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Discussion topic.

**Commercial arrangements and concentrations.**

**Thresholds for filing and legal obligations.**

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1. On November 2014 the Federal Commission on Economic Competition (“Cofece”) issued an “Opinion” regarding strategic alliances among airlines.  
(Ref. Acuerdo No. CFCE-275-2014 at <http://www.cofece.mx:8080/cfresoluciones/docs/Mercados%20Regulados/V5/12/1861454.pdf>).
2. Usually a concentration has been regarded to take place whenever there is an accumulation of assets or capital. This interpretation is consistent with the stated monetary thresholds whereby a measurement of accumulated assets or stock has to be made (Ref. Federal Law of Economic Competition, LFCE, article 86).
3. Yet based on the definition of concentration provided by the LFCE Cofece in its Opinion considers that a commercial arrangement could too give rise to a concentration:  
  
“Pursuant to article 61 of LFCE “[...] **it is understood as a concentration** a merger, control acquisition **or any act whereby get united** firms, associations, shares, social parts, trusts or assets in general as carried out among competitors, suppliers, customers or any other economic agents” ... Under this view an alliance between national and foreign airlines could qualify as a concentration if it implies a combination or joint use of assets or resources according to the referred to definition. (P. 2).
4. Later on Cofece concludes in its Opinion that:
  - a) An alliance between airlines –based on its nature and particular characteristics- it is a concentration if it fulfills conditions stated in LFCE’s article 61;
  - b) Such concentration should be filed before the Commission regardless the thresholds referred to in sections I to III of LFCE’s article 86 ... (p. 3).
5. TWO QUESTIONS YET TO BE ANSWERED.
  - i. **How should monetary thresholds for filing be measured whenever there is a commercial arrangement not involving accumulation of assets or capital stock?**
  - ii. **What is the legal support that obliges to file a concentration if it does not exceed the stated monetary thresholds?**