

## NOTA DE PRENSA

### **CNMC MENSAJERÍA Y PAQUETERÍA EMPRESARIAL (BUSINESS PARCEL SERVICES)**

The CNMC issued a Decision on 8 March 2018 sanctioning nine cartel agreements in the parcel delivery services market for customer allocation agreements, all of them infringements of article 1 Spanish Competition Act and article 101 of the Treaty.

The case was detected thanks to the presentation of a leniency application by GLS concerning the non-aggression agreement between that undertaking and CEX in the parcel delivery market.

On 11 and 12 November 2015, the CNMC carried out a dawn raid in CEX, finding during this inspection red flags of different agreements in the parcel delivery market.

On 20 and 21 April 2016, the Competition Directorate carried out different inspections in ICS, MBE and REDYSER TRANSPORTE, S.L.

On 22 July 2016 the Competition Directorate opened the formal proceeding for alleged market sharing agreements against article 1 of the CA and article 101 of the Treaty. On 8th March 2018 the Decision was taken.

Each cartel was concluded between two entities active in the small package delivery services market. In this market, some courier and business parcel companies sign commercial agreements with other companies in the sector to reinforce their distribution networks for some services. The CNMC investigation has shown that, within the framework of these agreements, some companies reached in parallel verbal or written agreements of "non-aggression". Through these agreements, the companies involved in the commercial relationship were committed to allocate their actual and former clients, and not to make any commercial offer to any of the clients of their competitor. In this way, the clients of these companies were prevented from getting access to the services of the market thus depriving all its clients of receiving offers of several and different courier and parcel operators in Spain. CEX and MBE were involved in four agreements and ICS in three of them.

The non-aggression agreements (except the one between CEX and REDYSER) were concluded together or shortly after the conclusion of the collaboration agreements. They were normally agreed orally, except the ones concluded between ICS and CEX, TOURLINE and DHL. In these three cases, the service provision agreement includes a unilateral non-compete clause aimed at protecting ICS clients from the subcontracted service providers. However, the evidence found in the inspections proved that, eventually, the unilateral non-

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compete obligations had transformed into bilateral non-aggression obligations that included all the clients of both parties to the agreement, including potential clients. The evidence in this file include numerous emails referring to non-aggression verbal agreements and, in some cases, when an offer had already been issued to the client of the other non-competing company, it is urged to withdraw it or even offer a higher non-competitive bid.

The duration of each cartel was the following:

1. CORREOS EXPRESS PAQUETERÍA URGENTE, S.A. (CEX) and GENERAL LOGISTICS SYSTEMS SPAIN, S.L. (GLS), from September 2005 to November 2015.
2. CEX and REDYSER TRANSPORTE, S.L., from April 2011 to November 2015.
3. MBE SPAIN 2000, S.L. (MBE) and UNITED PARCEL SERVICE ESPAÑA LTD Y COMPAÑÍA SRC, from September 2009 to April 2016.
4. MBE and TNT EXPRESS WORLDWIDE SPAIN, S.L.U., from February 2008 to April 2016.
5. MBE and FEDEX SPAIN, S.L., from February 2014 to April 2016.
6. MBE and CEX, from February 2012 to April 2016.
7. INTERNATIONAL COURIER SOLUTIONS, S.L. (ICS) and TOURLINE EXPRESS MENSAJERÍA, S.L.U., from October 2013 to April 2016.
8. ICS and CEX, from March 2013 to April 2016.
9. ICS and DHL EXPRESS MADRID SPAIN, S.L.U., from April 2013 to April 2016.

Total fines imposed to CEX, FEDEX, UPS, DHL, TNT, MBE, GLS, TOURLINE, ICS y REDYSER amounts 68 million euros, being GLS exempted thanks to the leniency application.

The Decision established the jointly liability of SOCIEDAD ESTATAL DE CORREOS Y TELÉGRAFOS, S.A., the parent company of CEX; GENERAL LOGISTICS SYSTEMS, B.V., the parent company of GLS; MBE WORLDWIDE, SPA., the parent company of MBE; UNITED PARCEL SERVICE ESPAÑA LTD., the parent company of UNITED PARCEL SERVICE ESPAÑA LTD Y COMPAÑÍA SRC; TNT HOLDING LUXEMBOURG, SARL, the parent company of TNT EXPRESS WORLDWIDE SPAIN, S.L.U.; FEDERAL EXPRESS CORPORATION, the parent company of FEDEX SPAIN, S.L.; TOTALICS, S.L., the parent company of ICS; CTT-CORREIOS DE PORTUGAL, S.A., the parent company of TOURLINE EXPRESS MENSAJERÍA, S.L.U. and DHL EXPRESS IBERIA, S.L., the parent company of DHL EXPRESS MADRID SPAIN, S.L.U.

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