

COFECE has launched an investigation for possible absolute monopolistic practices in the tortilla market in the Mexican state of San Luis Potosi

- *There are signs of collusion in the production, distribution and commercialization of this food product.*
- *The market is of great relevance since Mexican families spend 6.5% of their food budget on the consumption of tortillas.*

Mexico City, March 1, 2017.- The Federal Economic Competition Commission's Investigative Authority announce the opening of an investigation for possible absolute monopolistic practices in the market for the production, distribution and commercialization of corn tortillas in the Mexican state of San Luis Potosi.

Absolute monopolistic practices consist of contracts, agreements, arrangements or combinations amongst competing Economic Agents, which have as their purpose or effect to fix prices, restrict supply, allocate markets, rig bids and exchange information with one of these purposes or effects.

In the initiation's decision extract, published in COFECE's website and in the Federal Official Gazette, the Investigative Authority indicated that, arising from a complaint filed by the Federal Consumer Protection Agency (PROFECO), there is evidence of absolute monopolistic practices in the market for the production, distribution and commercialization of corn tortillas in the state of San Luis Potosí. Therefore, the Investigative Authority decided to initiate an investigation under file DE-001-2017.

Corn tortillas are part of Mexican families' *basic basket of goods*. On average, households spend 2,872 pesos per year on corn tortillas, which accounts for 6.5% of their food expenditure, and for those at the lowest income level, this percentage rises up to 8.5%.¹

In this regard, the Head of COFECE's Investigative Authority, Carlos Mena Labarthe, said: "There is evidence to believe that the price of tortilla was manipulated, therefore, this market is under investigation. Additionally, we are in constant communication with PROFECO."

This investigation must not be understood as a prejudgment given that, until now, no action that could constitute an infringement of the Federal Economic Competition Law (FECL) has been identified, but as an action by the authority to verify compliance with the Law. This investigation is carried out based on Article 53 of the FECL, published on May 23, 2014. The Investigative Authority

¹ According to data from National Survey of Household Income and Expenditure, 2014

will have between 30 and 120 business days to conduct the investigation; this period may be extended for up to four additional periods.

COFECE's Investigative Authority has the powers to carry out investigations for suspected infringements, for which it may require the necessary information and documents, perform compulsory interviews to those related to the case and, if needed, perform on-site inspections.

If elements indicating a Law infringement are found, suspected offenders shall be called to defend themselves in a trial-like procedure. The Board of Commissioners will make a final decision in accordance with the Law.

If an absolute monopolistic practice is proven, Economic Agents could be sanctioned in the following terms: the order to suspend the conduct, disqualification of directors of a company for up to 5 years, and fines up to the equivalent of 200 thousand UMAs "Units of Measure and Update" (one UMA is equivalent to 73.04 pesos) for anyone who directly or indirectly participates in any monopolistic practice.

COFECE could also impose a fine equivalent up to 10% of the economic agents responsible for committing an absolute monopolistic practice's annual income; and up to 180 thousand UMAs for anyone who contributes, induces or participates in these practices.

With respect to criminal liability, individuals who order or participate in such agreements between competitors could be punished with 5 to 10 years of prison.

What is an absolute monopolistic practice?

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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.