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Directorate for Financial and Enterprise Affairs  
**COMPETITION COMMITTEE**

## Annual Report on Competition Policy Developments in Spain

-- 2020 --

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## Table of contents

<b>Spain</b> .....	<b>3</b>
<b>1. Changes to competition law and policies</b> .....	<b>4</b>
1.1. CNMC Guidelines on Antitrust Compliance Programmes.....	4
1.2. CNMC Guidelines on Confidentiality.....	4
1.3. Government proposals for new legislation.....	5
<b>2. Enforcement of competition laws and policies</b> .....	<b>5</b>
2.1. Action against anticompetitive practices.....	5
2.1.1. Summary of activities.....	5
2.1.2. Description of significant cases.....	5
2.1.3. Judicial Review.....	7
2.2. Mergers and acquisitions.....	8
2.2.1. Statistics.....	8
2.2.2. Summary of significant cases.....	8
2.3. Cooperation with regional competition authorities in Spain.....	9
<b>3. The role of competition authority in the formulation and implementation of other policies</b> .....	<b>10</b>
3.1. Market Studies and Guides.....	10
3.2. Study on Urban Water and Wastewater Services (E/CNMC/07/19), published in January 2020:.....	10
3.3. Market Study on the Impact of Air Ticket Discounts in non – peninsular territories (E/CNMC/005/18), published in April 2020.....	11
3.4. Guide on public procurement planning (G-2019-02):.....	11
3.5. Public consultation on bus passenger transport.....	11
3.6. Reports on Draft Regulation in progress.....	11
3.7. Reports on Non – legislative Activities.....	11
3.7.1. The Framework Agreement for the regulation of labour relations in the port in the port stevedoring sector.....	12
3.7.2. The contracting of the administrative notification service of the Almeria City Council.....	12
3.8. Active Legal Capacity Instruments.....	12
3.9. Economic Reports to support Court challenges.....	13
3.10. Reports on Public Aid.....	13
<b>4. International Cooperation</b> .....	<b>13</b>
4.1. European Union:.....	13
4.2. European Competition Authorities:.....	14
4.3. International Competition Network (ICN):.....	14
4.4. Organisation for Economic Co-operation and Development (OECD):.....	14
4.5. UNCTAD:.....	15
4.6. Twinning with Albania:.....	15
4.7. Iberoamerican Competition School:.....	15
<b>5. Resources of the competition authority</b> .....	<b>15</b>
5.1. Annual Budget and Human Resources.....	15
5.2. Staff qualifications.....	16
<b>6. References to new reports and studies on competition policy issues</b> .....	<b>16</b>
6.1. Market Studies and Guides.....	16
6.2. Reports on Draft Regulation.....	16
6.3. Reports on Non – legislative Activities.....	18

## *Spain*

### Executive Summary

1. This report covers the competition enforcement and advocacy activities carried out in 2020 by the Spanish National Commission of Markets and Competition (“CNMC”).
2. Like elsewhere, the COVID 19 pandemic caused an atypical year for the CNMC. However, despite the difficulties, the CNMC activity kept the previous year's rhythm in both enforcement and advocacy of competition.
3. In 2020, the CNMC had to put in place specific actions related to the pandemic situation. Among other measures, it approved a new inspection protocol to protect staff and those under investigation against COVID – 19; it created an email inbox for complaints and queries related exclusively to the application of competition rules in the context of the pandemic; and, in the Annual Report on Public Aid in Spain, it focused on the urgent aids and subsidies adopted to fight the COVID crisis.
4. Also, the CNMC published the Guidelines on antitrust compliance programmes which have been nominated to several awards.
5. On enforcement, in 2020 the CNMC opened twelve formal investigations, the highest number since 2014. In particular, six investigations have been opened for alleged infringements of Article 1 of the Spanish Competition Act (anticompetitive agreements); four investigations for suspected infringements of Article 2 of the aforesaid Act (abuses of dominant position) and the remaining two because of possible violations of Article 3 of this Act (distortion of free competition by unfair acts).
6. In 2020 the CNMC imposed fines in four cases, three of them had to deal with cartels: one related to a public tender of the National Meteorological Agency to acquire weather radar units; the second related to price-fixing among six companies in the solid fuels market; and the third related to School Transport Services in the autonomous region of Navarra. The last one was a non – cartel case that took place in the market for providing port cargo handling services. Likewise, the CNMC imposed a €5 million fine on Repsol for failing to comply with a previous infringement decision.
7. The fines imposed by the CNMC amounted a total of €12.7 million.
8. On the merger side, in 2020 the CNMC assessed 70 deals, a lower number compared to the 86 filings in 2019. Almost 90 percent of the mergers notified used the pre-notification procedure.
9. As regards advocacy, the CNMC issued 23 reports on draft regulations in progress. These reports are addressed to other authorities to improve, from the competition perspective, new regulatory measures at the drafting stage.
10. The CNMC published on its own initiative three reports on specific areas of concern: pricing of Urban and Wastewater Services; impact on the efficiency of Air Ticket subsidies for non-peninsular territories; and, a guide on public procurement planning recommendations.
11. In 2020, the CNMC challenged before court two regulations issued by regional governments as it was considered that they were introducing obstacles to the maintenance of effective competition in public road passenger transport services.

