

- **Spain: Competition Authority (CNC) imposes Fines on Freight Forwarding Cartel**

On 31 July 2010, the Council of the National Competition Commission (CNC) levied fines totalling € 14 000 000 on eight road transport forwarding agent companies for setting up a cartel to coordinate their pricing strategies. The resolution of the case was possible thanks to application of the leniency programme.

In its Resolution, the Council of the National Competition Commission (CNC) has fined the companies ABX LOGISTICS ESPAÑA, S.A. (currently DSV AIR & SEA, S.A.) ("ABX LOGISTICS"), BLUE WATER SHIPPING ESPAÑA, DHL EXPRESS BARCELONA SPAIN, S.L. and its parent company DEUTSCHE POST AG., RHENUS LOGISTICS, S.A., SALVAT LOGÍSTICA, S.A., SPAIN-TIR TRANSPORTES INTERNACIONALES, S.A., TRANSNATUR, S.A. and TRANSPORTES INTERNACIONALES INTER-TIR, S.L., for a very serious infringement of Article 1 of the Spanish Competition Act (LDC) and Article 101 TFEU. ABX LOGISTICS and SPAIN-TIR benefitted from the application of the leniency programme.

On 28 February 2008, the same day as leniency programme took effect ABX LOGISTICS ESPAÑA S.A. submitted a statement to the Investigations Division of the CNC describing a corporate cartel in which it had participated and requesting exemption from payment of the fine that could be applicable under article 65 LDC. In its statement, ABX indicated that beginning in 2003 meetings were held between executives of companies dedicated to the provision of road transit services, that is, the organisation and planning of transportation of third-party merchandise, or cargo dispatching, and, in particular, those services relating to customs or, at least, international transit. The companies included some leaders of the sector. The statement allowed the Investigations Division to arrange simultaneous inspections in four of the accused companies that provided a large amount of evidence, leading to the opening of formal proceedings on 18 November 2008.

At the meetings, normally called and coordinated by SPAIN-TIR at its head offices, the companies reached agreements on issues regarding their commercial policies and approved arrangements to increase prices, including the form and timing of their implementation and notification to customers. The agreements mainly affected groupage, that is, consolidation of up to 3 000 kg of cargo with a certain amount of standardisation in its organisation. This segment especially focused on the needs of a specific type of customer, mainly small and medium enterprises.

During a lengthy time period (at least since October 2000) this group of companies, including important players in the sector and some of them with positions of responsibility in the associations representing the sector, maintained contacts to coordinate their competitive strategies on different matters and, in particular, in relation to their strategy on passing on costs and revising prices (when and how to raise them) and in relation to other issues such as the conditions for hiring of workers, which can also have an impact on their costs and margins. They thus replaced the free and autonomous personal will of each operator regarding the adoption of certain decisions with a form of explicit coordination. This conduct is objectively capable of distorting competition.

Consequently, based on the turnover of these companies in the groupage segment, the CNC Council has levied fines and, pursuant to the leniency programme, ABX has been exempted from paying the fine, and SPAIN-TIR, because it provided evidence of significant added value for demonstrating the infringement, has seen its fine reduced to € 1 662 000.

See further:

<http://www.cncompetencia.es/Inicio/Noticias/tabid/105/Default.aspx?Contentid=274528&Pag=1>