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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN SPAIN

-- 2014 --

16-18 June 2015

This report is submitted by Spain to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 16-18 June 2015.

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1. Changes to competition laws and policies, proposed or adopted

1.1 Summary of new legal provisions of competition law and related legislation

1. 2014 has been a year of consolidation for the newly created integrated multi- function Agency. Amidst the normal obstacles derived from the integration of three former sectorial regulators and the competition authority (integrating work forces subject to different labour rules, IT systems, different cultures, and so on) cartel prosecution has been kept the number one priority of the agency in relation to competition enforcement

1.2 Government proposals for new legislation

2. No new proposals were launched during 2014.

2. Enforcement of competition laws and policies

2.1 Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1 Summary of activities

3. Cartel prosecution remains the number one priority of the agency in relation to competition enforcement.

4. In this respect ex officio work has kept pace with more than 40 companies raided in 8 different dawn raids relating to our own proceedings plus 1 additional raid on behalf of the European Commission.

5. 9 cartels investigated in the previous year were solved during 2014 with fines amounting to 43 M€..

6. The uncertainty about the legality of the fines (on two issues: 10% limit plus total sales value) and a temporary effect due to the nature of the specific cases reaching the Board, reduced the amount of the fines. This has been clarified, nonetheless, in January 2015 thanks to the new jurisprudence issued by the Supreme Court. Greater legal security on fine setting together with a couple of landmark cartel cases in the first months of 2015 increased fines up to more than 200 M € in the first quarter of the year.

7. During 2014 the Board of the CNMC took 41 formal decisions. 26 were cases dismissed, 4 hard core cartels (2 of them thanks to the leniency program), 6 decisions on anti-competitive behaviour and 3 cases of abuse of dominant position. Total fines amounted to 56,5 M €.

2.1.2 Description of significant cases, including those with international implications

8. The principal antitrust cases were the following.

2.1.2.1 Cartels and other prohibited agreements.

- AENA Commercial services (S/0404/12). Self-drive car rental companies, authorised dealers at airports in several cities in Spain¹, they exchanged commercially sensitive information between April 1996 and September 2012 in collaboration with the public company in charge of airport management (AENA).

¹ A Coruña, Asturias, Alicante, Almería, Barcelona, Bilbao, El Hierro, Fuerteventura, Gran Canaria, Granada, Ibiza, Jerez de la Frontera, La Palma, Lanzarote, Madrid, Málaga, Menorca, Murcia, Palma de Mallorca, Pamplona, Santiago de Compostela, Reus, San Sebastián, Santander, Tenerife Norte, Tenerife Sur, Valencia, Valladolid, Vigo, Vitoria and Zaragoza

The fined public company sent monthly reports that contained invoicing, the number of contracts and the conditions of the self-drive car rental companies that operated in 31 airports in their network. This allowed the involved companies to have an accurate knowledge of market quotas, the number of disaggregated contracts, and the evolution of their competitors, which facilitated coordination, as uncertainty was eliminated. This exchange was considered a violation of the competition law and sanctioned with a fine totalling €3.1 million.

- Paper collection cartel (S/0430/12). The CNMC fined 13 companies dedicated to the recovery and commercialisation of paper and cardboard as well as a sectorial association for due to having acted in a concerted manner in paper and cardboard recovery markets in Spain since 2007.

The companies distributed activities and clients, agreed on prices and shared resources and sensitive commercial information. According to the resolution, the penalised companies fixed a single action strategy in the affected markets, with all of these practices collected in several action documents, which were signed by the associates of the penalised association.

In the case of the paper and cardboard recovery market, the agreements were focused on fixing non-competition agreements among associates, distributing clients and the services provided, and fixing prices.

Regarding the recovered paper and cardboard commercialisation market, the agreements meant that the companies jointly fixed prices, shared sensitive commercial information and agreed upon the supplied amounts.

The CNMC imposed fines that amounted to 3.83 million euros.

- Railway Bearing Bid Rigging (S/0453/12). The CNMC fined companies SCHAEFFLER, SKF and NSK, which are manufacturers of industrial bearings for railway vehicles, for constituting a cartel in the supply of these products (bid rigging) to Spanish railway operator Renfe, almost the exclusive buyer of this type of products.

The cartel was discovered thanks to the filing of a request for leniency. The companies had an agreement to fix prices and distribute the Spanish market for industrial bearings for railway vehicles, which affected the tenders called by Renfe in 2004, 2007 and 2011.

