CADE - Administrative Council for Economic Defense of Brazil

07/08/2014 - CADE fines cartel in the market of generic medicines in BRL 4.2 million distributed by noodles on 08/07/2014 21:35

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The Administrative Council for Economic Defense - CADE condemned, on 6 August 2014, the pharmaceutical laboratory Merck to pay a fine of BRL 4.295 million for cartel formation to prevent the sales of generic medicines (Administrative Proceeding no. 08012.005928/2013-12).

Commissioner Alessandro Octaviani highlighted, in his vote review, that Merck united with the country's larger pharmaceutical laboratories aiming at preventing distributors of medicines to work with generic medicinal products. The agreement between competing labs could hamper the entrance of generic medicines in Brazil, harming the market and the consumers.

"The anticompetitive effects in practice are clear, since the no-entry or a delay in the entrance of the generic products in the market, even for a short period, would avoid the loss of profits by part of the companies, once these products presented a cheaper option and, possibly, better and more accessible to the population", he stated.

To Octaviani, Merck's participation in the meeting characterized the materialization of the infringement, since it shows the attempt to boycott the generic medicines' market.

The Commissioner argued that, during the meeting in which the adoption of the illicit conduct that would favor all those present was discussed, the company did not register any accordance to the decision made, what represents the acceptance, even if an implied one, of the agreed practice.

The understanding was followed by the other commissioners, resulting in the condemnation by the majority of the laboratory. The Reporting Commissioner of the case, former Commissioner Marcos Paulo Veríssimo, voted for the filing in 2013, when the judgment was suspended after a request of examination of Octaviani.

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