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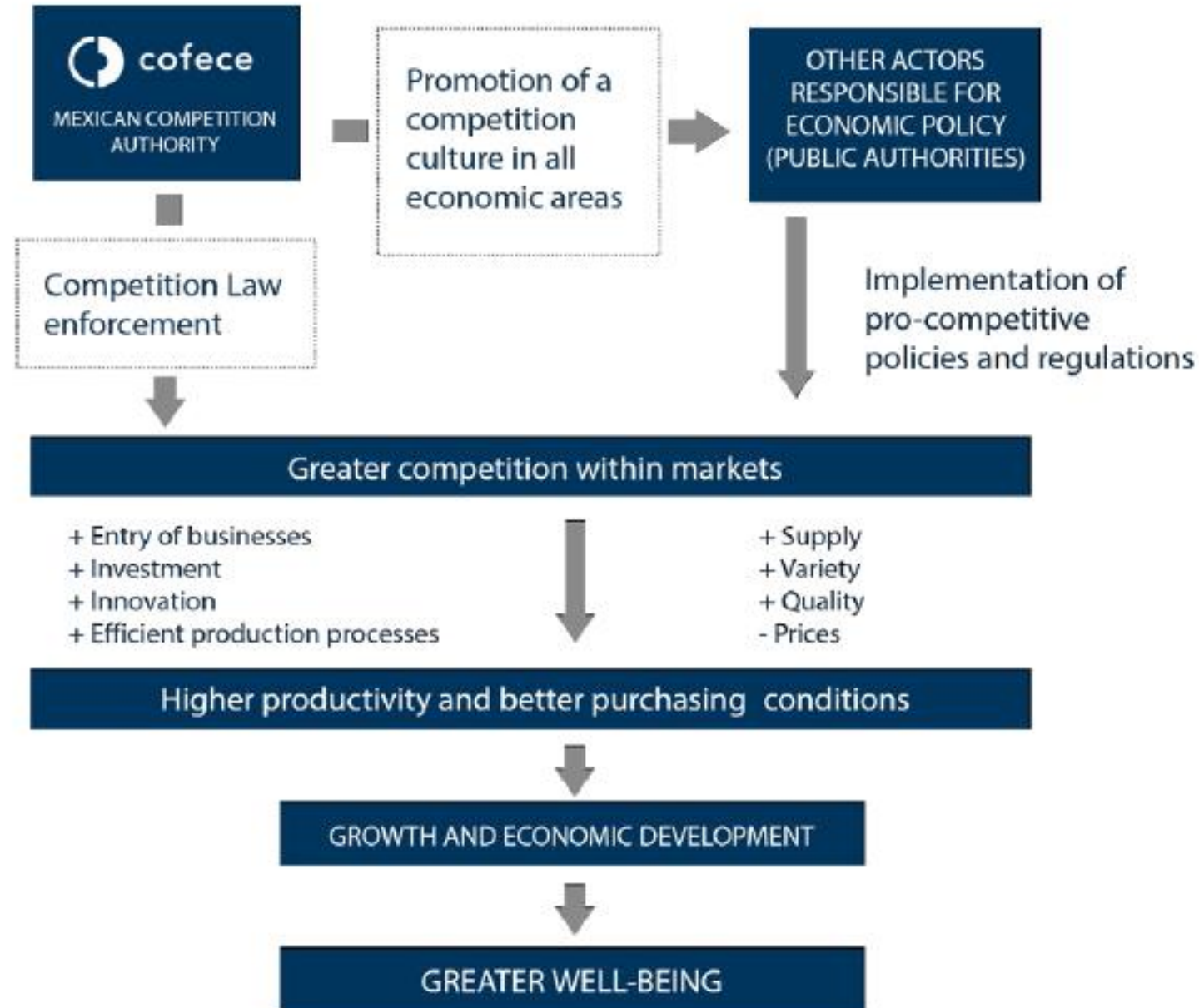
# BID RIGGING IN SOCIAL SECURITY PUBLIC TENDERS: THE IMSS' CASE

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María José Contreras de Velasco  
**Director of Collaboration with the  
Public and Academic Sectors**

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# How does COFECE boost competition and free market access?