12. Concerning the Temporary Aid Framework for the pandemics, the CNMC concluded that Spain performed among the highest level of execution compared to other EU Member States.

13. Finally, it should be noted that the CNMC Board was partially renewed in June 2020 including the appointment of a new President and a new Vice-president of the CNMC.

## 1. Changes to competition law and policies

### 1.1. CNMC Guidelines on Antitrust Compliance Programmes

14. In 2020 the CNMC adopted Guidelines on antitrust compliance programmes with some recommendations to improve the companies' initiatives in this area.

15. Although each programme should be specific according to the nature of each company, the Guide identifies some common elements that would be positively valued by the CNMC:

- Full involvement of company management bodies and on the company's culture;
- Effective training of the company's employees;
- Existence of an internal reporting channel so that employees can raise concerns or potentially unlawful conducts they have come across;
- The appointment of an autonomous, fully independent "compliance officer";
- Identification of risks and design of oversight mechanisms create a its own "risk map" and a "control matrix" specifying the mechanisms for prevention, detection and early reaction to these risks;
- An agile and accessible internal procedure for managing reports and detection of violations, allowing all employees to seek advice on doubts about specific conducts and to warn about suspicions or evidences;
- And finally, a sound incentive system, including disciplinary measures in case of deviations and potential rewards for compliance and collaboration.

16. The Guidelines, applied already in a decision adopted this year, have been selected to several awards.

An English version is available on Guidelines for Antitrust Compliance Programmes.

### 1.2. CNMC Guidelines on Confidentiality

17. In 2020, the CNMC also published a document with some guidelines on confidentiality claims for competition procedures.

18. The guidelines are meant to advise companies (and other stakeholders) as regards the confidentiality treatment of data or documents provided by them as part of antitrust proceedings.

19. They basically compile the recent legal doctrine and case law in this area as well as the relevant substantive and procedural aspects of confidentiality claims regarding antitrust cases and merger procedures (methodology, time limits, etc.).

20. The Spanish version of the Guidelines of Confidentiality Treatment are available [here](#).

### 1.3. Government proposals for new legislation

21. There have been no significant changes in the Spanish competition legislation in 2020. The last major change took place in 2017 when the Damages Directive (Directive 2014/104/EU on certain rules governing actions for damages under national law for infringements of the competition law provisions) was transposed into national Law.

22. Nevertheless, the CNMC has been contributing with the Ministry of Economy to implement the transposition of the ECN+ Directive, by providing advice and participating in the discussions with the European Commission. Finally, the ECN+ Directive has been transposed early this year 2021 into national Law.

## 2. Enforcement of competition laws and policies

### 2.1. Action against anticompetitive practices

#### 2.1.1. Summary of activities

23. In 2020 the CNMC activity successfully adapted to the COVID situation and the competition enforcement was guaranteed throughout the year.

24. In March 2020, the CNMC set up a mailbox as a contact point for citizens and companies to send queries related to the application of competition rules during the Covid-19 pandemic. Around 700 queries were sent during the first 4 months of the pandemic. Some of them resulted in investigations openings in insurance sector, hydroalcoholic gel prices and bundling in State-guaranteed credits.

25. Furthermore, the Competition Directorate assessed certain cooperation projects between competitors in response to the Covid19 crisis, in order to provide advice and legal certainty to the companies requesting informal guidance.

26. In 2020, the Competition Directorate opened 12 formal investigations, the highest number since 2014, and has sent a final proposal to the Board in 19 cases: 4 of them proposing sanctions, two of them proposing commitments and 13 proposing to close the investigation.

#### 2.1.2. Description of significant cases

##### *Anticompetitive agreements Investigations:*

27. In 2020, the CNMC opened six formal cases regarding anticompetitive agreements.

28. In February 2020, the CNMC opened antitrust proceedings against seven firms for suspected price coordination in the real estate intermediation market. It is the first case where the use of algorithms might have played a crucial role in the engagement of such anticompetitive practices.

29. That month, the CNMC initiated disciplinary proceedings against Euro 6000 after a complaint filed by ING and several dawn raids. The alleged anti-trust practice involves the systematic, explicit and tacit refusal to allow ING to access the ATM network of the Euro 6000 member entities under the same conditions as those agreed by its members, or that apply to other entities with which Euro 6000 has reached agreements.

30. Both cases, still under investigation, were opened for a possible violation of Article 1 of the Spanish Competition Act (LDC) and Article 101 of the Treaty on the Functioning of the European Union.

31. Two more investigations involving cartel cases were opened in 2020: one in the scrap metal sector and the other one regarding public civil works.

32. In addition to these, in 2020 the CNMC opened two formal investigations regarding vertical restraints. The Competition Directorate is currently assessing the potential competition restrictions imposed by Isdin on e-commerce. Specifically, the fixing of resale prices, and sale prices of certain sunscreens.

