

• Spain: Creation of the new National Markets and Competition Commission, CNMC

On 4 June 2013, the Spanish Parliament adopted Act 3/2013 creating a new authority in charge of both competition and regulatory matters: the Comisión Nacional de los Mercados y la Competencia, CNMC (National Markets and Competition Commission). The new authority merges the current competition authority, the CNC, with several sectoral regulators responsible for Telecom, Energy, Railway, Postal, Audiovisual and Airports. It will thus have hybrid functions: enforcing competition rules and regulating economic sectors.

The CNMC has a Council consisting of ten members (Chairman, Deputy Chairman and eight members) and four Directorates.

The Council will operate as the decision-making body, with two Chambers: the Competition Chamber devoted solely to competition enforcement, and the Regulatory Chamber, devoted to regulatory files (each Chamber may issue an opinion on the files decided on by the other). The Council can sit in plenary, attended by the members of both the Competition Chamber and the Regulatory Chamber, to decide on organisational issues of the CNMC and whenever there is a divergence between the Chambers. Likewise, when a given number of members of the Council so decide, a matter may be subject to the Council Plenary's approval.

Four Directorates will have investigation powers: a Competition Directorate (in charge of competition enforcement in all sectors), and three Regulatory Directorates (Telecoms, Energy and Transport). The structure and functioning of these Directorates will be decided by Government regulation through the CNMC Statute (still at a preliminary stage of discussion).

The CNMC structure guarantees a functional separation between the competition enforcement and regulatory activities of the four Directorates and the decision-making body, the Council, as required by the Spanish Constitution.

The Government will appoint the members of the Council (including the Chairman and the Deputy Chairman) for a six-year non-renewable term. The Ministry of Economy and Competitiveness will designate its members from a pool of renowned professionals in the field. After proposal, candidates will be called to a public hearing before the Economy and Finance Committee of the Lower House of the Parliament prior to appointment. At these hearings, members of the Parliament can veto any of the candidates proposed. Once constituted, the CNMC's Council will appoint the Directors of the Directorates for a four-year renewable term. The Competition Directorate of the CNMC will retain all the powers established in the 2007 Competition Act.

After the entry into force of the new Act 3/2013 on 6 of June 2013, a 4-month transitional period allows for appointment of the posts and adoption of the Act's implementing regulations. During this period the CNC and the existing sectoral regulators and the new National Markets and Competition Commission will co-exist. All previous authorities, including the CNC, will cease to exist when the CNMC Statute is adopted by the Government through Royal Decree (they co-exist from the entry into force of Act 3/2013 until the Decree enters into force).

In order to avoid statute of limitation issues during the transitional period, Act 3/2013 provides for exceptional time limit extension for the resolution of current pending proceedings.

More information on the CNC website