The cartel was organised and developed through meetings and telephone calls between the managers of the companies, which were carried out at the same time as the announcement of each tender. The managers contacted each other through meetings or by telephone, so as to agree on the offers to be submitted, fixing prices and distributing the mentioned tenders, at all times maintaining the allocation of supply of each reference of the product that historically had been supplied to Renfe by each of these companies.

The CNMC imposed fines that amounted to €4 million

- Pallet cartel (S/0428/12) In this case, the CNMC dismantled a cartel of 24 companies that operated in the Spanish EUR/EPAL-pallet market, as well as an association, imposing a 4.73 million-euro fine.

This cartel fixed the prices and commercial conditions of EUR/EPAL wooden pallets from 2005 to 2011.

The companies also exchanged disaggregated confidential information regarding the production and/or repair figures of the EUR/EPAL wooden pallets, from 1998 to 2011.

- Fire extinguishing equipment cartel (S/0445/12). The start of the investigation had its origin in the request for leniency submitted by one of the companies belonging to the cartel.

As a result of this information, an investigation was launched and in November 2012, inspections were carried out simultaneously at the headquarters of several companies related with this possible violation. This investigation resulted in the start of a disciplinary proceeding against the companies involved.

In its Resolution of 26 June 2014, the CNMC Commission considered proven the existence of a cartel agreement between January 2010 and January 2012 in the firefighting equipment sector. The cartel was started by three of the companies, which led it and pressured the rest of companies to join in by threatening them with being forced out of the market. In its Resolution, the CNMC Council applied an aggravating circumstance to these companies, which was taken into account when calculating the imposed fine.

The total amount of the fines was €1.8 million.

- Waste cartel (S/0429/12). In January 2015 the CNMC fined 43 urban waste management companies and two associations with 98.4 million euros, for the violation of article 1 of the Competition Protection Act regarding the waste management and urban sanitation sector.

The case concerned a national agreement for the distribution of the waste management and urban sanitation market. This agreement consisted of commitments to respect the respective clients; the distribution of new clients; the exchange of commercially sensitive information (clients, offers submitted to them, etc.); distribution of public tenders by means of the submission of joint offers or the non-concurrence of one part of the tender; use of sectorial associations to implement market distributions or coordinate actions; and collective recommendations issued by sectorial associations to persuade their associates to respect the overall market distribution agreement in the scope of their actions.

Large companies such as FCC, CESPA -FERROVIAL-, URBASER -ACS-, VALORIZA and SAICA were penalised with fines in the millions for distributing clients and public tenders among one another. Together, the fines imposed on the large companies of the sector exceeded €72 million, of a total of 98 million.

The penalised companies worked in different areas of the market: industrial waste management (hazardous and non-hazardous), paper and cardboard recovery, and urban sanitation (which includes the management of urban solid waste, street cleaning and water sanitation).

2.1.2.2 Vertical agreements

- Minimum contract periods (S/0422/12). CNMC fined TELEFONICA with a 25.7-million euro for the minimum contract commitments included in their telecommunications contracts with SMEs, specifically “Contratos Premium especial PYME” (Special SME Premium Contracts).

These minimum-time commitments, in force since 2006, were linked to discounts on fees and had an initial duration of 12, 18 or 24 months. The time was extended automatically and the penalisation increased; in other words, a higher penalisation was paid the closer the minimum-contract period was to come to an end. Furthermore, to cancel the minimum-contract period, it was necessary to give notice one month in advance. The CNMC has resolved that this continuous practice involves a violation of article 1 of the Competition Protection Act and of article 101 of the Treaty on the Functioning of the European Union (TFEU).

It was considered that the penalised minimum contract commitments had “restrictive effects on competition” because they “disproportionately” limited the capacity of Telefónica customers to change their operator and substantially increased the costs which competitors had to incur to gain clients from Telefónica Móviles.

2.1.2.3 Abuse of dominant position

- CORREOS 2 (Margin squeeze). CNMC fined CORREOS on 21 January 2014 with an 8.2 million-euro fine for abusing their dominant position in the traditional postal service markets.

Particularly, the Council considered that CORREOS had narrowed the margins of its competitors in the provision of services to large postal clients. Specifically, given the wholesale prices that CORREOS charged its competitors for access to their network, which were systematically higher than retail prices that CORREOS charged its clients, CORREOS competitors were excluded from the market in the provision of services to these big clients.

