

NOTA DE PRENSA

The CNMC analyses the judicial review of its decisions in the field of antitrust

- The Spanish Supreme Court has confirmed 82.7% of CNMC's fining decisions during the period 2014-2017.
- The Spanish National Court has confirmed on average 75% of CNMC's fining decisions during the same time.

Madrid, 28 May 2018 - The CNMC (National Commission for Markets and Competition CNMC) has analysed the judicial review of its decisions on competition matters. ([2014-2017 judicial review](#))

The study carried out for the period 2014-2017 shows that the Spanish National Court has confirmed on average 75% of the Competition Authority's sanctioning decisions. The percentage rises to 82.7% in the case of the Spanish Supreme Court. This percentage indicates that, in the context of appeals presented by the Competition Authority, the Supreme Court annulled many of the National Court's rulings against the decisions of the Competition Authority (both the CNC and the CNMC).

Judgements from 2014 to 2017

This study analyses the judicial review of the sanctioning decisions adopted by the Spanish Competition Authority (CNMC/CNC) on which the National Court and/or the Spanish Supreme Court have issued a judgment during the years 2014 to 2017, regardless of the notification date to the Spanish Competition Authority.

We have taken into account all rulings about sanctioning decisions by the Spanish Competition Authority regarding articles 1 and 2 –which are equivalent to 101 and 102 of the TFEU– of the Spanish Competition Act (15/2007). According to Spanish Law, these fining decisions put an end to the administrative procedure before the Spanish Competition Authority and open the way to judicial review.

The judgments have been classified in two categories, annulment and confirmatory judgements, taking into account only the rulings that confirm or reject the existence of the infringement and whether due process was used. Instead, rulings that referred to other issues that do not affect the substance of the case were not considered, such as the calculation of fines, interim measures or dismissal of appeals for fundamental rights.

With the aim of adopting the most cautious approach, for those cases with judgements that fall in both categories (annulment and confirmatory judgments), they have been included in both.

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In 2017, the Spanish National Court confirmed the existence of competition infringements in 65% of the revised cases, and the appeals presented by the Spanish Competition Authority before the Supreme Court are still pending. In the case of the Supreme Court, also in last year 85% of its judgments were favorable to the Spanish Competition Authority, in line with the trend of the last four years.

[\(2014-2017 judicial review\)](#)

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