

PRESS RELEASE

The CNMC dismantles a cartel formed by 19 industrial assembly and maintenance companies

- Highly specialised companies allocated customers and/or tenders, and set minimum prices to drive up the costs of their services for companies in the energy and petrochemical sector.
- The fines for the 19 companies total € 54.26 million and, in the case of 8 managers involved, €280,500.
- Their strategy changed over the course of 17 years, until one of the participants reported the cartel through the Leniency Programme.
- In the wake of the CNMC's inspections, another company admitted its participation in the cartel and requested clemency after providing evidence.
- The case has been submitted to the State Public Procurement Advisory Board so that the companies in the cartel, with the exception of those that availed themselves of the Leniency Programme, can be excluded from public sector procurement.

Madrid, 9 October 2019 - The CNMC has dismantled and fined a cartel formed by 19 industrial assembly and maintenance companies and created to increase the cost of services provided mainly to companies in the energy and petrochemical sector. The fines for all the companies total € 54.26 million euros and, in the case of the managers involved, € 280,500.

In addition, the CNMC has informed the [State Public Procurement Advisory Board](#), part of the Ministry of Finance, of the disciplinary proceedings so that the companies participating in the cartel can be barred from public sector contracts, except for those companies that provided evidence under the [CNMC's Leniency Programme](#). The Commission will also [monitor](#) the companies to ensure they do not engage in this illegal conduct again. ([S/DC/0612/17](#))

Industrial assembly and maintenance requires complex and specific safety, industrial quality and environmental standards. Therefore, large companies in the energy and petrochemical sector award these services to companies that specialise in maintaining facilities such as warehouses, tanks in power plants, airports, etc. The contracting is done through private tenders.

The sanctioned companies created a network to allocate customers and tenders, exchange sensitive information with their competitors, propose coverages, and set compensations and prices. Such actions are deemed to constitute a cartel, which is [prohibited](#) under Article 1 of Anti-Trust Law 15/2007 and Article 101 of the Treaty on the Functioning of the EU.

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Bids allocated for 17 years

Between 18 January 2001 and the [inspections that were carried out in July 2017](#), the cartel allocated at least 746 tenders. These private tenders were issued by some twenty clients, which primarily included companies in the energy and petrochemical sector.

At least 18 meetings are known to have been held to coordinate the cartel, meetings that were attended by companies that operated nationally or in various areas. They differentiated between projects they were interested in bidding in from those that, due to their size, were left “*for local companies*”, coordinated by a national company. The coordinating company was tasked with organising the bids presented by the local companies, whose actions were complementary, but necessary, to make the anti-competitive agreements effective.

“Modus operandi” of the companies

The “*modus operandi*” of the scheme evolved due to its long duration. In the first stage, the company designated to be awarded the contract presented its prices, which the other companies would inflate up to a certain percentage through coverage offers.

In a later stage, the companies exchanged versions of Excel files, which each company filled out with the prices and their coverage offers. They then set up their own codes, such as numbers or acronyms for the participating companies, using a “yes” or “no” to indicate if the companies were bidding for a specific tender.

The mechanisms used by the companies to contact one another also evolved over this 17-year period to hamper detection of the cartel, and involved everything from faxes and telephone calls to *WhatsApp* and emails.

The CNMC was able to detect the cartel thanks to the complaint filed by the company Navec, which, by informing the CNMC of the existence of the cartel through the [Leniency Programme](#), avoided having to pay the resulting fine. However, one of its executives, who was also fined, did not collaborate with the CNMC and did not benefit from the planned reductions.

Furthermore, after the CNMC's inspections, another company that was participating in the cartel, Enwesa, submitted a request to have its fine amount reduced and provided additional evidence, resulting in a 50% reduction in its fine.

Finally, the CNMC has submitted its findings to the [State Public Procurement Advisory Board](#), part of the Ministry of Finance, since some companies may be affected by a ban to enter into public sector contracts.

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This resolution cannot be appealed through administrative channels, though the companies may bring an application before the National Court within two months after the day the Resolution is filed.

More information about what a [cartel](#) is at BlogCNMC

More information about the [Clemency Programme](#) at BlogCNMC

Companies and executives fined:

| Empresa | Sanción (€) |
|--|--------------------|
| ACSA, Obras e infraestructura | 110.000 |
| Atrian Technical Services | 914.000 |
| Duro Felguera Operaciones y Montajes | 1.323.630 |
| Empresa de montajes Hermanos Guarnizo y Lopez (HGL) | 873.834 |
| Enwesa Operaciones** | 860.000 |
| Montajes Barbadun Industrial | 38.577 |
| Grupo Navec Servicios Industriales** | 9.339.700 |
| Imasa Ingeniería y Proyectos (IMASA) | 9.216.027 |
| Mantenimientos y Montajes Industriales (MASA) | 14.646.829 |
| Mantenimiento y Ayuda a la Explotación y Servicios (MAESSA) | 3.492.973 |
| Mecánicas Bolea | 650.000 |
| Montajes Industriales Lleca (MILLECASA) | 937.507 |
| Montajes Mecánicos la Puertollanense | 560.999 |
| Montajes Metálicos Faysol | 267.229 |
| Sacyr Nervión | 1.160.000 |
| Prefabricación y Montajes del norte | 471.036 |
| Proyectos y Mantenimientos de Instrumentación y Electricidad (MEISA) | 4.845.669 |
| Talleres Mecánicos del Sur (TMS) | 1.112.610 |
| Tamoin | 3.441.286 |
| Total | 54.261.906 |

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| Directivo | Empresa | Sanción (€) |
|---------------------------|---|----------------|
| Alfredo Fuentes González | Director General Industrial IMASA | 24.300 |
| Óscar Exojo Asensio | Directos General de TMS | 19.500 |
| Ignasi Boleda Relats | Director General de MILLECASA | 40.500 |
| Manuel López Dabaliña | Ex Director General de NAVEC | 42.400 |
| José Miguel Barranco Rosa | Jefe Centro Operativo en Huelva y Algeciras de MASA | 44.400 |
| Martín Mora Valbuena | Director General de MEISA | 34.300 |
| José María Pau Galcerán | Director General de MASA | 44.400 |
| Javier Cenzano Sáenz | Director de Ingeniería Aplicada de TAMOIN | 30.700 |
| | Total | 280.500 |

** In the case of these companies, pursuant to the provisions of articles 65 and 66 of the Anti-Trust Law, it is agreed to:

- Waive the fine for Grupo Navec Servicios Industriales, S.L. (€ 9,339,700 euros)
- Reduce by 50% the amount of the fine for Enwesa Operations, SA and jointly for its nuclear equipment parent company, S.A.S.M.E., to € 430,000.

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