- SGAE concerts. CNMC fined SGAE (a large Author's Association) on 6 November 2014 with a 3.1 million-euro fine for abusing their dominant position in the copyright management market for public communication of musical pieces in concerts in Spain.

Particularly, the Council considered that SGAE had applied unequal and excessive fees for the licenses granted for the public communication of musical pieces protected by copyright in concerts held in Spain, whose abusive effect has been reinforced by its convergence with other competition restriction practices in the framework of a common abusive strategy, which consisted of SGAE imposing the obligation to obtain a copyright license before tickets were sold, demanding disproportionate deposits to be paid by concert promoters and the obligation that ticketing agents withheld and settled the amount owed to SGAE so as to be exempt of paying the deposit.

- ENDESA Instalación. CNMC fined with 1.18 million-euro ENDESA DISTRIBUCIÓN for abusing their dominant position in the electrical installations market reserved for the distributor between 2009 and 2012. Specifically, the proven abuse consisted in inappropriate charges for the execution of installations for new network extensions, in cases where the distributor company would be in charge of executing said installations, only charging the extension rights in force thus abusing its dominant position in the reserved electrical installations market in the distribution areas it managed.

2.1.2.4 Supervision and executions of resolutions and sentences

9. The objective of compliance with resolutions and agreements adopted by the CNMC is to avoid the Resolutions adopted by it becoming mere theoretical statements, and preventing its objective of maintaining competition and removing harmful effects from being invalidated.

10. The encouragement to supervise that Resolutions are complied with constitutes one of the lines of actions of the CNMC and it is essential to obtain the full effectiveness of the measures adopted by the commission.

11. The supervision sub directorate, created in the year 2012, assumes the functions of carrying out procedures to supervise compliance with the obligations, resolutions and agreements referred to in article 41 of the Competition Protection Act, as a tool to ensure complete effectiveness of the declarations of the National Authority for Markets and Competition.

12. Throughout the year 2014, supervision of 24 resolutions was initiated, of which 15 referred to non-compliance of articles 1 (agreements), 2 (abuse) or 3 (unfair competition) of the Competition Act; 3 corresponded to supervision of commitments in the framework of business mergers; and 2 corresponded to commitments acquired by companies in relation to settlements.

13. In the considered period, the Council adopted 67 resolutions concerning supervision. In most of them (27) compliance on the part of the supervised company with all or part of the resolution was established. In 14 cases the sanction imposed on the company was changed as a consequence of a court sentence. In 7 of them the fine was fully returned, and in 9 there was an unexpected loss of the object of supervision. To these resolution contents two must be added in which there was a change in the commitments or conditions established in the resolutions of merger authorisations and 9 which resolved other matters, such as the accumulation of objects to be supervised, the deviation of responsibilities to the associate, etc.

2.1.2.5 Activities of the courts

14. During 2014 29 CNMC decisions imposing fines were challenged. The first instance court of appeal (Audiencia Nacional) issued 81 sentences. 83% of the decisions were upheld by the court, although in 33% cases the amount of the fine was reduced, due to the interpretation the Court of instance has been given to the fine setting system established in the 2007 Competition law. This interpretation was challenged before the Supreme Court, which has recently (beginning of 2015) clarified its position and partially agreed with the Competition Authority in the sense of considering that the total volume of sales of a company subject to fines includes the sales of all companies' activities, not only those related to the infringement.

15. In 2014, the Spanish Supreme Court issued 15 sentences, fully confirming Competition Authority decisions in 71% of the cases.

2.2 Mergers and acquisitions

2.2.1 Statistics on number, size and type of mergers notified and/or controlled under competition laws

16. During the year 2014, 82 mergers were notified, 38% more than 2013.

17. Out of the total mergers in 2014, 4 were filed, 75 approved in first phase without commitments, 2 approved in first phase with commitments (REPSOL/PETROCAT AND DIA /ARBOL) and 2 authorised in second phase without commitments (JC DECAUX/CEMUSA) and one with commitments (SCHIBSTED/MILANUNCIOS).

Total notified	82	% 100
Approved in 1 st phase	75	91
Filed	4	4.8
Approved in 1 st phase with commitments	2	2.4
Approved in 2 nd phase	2	2.4
Banned	0	0

18. The majority of the operations (91%) used the pre-notification procedure.

19. In 2014 the number of mergers notified by means of short forms increased (55% of the total as compared with 34% in 2013). Both matters, pre-notification and the fact that many of them met the requirements for short-form notifications, accelerated and simplified the procedure, increasing the efficiency and speed of processing.

