

## PRESS RELEASE

### **The CNMC is investigating potential anti-competitive practices in the real estate brokerage market**

- Specifically, agreements and/or practices intended to directly or indirectly fix prices and other commercial conditions involving real estate brokerage, as well as the exchange of commercially sensitive information.
- The CNMC inspected the offices of several companies that provide real estate brokerage services and real estate software to determine if commissions for the sale and rental of property are being fixed, and if algorithms are being used to facilitate said practices.

**Madrid, 21 November 2019** - The CNMC (National Commission on Markets and Competition) is investigating potential anti-competitive practices consisting of agreements and/or practices intended to directly or indirectly fix prices and other commercial conditions involving real estate brokerage, as well as the exchange of commercially sensitive information, particularly in the area of residential housing.

On November 18, 19 and 20, inspections were conducted at the offices of several companies that operate in this market. These inspections are part of the investigation opened by the CNMC after becoming aware of the possible existence of anti-competitive practices.

Certain companies and associations in the real estate brokerage sector operating at the national, regional and local levels are suspected of having carried out said practices in relation to the direct or indirect fixing of commissions for the sale and rental of real estate and other commercial conditions involving real estate brokerage, as well as the exchange of commercially sensitive information. Also alleged to have been involved in the behaviour in question are companies engaged in the national market for software and computer solutions, primarily those intended for real estate brokerage. In particular, the CNMC is investigating if the design of certain real estate software and its algorithms could have made it easier to implement and maintain this direct or indirect fixing of commissions and commercial conditions.

The inspections represent a preliminary step in the process of investigating the alleged anti-trust behaviours and do not presume the outcome of the investigation or the guilt of the companies inspected. If the inspection finds evidence of practices prohibited by the Anti-Trust Law, then disciplinary proceedings will be formally initiated.

Agreements between competitors constitute a very serious violation of anti-trust law and can lead to fines of up to 10% of the total turnover of the infringing companies.

The investigation of cartels is one of the CNMC's top priorities, given the particular seriousness of their consequences on consumers and on the proper operation of the markets. To this end, the CNMC offers a "[Leniency Programme](#)", which allows

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companies that are part of a cartel to avoid having to pay a fine as long as they provide evidence that allows the CNMC to identify a cartel, or to have the amount of the potential fine reduced if they provide information that is of significant value to an ongoing CNMC investigation.

In addition, the CNMC has an [online whistleblower platform to identify cartels](#) that allows the public to provide anonymous information on possible secret agreements between competing companies involving pricing or other commercial conditions, the distribution of markets or customers, or the fraudulent distribution of public or private tenders.

The prohibition to contract companies sanctioned for serious infractions of anti-trust laws, laid out in Article 71 of Law 9/2007 on Public Sector Contracts, could be waived for companies that apply for leniency, pursuant to Article 72.5 of the aforementioned Law, which states that it is not appropriate to prohibit the contracting of companies seeking leniency.