*Abuses of dominant position Investigations:*

33. The CNMC opened in 2020 4 formal investigations, the highest number since 2012. The most interesting cases are described below.

- Case against Leadiant: the Competition Directorate keeps investigating a potential abuse of its dominant market position in Spain involving the manufacture and supply of the drug CDCA-Leadiant. This drug is used to treat a metabolic abnormality that causes irreparable damage to the body and has no equivalent therapeutic alternative.
- Case against the Royal Canine Society of Spain: the investigations are around antitrust practices consisting in hindering and preventing third-party official pedigree dog associations from providing their certification services. Specifically, this conduct potentially affects the certification of purebred dogs for export, as well as the organization of dog shows and events under conditions of fair competition, as The Royal Canine Society of Spain is allegedly prohibiting and even sanctioning judges who take part in activities organised by competing associations.

34. Concerning the *ex officio* detection, in 2020 the Economic Intelligence Unit (EIU) carried out a record number of investigations since its creation in 2018. The EIU opened 25 investigations and 14 were transferred to the regional competition authorities. The intelligence tool is proving successful and gains great value in the social distance limitations. Citizen collaboration had been crucial to open investigations on contracting bodies cooperation, one of CNMC greatest concerns in the current crisis.

*Sanctions:*

35. First, it was dismantled a market-sharing cartel for the contracts to supply weather radar units used by the National Meteorological Agency (AEMET). Three companies were fined with a total of € 610,000. This bid rigging case was opened after an investigation carried out by the Economic Intelligence Unit.

36. Second, the CNMC issued fines totaling €3.5 million to six of solid fuels, engaged in illegal practices, in some cases, that have been lasting 20 years. Several of their managers were also fined for their role in the infringements.

37. Third, in September 2020, the CNMC issued fines that amounted to 3,3 M€ to several companies that agreed to distribute the market of tenders for school transport for the Community Education Department of Navarra. Also, the procedure for the prohibition of contracting with the Administration in the case of competition infringements was sent to the Consultative Board of Public Procurement of the State.

38. Forth, it was a non-cartel case in the market for providing port cargo handling services. Given the circumstances surrounding the negotiation of the 5th framework agreement, a symbolic fine of up to €77,000 was imposed.

39. Last, the CNMC also ended a case initiated against Adidas Spain, after accepting the binding conditions voluntarily offered by the company. The conditions included in the contracts subscribed by Adidas and its distributors contained various anticompetitive practices that restricted online sales and advertising, and cross-selling. Furthermore, certain non-competition post-contractual obligations were imposed on some franchisees. Adidas offered the proactive communication of a new contractual framework with the following modifications:

- Delete the post-contractual non-competition clause included in some franchise agreements.
- Clarify the requirement to provide prior notice of the internet addresses (URL) used by distributors.
- Eliminate the ban on cross-sales between distributors in general and between franchisees in particular.

40. Last but not least, the CNMC imposed a €5 million fine on Repsol for failing to comply with a previous infringement decision.

### ***2.1.3. Judicial Review***

41. In 2020, the National Court and the Supreme Court issued 108 judgments (91 by the National Court and 17 by the Supreme Court) related to 19 decisions of the antitrust authority (judgments about fine recalculation, according to the criteria set forth by the Supreme Court in 2015, and other procedural issues have not been considered).

42. The figures show an improvement vis a vis previous year, probably as a consequence of the reinforcement of the cooperation between the CNMC's legal services and the Competition Directorate, the coordination between the CNMC and the legal services of the State attorney's Office (which represents the CNMC in Court), and also of the restructuring of the CNMC Legal Department.

43. Likewise, as in previous years, the Courts have broadly endorsed the new methodology applied by the CNMC for the calculation of fines.

44. The main judgments in 2020 upholding CNMC decisions are those related with the 9 car dealers' cases. In 2015 and 2016, the CNMC sanctioned more than 180 car dealers for the systematic exchange of confidential and commercially sensitive information. The judgments (from the National Court and the Supreme Court) confirm not only the cartel, but also the sanction to a consultancy company, acting as a necessary cooperator in the infringement.

45. On the contrary, in 2020 the main judgments dismissing CNMC decisions were related to the condition of single and continuous infringement in two cartel cases. First, in 2015, the CNMC sanctioned twelve refrigerated road transport companies and the Spanish Association. Second, in 2016, the CNMC sanctioned 23 undertakings in the market for the manufacture and sale of cement and concrete. The National Court has decided in both cases that the single overall plan was not enough probed for the whole infringement.

## 2.2. Mergers and acquisitions

### 2.2.1. Statistics

46. In 2020, 70 mergers were notified, a lower number compared to the previous year (86 mergers notified in 2019 to the CNMC), mainly because of the economic crisis due to the pandemic.

