no close substitutes; and

In consideration to the foregoing, this article intends to provide a general scope of both the current antitrust regulations and the governing institutions in Mexico, as well as to analyze the anticompetitive effects generated by the slots assignment procedure within MEX.

The Federal Economic Competition Law and the COFECE.

The LFCP contains the current legal framework that guarantees free markets and competition within those markets in Mexico. The main objective of the LFCP is to procure and prevent anticompetitive practices as well as to regulate both private mergers and public procurement processes.

The enforcement of the LFCP is procured by the COFECE which is the Mexican governmental agency that arise out of a Constitutional Reform to article 28² which took place on 2013. The objective of said reform was

1.- https://www.cofece.mx/cofece/images/AI/Dictamen_preliminar_29022016_.pdf

2.- Article 28 of the Political Constitution of the United Mexican states: “... The State will have a Federal Economic Competition Commission which will be an autonomous entity, with its legal personality and assets, constituted to guarantee free trade and competence, as well as to prevent, investigate and combat antitrust, monopolistic practices, concentrations and any other market barriers in accordance to this Constitution and its laws. The Commission will have authority to efficiently comply with its objective, from which it would be authorized to suppress market barriers; regulate the access to essential assets and to request the separation of goods, rights, equity interests or shares from commercial agents as deemed required, order to suppress anticompetitive practices...”.

to create a strong institution with aims to regulate, promote and guarantee free competition and access to competitive markets in hens of developing our country.

“The objective of said reform was to create a strong institution with aims to regulate, promote and guarantee free competition and access to competitive markets in hens of developing our country.”

Events that led to the issuance of the MEX Report by the COFECE.

First of all, it is essential to illustrate the importance of MEX for the air transport services in Mexico. On 2015, reports issued by the administration of the MEX reported that they had closed operations on that year which entail the transportation of over 378 million passengers and 447 tons of goods.

Having said the above, one of the main reasons that led to the COFECE’s issuance of the MEX Report arose from the denouncement of a North American Airline before the Federal Aviation Administration (FAA), who alleged a lack of transparency from MEX when reporting the legal standing of available slots within Mexico City International Airport (specifically those that are currently in possession of Mexicana, entity that is going through the final stages of its bankruptcy procedure).

Another relevant factor is accrued to the fact that on 2014, two major air transport service providers³ concentrated 65% of the all commercials slots available in MEX. This has ultimately led to low availability and a growing prohibitive environment for the development of new operators. Furthermore, this concentration affected the efficiency of MEX which ultimately lead to having more than 115 thousand flights operating out of schedule, leading to additional operative expenses for carriers.

Finally, since 2005 the SCT has issued several statements in which they inform that MEX has been facing a constant saturation, which has dangerously led to having more operations than those authorized (within a time laps corresponding from 0700 to 2259) as per the maximum capacity of the airport.

Resolution of the COFECE.

COFECE has concluded through the MEX Report, the existence of elements that suggest that there are currently no effective competition conditions with regards to the use of airport services within MEX, specifically with regards to slots assignments.

Recommendations provided by the COFECE.

As a consequence of the MEX Report, the COFECE has issued a set of recommendations deemed to guarantee more efficient operations within MEX as well as to procure competitive access to slots. Said recommendations can be narrowed down to the following:

- a) Increase transparency of the internal procedure implemented by MEX;

3.- Aeromexico and Delta Airlines.

- b) Elaborate additional mechanisms to control and monitor the adequate use of slots; and
- c) Elaborate general guidelines with requirements and requisites to assign, renovate and revoke assigned slots.

“COFECE has concluded through the MEX Report, the existence of elements that suggest that there are currently no effective competition conditions with regards to the use of airport services within MEX, specifically with regards to slots assignments.”

Moreover, the COFECE stated that in order to secure the application of this recommendations MEX should constitute an independent technical organ in charge of overseeing all slots assignments performed by MEX.

“As a consequence of the MEX Report, the COFECE has issued a set of recommendations deemed to guarantee more efficient operations within MEX as well as to procure competitive access to slots.”

Conclusion.

In conclusion, I believe that the MEX Report must be deemed as an important wakeup call for the aviation industry in Mexico as a whole. It is of the essence for Mexico to adopt and comply with international guidelines in all aspects of the industry, and in particular to this case, with the Worldwide Slot Guidelines (WSG) issued by IATA⁴

Lack of competition in this specific market has led to high concentration of certain entities, which directly affects the market by hindering the entrance of new competitors and the development of new routes which directly detriment users who face high costs and lack of innovation.

