CNMC COMISIÓN NACIONAL DE LOS MERCADOS Y LA COMPETENCIA

PRESS RELEASE

The CNMC dismantles a market- sharing cartel for the contracts of the National Meteorological Agency (AEMET)

- The cartel shared tenders to supply the radars that are used to identify rainfall and wind speed and calculate its trajectory and intensity.
- The fines on Adasa Sistemas, Schneider Electric Spain and DTN Services and Systems Spain total € 610,000.

Madrid, 4 March, 2020 - The CNMC has dismantled the market-sharing cartel for the contracts to supply the weather radar units used by the National Meteorological Agency (AEMET). The fines imposed on the cartel consisting of three companies - Adasa Sistemas, Schneider Electric Spain and DTN Services and Systems Spain - total € 610,000. (S/0626/18).

The AEMET has an extensive tracking network with conventional observatories and remote sensing systems. It also constantly monitors the adverse weather phenomena that can take place anywhere in Spain and it prepares forecasts on very different time scales, even in real time.

To engage in these activities, AEMET meteorologists use radars that can locate the various types of precipitation (rain, snow, hail, etc.), calculate its path and measure wind speed. They study the radar echoes returned by the so-called meteorological "targets", which requires a suitable receiving mechanism.

Fraud in the tenders to buy radars

The cartel that misled the government allocated to itself the public tenders of the AEMET to maintain the weather radars and related equipment, and to supply spare parts.

The first one was in 2014, when the AEMET issued a tender to maintain the Radar Observation System that was valued at 2.211 billion euros (VAT included). The only bid presented was by Temporary Joint Venture (TJV) of Adasa Sistemas and Telvent Energia,[1] with an underbid of 1.51%.

The CNMC considers it proven that both companies shared the aforementioned contract through an anti-competitive agreement, and that the TJV they formed was not based on economically rational criteria. In fact, nothing justified the venture, unless it was an agreement to illegally share the contract through an instrument that allowed the companies to offer the appearance of legality in the bidding process.

In 2017, the companies Adasa and DTN Services[2] decided to extend the agreement to a second contract to supply radio frequency filters worth 15,730 euros. They again pretended to compete against each other when bidding on the tender, when in fact they had already decided to share it, thereby misleading the government and the other bidding companies, although they eventually lost the tender.

The matter came to light through the Catalan Competition Authority (ACCO), which informed the CNMC in January 2018 of the complaint filed by the Catalan Meteorological Service (METEOCAT) against the companies MCV and Adasa for having submitted similar bids in the tender for radars, and fined them.

After analysing the data and interviewing the AEMET, inspections were conducted that provided indications that they had attempted to share the market, a practice prohibited by Article 1 of Spain's Anti-Trust Law (LDC).

The CNMC has described this behaviour as a single and continuing offence to create a cartel, consisting of a market-sharing and price-fixing agreement between competing companies.

The infraction, which includes the agreements to share the two contracts, occurred between September 2014 until the end of the contract (after two extensions) and 11 December, 2018. The facts are deemed to constitute a very serious infraction of Article 62.4.a) of the LDC.

The fines imposed are as follows:

- Adasa Sistemas, S.A.U.: **450,000 euros**
- Schneider Electric España, S.A.: **110,000 euros**
- DTN Services and Systems Spain, S.L.: **50,000 euros**

The resolution does not rule on the duration and scope of the prohibition to contract, so a statement on said prohibition is submitted to the State Public Procurement Advisory Board, in accordance with the provisions of Article 72.3 LCSP. The foregoing is without prejudice to the possibility that the CNMC may be consulted or may issue a report on the circumstances involved that allows adjusting the duration and scope of the prohibition for each of the affected parties, in accordance with their participation.

Explanatory notes:

[1] SCHNEIDER is the economic successor of TELVENT, and is thus liable for any infractions committed by TELVENT until June 2016. It also bears personal liability from June 2016 to February 2017

[2] In February 2017, the part of SCHNEIDER's business involving radars and weather stations, which had originated at TELVENT, became part of DTN SERVICES. Therefore, DTN bears personal liability for this market sharing in which it actively engaged from February 2017 to December 2018.