

PRESS RELEASE

The CNMC resolves its penalty proceedings against Maquinaria Garrido S.L. through traditional enforcement

- With this type of remedy, the alleged offender offers certain binding conditions which, if accepted by the Commission, enables it to avoid paying a fine.
- The CNMC investigates the terms and conditions of agreements with official distributors that are prohibited by Spain's competition law (*Ley de Defensa de la Competencia* or "LDC").

Madrid, 23 September 2021.- The CNMC has pursued a traditional enforcement remedy in its penalty proceedings against Maquinaria Garrido S.L. The competition authority is investigating potential restrictions to passive sales and retail-price maintenance agreements and other trade terms in the company's agreements with official distributors of products in the Topavi trademark. ([S/0006/20: Maquinaria Garrido](#))

Maquinaria Garrido expressly rejected tacit renewal of the distribution agreements that triggered the penalty proceedings ([press release](#)). These agreements were terminated on 31 October 2020, with new ones becoming effective 1 November 2020.

Accordingly, the company formally requested traditional enforcement of penalties, undertaking to deliver certain commitments, which entailed:

- **Including** in new contracts **express authorisation of passive sales** outside the exclusive territory of distributors and eliminating any counterparty linked to passive sales. This way, distributors need only comply with a general duty of informing end users about additional costs they must pay for start-up of the machinery and enforcement of the warranty.
- **Removing any mention of minimum resale prices**, leaving only a reference to maximum recommended retail prices for each related year.

This way, the new wording of exclusive distribution agreements removes the obstacles existing previously regarding passive sales by exclusive distributors and minimum price setting.

Atypical solution

Traditional enforcement is provided for in article 52 of the LDC. It is an atypical approach to resolving an administrative procedure by enforcing commitments offered voluntarily by the alleged offender, circumventing the need to rule on whether an infraction has been committed or, accordingly, whether to impose a fine.

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Traditional enforcement has a dual purpose. It seeks to restore the conditions of competition quickly with commitments that address the issues and safeguard consumers' well-being and that of public interest, and it upholds the principle of administrative effectiveness by limiting the red tape involved in proceedings and expediting the rulings on administrative proceedings.

Recent cases ruled on by the CNMC through traditional enforcement:

[S/DC/0548/15 - Schweppes](#)

[S/DC/0567/15 - Estudios de Mercado Industria Farmacéutica](#)

[S/DC/0604/17 - Mediapro Fútbol](#)

[S/0630/18 – Agic Gnsur](#)

[S/0631/18 – Adidas España](#)

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