

PRESS RELEASE

The CNMC fines several companies in the dairy industry for infringing the rights of farmers

- The illegal behaviour consists of the exchange of information which allowed for the coordination of sales strategies to the detriment of the interests of the farmers, who were prevented from setting their own prices.
- The fines will be applied to a total of eight companies and two associations from the sector who operate in the raw cow's milk supply market, for their behaviour between the years 2000 and 2013.
- Altogether, the fines are for a total of €80.6 million.

Madrid, 12 July 2019. The CNMC has fined eight companies who operate in the raw cow's milk supply market for their behaviour between the years 2000 and 2013. The illegal behaviour consists of the exchange of information which allowed for the coordination of sales strategies to the detriment of the interests of the farmers. This behaviour is considered a very serious infringement and has led to €80.6 million in fines ([S/0425/12](#)).

This case arose from a study into the dairy sector referred by the Castile and Leon Competition Authority. This showed the possible existence of restrictive practices in the raw milk supply market. There was also a complaint made by the farmers' unions (Unión de Pequeños Agricultores, UPA) against the milk processing companies.

After an investigation, which included simultaneous raids of the headquarters of some of the main companies in the sector, and after the examination of the corresponding sanctioning case, the CNMC decided that Asociación de Empresas Lácteas de Galicia (AELGA), Calidad Pascual (formerly Grupo Leche Pascual S.A.), Central Lechera de Galicia (CELEGA), Corporación Alimentaria Peñasanta (CAPSA), Danone, Gremio de Industrias Lácteas de Cataluña (GIL), Grupo Lactalis Iberia, Nestlé España, Industrias Lácteas de Granada (Puleva) and Schreiber Food España (formerly Senoble Ibérica) have taken part in and are responsible for anticompetitive practices which infringe competition law. Also taking part in these practices are the companies Industrias Lácteas Asturianas (ILAS), Leche Río, Feiraco, Leche Celta, Forlactaria and Central Lechera Asturiana, although their infringements are outside the limitation period.

Pressure on farmers

The anticompetitive practices carried out by the offenders have consisted of exchanging information, at the national and regional level, about raw cow's milk purchase prices, volumes purchased from farmers and milk surpluses.

These exchanges of strategic information took place in different forums and involved different subject matters, although all of them had the common objective of agreeing

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and adopting a joint strategy to control the raw cow's milk supply market. In addition, at certain moments there have been specific agreements to coordinate milk purchase prices and transfer farmers between producers.

So, for example, the processing companies talked about and exchanged information on the purchase prices they were offering their farmers, those that they were going to offer in the future, the identity of the farmers and the volumes purchased from them, and the identity of the farmers who were intending to switch processors and the possible measures to prevent this.

This information would have allowed the companies to adjust their behaviour and avoid offering better prices and commercial conditions to the farmers, limiting competition in the raw milk supply market.

As a result, the farmers were not free to set the price of their product or the company they wished to supply, distorting the normal operation of the market to the benefit of the processors.

The agreements worsened the situation in a market which was already concentrated in terms of demand and where the negotiating power of the processing industry was very strong compared to that of the farmers who, in addition to being more fragmented, are obliged to sell the production to retain their milk quotas.

Similarly, some of the companies exchanged information with the intention to control the surpluses of milk and its conversion into milk powder, therefore artificially constraining the raw milk supply price.

The CNMC's decision not only proved the existence of behaviour prohibited due to its purpose, which was to distort the normal operation of the market, but also showed that this had negative effects on the market, with the farming sector being the most harmed.

Legal background

This issue was examined and decided upon in 2015. The CNMC produced a Specification of Facts Document in which certain offending periods for some of the companies were omitted. This led to a rectification of this information in a second document which Nestlé appealed. While the legal process was taking its course, the CNMC made a decision on the fines on 26 February 2015. However, on 11 July 2016 the Spanish National Court partly upheld the judicial appeal lodged by NESTLÉ and partly annulled the decision made by the CNMC, ordering the rescission of the procedure to the moment immediately prior to the correction of errors (appeal 343/2014). This explains why the fines and durations of the conduct are in some cases different to those imposed in 2015.

Fines

The aforementioned conduct is considered an infringement of article 1 of Act 15/2007 on the Defence of Competition (LDC) and article 101 of the Treaty on the Functioning of the European Union, consisting in practices of exchanging sensitive

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commercial information.

Two associations played their own important part in these exchanges of information: Aelga and Gil. They had a role in facilitating the infringement, which is why they are considered accomplices to the infringement and have been fined for that.

Company	Fine 2019 (€)
Calidad Pascual	8,560,363
Central Lechera Galicia	53,310
Corporación Alimentaria Peñasanta	21,864,645
Danone	20,277,100
Grupo Lactalis Iberia	11,692,998
Nestlé España	6,860,000
Ind. Lácteas Granada	10,269,557
Schreiber Food España	929,644
Asoc. Emp. Lácteas Galicia	60,000
Gremio Ind Lácteas Cataluña	90,000
Total	80,657,617

In the case of Industrias Lácteas Asturianas, Grupo Leche Rio, Feiraco Lácteos, Leche Celta, Forlactaria Operadores Lecheros and Central Lechera Asturiana, the CNMC has declared that the infringement is outside the limitation period.

No administrative appeal against the decision is possible but 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.

Any person or company who considers that they have been affected by the anti-competitive practices described in this decision may file a claim before the civil courts. for damages arising from the aforementioned conduct due to the infringement of competition law

The CNMC considers the fight against cartels to be a priority and to facilitate their detection has introduced a [Clemency programme](#) through which any company and/or director who has participated in a cartel can provide information about it, in writing or verbally at the CNMC's headquarters, in exchange for a total exemption from (or a reduction of) the fine that would correspond to them.

Similarly, the CNMC has established a [Collaboration Mailbox](#) so that information about this type of very serious infringement can be sent to the competition authority.

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