Finally, I believe that the recommendations issued by the COFECE, specifically those regarding transparency of slot assignment procedures will enrich the credibility of the market which consequently will assure its wholesome development.

4.- <https://www.iata.org/policy/infrastructure/slots/Pages/slot-guidelines.aspx>

Plaintiff Can Use Facebook to Notify Ex-Wife of Lawsuit.

As ubiquitous as Facebook is, federal judges are leery of letting a social network substitute for a mailman when it comes to serving court papers to defendants. A ruling this week in a federal court in New York City is perhaps a sign that the day may not be far away. The lawsuit was filed by an Italian man, Giovanni Ferrarese, who alleges his ex-wife absconded with their 10-year-old daughter, of whom they had joint custody. www.mobile.blogs.wsj.com 16/02/2016.

Mariano-Florentino Cuéllar, the potential Supreme Court nominee who would be the first Mexican-American justice.

As a kid in Matamoros, Mexico, a struggling border, Cuéllar and his younger brother would cross the border on foot and go to their respective schools in Texas. Later that day, they'd make the same trip in reverse. Now Cuéllar, 43, is a justice on California's state supreme court, where he's working to help immigrants like himself get access to justice. After the death of U.S. Supreme Court Justice Antonin Scalia last week, Cuéllar's name has popped up among the shortlist of potential nominees that President Obama might choose to replace him. He would be the first Mexican on the Court and the first immigrant in more than 50 years. www.fusion.net 22/02/16.

David Cameron: EU referendum is the 'people's choice'.

PM says UK can have best of both worlds if it stays in EU but that citizens, not politicians, will decide UK's future. David Cameron shrugged off critics from within Conservative ranks who say the UK should leave the European Union, arguing the decision would not be made by politicians but was the "people's choice". The prime minister said hi-tech companies such as GE Aviation, which services, reconditions and overhauls civilian jet engines in south Wales, were attracted to the area because of the "fantastic workforce" and because the UK is a "great economic powerhouse". But he said: "They also come because we are part of the European Union. If you base yourself here you know you have that access through the European Union for your goods and services.". www.theguardian.com 26/02/2016.

Pemex biggest loss in history.

Pemex is suffering the biggest loss in history. During 2015. The mexican company had lost 30,000 million due to the impact of falling oil prices, the decline in production and the depreciation of the peso. The Mexican company is trying to compensate with a economic cutout of 100,000 million pesos. Pemex is about to collapse because the loss has a debt of 87,000 million and liabilities of 190,000 million. The Mexican government is trying to do something and just depose the director general of Pemex to replace it by economist Antonio González Anaya. This man carried out an adjustment program fully supported by the Mexican government. El Pais. 29/02/2016.

After 14 years of fighting, Argentina reached an agreement with the holdouts.

The mediator between the two sides is Daniel A. Pollack, who announced the pact between the government of Argentina and Paul E. Singer. Now what follows is to get Congress and Senate for give its support to approve this agreement. The agreement made in New York for three months expiring on April 14. This is a big step in the judicial process that has taken place so long. Some people reject this agreement but said that Mauricio Macri in effect get the votes as it has very pressured governors.. El Pais. 29/02/2016.

CONTRIBUTORS

JUAN MANUEL ESTRADA

Attorney at Law: Admitted to practice law in 2011. Mr. Juan Manuel Estrada Sánchez of Mexican nationality obtained his law degree at the Universidad Panamericana, Guadalajara, he has post-graduate studies in Commercial Law by Universidad Panamericana, Mexico City, and he currently attends master degree studies in Government and Public Policies, by Universidad Panamericana, Mexico City, he attended studies in History and Political Science in University of Notre Dame, in South Bend Indiana and is currently Assistant Professor of the "Aviation Law Seminar" imparted by Universidad Panamericana, Mexico City.

PRACTICE AREAS: Aviation Law, Aircraft Contract Law, Industrial Property and Corporate Law.
LANGUAGES: Spanish, English and French.

e-mail: jestrada@asyv.com



Prol. Reforma No. 1190 25th Floor,
Santa Fe México D.F. 05349
t. (52.55) 52.92.78.14
f. (52.55) 52.92.78.06
www.asyv.com / www.asyv.aero

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