

## PRESS RELEASE

### **The CNMC fines the two main pharmaceutical producers of PET radiopharmaceuticals in Spain for €5.76 million**

- Radiopharmaceuticals are used in nuclear medicine tests to detect and monitor diseases such as cancer.
- The companies formed a cartel that, for at least four years, allocated the contracts to supply radiopharmaceuticals.
- This behaviour affected public and private hospitals and increased the cost of the service provided to patients.
- The Commission is also fining two of their executives as directly responsible for the offence.

**Madrid, 9 February 2021** - The CNMC has issued fines totalling €5.76 million to the companies Advanced Accelerator Applications Ibérica, S.L.U. (**AAA**) and, jointly and severally, to its parent company Novartis Groupe France, S.A., to Curium Pharma Spain, S.A. (**CURIUM**) and its parent company Glo Holdco, S.C.A., and to two of their officers for the violation of **constituting a cartel** for agreeing to share the market for supplying the radiopharmaceutical fluorodeoxyglucose (18-FDG). ([S/0644/18 RADIOFARMACOS](#))

This is a very serious infringement prohibited by Article 1 of Law 15/2007, the Anti-Trust Law, and Article 101 of the Treaty on the Functioning of the European Union.

#### **Common plan contrary to the general interest**

Radiopharmaceuticals are used in nuclear medicine to obtain an image of the physiology, biochemistry or anatomical pathology of a body system without altering its function. They are most commonly used to detect and monitor diseases like cancer, among others.

The CNMC has shown that the two companies now sanctioned adopted a shared strategy to distribute a large number of contracts for the supply of radiopharmaceuticals to public and private hospitals located in various regions of Spain.

The joint plan had two parts:

- **Subcontracting agreements:** In those hospitals subject to more competition, the company that was better positioned to supply the radiopharmaceutical due to the proximity of its cyclotron (particle accelerator) did not submit the best bid. As a result, it did not win, and the company with the cyclotrons furthest from the hospital was awarded the contract at a higher price than would have been the case under normal conditions. Subsequently,

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the successful bidder subcontracted the service to its competitor (which has the closest cyclotron) at a price significantly lower than that charged to the hospitals.

- **Exclusive customer allocation:** The companies maintained a non-competition agreement in many centres in Spain. This materialised through self-exclusions from bidding (by not submitting one or by making mistakes in the bidding process) or by submitting bids at the maximum price. This allowed their competitor to be awarded contracts at substantially higher prices than those at which their proximity to the customers would have allowed them to bid, knowing for a fact that their competitor would not behave competitively.

These allocation agreements were in place from at least June 2014 to November 2018, when the CNMC inspected the headquarters of both companies ([press release](#)).

### **Fines for companies and executives**

Currently, AAA and CURIUM are the only two companies with the means to provide this service to hospitals throughout Spain, which has facilitated their behaviour, maximised its effects and increased their ability to influence the creation of the contracting conditions by hospitals.

As a consequence of the proven violation, the CNMC has imposed the following fines on the aforementioned companies and several of their executives:

Advanced Accelerator Applications Ibérica, S.L.U. (AAA): €1,523,421

Curium Pharma Spain, S.A.: €4,244,584

Mr Giovanni Tesoriere: €46,000

Mr Andrés Pérez Boada: €46,000

The resolution also considers the need to initiate the procedure to determine the duration and scope of the prohibition to contract with government agencies, which results from the infringement declaration, in order to respect the principles of proportionality and deterrence inherent to our system of penalties in matters of competition.

The CNMC urges the Competition Directorate to enforce the entirety of this Resolution and notes that an administrative appeal can be brought before the National Court within two months after the date on which the Resolution is filed.

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