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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**LATIN AMERICAN COMPETITION FORUM**

**Session III - Competition Issues in the Groceries Sector: Focus on Conduct**

**-- Contribution from Uruguay --**

**23-24 September 2015, Montego Bay, Jamaica**

*The attached document from Uruguay is circulated to the Latin American Competition Forum FOR DISCUSSION under Session III at its forthcoming meeting to be held on 23-24 September 2015 in Jamaica.*

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# LATIN AMERICAN COMPETITION FORUM



23-24 September 2015 • Montego Bay • Jamaica

## Session III - Competition Issues in the Groceries Sector: Focus on Conduct

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### PRESENTATION OF CASE: MINIMUM RETAIL PRICE MAINTENANCE ON FROZEN FOOD

#### -- CONTRIBUTION FROM URUGUAY\* --

1. Under competition issues in food sales, this case arose out of an informal consultation received by Uruguay's Commission for the Promotion and Protection of Competition.
2. The consultation concerned retail price maintenance on frozen products. To avoid possible retaliation, the consultant did not raise a formal consultation or complaint.
3. On the basis of the information received, the Commission carried out a preparatory study on the conditions of competition in the frozen food market in Montevideo, with an emphasis on price formation.
4. Through a request for information from a number of market stakeholders, the study focused on ascertaining whether lists of retail prices were drawn up for retail outlets, whether such prices, which functioned as minimum prices, were mandatory, and whether pressure was brought to bear or penalties were imposed if such lists were not applied.
5. The results of the study prompted the Commission to open an *ex officio* investigation into the frozen food market to clarify possible unlawful conduct and identify the perpetrators.
6. The investigation also identified three types of stakeholders in the market concerned: wholesale distributors, supermarket chains and retail outlets.

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\* Comisión de Promoción y Defensa de la Competencia Uruguay [Uruguay's Commission for the Promotion and Protection of Competition].

7. A judicial inspection was carried out to collect information, accessing the computer records and e-mails of wholesale distributors and retail outlets and extracting and subsequently processing the respective data with the aid of a computer expert.

8. These preliminary enquiries provided strong evidence that mandatory price lists existed and that retail outlets were penalised if they failed to observe the minimum prices laid down.

9. It was found that wholesale distributors drew up mandatory lists of minimum retail prices, closely monitored retail outlets' compliance with them and imposed penalties by cutting off sales to non-compliant outlets.

10. It was also found that supermarket chains pressurised wholesale distributors to require retail outlets to comply with the minimum resale prices by threatening to stop buying from wholesalers that failed to do so.

11. The evidence showed that the vertical conduct of minimum resale price maintenance did exist, as did pressure to ensure that it was complied with and retaliation against non-compliant retailers.

12. The technical analyses concluded that none of the conduct witnessed was justified on the grounds of efficiency benefits to consumers.

13. In response, the Commission for the Promotion and Protection of Competition issued Resolution No. 80/014 of 19 August 2014, ordering:

- cessation of mandatory minimum retail price maintenance;
- cessation of the practice of requiring distributors of any product to engage in mandatory minimum retail price maintenance;
- the imposition of penalties on the five infringing companies, in some cases involving a fine and in others a warning due to mitigating and aggravating circumstances.

14. Two of the companies penalised filed an appeal against the Resolution, which was upheld both by the Commission and the higher authority, and an action for annulment is currently pending before the Uruguayan Administrative Court.