

COFECE-051-2017

COFECE Sanctions Three Individuals for Participating in Absolute Monopolistic Practices in the Market for Corn *Tortillas* in the state of Jalisco

- *Leaders of dough and tortilla industrial associations in the state of Jalisco agreed to fix the prices of tortillas between 9 and 14 pesos per kilogram.*
- *The agreement to fix, increase or manipulate the prices was promoted by the head of the state's Secretariat for Rural Development, whom was also fined.*
- *The damage is estimated at over 52.627 million pesos, caused by a generalized increase in the price of tortillas, resulting from the public announcement of the illegal agreement.*

Mexico City, November 12, 2017.- The Federal Economic Competition Commission's (COFECE) Board of Commissioners determined that Arturo Javier Solano Andalón and Morayma Preza Espinoza, businesspeople and dough and *tortilla* industry leaders, participated in an absolute monopolistic practice in the market for the production, distribution and commercialization of corn *tortillas* in the state of Jalisco; which was promoted, induced and included the collaboration of Héctor Padilla Gutiérrez, whom participated and promoted the *Agreement* as Secretary of Rural Development in this entity.

Reasons for which they were fined:

Tortillas are a fundamental staple for families in Mexico. It is the second most important product of the basic basket in this country in terms of its share of the National Consumer Price Index (INPC), after beef. In the case of lower income households, a greater proportion of their resources are allocated to consumer goods, such as *tortillas*.

On February 8, 2016, in a context of a depreciating peso against the dollar, diverse communication media in the city of Guadalajara reported that Javier Solano, *tortilla* businessperson and president of the Executive Committee for the United Dough and *Tortilla* Industrial Groups, informed of the increase of *tortilla* prices. "We will have to impact *tortilla* production costs."¹

¹ Available news reports available at: [Aumenta precio de la tortilla \(Increase of tortilla prices\), www.ntrguadalajara.com](http://www.ntrguadalajara.com), February 8, 2016. [Sube hasta 16 pesos el precio del kilo de tortilla en Jalisco \(The Price per kilogram of tortillas increases to 16 pesos\), www.notisistema.com](http://www.notisistema.com), February 8, 2016.

On February 11, 2017, in light of these declarations, the Secretary for Rural Development (SEDER) in Jalisco's state government, Héctor Padilla, met with Javier Solano, Morayma Preza, President of the Board of Directors of the Industrial Association, in which he promoted the formalization of an agreement to fix the retail price range from 9 to 14 pesos per kilogram of *tortilla*, which was made known that day in a press conference convened by the head of SEDER.

Based on Javier Solano's statements, on February 29, 2016, the Secretary of Economy filed a complaint before COFECE (file DE-009-2016) against said economic agent, for the alleged commission of absolute monopolistic practices.

The dissemination of the *Agreement* in diverse means of communication resulted in the generalized increase of *tortilla* prices in the city of Guadalajara, from 11.80 to 12.70; an average increase of 7.63%. According to the information published by the National Institute of Statistics and Geography (INEGI), between the first and second half of February 2016, the price of *tortillas*, registered by the National Consumer Price Index (INPC) was at an all-time high, regarding the observed in Monterrey (0.05%), Mexico City (0.39%) and nationally (0.40%).

The Commission concluded that the increase in *tortilla* prices in Guadalajara's Metropolitan Area (ZMG) directly affected consumers, whom paid a 22-cent premium per kilogram, as a result of the conduct.² Therefore the estimated damage to the market was more than 52.627 million pesos, which is obtained by multiplying the extra charge by the average consumption of *tortillas* per family in the city of Guadalajara, between February 2016 and February 2017, when the investigation was completed.³

According to the rule of law, authorities must observe the Law. Héctor Padilla acted outside the scope of his powers, since SEDER is not authorized to manipulate prices, by setting price ranges, either unilaterally or in collaboration with individuals or authorities.

Consequently, the Board of Commissioners fined the participants of the illegal *Agreement* a total of 394 thousand 508 pesos, which was calculated in accordance with the economic capacity of each party, based on the income reported to the Mexican Tax Administration Service (SAT). Additionally, the Board of Commissioners ordered that the resolution be

² The premium is below the *tortilla* price increases, per kilogram, observed (ninety cents in February two thousand sixteen), in view of the total price increase could also be due to other effects in the market for corn *tortillas* in the ZMG. In this sense, the 22 cents isolate the effect of this practice.

³ The estimated total consumption of *tortillas* in the ZMG results from multiplying the average daily consumption of *tortillas* per person in the ZMG by the duration of the practice (370 days).

reported to the Comptroller of the state of Jalisco as well as the heads and internal government bodies of the Secretary of Economy and the Office of the Federal Prosecutor for the Consumer (PROFECO), to ensure compliance.

COFECE reiterates that the retail price in any market should be determined by the economic agent, considering their cost structures and expected profits as well as the impact that decision could have on their position in the market. Likewise, price should be an individual and independent decision taken by each economic agent, regardless of relevant macroeconomic variables such as the depreciation of local currency.

Once the matter has been resolved and the parts are notified, the Law establishes that the sanctioned economic agents have the right to go before the Federal Judiciary Authority to review the legality of COFECE's actions.

[See: 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, COFECE contributes to consumer welfare and 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.