Notifications of operations		2011	2012	2013	2014
Submitted	With Pre-notification	82	57	55	75
	Without Pre-notification	13	13	4	7
Procedure	Normal form	52	43	39	37
	Short form	43	27	20	45
Multi-notifications	Also notified in other countries	27	20	18	28
	Only in Spain	68	51	41	54
Notification threshold	(a) Market quota	56	43	34	52
	(b) Invoicing	28	24	20	22
	(a)/(b) Both	11	10	5	8
Total submitted		95	70	59	82

20. By notification thresholds, 63% of the mergers were notified for exceeding the market quota, 27% for exceeding business volume sales and the remaining 10%, for exceeding both, more or less similar to preceding years.

21. By sectors of activity, manufacturing industry, as in previous years, is the sector with most mergers analysed.

Notification by activity sector	2011	2012	2013	2014
Agriculture, stockbreeding and forestry	1	1	1	2
Energy	10	6	0	4
Heavy industries	0	2	3	0
Manufacturing industry (repair and installation)	32	19	15	19
Chemistry and pharmacy	13	7	12	14
Building and Real Estate	2	1	0	3
Transport and storage	5	2	1	6
Information Society	9	7	6	14
Commercial distribution	11	6	3	11
Recycling, Waste and Water Treatment	1	2	0	1
Financial Intermediation and Insurance	9	15	14	8
Public Administrations	2	0	0	0
Activities of membership organisations, schools and trade unions	0	0	0	0
Medical activities and social assistance	3	4	0	1
Others	7	7	4	7

2.2.2 Summary of significant cases.

2.2.2.1 Approved in first phase

22. Within the operations analysed and approved in first phase, the following, for different reasons, were especially significant:

- *REPSOL/PETROCAT C/0550/14*. Acquisition by REPSOL of the exclusive control of PETROCAT. Repsol acquired 45% of the shares held by CEPSA as well as the 10% share held by Institut Català d'Energia (Catalonian Energy Institute), a public body depending on the Generalitat de Catalunya.

PETROCAT mainly operated in the retail distribution market of automobile fuel in Catalonia, and in the direct or off-network diesel oil sales market in Catalonia, in which REPSOL is also present.

The CNMC concluded that risks to effective competition resulted from this operation, due to the horizontal overlap of the parties in specific markets, as well as the reinforcement of the vertical integration of REPSOL. Moreover, as a consequence of the operation, REPSOL would acquire gas stations in provinces in which its quota in retail market by points of sale exceeded 30%, which would contravene the sectorial legislation.

As a result, the CNMC authorised the operation thanks to the voluntary commitment of REPSOL in the first phase.

These commitments included: (i) carrying out transactions related with gas stations in provinces affected by the mentioned banning so that REPSOL would not exceed the established thresholds in the sectorial legislation; (ii) obligation of operators other than REPSOL to provide a minimum of the diesel oils and gasoline of specific gas stations managed by PETROCAT and for the activity of direct sales during a specific period; and (iii) transferring to a third party the management of the

gas stations property of REPSOL managed by PETROCAT located in the surroundings of Tagamanent (Barcelona) or other gas stations of its network close to this location.

- DIA / GRUPO EL ARBOL C/0600/14. Distribuidora Internacional de Alimentacion, S.A. (DIA), took exclusive control over Grupo El Árbol Distribución and Supermercados, S.A.

The operation, which had previously been forwarded to Spain by the European Commission (article 4.4. of Regulation 139/2004), particularly affected the retail distribution of daily consumer goods in self-service format, presenting problems in certain areas of influence.

In order to maintain effective competition in those markets, the notifier committed to divest certain establishments of Grupo El Árbol in the conflicting areas, meaning the operation was authorised subject to compliance with the commitments proposed by the notifier.

- IDC SALUD – QUIRON C/0601/14. Acquisition by IDC SALUD, S.L of the exclusive control over GRUPO HOSPITALARIO QUIRÓN. The operation was forwarded to Spain by the European Commission, by virtue of the provisions of article 4.4 of EC Regulation 139/2004, of the Commission.

The operation meant the integration of two important private healthcare groups active in several provincial markets for the provision of private health assistance to be chosen freely and the provision of publicly financed health services for patients by means of agreements endorsed with the Public Healthcare.

Although the geographical overlap of the activities has little significance, it was centred in the provinces of Barcelona and Madrid, where market quotas near 30% were reached in some of the markets considered.

