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Misleading concept of Boycott by the Competition Commission

Discussion topic

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This Note is personal. It does not necessarily reflect VA&BA position.

0. This Note points out that the Federal Competition Commission (CFC) considers erroneously the concept of Boycott as an agreement among competitors.
1. The CFC has published in its web site a “brochure” illustrating the different types of businesses practices that could be sanctioned as Relative Monopolistic Practices, i. e., vertical arrangements. Ref:
<http://www.cfc.gob.mx/images/stories/Publicaciones/CuadernosCompetencia/3practicmonorelativas.pdf>
2. In page 8 the following paragraph shows up:

*“Boycott (exert pressure **among various competitors** against other economic agent).*
3. A boycott practice could be investigated by CFC if, say, an economic agent with substantial market power as supplier, somehow imposes an arrangement with independent distributors, to exert pressure either on a competitor supplier and/or other distributors to achieve some commercial results. This pursuant to LFCE’s article 10, VI:

Article 10. If existence of any of the circumstances provided for in articles 11, 12 and 13, hereof is evidenced, the acts, contracts, agreements, procedures or combinations the purpose or effect of which is or may be to unduly displace other agents from, or substantially preclude their access to, the market, or to create exclusive advantages in favor of one or several persons are considered to be relative monopolistic practices in the following cases:

...

- VI. Any concert between or invitation to several economic agents with a view to exerting pressure upon an economic agent or in order not to sell, market to or acquire goods or services to or from said economic agent in order to dissuade him from any specific course of conduct or to apply reprisals or force him to act in a specific manner;

4. In contrast if the abovementioned agreement takes place **among competitors**, the practice should be investigated as a collusive (i.e., horizontal) arrangement, pursuant to LFCE's article 9:

Article 9. A contract, agreement, arrangement or combination between economic agents which compete with each other is an absolute monopolistic practice when its purpose or effect is any of the following:

- I. To fix, increase, agree upon or manipulate the price at which goods or services are offered for sale or at which there is demand to purchase them in the market; or to exchange information for the same purpose or having the same effect;
- II. To establish the obligation not to produce, process, distribute, market or [to establish] the obligation to acquire only a restricted or limited amount of goods or the rendering or transaction of a restricted or limited number, volume or frequency of services;
- III. To divide, distribute, assign or impose portions or segments, whether of specific or specifiable clientele, suppliers, periods of time, or space(s), of an existing or potential market;
- IV. To establish, coordinate or agree upon bids, or to agree to refrain from participating in competitive bidding, auctions, licitations, or clearance sales.

[LFCE's English version, Ed. Themis, 2009]