

COFECE finds evidence of anticompetitive practices in two markets

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Mexico's competition watchdog has found evidence of anticompetitive practices in the market for medical latex products and the market for industrial oxygen, it said on 2 February.

Mexico's Federal Economic Competition Commission (COFECE) found evidence that five national latex producers, which supply the Mexican public health sector with medical latex products like condoms and probes, had colluded to fix prices and rig bids.

In the market for industrial oxygen, two industrial producers, Infra and Praxair, are accused of making agreements that prevent other companies accessing the market and establishing exclusivity provisions in contracts between the two company groups and their clients. Industrial oxygen is used with a fuel gas for cutting metal, welding, soldering and glass blowing.

The findings come after nearly two years of investigations: the latex product investigation was initiated in March 2014, while the industrial oxygen case was opened in May 2014.

The companies will now have the right to challenge the investigations' findings before COFECE's board of commissioners make a decision. The latex producers could be fined up to 10% of their revenue for cartel behaviour, while Infra and Praxair could be fined up to 8% of revenues.

Alejandra Palacios Prieto, chair of COFECE, says that "in both cases, our prosecutor has determined there are sufficient elements to suppose they have infringed the competition law".

She added that the cases would be heard in a type of trial procedure process, and after that, the board of commissioners would make a final decision on whether there was an infringement and the amount of any sanctions.

Lucia Ojeda Cardenas from SAI Law & Economics in Mexico City, who is representing one of the companies in the latex product case, says that COFECE had initiated more investigations in the health sector in recent years, including into bid rigging.

She adds, "There is more public awareness of such cases as they are sometimes investigated in cooperation with IMSS, the Mexican public sector institution that bids for healthcare products."

Fernando Carreño Nuñez de Alvarez from Von Wobeser y Sierra in Mexico City, who is representing Infra group in the oxygen case, says that heavy investments are required to provide industrial gas services. He notes that without exclusivity agreements, it would be practically impossible for any company to participate in the industry.

He adds that exclusivity agreements benefit the consumer, as "the companies can then afford to make initial investments and the client only pays for the gas. Otherwise the client would have to pay for the initial investment as well as the service".

Infra and Praxair did not respond to requests for comment.

Medical latex products

SAI Law & Economics

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Industrial oxygen market

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Comments

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