

The CNMC initiates disciplinary proceedings against Telefónica

- Telefónica allegedly failed to comply with certain commitments it made when acquiring DTS (formerly Sogecable) in 2015.
- Among others, it committed to avoiding long-term obligations for its customers, directly or indirectly related to pay-TV services (bundled or not).
- Its *Fusión+Smartphone* offer included a monthly rental for a mobile phone that was tied to a 36-month contract.

Madrid, 21 December 2022.- The National Commission on Markets and Competition (CNMC) has initiated disciplinary proceedings ([SNC/DC/153/22](#)) against Telefónica de España S.A.U. for a possible breach of the commitments made in the Telefónica/DTS (formerly Sogecable) merger in April 2015.

This resolution is part of the [surveillance work](#) carried out by the CNMC to verify that Telefónica complies with the commitments offered for the approval of the exclusive takeover of DTS. The purpose of the obligations assumed by Telefónica was to preserve competition in the markets concerned by this merger.

Acquisition of DTS in 2015

On 22 April 2015, the CNMC authorised the [merger operation](#), subject to Telefónica's compliance with a number of commitments. These commitments were extended for an additional three years by a [decision issued on 9 July 2020](#).

These included the requirement for Telefónica to refrain from including long-term obligations directly or indirectly related to pay-TV services (either bundled or not with electronic communications services). The terms for the above were set out in sections 1.1 and 1.1.2 of the commitments to which the authorisation of the Telefónica/DTS merger was conditional.

Fusión+Smartphone offer

In July 2021, the CNMC [found evidence of non-compliance](#) with these commitments. This case concerned the *Fusión+Smartphone* product offer, which includes pay-TV services.

Specifically, the offer enabled Telefónica's customers to lease smartphones in exchange for a monthly fee of three euros and a 36-month contract term.

As a result, the offer contained certain provisions contrary to the commitments regarding the obligation not to apply conditions or practices that hinder the

switching of Telefónica's current or future customers to other operators, both for bundled services including pay-TV and unbundled pay-TV services.

The initiation of these proceedings does not prejudice the final outcome of the investigation. The CNMC now has a time limit of three months to investigate and decide on the case.

Related content:

- Press release (10/08/2021): [The CNMC urges Telefónica to modify or clarify the terms of the Fusión commercial offer that includes the rental of smartphones](#)
- Press release (23/04/2015): [The CNMC approves the Telefónica and DTS merger with commitments subject to monitoring](#)
- Initiation of proceedings [SNC/DC/153/22](#)
- Decision (07/09/2020) [on the monitoring of case VC/0612/14](#)