

COFECE probes possible collusion in the acquisition of services for the renewal and maintenance of technology and systems used in national highway infrastructure

- *This investigation must not be understood as a prejudgment, but as an action by the authority to verify compliance with the Federal Law on Economic Competition.*
- *Investigations of possible collusive agreements in public procurement are a priority for COFECE, as the acquisition of services at higher prices than under competitive conditions affects the efficiency of public expenditure.*

Mexico City, April 3, 2019.- Today, the Federal Economic Competition Commission's (COFECE or Commission) Investigative Authority published in the Federal Official Gazette (DOF) and on its website, the extract of the ex-officio decision to initiate an investigation for the possible commission of absolute monopolistic practices (collusive agreements or horizontal restraints) in the market relative to **acquisition procedures related to the renewal and maintenance of technology and systems used in the infrastructure of national highways**. This technology is used in toll systems, the entrance and capacity of tollbooths, and in general, allows for the connectivity and operation of national highways.

Absolute monopolistic practices consist of contracts, agreements, arrangements or combinations amongst competing economic agents, which have as their purpose or effect to manipulate prices, restrict or limit supply or demand, allocate markets, bid rigging as well as the exchange information with one of these purposes or effects.

The investigation of possible collusion in public procurement is a priority for COFECE as said conduct results more costly services regarding those acquired under competitive conditions, which negatively impacts efficiency in public spending. Regarding the investigated market, it is noteworthy that, according to global competitive indices,¹ Mexico holds the seventh place, globally, regarding road connectivity. However, concerning highway infrastructure quality, Mexico ranked 40 places below. The probe is focused on this aspect, when referring to the renewal and maintenance of the technology used on highways.

¹ World Economic Forum, *The Global Competitiveness Report 2018*, available at: www.weforum.org/gcr



The investigation filed under IO-003-2018 should not be understood as a prejudgment of any economic agent considering that violations to the Federal Economic Competition Law have not been determined, nor have any individuals or undertakings been considered as offenders.

The timeframe for this investigation is 120 business days, from September 28, 2018 which is the day the investigation was initiated. The term may be extended up to four additional periods.

Should the investigation end without evidence that confirms the execution of anticompetitive conducts, COFECE's Board of Commissioners may close the investigation. In the case that evidentiary elements that point to the infringement of the Law are found, those responsible will be called to a trial-like procedure, at which they may present their defense.

In accordance with the Federal Law on Economic Competition (FLEC), in the event an absolute monopolistic practice is confirmed, the economic agent(s) responsible may be fined with up to ten percent of their income. The individuals that contributed, facilitated or instigated the practices may also be fined. The individuals that participated in the order, execution or implementation of this type of agreements among competitors, may be sentenced to prison, as per the Federal Criminal Code, for up to 10 years.

Extract of initiation decision in Spanish: IO-003-2018

See in Spanish, what is an absolute monopolistic practice?

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The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. This contributes to people's well-being and the efficient functioning of markets. With its work, COFECE seeks better conditions for consumers, more services of higher quality and a "level playing field" for companies.



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