## THE CASE

Between 2003 and 2006, four companies were involved in collusive agreements within public tender processes undertaken by the Mexican Institute of Social Security (IMSS).

Two medical materials:

- i) human insulin;
- ii) electrolyte and intravenous solutions (which include injectable water, sodium chloride, sodium chloride and glucose, glucose and Hartmann solution).

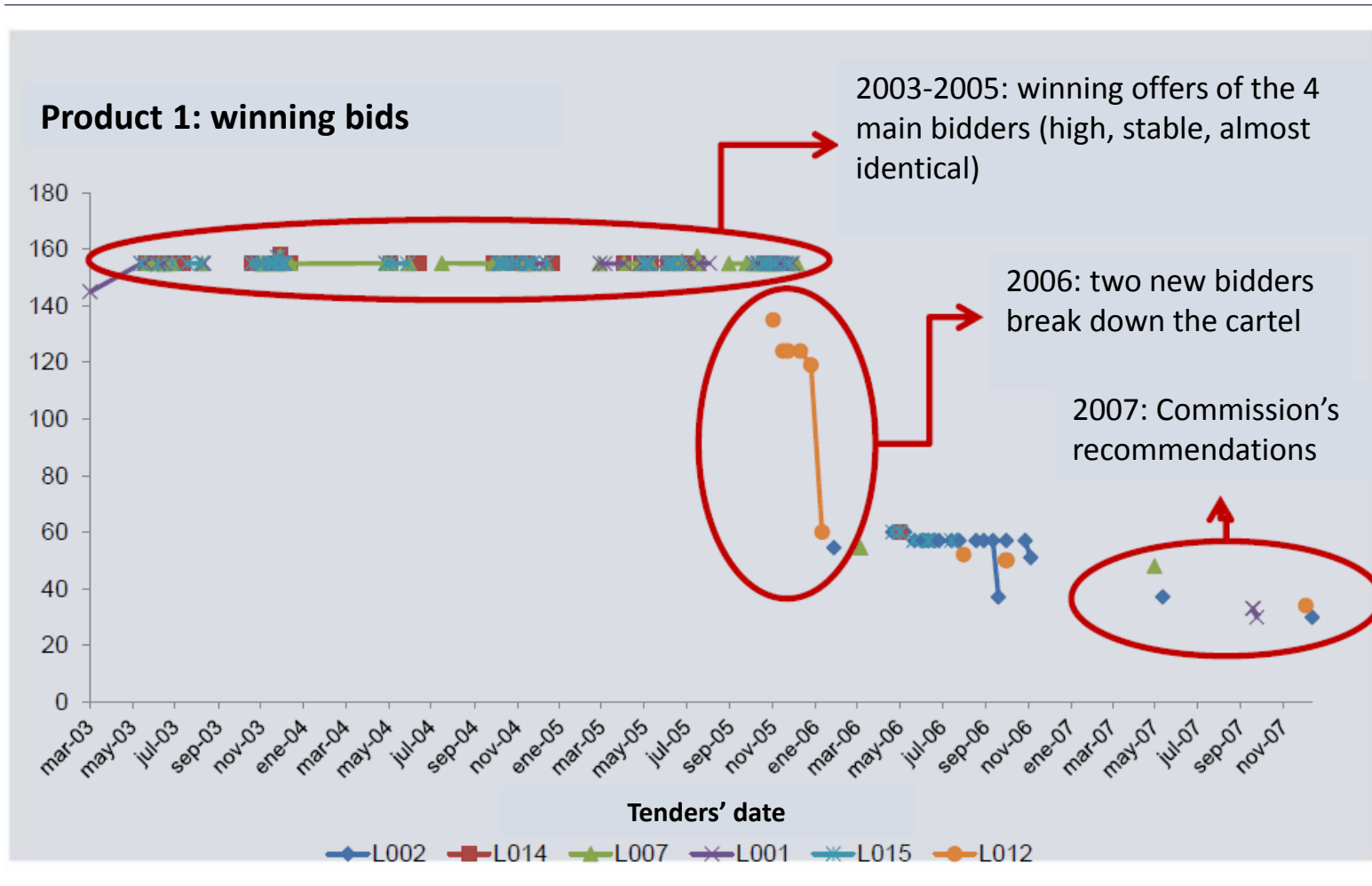
The companies took turns to periodically win the tenders conducted by the IMSS.

