

COFECE has launched an investigation for possible absolute monopolistic practices in the market of toothbrushes purchased by the health sector

- *Collusion in the health sector is very serious, as the goods purchased by this sector directly affect services provided by the State, funded by public resources.*
- *This investigation must not be understood as a prejudgment, but as an action by the authority to verify compliance with the Federal Economic Competition Law (FECL).*

Mexico City, March 21, 2017.- The Investigative Authority of the Federal Economic Competition Commission (COFECE) published today, on its website and in the Federal Official Gazette, the opening of an investigation, under file IO-005-2016, for possible absolute monopolistic practices in the market of the production, distribution and commercialization of toothbrushes purchased by the health sector in national territory.

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.

Considering the period in which the alleged conduct took place, this investigation is carried out in accordance with the provisions established on article 9 of the former Federal Economic Competition Law (FECL) published in the Federal Official Gazette on December 24, 1992; and in accordance to article 53 of the new FECL published on May 23, 2014.

In the initiation of the investigation extract, the Investigative Authority stated that there is an objective cause that indicates the commission of absolute monopolistic practices in the referred market. However, this investigation should not be understood as a prejudgment the responsibility of any economic agent, but as an act of the authority to verify compliance with the law.

In this regard, the Head of COFECE's Investigative Authority, Carlos Mena Labarthe, said: "Public tenders must ensure the best value for money. Bid rigging in the health sector is very serious, as resources are used in favor of a few businesses to the detriment of the population, that will have fewer resources for health services. Thus, for the Commission, it is a priority to investigate collusion in public tenders, particularly in this sector". In 2017, the federal public budget allocated for the

purchase of pharmaceutical and laboratory products amounted almost 5.7 thousand million Mexican pesos.

COFECE's Investigative Authority is responsible for conducting the investigation stage in cases of probable violations to the LFCE, and carry out the 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 evidence of infringements to the law 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: a fine equivalent up to 10% of the economic agents' annual income, 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) to anyone who directly or indirectly participates in any monopolistic practice. COFECE could also impose a fine of 180 thousand UMAs to 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.