47. Accordingly, 56 percent of the notified mergers met the market share threshold, 36 percent met the turnover threshold, and the rest, both of them. The market share threshold has proved an efficient tool for detecting relevant mergers, such as those in digital markets.

48. In addition, approximately, 90 percent of the mergers notified used the pre-notification procedure.

49. Finally, the acquiring sole control (87 percent of the total) were the most common kind of merger notified.

### 2.2.2. Summary of significant cases

50. The Spanish merger control regulation includes two different thresholds for the notification: one based on market share and the other one based on turnover.

51. According to the National law, the second phase is initiated when it is considered that the merger may hinder the maintenance of effective competition in all or part of the National market. In these cases, the Competition Directorate opens the so-called second phase.

#### *Mergers cleared in second phase:*

52. In 2020, only one merger was cleared in the second phase. It concerned the sector of manufacture of white cement (ÇİMSA / ACTIVOS CEMEX). After the acquisition by ÇİMSA of the white cement business of CEMEX, ÇİMSA would become the market leader in both bulk and bagged white cement, with a combined share of over 50 per cent in the case of bulk white cement. The merger was cleared subject to two remedies: firstly, ÇİMSA will undertake to the long-term transfer of the right to use one of its silos to a third company (MOLINS) and, secondly, ÇİMSA will, until the end of its concession in 2022, supply specific customers of both companies from another silo.

#### *Mergers cleared subject to remedies:*

53. In addition to this, in 2020, the CNMC cleared 3 additional mergers subject to remedies proposed by the parties.

54. The first one, involved Bimbo Group acquiring an industrial facility for the manufacture of packaged bread. The transaction includes a commercial agreement between Bimbo and the supermarket chain Mercadona to supply white-label packaged bread.

55. A series of risks to competition were identified within the framework of the agreement with Mercadona due to Bimbo's reinforced position as a brand manufacturer. The merger was cleared subject to two remedies: firstly, Bimbo will undertake to eliminate any potential contractual or de facto link between the bakery products of the Bimbo brand and the private-label products supplied to Mercadona from the Paterna factory and, secondly, Bimbo will undertake not to initiate negotiations with Mercadona involving bakery products with the Bimbo brand, in addition to those already supplied to Mercadona and not to introduce new private-label bakery products in Mercadona.



56. The second merger cleared subject to remedies was in the ceramic tile sector and included concerns related to innovation. Pigments Spain acquired certain assets and liabilities and several companies owned by the Ferro Corporation. During the merger assessment, the CNMC determined that the acquisition could affect innovation at the resulting company as well as on a general level. The merger was cleared subject to two remedies: firstly, Pigments agreed to report to the CNMC every six months on the status and progress of existing R&D projects and, secondly, Pigments will undertake not to discontinue, withdraw, merge or consolidate any R&D project, nor reduce the annual budget without the prior consent of the CNMC.

57. Finally, Areas acquired the sole control of Autogrill, both operating in the concessionary food services. After the operation was strengthening the Areas's market position in several markets: concessionary food services at airports, railway stations and in highway and motorway service areas, concessions for restaurant establishments in train stations and airports. The merger was cleared subject to two remedies: firstly, Areas agreed to release a total of five establishments by the end of 2021, through the early termination of the contracts on some premises or by not submitting an offer for those premises that are about to expire and, secondly, Areas also will undertake not to exceed the joint quota resulting after the operation and application of the conditions during three years, until 1 January 2024.

58. The CNMC has also increased the focus on possible gun jumpings. Therefore, in 2020, it carried out its first inspection in a merger case regarding the funeral sector under suspicion of gun jumping, among other reasons.

### 2.3. Cooperation with regional competition authorities in Spain

59. First of all, it should be noted that 12 out of the 17 *Comunidades Autónomas* (Autonomous Regions) have its own competition authority: eight of them include prosecution and decision bodies (Cataluña, Galicia, País Vasco, Andalucía, Comunidad Valenciana, Aragón, Castilla y León and Extremadura) and the remaining four (Región de Murcia, Canarias, Madrid y Navarra) only carry out investigations. In the latter case, it is the CNMC'S Board that adopts the final decision.

60. In any case, it should be stressed that the regional competition authorities only have jurisdiction over anticompetitive practices with effects limited within their regional areas. A coordination mechanism was set up following the creation of the regional antitrust authorities to allocate enforcement depending on the effects of the conduct in each particular case.

61. In 2020, 71 cases were allocated between the CNMC and the regional competition authorities: 53 to the regional competition authorities and the remaining 18 cases to the CNMC. In addition, last year two reallocations to the CNMC took place. One from Madrid and the other one from Cataluña. In the latter, to assign the case, it was necessary to hold the Advisory Board on conflicts (*Junta Consultiva en materia de conflictos*) between the Cataluña Competition Authority and the CNMC. Finally, the Advisory Board decided to assign the case to the CNMC.

62. The collaboration between competition authorities in Spain also took place in the area of inspections even the circumstances caused by the pandemic. In particular, two regional competition authorities helped the CNMC in the inspections which took place at the beginning of March.

