

PRESS RELEASE

The CNMC fines 34 non-university textbook publishers and ANELE for creating a mechanism to restrict commercial policies and terms and conditions of trade.

- 34 companies and the National Association of Book and Teaching Material Publishers (ANELE) coordinated commercial policies and terms and conditions of trade within the framework of a code of conduct for companies in the publishing industry.
- The Oversight Committee controlled any deviation by means of pressure and threats of reporting those who did not form part of the agreements.
- ANELE and 10 publishers agreed on terms and conditions of trade for merchandising digital textbooks between 2014 and 2017.
- Altogether, the penalties total almost 34 million euros and require the cessation of these practices.

Madrid, 31st May 2019. The CNMC (National Commission on Markets and Competition) has dismantled the mechanism for coordinating commercial policies and terms and conditions of trade as part of the development and application of a code of conduct for the textbook publishing industry. To this end, it has imposed fines on 34 textbook publishers and the National Association of Book and Teaching Material Publishers (ANELE). Additionally, it has terminated the agreement between certain publishers to fix the price and terms and conditions of trade for digital textbooks reached by ANELE and 10 publishers. Altogether, the economic sanctions total 33.88 million euros. ([S/DC/0594/16](#)).

Textbook merchandising has certain distinctive characteristics. Pupils' families, who are the purchasers of the books, do not select the product based on price, as they are required to purchase the textbooks dictated by the educational institution their children attend. Another important aspect is that some educational stages have fixed pricing (infant education, upper secondary and VE) and others (primary education and compulsory secondary education) have unregulated pricing. Additionally, regulations governing the content of non-university textbooks are very clear and decisive. Furthermore, educational institutions are legally required to retain the same textbooks for periods of at least four years, unless their replacement prior to the stipulated time is absolutely justified.

Based on a formal complaint filed by Editorial Vicens Vives, fines have been levied for two forms of illegal conduct, one violation in relation to the development and application of the Code of Conduct for the publishing industry and the other violation related to digital books. Both are very serious, according to articles 1 of the Defence

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of Competition Act and 101 of the Treaty on the Functioning of the European Union.

Development and application of the Code of Conduct

The first violation consists of a number of agreements and concerted practices linked to the development and application of a code of conduct for companies in the publishing industry, which they have followed since April 2012. In the preparation and implementation of this code of conduct, the fined publishers and the association shaped a strategy intended to restrict competition in the non-university textbooks dictated by educational institutions.

This strategy has entailed standardisation of the commercial policies and terms and conditions of trade within the industry, as well as the delivery of IT materials (digital whiteboards, projectors, laptop computers, etc.), in order to reduce and eliminate those elements which introduce competition with regard to the textbooks dictated. Despite the fact that justification for the Code of Conduct was given as a system of supposed 'good practices', it has been proven that the entities that engaged in the conduct did so with financial aims and to restrict competition.

Under the umbrella of this code, they created an 'oversight committee' which has become a mechanism for implementation and control of deviations from the agreement. The existence of methods of punishment for publishers that did not comply with the agreements has been proven, even if they had not voluntarily signed onto the Code of Conduct. ANELE sent letters to competitors and to educational institutions, including threats to report them. Specific measures were also taken to pressure Edelvives, until it joined the agreements, and unfair competition claims were lodged against Vicens Vives.

A total of 33 companies have been implicated in this violation: three belonging to the Edelvives group, six to the Anaya publishing group, another six in the SM group, seven companies in the Santillana group, and two companies in the Bromera publishing group, in addition to Ediciones Bilingües, Edebé, Editex, Ediciones Laberinto, MacMillan, Mc Graw Hill, Oxford University Press, Pearson Educación and Teide. This is in addition to the liability assigned to ANELE.

The CNMC has also demonstrated a decline in the sum allocated by publishers to delivery of ICT materials to classrooms between 2010 and the 2017/2018 school year, although this did not translate into lower textbook prices.