Due to the existence of alternative competitors, of which some were vertically integrated with health insurance companies and the power of negotiation of the latter in private health assistance markets, in which they constitute an important source of income for the notifying group, it was considered that it would compensate for any attempt of the new operator to act independently in the market, and therefore the operation was authorised without commitments.

2.2.2.2 Operations that passed to second phase

- JCDECAUX/CEMUSA C/0577/14. CNMC agreed to open the second phase for the JCDECAUX/CEMUSA merger operation, taking into account that the supply of the external advertising market in Spain was formed by three major bidders, JCDECAUX, CEMUSA and CLEAR CHANNEL, the first two with sales levels that were significantly higher than the third, which coexisted with a great number of medium and small-sized bidders, some of them active at national level and others only present at autonomous or local level.

At a national level, the parties of the operation had a joint market quota that fluctuated between 30% and 60% (depending on the source used), and its presence was focused on the major cities, especially Madrid and Barcelona, cities in which JCDECAUX and CEMUSA had market quotas that were quite high, especially in certain types of formats.

After the merger operation, a major external advertising operator was created in Spain, greatly different from the rest, which was especially significant in major Spanish cities, which could make the resulting entity become an essential bidder towards the contracting of national external advertising campaigns in Spain, which due to its needs of capillarity and impact would have a significant dependence on the offer of the resulting entity in these major cities. Moreover, with the merger, the significant competitive pressure that CEMUSA had put on the market was eliminated, which had translated into a significant increase of its market quotas over the last few years.

Furthermore, given the major scale economies of the resulting entity, it could be in a privileged position to gain win future tenders for external advertising spaces, insomuch as they could demand elevated experience and solvency requirements.

After the second phase of the operation, on 16 October 2014, the CNMC Commission agreed to the authorisation of the merger without commitments, due to the fact that they considered that in spite of the significant market quotas that the resulting entity would acquire, there were sufficient competitive alternatives in the scope of external advertising affected by the merger.

- *SCHIBSTED / MILANUNCIOS C/0573/14*. Acquisition by SCHIBSTED ESPAÑA S.L.U. (henceforth SCM SPAIN) of the exclusive control over the online classified ads business developed by MILANUNCIOS S.L.U. (henceforth MA) via "milanuncios.com".

The merger especially affected the online classified ads sector and, particularly, those related with motor vehicles.

Given the dynamic character of this market, it demanded a thorough analysis of the existing barriers to entry and expansion, especially of the effects that the economies of the network of the resulting entity would have on the competitive dynamics.

Additionally, in this sector the affected markets are two-sided, with two sources of demand (advertisers and persons potentially interested in the ads). In this case, the negative effects of the operation were focused on a segment of one of the sources of the demand (professional advertisers) in the scope of ads related with motor vehicles, in which the parties of the operation had a very significant weight and there were no alternative competitors that were especially relevant.

In this way, after the merger, a large part of professional advertisers of classified ads related to motor vehicles were forced to contract with the resulting entity, due to the lack of advertising alternatives with the same relative impact cost and the same immediacy in gaining clients, which would allow for the resulting entity to significantly increase prices, reduce the hiring options or increase de facto the minimum hiring levels of each professional advertiser.

After the instruction of the operation in second phase, dated 20 November 2014, the CNMC Commission agreed to the authorisation of the merger dependent on compliance with the commitments submitted by SCM SPAIN.

The commitments mainly consisted in the granting by SCM SPAIN to AUTOCASIÓN HOY, S.A. (AUTOCASION) of a licence for the exclusive use of classified ads published by professional advertisers in the motor vehicle section of milanuncios.com for a period of two years.

This commitment allowed this licensee to use the critical mass and the brand image of MA to gain attention and generate the amount of necessary visits and ads to become a relevant operator, which is capable of putting significant competitive pressure on the entity resulting from the notified operation, in such a way that it would neutralise any attempt from SCM SPAIN to increase its prices, reduce the quality of its services or limit innovation.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

3.1 Advocacy

23. With the promotion of competition, the CNMC promotes and encourages a competitive environment in the different economic sectors of Spain. This task is developed by means of tasks related

with dissemination, promotion, training and analysis, as well as through recommendations to improve the regulation and the promotion of favouring competition by the Public Administrations.

24. Among the instruments used for the promotion of competition, worth noting are reports on regulatory proposals, the authorisation to dispute anti-competitive actions, the reports and studies of economic sectors as well as guides and recommendations.

