

COFECE-08-2017

COFECE lodges criminal complaint against several individuals who allegedly colluded to sell goods to the health sector

- *This is the first time that COFECE uses this power for antitrust infringements set forth in the Federal Criminal Code and in the Federal Economic Competition Law*

Mexico City, February 15, 2017.- Today, the Federal Economic Competition Commission's investigative Authority (COFECE or Commission) lodged a complaint before the Office of the Attorney-General (PGR for its acronym in Spanish) against several individuals, who according to COFECE's investigations, engaged in absolute monopolistic practices, unlawful conduct under articles 254 bis of the Federal Criminal Code and 53 of the Federal Economic Competition Law (FECL).

This is the first time that COFECE, through its Investigative Authority, exercises this power set forth in article 77 of the Competition Law.

The Investigative Authority has evidence on the coordination between bidders in public tenders called by the health sector between 2009 and 2015 on which fiscal resources for more than 1,200 million Mexican pesos were allocated. Therefore, affecting several procuring entities.

Absolute monopolistic practices impose significant harm on consumer's welfare and have pernicious effects on the efficient functioning of markets; as these conducts raise prices and restrict supply the economic growth is affected. For this reason, the Mexican law imposes criminal penalties of up to ten years in prison for these types of conduct.

Collusion in the health sector is particularly serious since the goods purchased by this sector with public resources, directly affect the services provided by the State to the population.

The Office of the Federal Public Prosecutor will continue with the investigations initiated by COFECE's Investigative Authority, whose findings are established in the Statement of Probable Responsibility issued by this Authority, to prosecute those who committed the offense or participated in it.

In parallel and in line with its mandate, COFECE has an ongoing administrative process against the companies and individuals that were notified of a Statement of Probable

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Responsibility. In accordance with due process, those who allegedly participated in this cartel have the right to argue in their favor and submit evidence related to the allegations presented against them. COFECE's Board of Commissioners shall issue a resolution, once all defense arguments are heard, evidence is analyzed and allegations are brought forth, and if applicable, shall impose the appropriate administrative sanctions, that may be up to 10% of the economic agent's annual turnover and disqualification of the director of a company for up to 5 years.

Carlos Mena Labarthe, Head of the Investigative Authority, explained *“this unit will not hesitate to request the exercise of criminal action against competitors who coordinate to manipulate prices or coordinate bids in public tenders, at the expense of consumer welfare.”* He added that the request filed today is the first of several that are in process.

COFECE calls on economic agents who are participating or have participated in absolute monopolistic practices to report the conduct themselves to the Investigative Authority and apply to COFECE's Immunity Program to avoid prison.

[For more information on absolute monopolistic practices
COFECE's Immunity Program](#)

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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 markets. Through its work, COFECE seeks better conditions for consumers, greater output, better services and a “level playing field” for businesses.