

## The Supreme Court of Justice invalidated the Law for Advertising Contracting

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On June 8, 2023, in plenary session the Supreme Court of Justice ("SCJN") resolved the constitutional controversy 94/2021, filed by the Federal Economic Competition Commission and the constitutional controversy 93/2021, filed by the Federal Telecommunications Institute, both of them claiming the invalidity of the Decree enacting the Law for the Transparency, Prevention and Combat of Improper Practices in Advertising Contracting, published in the Official Gazette of the Federation on June 3, 2021 (the "Decree").

By a qualified majority of 8 votes of its 11 members, the Plenum declared the invalidity of the Decree, determining that the Congress of the Union did not comply with the due legislative process in approving the law.

In general terms, the legislative procedure did not respect the right to participation of all parties, the deliberative procedure did not culminate with the correct application of the established voting rules; and the minutes that support the certainty and transparency of the sessions of the commissions that ruled on the initiative of the draft decree do not exist or were not exhibited or located.

The declaration of invalidity will take effect as of the notification to the Congress of the Union of the resolution points of the sentence. Additionally, the resolution must be published in the Federal Official Gazette.

The law declared invalid was originally intended to promote transparency in the advertising market, as well as to prevent and combat commercial practices that were considered improper. However, as argued by the authorities that filed the constitutional controversy, certain provisions of the law could have resulted in market distortion, as well as the generation of barriers to entry and effective competition.

In this declaration of invalidity, the SCJN does not rule on any of the substantive arguments made.

In order to analyze the effects that this resolution will have in the particular case of each company, we are at your disposal.

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