

COFECE-033-2016

## COFECE's Investigative Authority opens an investigation on the market of production, distribution and marketing of corn tortillas in the state of Jalisco

- *The Commission's Investigative Authority will determine whether absolute monopolistic practices exist.*
- *This investigation must not be understood as a prejudgment but as an action to verify compliance with the Law.*
- *If any economic agent is found responsible, it may be sanctioned with up to 10% of its turnover.*

**Mexico City, June 7<sup>th</sup>, 2016.** - The Mexican Federal Economic Competition Commission's (COFECE) Investigative Authority published today, in its website and in the Federal Official Gazette, the opening of an investigation by complaint, under file number DE-009-2016, for the possible existence of absolute monopolistic practices in the market of production, distribution and marketing of corn tortillas in the estate of Jalisco.

Absolute monopolistic practices are contracts, agreements or arrangements amongst competing Economic Agents, which have as their purpose or effect to manipulate prices, restrict or limit supply, allocate markets, agree or coordinate bids or the exchange of information with one of these purposes or effects.

Considering the time period in which the alleged conduct was executed, the investigation is based on article 9 of the Federal Economic Competition Law (FECL), published on December 24<sup>th</sup> 1992, as well as on article 53 of the current law, published on May 23<sup>rd</sup> 2014. This, in order to determine whether the conducts included therein were enacted.

The Investigative Authority specifies that the inquiry must not be understood as a prejudgment given that, until now, no action that could constitute an infringement of the FECL has been identified. Furthermore, until this moment, no individuals or undertakings have been determined as suspected offenders. Should the investigation reach such determination, those individuals or undertakings shall be awarded full procedural rights.

The Investigative Authority will have between 30 and 120 business day, starting March 16<sup>th</sup>, 2016 to conduct the inquiry. This period may be extended up to four times.

Pursuant to the FECL, the Investigative Authority is COFECE's body in charge of carrying out the investigation process for law infringement cases. To achieve this, the authority may require all the

necessary information and documents, perform compulsory interviews to those related to the case and, if need be, perform on-site inspections.

If no elements suggesting the existence of an anticompetitive practice are found by the time the investigation period concludes, the Investigative Authority can advise the Board of Commissioners to close the investigation. However, if elements indicating an infringement of the Law are found, suspected offenders shall be called to defend themselves in a trial-like procedure.

As provided by the Law, if an absolute monopolistic practice is proven, Economic Agents may be liable for economic sanctions, applicable also to those who might had helped, encouraged or prompted the enactment of the practice. Likewise, individuals who engage in the performance, ordering or execution of these agreements among competitors could face from 5 to 10 years in prison pursuant to the Federal Criminal Code.

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*The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. Through these, it contributes to consumer welfare and the efficient functioning of the markets. Through its work it seeks better conditions for consumers, greater output and better services and a “level playing field” for companies.*