3.1.1 *Mandatory reports on Legislation*

3.1.1.1 Reports on Draft Legislation

25. The power to make proposals and recommendations to the different Public Administrations regarding draft legislation before its processing in Congress, established in art. 5.2 a) of Law 3/2013, of 4 June, created by the National Markets and Competition Commission, offers the CNMC an important instrument of influence on the configuration of a regulatory framework which favours competition, this being an essential factor for the appropriate functioning of the markets.

26. Through these reports, the Promotion Department analyses restrictions to competition that the draft legislation may involve, as well as their need and proportion to reach the desired general interest and the possibility to reach it through ways that are less restrictive towards competition.

27. The analysis conclusions include a general assessment of the Legislative Project from the perspective of defence of competition and efficient economic regulation, as well as a set of recommendations for the modification of the expected text by means of which the CNMC considers it can improve the impact on effective competition in the scope of the activity affected by the norm in question.

28. These *reports on draft legislation or IPNs* are approved by the CNMC Commission, responding in the established period and manner to the request of the body proposing the draft legislation, and are published on the CNMC website. 19 IPNs were issued during 2014.

3.1.1.2 Other reports (INF)

29. In the scope of article 5.2 of Law 3/2013, of 4 June, created by the National Markets and Competition Commission, the CNMC, as an advisory entity in terms of competition and efficient economic regulation, makes an assessment of the actions of the Public Administrations that are not linked to draft legislation (for example, in terms of public contract documents). 17 INFs were issued during 2014 many of them dealing with large public tenders. Source: Internal compilation.

3.1.1.3 Public Assistance Reports

30. The Promotion Department (in charge of advocacy) annually compiles a report regarding public assistance in Spain and, when appropriate, compiles additional reports on specific assistance.

31. In November 2014, *the Sixth Annual Report on Public Assistance* was published, which as the previous ones, is registered within the monitoring functions of promotion in the Public Administrations. Its main objectives are to provide a general overview of the statistical context in public assistance and of its main legislative and decision-making novelties at European level. It is worth noting that during the compilation of these reports there is always a one-year interval regarding the data. Therefore, the main statistical data of the report (regarding the volume of assistance granted) refer to the year 2012.

32. Moreover, during the year other isolated reports² were compiled, in which there were aspects regarding public assistance.

3.1.2. Studies, Guides and other reports published by law by the CNMC

33. Article 5.1.h) of Law 3/2013 describes the compilation of sectorial studies and reports whose competence lies in the Promotion Department in accordance with article 30 of Royal Decree 657/2013, implementing said Law. The studies, carried out in different formats (studies, reports and guides) are published by the CNMC subject to the prior approval of the Council. The studies and reports attempt to identify the functioning problems of a specific sector and propose recommendations for legislative change and behaviour of the agents. Sometimes, the studies adopt the form of guides, whose nature is guidance on the action of the sector agents, trying to encourage that it is as respectful as possible to free competition. To do so, since they are aimed at operators and they often have an educational function, the guidance is illustrated with specific examples that can be easily compared to other real situations.

34. Throughout the year 2014, the CNMC approved 2 studies referring to the vehicle inspection market and airport sector in Spain and a report regarding the fuel distribution market through gas stations in the municipality of Leganés (a 200.000 city close to Madrid). The main results are collected in a total of 25 recommendations aimed at the State Administration, Autonomous Communities and Local Administrations as well as at operators present in the analysed markets.

35. The Report on the fuel distribution market through gas stations in the municipality of Leganés and recommendation to the municipality to increase competition and the benefit for consumers³ was approved by the CNMC on 27 March 2014. This report analyses the degree of competition in retail distribution market of the municipality of Leganes, where all existing installations in the municipality for the supply to vehicles are part of the distribution networks of the three vertically integrated main operators. Moreover, the existence of a reduced number of stations is shown as well as an absence of independent gas stations. The report analyses the impact on interbrand and intrabrand competition of the current configuration in the municipality. On the one hand, in agreement with the analysis carried out, in the municipality, final sale prevails, which seems to give the gas stations more autonomy, promoting competition among them and influencing on intrabrand competition. On the other hand, regarding interbrand competition, there is a closer difference in prices due to the lack of independent installations. The evidence that the report provides suggests the possibility for the installation to have new gas stations in the municipality of Leganés. Specifically, the installation of independent brands could positively influence on the level of competition in the area. The report also assesses the cautionary suspension of the granting of urban licenses (being processed or future) for 1 year for the compilation of a new regulation that adapts the urban regulation in force to the state legislation on gas stations. This decision could inappropriately be delaying the entry of new operators and perpetuating market control by already installed operators, reason why the CNMC recommends concluding said extension.