The companies were selling at artificially high prices in order to compensate for future lost bids, based on the assurance that their fellow participants would present higher offers.

# BID RIGGING IN SOCIAL SECURITY PUBLIC TENDERS



## THE CASE



1. "Análisis de Práctica Monopólica Absoluta: Colusión en licitaciones públicas de compra de medicamentos para el IMSS", p.4, COFECE, 2015. Análisis de caso disponible [aquí](#).
2. Análisis de caso, op. cit., p. 2
3. "Estimación de los beneficios obtenidos por la sanción de un cártel en licitaciones públicas del IMSS en México", p. 4, COFECE, 2015. Análisis ex-post disponible [aquí](#).
4. Análisis ex-post, op. cit., p. 27



# BID RIGGING IN SOCIAL SECURITY PUBLIC TENDERS



## THE MARKET

The IMSS is one of the largest buyers within the Mexican Government. In 2014 alone, it spent UDS 284 billion in medical material and supplies.

Certain market characteristics made the coordination between competitors possible:

- homogeneity of the tendered goods
- the tender calls' frequency
- the awarding of multiple contracts
- the decentralization of procurement
- the exchange of information among the companies involved



# BID RIGGING IN SOCIAL SECURITY PUBLIC TENDERS



## THE COMMISSION'S INVESTIGATION

Through economic analysis, the Commission found a stable price trend between 2003-2006, which consisted in almost identical, high bids. The only thing that changed in the processes was the winning company.

The analysis demonstrated that the statistical probability of the observed results happening without a collusive agreement, was almost zero.

The Commission also found phone records that showed an increase in communications between the pharmaceutical companies around the tenders' date.

In 2010, the Commission fined six pharmaceutical companies and eight individuals for a total sum of 151.7 million pesos.<sup>1</sup>

The Commission received the IMSS' full cooperation, granting full access to their databases and offering advise during the course of the investigation.

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## IMSS-COFECE COLLABORATION

Since 2006, the Commission and the IMSS have designed new mechanisms to promote competition in the Institute's tenders, therefore reducing the likelihood of recurrent collusive practices.

One of these is the implementation of the biggest consolidated purchasing process led by the IMSS. It involved a purchase of nearly 43 billion pesos and generated savings —for all the involved health institutions— of 3, 700 million pesos.

In 2014, an agreement was signed to reinforce collaboration mechanisms between these two institutions. The commitment entails the increase of information exchange and the promotion of training programmes on competition.



## THE SUPREME COURT'S DECISION

On April 8th 2015, the Mexican Supreme Court of Justice (SCJ) confirmed the legality of the ruling issued by the extinct Federal Competition Commission in 2010.

The SCJ's decision validates the investigation, which demonstrates that an anticompetitive practice took place.

Most importantly, it confirmed the legitimacy of economic analysis as indirect proof for detecting anticompetitive practices.

This constitutes an investigative tool of great value for the Competition Authority.

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## ¿WHY IS THIS IMPORTANT?

To estimate the damages caused by the practice to the IMSS, the COFECE undertook an ex-post evaluation.

The results suggest that:

- During the collusion period, the IMSS paid an average surcharge of 2.9% in its acquisition of intra-venous solutions and one of 57.6% for human insulin.
- This is equivalent to approximately USD 46.8 million (2014 prices).
- These resources would have served the IMSS to acquire, for example, 722 ambulances or 2, 168 incubators.

Since the IMSS case, many public authorities have approached the Commission and shown interest to collaborate in order to prevent and identify possible collusive agreements.

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**A BETTER MEXICO IS EVERYONE'S RESPONSIBILITY**

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