63. Last but not least, the CNMC and the regional competition authorities organised training sessions focused on the legal and procedural aspects of the inspections and public procurement.

### 3. The role of competition authority in the formulation and implementation of other policies

64. The Advocacy Department plays a fundamental role in promoting competition. It uses several tools: (i) market studies and guides; (ii) reports on draft regulation; (iii) reports on non-legislative activities; (iv) active legal capacity to challenge regulations and administrative acts before Spanish Courts; (v) and economic impact reports for Court challenges.

65. The CNMC Advocacy activity have also been shaped by the covid-19 crisis. A high number of regulatory measures were adopted in Spain within very tight timelines as a response to the sanitary and economic crisis. In this context, the CNMC has been available and readily providing advice through formal and informal channels on competition issues arising from activities of the public sector. Among others, the CNMC has also collaborated with other agencies on issues such as the price gauging of hygienic masks and has been monitoring public aid granted in the context of the pandemic.

66. In view of the dimension of the crisis, the CNMC revised its programmed advocacy initiatives and established new actions in the revised 2020 Action Plan. Among the new initiatives, a new working group was created to coordinate the approach to issues in digital markets, and two new actions were tabled (both are expected to be adopted in 2021): a set of guidelines for public administrations to favour a pro-competitive approach as a way to accelerate economic recovery and a guide on the relation between competition and labour markets. In addition, the Annual Report on Public Aid in Spain included a special chapter on covid-19-related public aid.

#### 3.1. Market Studies and Guides

67. The CNMC's studies and reports seek to identify the operating problems of a given sector and propose changes in regulation. Occasionally, the studies take the form of guides that have an educational function. In 2020, the CNMC has approved two studies and one guide:

#### 3.2. Study on Urban Water and Wastewater Services (E/CNMC/07/19), published in January 2020:

68. The study identifies a general lack of transparency in the sector with regard to pricing and performance, including indicators of market situation, as well as problems of insufficient scale. In addition, there is a poor design of pricing for water and wastewater services, which do not adequately consider the cost of supply, nor incentivize efficient behaviour by suppliers and consumers. Finally, there are not ranking schemes to provide yardstick competition between suppliers, as they do in other countries like UK, Germany, and Portugal.

69. This results in a wide disparity of price structures not related to cost that do not generally encourage efficiency, such as water-saving.

70. Based on these conclusions, the report presents six recommendations: to increase transparency; to improve economies of scale in the supply infrastructures; to introduce

yardstick competition; to develop efficient price design; to remove barriers to entry; to review the governance of the urban water cycle.

### **3.3. Market Study on the Impact of Air Ticket Discounts in non – peninsular territories (E/CNMC/005/18), published in April 2020.**

71. This study analyses the increase on air ticket subsidies for residents of the Canary Islands and the Balearic Islands. It shows that the increase of subsidies led to strong increase in demand from island residents, while non-residents faced price increases to which they adapted their behaviour. The study recommends considering measures to increase the price sensitivity of residents, such as indicating the total price next to the subsidised price, and also settling the subsidy retrospectively or setting subsidy limits. Additionally, it recommends a general review of insularity subsidies and assessing other possible measures, such as tax exceptions.

### **3.4. Guide on public procurement planning (G-2019-02):**

72. The CNMC completed its first update of its 2011 Guide on Public Procurement, which is addressed to enhance public officials' capacity to improve the design of public tenders and help them detect situations of bid-rigging. The 2020 update focuses on the relevance of planning to achieve high quality, transparency, and open tenders, which benefits both the public and private sectors.

### **3.5. Public consultation on bus passenger transport**

73. Additionally, in 2020 the CNMC opened a public consultation regarding intercity bus passenger transport and received 234 contributions. This study is expected to be finalised in 2021.

### **3.6. Reports on Draft Regulation in progress**

74. In 2020, CNMC approved 23 reports on regulatory rules in progress. The number of reports in this category is significantly higher compared to previous years. The majority of the reports referred to State regulations (21 out of 23), and only 2 were addressed to regional regulations.

75. The reports refer to regulation in the following sectors: (i) Tourism; (ii) Agri-food; (iii) Waste and environmental protection; (iv) Services and professional associations; (v) Transport; (vi) Telecommunications and Audiovisual; (vii) Cinema and (viii) Health.

### **3.7. Reports on Non – legislative Activities**

76. The CNMC acts as an advisory body on competition and efficient economic regulation, providing advice to public administrations on actions that are not linked to regulatory projects. The four reports produced in 2020 are grouped around two themes: the regulation of labour relations in the port stevedoring sector and the contracting of the administrative notification service.

### ***3.7.1. The Framework Agreement for the regulation of labour relations in the port in the port stevedoring sector***

77. In the three reports that were adopted in 2020, the CNMC has made various recommendations to avoid competition restrictions on hiring to deter the entry of new workers in the port stevedoring services.

### ***3.7.2. The contracting of the administrative notification service of the Almeria City Council***

78. The CNMC recommended that the contracting of services for administrative notifications should be carried out using open, transparent, not discriminatory procedures, not favouring Correos S.A. (the State own operator, designated to provide the Universal Postal Service).

