

COFECE Investigates Possible Unlawful Concentration in the Market for Distribution and Wholesale of Pharmaceutical Products

- *The Investigative Authority has evidence suggesting the existence of an unlawful concentration among companies in the market for the distribution and wholesale of pharmaceutical, personal care and beauty products.*
- *Unlawful concentrations obstruct, diminish, harm or impede competition by increasing an economic agent's substantial market power; they displace, impose barriers to market entry or impede free market access or access to other competitors' essential facilities, and/or facilitate that concentrating parties incur in monopolistic practices that harm consumers.*
- *Families allocate 2.7% of their quarterly expenses to the health sector.*

Mexico City, January 10, 2018.- Today, the Investigative Authority of the Federal Economic Competition Commission (COFECE or Commission) published in the Federal Official Gazette (DOF) and on its website the notice of the initiation of the investigation to determine the probable existence of an unlawful concentration in the market for the national distribution and wholesale of pharmaceutical, personal care and beauty products.

This probe, file number IO-001-2017, commenced ex-officio on June 27, 2017, as a result of evidence suggesting an unlawful transaction among companies, according to the Federal Economic Competition Law (FECL).

Unlawful concentrations have the purpose or effect of obstructing, diminishing, harming or impeding free market access and competition. These conducts may: i) confer or increase an economic agent's substantial market power; ii) displace other economic agents or impede third parties' access to the market and essential facilities, and/or iii) facilitate that concentrating parties engage in monopolistic practices.

COFECE may open an investigation for an unlawful concentration when: i) law mandates the notification of a transaction and parties fail to comply,¹ ii) the information provided for

¹ COFECE must be notified of concentrations among companies- mergers, acquisitions or joint ventures – when they meet the thresholds established in article 86 of the FECL.

the authorization is false or parties fail to comply with conditions set forth in the resolution, or iii) a year has not passed since its execution, despite not being required to notify COFECE of said transaction. In any of these cases, the Commission must have reasonable grounds or objective cause that the transaction may harm the competition process.

The investigation is carried out pursuant to articles 61, 62, 63 and 64 of the FECL, published in the DOF on May 23, 2014, given the timeframe in which the possible unlawful concentration was executed.

The investigation procedure should not be construed as a prejudgment of the responsibility of any economic agents, given that neither the infringements to the legal framework have been identified nor economic agents have been deemed responsible. In case alleged responsibility is determined at the end of the investigation, the economic agents will have the opportunity to offer their defense.

If a concentration is determined unlawful, COFECE's Board of Commissioners may impose the following sanctions: order the correction or suppression of the unlawful practice; order partial or total divestiture; the termination of control or suppression of the acts thereof and a fine with up to 8% of the economic agent's income. Directors that participated directly or indirectly in the unlawful concentration will be ineligible to act on behalf of the economic agents for up to five years and will be fined with up to 200 thousand UMAs "Units of Measure and Update" (one UMA is equivalent to 80.60 pesos), among other sanctions.

Initiation decision extract: [IO-001-2017](#).

See the infographic on [unlawful concentrations \(in Spanish\)](#)

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The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. Through this, 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.