For this conduct, the CNMC has imposed a fine of 180,000 euros on ANELE and a total of 32.2 million euros on 33 publishers, distributed as follows:

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Publishing Group	Company	Fine (€)
Anaya	ALGAIDA EDITORES	130,000
	COMERCIAL GRUPO ANAYA	6,807,658
	EDICIONS XERAIS DE GALICIA	30,000
	EDITORIAL BARCANOVA	110,000
	GRUPO ANAYA SA	800,000
	GRUPO EDITORIAL BRUÑO	150,000
Bromera	ALGAR LIBROS	6,000
	EDICIONS BROMERA EMPRESA EDITORIAL	154,214
Edelvives	CASA MARISTA BAULA	30,000
	EDITORIAL IBAIZABAL	20,000
	EDITORIAL LUIS VIVES MARISTAS PROVINCIA NORTE	2,655,258
Santillana	EDICIONES GRAZALEMA	8,000
	EDICIONS OBRADOIRO	5,000
	EDICIONS VORAMAR	10,000
	GRUP PROMOTOR D'ENSENYAMENT	20,000
	GRUPO SANTILLANA EDUCACIÓN GLOBAL	250,000
	SANTILLANA EDUCACIÓN SL	8,641,435
	ZUBIA EDITORIALA	10,000
SM	COMERCIAL DE EDICIONES SM	5,234,761
	EDITORIAL CRUILLA	80,000
	FUNDACIÓN SANTA MARÍA	5,000
	IKASMINA ARGITALETXEA	10,000
	PPC EDITORIAL Y DISTRIBUIDORA	50,000
	XERME EDICIONS	10,000
	BYME (Ediciones Bilingües, S.L.)	231,993
	EDEBÉ	778,430
	EDITEX	131,099
	LABERINTO	16,248
	MACMILLAN	1,461,608
	MC GRAW HILL	498,457
	OUP (Oxford University Press España, S.A.)	3,113,066
	PEARSON	442,168
	TEIDE	317,261
	TOTAL FINES, COMPANIES	32,217,656
	ANELE (National Association of Book and Teaching Material Publishers)	180,000
	TOTAL	32,397,656

Additionally, Hachette Livre España, S.A. has been declared jointly and severally liable for the involvement of its subsidiaries in the agreements and concerted practices which took place as part of the development and application of the Code of Conduct.

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Merchandising of digital books

The CNMC Competition Committee has determined that it has been proven that certain companies reached agreements and concerted practices to fix prices and other terms and conditions of trade in relation to textbooks in digital format in Spain between 2014 and 2017. These actions restricted competition in relation to the merchandising of a new product that was experiencing growth.

Textbooks in digital format or digital books are published content that can be viewed on a digital device (computer, tablet, mobile telephone, etc.). Digital books therefore correspond to the same product that each publisher develops on paper for the subjects it covers, but with additional interactive options. The digitisation of education has been promoted by the public authorities.

Through their participation in a technical committee within ANELE, publishers reached agreements to standardise terms and conditions for the merchandising of digital books. In this manner, they established such conditions as price, duration of licences, non-use by pupils repeating a year and siblings, and not permitting offline downloading of content.

Therefore, the CNMC has determined that it has been proven that a very serious violation of articles 1 of the Defence of Competition Act and 101 of the Treaty on the Functioning of the European Union has taken place. The parties responsible are, in addition to ANELE, the marketing managers of the SM, Anaya and Santillana publishing groups, together with Edebé, MacMillan, Mc Graw Hill, Oxford University Press, Pearson Educación, Teide and Edición del Serbal.

The fines total 1,492,200 euros, of which 130,000 were levied on ANELE. The rest is distributed among the other 10 companies that formed part of the agreements, as follows:

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Company	Fine (€)
COMERCIAL DE EDICIONES SM	400,000
COMERCIAL GRUPO ANAYA	130,000
EDEBÉ	80,000
MACMILLAN	21,000
MC GRAW HILL	11,000
OUP	270,000
PEARSON	20,000
SANTILLANA EDUCACIÓN SL	270,000
SERBAL	200
TEIDE	160,000
Total, companies	1,362,200
ANELE	130,000
TOTAL	1,492,200

The parent companies Grupo Santillana Educación Global, S.L. and Hachette Livre España, S.A. will be jointly and severally liable for payment of the fines as parent company of Santillana Educación, S.L. and indirect parent company of Comercial Grupo Anaya, S.A.

This decision concludes the administrative proceedings. It is possible to lodge a contentious-administrative appeal before the National Court, no later than two months from the day after the date of notification.

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