² Other reports that have a certain relationship with public assistance would be those related with IPN/DP/0010/14 on the APL of the Mercantile Code and with IPN/DP/0009/14 on the Royal Decree Project by which the regulation of Law 12/2013, of 2 de August, on the measures to improve the functioning of the food chain, are approved.

³ http://www.cnmc.es/Portals/0/Ficheros/Promocion/Informes_y_Estudios_Sectoriales/2014/20140403_Informe%20Legan.es.pdf

36. The *Study on the vehicle inspection market, approved by the CNMC*⁴ on 2 July 2014, assesses the effectiveness of Vehicle Inspection in improving road safety and controlling pollutant emissions, through an analysis of the main economic variables, along with the examination, in terms of efficient economic regulation, of the main demands and restrictions to competition that exist in the regulating framework of vehicle inspections. From the economic analysis of the study, it can be drawn that the introduction of a greater competition, (greater competition derived from the substitution of an administrative granting system to an authorisation system) offers important benefits to the consumer and proves that, especially in specific areas, there is an important margin to achieve greater productive efficiency. In accordance with the economic analysis results, a series of recommendations are given to the competent administrations. On the one hand, the state regulation framework should move the non-proportional requirements to allow a more flexible service provision framework, which would allow for a greater geographical extension of the offer. On the other hand, the autonomous framework should progress towards schemes that promote the entry of new operators and higher levels of competition, leaving behind the granting system. This measure should be accompanied by the strengthening of the supervision, inspection and penalising of the operators' activity and by a greater attention to the situation in remote areas, applying, where necessary, proportional intervention mechanisms.

37. The *Study on the airport sector in Spain: current situation and liberalisation recommendations*⁵ was approved by the CNMC on 2 July 2014. The study analyses the peculiarity of the Spanish airport sector, made up of 46 airports and managed centrally, and proposes a series of measures that will contribute to the opening of competition in the airport sector. The current model (when the report was presented, that is, before the latest regulation was passed) is based on a common single till financing system in which profitable airports defray deficit of the Spanish market and in centralised decision-making, limiting to a great extent the possible competition between airport infrastructures. The carried out analysis concluded that the planning of airport networks did not adjust to the real needs of the market and highlights the appearance of a strong debt as a consequence of the misalignment between investments and the fee policy. The study proposes a set of eleven recommendations to intensify competition in the sector and improve efficient regulation, aimed at allowing individual management of airports, promoting efficient investments and further transparency in the financing of airport activities.

38. *Public Enquiry Process of Collaborative Economy*: in the context of the compilation of a study on collaborative economy and the new models for the provision of services, on 6 November 2014, the CNMC released a public enquiry process in two phases and based on three documents. The first phase covered the public objectives following the regulation and carried out a preliminary analysis of the principles of necessity and proportionality on which, where appropriate, the regulation should be based. The second phase, from 28 November to 13 January 2015, covered a second stage on the effects of the new economic models regarding the market and the regulation, and a third stage regarding the new models and the regulation. In the second document there was an assessment of the main effect that, for the consumer and the general interest, generated the new models of provision of services, especially in the transport and holiday accommodation sectors. The third document, presented an analysis on the appropriateness of the regulation to the new circumstances of the market, as a consequence of the effects generated by the new models and the regulatory changes that were necessary to place the new economic activities in an appropriate competitive way, specifically in the two chosen sectors of reference.

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http://www.cnmc.es/Portals/0/Ficheros/Promocion/Informes_y_Estudios_Sectoriales/2014/140707_Informe%20ITV.pdf

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http://www.cnmc.es/Portals/0/Ficheros/Promocion/Informes_y_Estudios_Sectoriales/2014/140703_E_CNMC_0002_14_Estudio_aeroportuario_integrado.pdf

3.1.3 *International activity (refers only to Competition)*

39. At the ECN/ECA level the CNMC (and in particular its Competition Directorate, DC) contributes actively in the working groups with other European competition authorities. During 2014 there was contribution to work, prior to revision, on several regulations of the European Union (EU): Block exemption regulation for agreements of Maritime Consortia, Block exemption regulation for Technology Transfer agreements, Communication on the less important agreements (“de minimis”), and modification of Regulation 773/2004 on the Commission procedure for the application of articles 81 and 82 TCE (current 101 and 102 TFUE). There was also participation in the discussions related with the White paper on the modification of Regulation 139/2004 on merger control. DC has actively participated in the writing of a total of 5 articles for the bulletin called ECN Brief which is published on the DG COMP website.