## **3.8. Active Legal Capacity Instruments**

79. The CNMC may challenge administrative acts and regulations which introduce obstacles to the maintenance of effective competition in the markets.

80. In 2020, the CNMC filed two appeals, concerning the following restrictions to competition:

- The 47 five-year extensions of concession contracts for regular public road passenger transport services in Asturias.
- The Decree 200/2019 of the Autonomous Community of the Basque Country which established a minimum pre-contracting period of 30 minutes and geolocation prohibitions .

81. In addition, there have been some developments in court challenges initiated in previous years:

- On 10 March 2020, the Supreme Court (SC) supported CNMC's appeal against Royal Decree 1076/2017 on 'vehicle with driver' licences and annulled two articles for being disproportionate and contrary to the Spanish Law on Market Unity. The annulled provisions banned the trading of licences for two years and obliged drivers to report each service to a state register before providing it.
- On 1 June 2020, the Supreme Court rejected CNMC's appeal against a Galician regional regulation on short-term tourist accommodation. The SC withholds the Galician ban on renting rooms for short-term tourist accommodation, although it confirms that the property owner could always rent isolated rooms under general contract laws and without being subject to short-term tourist accommodation rules.
- On 5 November 2020, the Superior Court of Justice (SCJ) of Castile and León rejected CNMC's appeal against the Geographical Designations of Food Quality of Castile and León Law. The Court argued that, even though the law could restrict competition, the Law on Market Unity does not apply in this case.
- On 19 November 2020, the SCJ of the Balearic Islands rejected CNMC's appeal against a system of commercial licence suspensions until the definitive approval of a Sectorial Plan. The Court considered that this system did not break the law since it was not an absolute and indiscriminate licence suspension, but rather a temporary measure for certain commercial facilities.

### 3.9. Economic Reports to support Court challenges

82. The aim of these reports is to carry out an economic and quantitative analysis of the restrictions on competition in legislation that have been appealed by the CNMC before the courts. Over the course of 2020, two Economic Reports have been prepared:

- A report evaluating the restrictions on competition of Decree 200/2019 on conditions for the provision of the service of leasing with driver in the Basque Country.
- A report evaluating restrictions on competition on the accommodation sector arising from the Madrid City Council's Special Accommodation Plan.

### 3.10. Reports on Public Aid

83. In 2020, the CNMC Board approved the Annual State Aid Report (that focuses on public aid granted in 2018). The reports show that Spain was the fourth Member State with the least public aid as a percentage of GDP in 2018 (0.39% of Spanish GDP, compared to 0.81% of EU GDP). The financial sector received irrelevant public aids in that year.

84. In the report, the CNMC included an analysis of the use by Spain of the flexibility mechanisms included in the Temporary Framework for State Aid adopted by the European Commission to mitigate the health crisis economic impact. In this regard, the report shows that Spain had committed aid equivalent to 4% of GDP in the first semester of 2020, reaching the highest level of execution compared to other EU Member.

85. The CNMC also prepared other reports on state aid on broadband deployment in various Autonomous Communities or territories (Basque Country, Castilla y León, Guipúzcoa and Vizcaya).

## 4. International Cooperation

### 4.1. European Union:

86. In 2020, the CNMC has continued its cooperation within the European Competition Network (ECN). In particular, the CNMC has participated in the work and discussions for the transposition of the ECN+ Directive and it has also provided advice to the responsible for the transposition in Spain, both the Ministry of Economic Affairs and Digital Transformation and the Ministry of Justice.

87. Likewise, the CNMC has participated in the regulatory review proceedings. For instance, in the review of the Vertical and Horizontal Block Exemption Regulations.

88. In addition, the CNMC has taken part in the European Commission's consultation on competition policy and environmental sustainability targets (Green Deal).

89. Finally, the CNMC plays an active role in the ECN working groups, where an exchange of practical experience takes place. In 2020, these groups met 24 times. In 2020 the CNMC carried out its work in the subgroups of Agrofood, Pharma, Cooperation Issues, Digital, Artificial Intelligence, Vertical and Horizontal Agreements, Financial Services, Competition Chief Economist and Mergers.

90. In the framework of cooperation for the implementation of Article 101 and 102 TFUE within the ECN, the CNMC has received from the DG COMP documentation

regarding 39 cases, that the European Authority has opened in 2020. The CNMC has notified the ECN of the initiation of 8 proceedings under Articles 101 and 102 TFUE.

91. As for the bilateral cooperation activities, the CNMC has received and answered 78 consultations from other European Competition Authorities and the DG COMP. The CNMC has also sent 5 consultations.

92. Besides, in the area of mergers, the CNMC has received 356 notifications from the DG COMP. In this sense, the CNMC has engaged in 35 cases.

#### **4.2. European Competition Authorities:**

93. The 2020 annual meeting, which was to be hosted by the Italian Competition Authority, has been postponed to 2021 due to the health situation.

