

## COFECE sanctions toothbrush suppliers for bid rigging in public health sector tenders

- *The sanctioned companies coordinated and rigged bids in public tenders, or abstained from participating, to divide amongst them the market of toothbrushes for adults and infants procured by the health sector*
- *The agreement resulted in over-priced contracts and damages to the public pursued estimated at 4 million 169 thousand Mexican pesos.*
- *The companies Productos Galeno, Dentilab, Holiday de México and five natural persons were fined a total 18 million 93 thousand 862 Mexican pesos.*

**Mexico City, June 13, 2019.-** The Board of Commissioners of the Federal Economic Competition Commission (COFECE or Commission) found that the companies *Productos Galeno, S. de R.L., (Galeno); Dentilab, S.A. de C.V. (Dentilab), and Holiday de México, S.A. de C.V. (Holiday)* and five natural persons acting in their representation, carried out absolute monopolistic practices, also known as collusive agreements or cartel conducts in the market for the production, distribution and supply of toothbrushes to the health sector on Mexican territory.

The Commission substantiated in file IO-005-2016 that the sanctioned economic agents agreed to establish, coordinate and fix bids in the probed public tender proceedings, as well as abstaining from participating in tenders, with the purpose of allocating the market for toothbrushes for adults and infants.

Cartel conducts were committed from 2007 to 2013, in 68 public health sector tenders and in direct contracts, mainly the Mexican Social Security Institute (IMSS as per its initials in Spanish), the Institute for Social Security and Services for State Workers (ISSSTE as per its initials in Spanish) and the Health Ministry.

Companies coordinated their bids via the discussion of prices and/or discounts to be presented in public tenders, with the purpose of dividing the market amongst them which occurred through meetings, phone calls and e-mails. Similarly, they designed a system of



comparative matrixes to verify compliance of prices offered and the agreed market participation.

Parties to the agreement decided to cap *Grupo Holy's participation*, through *Productos Galeno* and *Holiday*, at a maximum of 20% and cap *Dentilab's participation* at 80%, which would later be adjusted to 30% and 70% respectively. When the agreed percentages were altered due to the participation of third parties not involved in the collusive agreement, the companies would compensate in subsequent tender proceedings.

Besides affecting the process of competition and free market access, these conducts undermined the public treasury, as they implied the payment of overpriced products, causing damages estimated at 4 million 169 thousand Mexican pesos. Similarly, these conducts prevented the purchase of inputs under the best possible conditions of price and quality, reducing the institution's capacity to implement public health policies.

Accordingly, COFECE's Board of Commissioners fined the participants – *Productos Galeno*, *Dentilab*, *Holiday de México* and five natural persons acting on their behalf – with a total of 18 million 93 thousand 826 Mexican pesos, amount determined considering the economic capacity of the sanctioned agents, as it is set forth in the Federal Economic Competition Law.

As the infringement is a matter of public tenders, the public version of the ruling was notified to the Ministry of Public Administration, for all legal purposes.

Once the parties have been notified, the sanctioned economic agents have the right to appeal before the Federal Judiciary for the review the legality of the Commission's actions via an indirect *amparo*.

Read more:

[What is a cartel conduct? \(in Spanish\)](#)

[A Competition Agenda towards Integrity in Public Procurement](#)

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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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