

PRESS RELEASE

The CNMC commemorates the 10th anniversary of entry into force of the Competition Defence Act (CDA)

- In the context of intense debate on amendment of the CDA, the CNMC (National Commission on Markets and Competition) is fostering a process of reflection and self-criticism to improve its operation.
- The financial and legal analysis will be enhanced to strengthen the analysis and decisions of the expert reports during case investigations.
- A financial intelligence unit will be set up to strengthen ex officio investigation, especially in the public procurement area.
- Provisional indications on calculation of fines will be published to foster greater transparency.
- CNMC officials may appear before the courts as experts to reinforce defence of the CNMC's decisions in judicial review proceedings.

Madrid, 24 October 2017.- Today, the CNMC (National Commission on Markets and Competition) held the ["2017 Annual Competition Day: 10 years of application of Act 15/2007 on the Defence of Competition"](#) in the context of intense debate on amendment of the Act to provide Spanish society with a more effective law and to enable the CNMC to do a better job.

The CNMC is currently immersed in a process of reflection and self-criticism on how to approach the external and internal challenges it faces to ensure the most effective implementation of its actions. As Spain's competition authority, the CNMC reiterates its view that **independence from political power** (competences, human and financial resources) and **economic** power is essential for its proper operation.

Judicial review of cases

With respect to **judicial review, in view of recent decisions by the National High Court** (Audiencia Nacional), the CNMC will focus its activity lodging appeals whenever necessary. More than 85% of the cases reviewed by the Supreme Court in 2015 and 2016 confirmed the grounds of the CNMC's rulings.

The CNMC will also **strengthen the legal and financial consistency** of its proposals and decisions (**financial analysis and expert reports**) to facilitate *Unofficial document directed to the communications media and which is not binding on the CNMC*

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review of the same by the judiciary. CNMC officials will participate as **experts in oral hearings** as required.

It will also publish the **guidelines that companies must follow when submitting their reports** and strengthen its **Legal Counsel** and **investigation** departments. Moreover, it will propose the creation of a **financial intelligence unit** in the style of other European competition authorities to foster **ex officio investigation based on statistical methods** including detection of misconduct by data analysis (screening and data mining), especially in the field of **public procurement**.

Review of sanctions

Following the Supreme Court's ruling in 2015 that annulled disclosure of fines, the CNMC has reviewed the fines system and harmonised it with the requirements of said decisions. Therefore, in order to improve the system and provide it with greater transparency, the CNMC will **publish provisional indications on the calculation of fines** in the near future.

Once these indications have been established a formal communication with guidelines will be approved so that companies are assured of greater legal certainty when involved in a case entailing fines and sanctions.

Moreover, the CNMC has already begun to include the **fine proposal in its decisions**. This enables the company under investigation to avail itself of a **plea procedure** concerning the fine before the Board itself, thus ensuring that their arguments will not be heard for the first time before the National High Court when a case is appealed.

Transparency and accountability

The CNMC plans to begin holding regular **oral hearings** before its Board on matters of sufficient gravity. This will enhance the transparency and accountability of the institution's actions.

The CNMC's Internal Control Department has also drawn up a public procurement risk map model in promote greater efficiency in the use of public resources.

#10yearsCDA

Since the adoption of the Competition Defence Act in 2007 more than 60 cartels affecting almost all sectors of the Spanish economy (telecommunications, dairy products, adult diapers, railroad diversions, urban waste collection, automobiles, etc.) have been dismantled.

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The CNMC has ensured that all companies, including the most powerful, comply with the rules of the game through close control of corporate mergers. Protecting and promoting competition has been the key to challenging the rules of the professional associations (tourist accommodation, transport concessions, etc.) that hinder the proper operation of markets. Its activity has also focused on improving efficiency in public procurement to avoid tampering with tenders and to foster the creation of a “culture of competition” in Spain.

Further information: [Annual Competition Day 2017](#)

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