#### **4.3. International Competition Network (ICN):**

94. In 2020, the CNMC has launched for the first time an open call for the selection of Non – Governmental Advisors (NGA) to increase transparency and engagement. From now on this call will be held annually.

95. As in previous years, the CNMC has been playing an active role in all the ICN Working Groups. In particular, in the Mergers Working Group the CNMC has served for the second consecutive year as co-chair, together with the United Kingdom and Brazilian Competition Authority. Moreover, the CNMC organised the European webinar on Mergers control in pandemic conditions.

96. Moreover, the CNMC and the CMA led the “Procedural Infringements, Gun Jumping and Remedy violation” project. Thus, both authorities designed the survey and compiled and analysed the responses submitted by 25 National Competition Authorities and drafted the final report. In addition, the CNMC has also led the project on joint venture in merger control regimes in different jurisdictions. The final report will be finalised in 2021.

#### **4.4. Organisation for Economic Co-operation and Development (OECD):**

97. In 2020, the CNMC has continued to be actively involved in the different activities organised by the OECD.

98. Within the Competition Committee, the CNMC contributed to the different roundtables and sessions organised for the Competition Weeks of June and December 2020.

99. The CNMC was also actively involved in the organisation of the 2020 Ibero-American Forum on Competition and the OECD-IDB Latin American and Caribbean Competition Forum. Specifically, the CNMC organised and moderated the Roundtable on “Advocacy to boost economic recovery”.

100. In addition, the CNMC has participated in the activities of the OECD’s Regional Centres for Competition. In March 2020, the CNMC participated as a speaker in the Workshop on Competition Advocacy organised by the Regional Centre for Competition in Latin America in Lima; and in December 2020, as a speaker in the Virtual seminar on Competition policy to ensure a level playing field between private and public firms, organised by the OECD-GVH Regional Centre for Competition in Budapest.

#### 4.5. UNCTAD:

101. In 2020, the CNMC collaborated in the elaboration of the Report “La Promoción de la Competencia durante y después del Covid-19” (*Competition Advocacy before and after Covid-19*).

#### 4.6. Twinning with Albania:

102. In 2020, the CNMC completed the twinning program with the Albanian Competition Authority, which included trainings on both competition enforcement and advocacy activities.

#### 4.7. Iberoamerican Competition School:

103. Finally, within the special relation between the CNMC and the Iberoamerican Competition Authorities, the CNMC has maintained its commitment to the Iberoamerican Competition School. Accordingly, a new format has been developed to provide all the sessions online.

### 5. Resources of the competition authority

#### 5.1. Annual Budget and Human Resources

104. It is important to highlight some CNMC particularities beforehand looking at its resources. This Commission is both the competition policy enforcement agency and the regulatory authority in the audio-visual, energy, telecoms, transport, and postal services sectors. Therefore, its personnel and budget data cannot be compared to those of other European Competition Authorities.

<b>Total Budget CNMC</b>	59.986.700,00 €
Antitrust	10.035.829,04 €
Advocacy	5.191.039,72 €
<b>Total Staff CNMC</b>	509
<b>Antitrust</b>	87
<i>Man</i>	27
<i>Woman</i>	60
<b>Advocacy</b>	26
<i>Man</i>	14
<i>Woman</i>	12

105. It should be noted that the numbers included in this table only show personnel that works within the Competition Directorate or the Advocacy Department. However, the CNMC is an integrated body that includes antitrust enforcement and competition advocacy functions, together with the supervision of regulated sectors. To this extent, the different units (antitrust directorate, energy directorate, telecoms and audio-visual directorate, transport and postal services directorate, advocacy department) share some cross-cutting services (e.g. legal service, economic analysis unit, IT services, Presidency, Board) and human resources within those horizontal units are not included in the table. Following the weight of the Competition Directorate and Advocacy Department staff on the total staff of

the CNMC, approximately 38 staff members could be added to the above figures (8,37 to advocacy and 29,35 to enforcement).

## 5.2. Staff qualifications

	Antitrust	Advocacy
Economists	15	14
Lawyers	32	8
Other graduate	26	2
Support staff	14	4
<b>TOTAL</b>	<b>87</b>	<b>26</b>

106. In the Antitrust Directorate five staff members hold a PhD (two in Law, two in Economics and one in Mathematics).

107. In the Advocacy Department four staff members hold a PhD in Economics.

## 6. References to new reports and studies on competition policy issues

### 6.1. Market Studies and Guides

108. As we mentioned above, the CNMC has approved two market studies and one guide. The references of the three reports are:

Reference	Economic sector	Date of approval
<a href="#">E/CNMC/07/19</a>	Market Study on urban water supply and sanitation services	30/01/2020
<a href="#">E/CNMC/005/18</a>	Market Study on the impact of price subsidies on air fares in non-mainland territories	17/04/2020
<a href="#">G-2019-02</a>	Guide on public procurement and competition. Phase 1: Planning public procurement	16/12/2020

