Spain: The Comisión Nacional de la Competencia releases Report monitoring Automotive Fuel Distribution Market in Spain

Pursuant to its competition advocacy function, Spain’s antitrust authority, the Comisión Nacional de la Competencia (CNC), has released on 4 July 2012 a new Report monitoring the Automotive Fuel Distribution Market in Spain (the Report) in which it vigorously reinforces the conclusions of previous reports on the low level of effective competition in that market. The Report urges that the recommendations made by the CNC in 2009 be implemented.

The Report is the fruit of the commitment assumed by the CNC in its Follow-up Report on the CNC’s ‘Automotive Fuel Report’ of 9 March 2011 to carry out a more in-depth analysis of certain aspects of the Spanish automotive fuel market and, in particular, to determine if the increase in international prices for automotive fuel are passed on to prices at the pump more quickly and intensely than the reductions in those international prices (that is, if there are positive asymmetries in the transfer of prices or whether prices ‘rise like rockets and fall like feathers’). The Report is also in fulfilment of the task assigned to the CNC on 30 September 2011 by the Government Executive Committee for Economic Affairs, through the State Secretary for Energy, to analyse the distribution margins for petrol and automotive diesel, along with the recent evolution of the market.

The new Report carries out a detailed statistical and econometric analysis of the trend seen from 2005 to 2012 in the market for automotive fuels in Spain, both at the national and provincial levels, and draws the following conclusions in relation to the operation of the market.

First, the CNC finds that during 2011, pre-tax prices and margins in Spain continued to be amongst the highest in the EU and above those recorded in comparably sized economies. According to the CNC, this finding is compatible with a level of competition throughout the entire marketing chain which is lower than in comparably sized economies.

Second, the analysis at the provincial level shows there is a direct relation between retail supply-side concentration (service stations) and the average pre-tax prices in the province.

Third, the analysis performed corroborates the fact that the short-term behaviour of margins is influenced by rigidities in the adjustment of national pre-tax retail prices in response to variations in international fuel prices. It is the opinion of the CNC that this is hardly compatible with proper competitive processes and may be indicative of the existence of structural problems and/or problematic conduct in the market.

Fourth, the Report includes an econometric study on the existence of asymmetries in the transfer of international fuel prices to retail pump prices for Spain during the period 2005-2011 that confirms the existence of positive asymmetries in the velocity at which pre-tax retail prices adjust to variations in international prices of fuels, quite clearly for 95 octane petrol and more weakly for diesel A. These asymmetries, colloquially referred to as “rockets and feathers”, indicate that pre-tax retail prices react faster to increases in international prices (“rockets”) than to declines in those prices (“feathers”), with consequent harm to the end consumer.

Fifth, according to the CNC, collusion, whether tacit or explicit, is one possible explanation of this phenomenon, though not the only one. The existence of asymmetries in the adjustment of national retail prices does not on its own imply that operators are engaging in conduct contrary to competition law. Some of the explanations found in economic theory for the rockets and feathers problem apply to the Spanish case and to the results obtained in the analysis. In any event, these explanations are associated with markets in which competition is weak and consumers are consequently worse off than it would be expected in a more competitive environment: this justifies the search for actions aimed at removing elements that act as barriers for introducing competition in this sector.

Last, the Report emphasises the urgency of implementing the recommendations made by the CNC in its March 2009 report, which were aimed at enhancing competition in this sector by reducing barriers to entry and expansion by oil operators.