40. The CNMC attended the European Competition Day organised while Greece and Italy were presidents. During this day, the CNMC President spoke in the panel on the Role of Competition Authorities in Economic Growth and in Consumer Welfare.

41. We also attended In 2014 the Competition Conference, organised by Bundeswettbewerbsbehörde (Austrian Competition Authority) and the 10th Annual Conference of the GCLC of the College of Europe, in which the CNMC Competition Director was a speaker in both forums. Moreover, there was participation in the inter-disciplinary seminar on the application of competition legislations in two-sided markets, organised by Konkurrensverket (Swedish Competition Authority) and held in Stockholm in November 2014.

42. The Competition Director participated in the Annual Board of Directors meeting of the ECA (European Competition Authorities) organised by the Czech Republic Competition Authority in May 2014, and the coordination between Competition and Regulation in integrated authorities.

43. The CNMC has continued to participate in the conferences, Workgroups and meetings of the ICN. DC’s personnel participated in the ICN Cartel Workshop and its representative participated as a panellist in the session on *Computer Forensics Techniques and Efficiency in Research*, held in Taipei in October 2014.

44. There was also participation in the Annual Workshop on Business Mergers as panellists in the session *Advantages and Disadvantages of Behavioral Remedies in Business Mergers*, held in Delhi in December 2014.

3.1.4 *Other activities*

45. In December 2014 the 12th Edition of the Ibero-American Competition School was held in Madrid, in which a total of 49 students coming from 13 countries participated.

46. For another year the Ibero-American Competition School consolidates itself as a way to strengthen the institutional links between all Competition Authorities of the region, and also the informal links between the technician and civil servants of these agencies. In this sense, there were bilateral meetings and informal encounters between CNMC staff and officials from different Latin-American authorities that participated in the School with enriching results.

47. In addition, the CNMC in collaboration with the CEDDET Foundation (Distance Learning Centre for Economic and Technological Development) organises every year virtual course for starters on Antitrust Law aimed at competition and regulation authorities and students from Latin-America. During the year 2014, the 8th edition of the course was held.

48. On the 30th of June the 6th meeting of the Iberian Competition Forum was held in Madrid. It is an annual meeting promoted by the Competition Authorities of Spain and Portugal with the purpose of creating closer ties. There were bilateral meetings between the our directorates about the fight against cartel and inspections, cooperation in terms of pre-notification in mergers: promotion and the role of the chief economist.

49. CNMC did participate in the Workshop on the application of competition and international cooperation norms, held in Brasilia in May 2014, called by the Brazilian Competition Authority CADE and the European Commission. The CNMC participated as panellist in the sessions on International Cooperation in Multi-Jurisdictional Mergers and in Leniency Programmes and fight against cartels.

4. Resources of competition authorities

4.1 Resources overall (current numbers and change over previous year)

4.1.1 Annual budget (in your currency and USD)

50. The CNMC is multitask regulator that integrates sector regulators responsible for telecommunications and media, energy, transport and postal services. Within the CNMC there are four directorates, each responsible for competition, telecommunications, energy and post and transport. CNMC is the agency responsible for the public enforcement of competition law.

51. The overall approved budget of the Commissions for 2014 was 58,4 Million € (71,8 M USD⁶)

52. Although it is not easy to differentiate the exact budget allocated for Competition within the multitask agency, the estimation is around 12 Million € (13,4M USD)

4.1.2 Number of employees (person-years)

53. In 2014 the CNMC employed 509 people. 163 worked in competition matters.

- Lawyers: 38
- Economists: 30
- Other: 36
- Support staff; 59

4.2 Human resources (person-years) applied to

54. Enforcement against anticompetitive practices/ Merger review and enforcement; not entirely applicable. The Competition Division is organized in economic sectors (three sectorial divisions -Industry and Energy, Information Society and Services- plus two horizontal divisions -Leniency and Monitoring. The staff works both in antitrust and in mergers although there is certain specialization. In the Competition Division, work 94 people. Advocacy: 20 people work in the Advocacy department

4.3 Period covered by the above information

- 2014

⁶ Tipo cambio medio €/dolar dic 2014 1,23€/S