PRESS RELEASE

The CNMC fines six companies for altering the solid fuels trading market

- The sanctioned companies exchanged sensitive commercial information, allocated customers and fixed prices through various agreements.
- These practices, which are highly detrimental to competition and prohibited by law, took place throughout Spain between 1999 and 2018.
- The cartels, fined a total of €3.5 million, focused on marketing metallurgical coke, petroleum coke, coal, anthracite, foaming agents, smelting additives and micronized petroleum coke.
- The CNMC is also fining several of their managers a total of €166,700 for their role in the infractions.

Madrid, 12 January 2021 - The CNMC has issued fines totalling €3.5 million to six companies that market different types of solid fuels. The companies, organised into three cartels, engaged in practices, in some cases for almost 20 years, that are prohibited by Article 1 of the Anti-Trust Law and by Article 101 of the Treaty on the Functioning of the European Union (TFEU). (S/DC/0620/17)

The three cartels sanctioned engaged in marketing solid fuels, including metallurgical coke, petroleum coke, coal, anthracite, foaming agents, smelting additives and micronized petroleum coke, in Spain. These products are essential for various industries and economic activities, since they are used as a source of energy or as inputs for the production of other goods.

The practices for which these companies and several of their executives are being sanctioned took place from at least 1999 to 2018. During the period that the infractions occurred, the companies divided the market and fixed the final prices they offered to their customers. They also exchanged sensitive business information with one another, when, in theory, these companies should have been competing instead of sharing strategic data and business policies behind their customers' backs.

The information was exchanged through emails, calls, meetings and by other means, and involved the sharing of spreadsheets and distribution tables with sensitive data on prices and percentages, penalties, etc.

During the investigation into the case, the CNMC determined that these practices had been carried out primarily through three cartels, with horizontal agreements, that involved different sanctioned companies:

Agreement between Toro, FISL and Grafitos

The three companies sanctioned in the first of the verified infractions agreed to supply various customers on the basis of proportions and conditions agreed upon beforehand between them while appearing, to their customers, to engage in competitive practices. Accordingly, they coordinated the bids and prices that each one offered separately to the customers, and exchanged information on individual negotiations with them. They primarily supplied metallurgical coke, but also anthracite, foaming agents and smelting additives. Generally, the conditions were set at the end of each year in order to prepare the contracts for the following year. The companies affected by this “modus operandi” are located throughout Spain.

The top managers at the companies monitored the agreements through meetings, telephone calls and emails. If there were any supply deviations with respect to the set percentages, the companies, in theory rivals, compensated one another.

The CNMC also determined that FISL and Toro established a system whereby if the customers that were supplied with solid fuels complained about non-compliance with quality standards, they shared the payment of the penalty, although in theory, as far as the customers were concerned, only one company was responsible for the contract. The agreement between these two companies was verified to have remained in place non-stop for a period lasting 17 years.

Agreement between Candel and GME

GME and Candel reached a customer sharing agreement to market micronized petroleum coke in Spain, establishing exclusive customers, setting quotas, prices and exchanging commercially sensitive information. The companies came to refer to their anti-competitive conduct as *the deal*. The two companies held meetings between senior managers and corresponded to organise and prioritise the allocation of customers based on the information they exchanged on sales volumes and transport costs. Based on this information, they set up vetoes, priorities and quotas for customers, while also explicitly agreeing to conceal their behaviour from the market.

Agreement between Candel and Capex CGC

Although the agreement between Candel and Capex CGC lasted less time compared to the other two verified violations, it also featured various exchanges of sensitive commercial information and evidence of the agreement between them that point to the execution of a preconceived general plan, and not to an isolated event.

The agreement between the two was intended to fix prices and allocate customers. To this end, they used spreadsheets and email to exchange commercially sensitive information on their prices and the quantities to be supplied to customers. The companies were also aware of the importance of keeping the commercially sensitive information that was transmitted secret, marking it “strictly confidential” and instructing that it be handled “with discretion”.

Fines for companies and executives

As a result, the CNMC, after investigating the aforementioned disciplinary proceeding, has imposed the following fines on these companies and several of their executives for very serious violations of Article 1 of the Anti-Trust Law and Article 101 of the TFEU:

Companies:

Agreement between Toro, FISL and Grafitos:

Companies	Fine (€)
FISL	670,000
Grafitos	425,000
Toro	1,255,455

Agreement between GME and Candel:

Companies	Fine (€)
Candel	170,000
GME	900,000

Agreement between Candel and Capex CGC:

Companies	Fine (€)
Candel	70,000
Capex CGC	75,000

Executives:

Agreement between Toro, FISL and Grafitos:

Individual	Fine (€)
Mr Juan Carlos Toro Arrué	28,900
Mr Miguel Inchaurraga Saralegui	51,400
Mr Gabino David Méndez Revuelta	36,000

Agreement between GME and Candel:

Individual	Fine (€)
Mr José Ignacio García Munté Freixa	24,000
Mr Ángel Canto Delgado	21,600

Agreement between Candel and Capex CGC:

Individual	Fine (€)
Mr Ángel Canto Delgado	4,800

The CNMC urges the Competition Directorate to enforce the entirety of this Resolution and notes that it cannot be administratively appealed, though the companies may bring an application before the National Court within two months, starting after the day the Resolution is filed.