

The CNMC closes the proceedings against the Catalan National Assembly (ANC in Catalan) for its “Consum estratègic” (Strategic Consumption) campaign because there is no evidence of effects on competitive dynamics

- This campaign sought to channel consumer behaviour in favour of certain companies based in Catalonia to the detriment of products or services offered by IBEX35 companies.
- The CNMC has found, after requesting information from different operators, that the campaign did not alter effective competition in the market.

Madrid, 17 June 2022.- The CNMC has decided to close the proceedings against the Catalan National Assembly (ANC in Catalan) for its campaign “Consum estratègic” (Strategic Consumption) as the existence of an infringement of Article 3 of the Spanish Competition Law (LDC in Spanish) consisting of unfair competition by the ANC has not been proven ([S/0014/20](#)).

Facts investigated: the “Consum estratègic” campaign

On 8 November 2018, the ANC presented the “Consum Estratègic” campaign, which was articulated through a website under the same name, the holding of fairs and dissemination talks, and different tools for greater visibility and dissemination. The purpose of the campaign was to channel the behaviour of consumers and businesses so that they would refrain from purchasing products or services offered by certain companies, especially the so-called IBEX35 companies, in favour of certain companies headquartered in Catalonia for reasons unrelated to competition.

Complaint against the ANC

The proceedings were initiated after a complaint before the Catalan Competition Authority (ACCO in Catalan) by Foment del Treball Nacional (FTN) against the ANC. The complaint warned of alleged prohibited conduct under Article 3 of the LDC, resulting from the campaign developed by the ANC, called “Consum Estratègic”, initiated allegedly with the purpose of boycotting certain companies in favour of others that are based in Catalonia for reasons other than competition based on their own merits.

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The Barcelona Commercial Court no. 11, ruled in favour of the precautionary measures requested by FTN in the lawsuit filed against the ANC in December 2019, thus halting the campaign.

The CNMC's jurisdiction over conduct falling under Article 3 of the LDC

Article 3 of the LDC establishes that “*The Comisión Nacional de los Mercados y la Competencia (National Commission on Markets and Competition Commission) or the competent bodies of the Autonomous Communities shall hear, under the terms established in this Law for prohibited conduct, acts of unfair competition which, by distorting free competition, affect the public interest*”.

The application of the Unfair Competition Law corresponds to the Courts of Justice, and the CNMC is only empowered to sanction unfair conduct when such conduct is capable of restricting effective competition in the market, which is the public interest protected by the LDC.

Campaign Impact Assessment

The CNMC has requested information in relation to the services targeted by the campaign, in particular electricity and gas supply (free market), mobile telephony and internet, banking and finance, insurance and food retail distribution companies. Information has been requested on the possible impact of the campaign on their commercial activity, brand and reputation. In general, the operators questioned stated that, on the basis of their internal business data and experience in the relevant market, it could not be concluded that this campaign had an impact on the results of their commercial activity.

In addition, an analysis of the evolution of the market shares in the relevant markets concluded that the “Consum Estratègic” campaign has not had a significant impact that would indicate that it was a decisive factor in the change of hiring in the sectors analysed.

The analysis carried out by the CNMC concludes that, in general, it cannot be deduced that the campaign analysed has had an impact on the results of the commercial activity of the companies consulted.

Therefore, the CNMC considers that there is no evidence that the competitive dynamics of the markets have been altered as a result of the campaign promoted by the ANC. Consequently, it closed the proceedings, as the elements necessary to declare an infringement of Article 3 of the LDC were not met.

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