### 6.2. Reports on Draft Regulation

109. The following table shows all the reports on draft regulation approved in 2020:

Report	Draft regulation	Date of approval
<a href="#">IPN/CNMC/037/19</a>	Draft Royal Decree (R.D) modifying the Royal Decree 1619/2005 regarding the management of end-of-life tyres.	16/01/2020
<a href="#">IPN/CNMC/004/20</a>	Preliminary draft law on climate change and energy transition	09/03/2020
<a href="#">IPN/CNMC/003/20</a>	Proposal for an Order regulating the discretionary public transport of persons by means of the leasing of vehicles with driver -VTC- in the Region of Murcia.	07/04/2020
<a href="#">IPN/CNMC/007/20</a>	Draft Royal Decree regarding basic procedure for the certification of the energy performance of buildings	06/05/2020



<a href="#">IPN/CNMC/008/20</a>	Draft Royal Decree (R.D) modifying the RD 106/2008 on batteries and accumulators and the environmental management of their waste and R.D 110/2015 on waste electrical and electronic equipment.	19/05/2020
<a href="#">IPN/CNMC/011/20</a>	Draft Royal Decree modifying the R.D 20/2017 regarding end-of-life vehicles and RD 2822/1998 on the general vehicle regulation	22/07/2020
<a href="#">IPN/CNMC/012/20</a>	Draft Royal Decree modifying technical building inspection regulation (RITE)	22/07/2020
<a href="#">IPN/CNMC/010/20</a>	Draft Royal Decree on the regulation of General Statutes of the Official Associations of Dental Technicians of Spain.	22/07/2020
<a href="#">IPN/CNMC/013/20</a>	Preliminary draft law on waste and contaminated soils.	30/07/2020
<a href="#">IPN/CNMC/016/20</a>	Draft Royal Decree approving the Statutes of the General Council of the General Council of Colleges of Opticians and Optometrists	30/07/2020
<a href="#">IPN/CNMC/024/20</a>	Draft Royal Decree modifying RD 188/2016 establishing the requirements for the placing on the market, putting into service and use of radio equipment	02/09/2020
<a href="#">IPN/CNMC/015/20</a>	Proposed draft law on measures to improve the functioning of the food supply chain.	02/09/2020
<a href="#">IPN/CNMC/021/20</a>	Draft Royal Decree modifying the regulation of active tourism companies in Aragon.	02/09/2020
<a href="#">IPN/CNMC/025/20</a>	Preliminary draft law on explosives precursors.	02/09/2020
<a href="#">IPN/CNMC/023/20</a>	Draft Royal Decree establishing the basic marketing standards in the olive oil sector.	30/09/2020
<a href="#">IPN/CNMC/030/20</a>	Draft Royal Decree modifying the RD 1084/2015 implementing the law on cinema.	30/09/2020
<a href="#">IPN/CNMC/031/20</a> <a href="#">IPN/CNMC/032/20</a>	Draft Ministerial Order establishing the standard costs applicable to eligible costs regulated in R.D. 552/2020. Draft Ministerial Order establishing the standard costs applicable to eligible costs regulated in R.D. 147/2019.	30/09/2020
<a href="#">IPN/CNMC/035/20</a>	Draft Royal Decree modifying the R.D 319/2015 regarding compulsory declarations to be made by first purchasers and producers of milk and milk products from cows, sheep and goats, and R.D 153/2016.	11/11/2020
<a href="#">IPN/CNMC/036/20</a>	Draft Ministerial Order regulating the methodology for the determination of the standard costs relating to subsidies for freight transport in the Canary Islands.	11/11/2020
<a href="#">IPN/CNMC/037/20</a>	Draft Ministerial Order updating Annex VI of R.D 1030/2006 which establishes the portfolio of common services of the National Health System and the procedure for updating it.	09/12/2020
<a href="#">IPN/CNMC/038/20</a>	Draft Royal Decree modifying several royal decrees related to plant variety protection, control and certification of seeds and nursery plants, producers in the fruit and vegetable sector and agricultural product auctions	09/12/2020

<a href="#">IPN/CNMC/040/20</a>	Draft Royal Decree regarding the control of the operation of authorisations for the hire of vehicles with driver.	18/12/2020
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### 6.3. Reports on Non – legislative Activities

110. The references of the four reports published in 2020 are:

Report	Regulation	Date of approval
<a href="#">INF/CNMC/035/20</a>	Report on the Draft of the 5th Framework Agreement for the regulation of labour relations in the port stevedoring sector.	08/05/2020
<a href="#">INF/CNMC/032/20</a>	Report on the procedure to be followed for the award of the contract for the administrative notifications service requested from Almeria City Council.	04/06/2020
<a href="#">INF/CNMC/059/20</a>	Report on the 5th Framework Agreement for the regulation of labour relations in the port stevedoring sector	28/07/2020
<a href="#">INF/CNMC/094/20</a>	Report on the 5th Framework Agreement for the regulation of labour relations in the port stevedoring sector	10/11/2020