



EUROPEAN COMMISSION

Brussels, 29.06.2010
C(2010)4453

**Subject: State aid NN 61/2009 – Spain
Rescue and restructuring of Caja Castilla-La Mancha**

Sir,

1. PROCEDURE

1. On 2 April 2009 the Spanish authorities informed the Commission of a State guarantee on an emergency liquidity assistance ("**ELA**") granted by the Spanish supervisory authority (Bank of Spain) in favour of Caja Castilla-La Mancha ("**CCM**") on 29 March 2009. Furthermore, a capital injection in favour of the latter was decided by the board of the Deposit Guarantee Fund for Cajas de Ahorro ("**FGD**") on 27 April 2009.
2. By letters dated 6 April 2009, 21 April 2009, 15 May 2009 and 13 July 2009, the Commission requested information on the aforementioned measures from the Spanish authorities. The information was submitted by Spain by letters dated 15 April 2009, 28 April 2009, 5 May 2009, 27 May 2009 and 28 July 2009. Despite significant information exchange, the Commission has not received a formal notification of the measures.
3. On 29 September 2009 the Spanish authorities submitted an initial restructuring plan for CCM. On 18 November 2009, 20 November 2009, 1 December 2009, 22 December 2009, 19 February 2010, 25 February 2010, 5 April 2010, 13 April 2010, 26 April 2010, 30 April 2009, 7 May 2010, 19 May 2010, 27 May 2010 and 11 June 2010 further information was submitted by Spain. This initial restructuring plan also contained a number of State aid measures that were not formally notified.

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2. DESCRIPTION OF THE FACTS

2.1. THE BENEFICIARY AND ITS DIFFICULTIES

4. CCM is a Spanish caja de ahorros¹ which was established in 1992 as a result of the merger of Caja Provincial de Ahorros de Albacete, Caja de Ahorros de Cuenca y Ciudad Real, and Caja Provincial de Ahorros de Toledo.
5. CCM's operations are limited to the Spanish market. It holds slightly above 1% of market share in deposits (1.18%) and loans (1.05%), and has a network of 590 branches and around 3.000 employees.
6. CCM only does business within the retail banking segment. In December 2009 the group consolidated assets were EUR 25 billion (1% of the total assets in the Spanish financial system).
7. CCM also holds stakes in several non-financial companies through its subsidiary Caja Castilla-La Mancha Corporación, SA ("**CCM Corporation**"). In addition to those stakes, CCM has also given large loans to finance the operations of companies in which it has invested.
8. Between 2000 and 2008 CCM experienced high growth rates of investment credit (from EUR 4 to 19 billion), created CCM Corporation as a tool to diversify income (stakes in others companies' ranged from EUR 39 to 470 million) and embarked on a rapid expansion of its branch network in Spanish regions with strong growth potential in the real estate sector (72 out of the 98 branches opened in 2004-2009 were located in the Regions of Valencia, Andalucía and Madrid). CCM invested in real estate projects, such as land management, real estate development and marketing.
9. The effects of the global crisis started to show in Spain in 2008, with property demand declining sharply. That decline of property demand produced a negative impact on annual results of real estate developers which were the most relevant debtors of CCM (more than 40% of credit portfolio). This affected the performance of CCM's loans, due to that significant exposure (in December 2008 the real estate project investments amounted EUR 9 billion, representing more than the 81% of non-performing loans). In addition, CCM relied on the wholesale markets for most of its funding.
10. This situation generated a gap in CCM's liquidity, which became evident by the end of 2007 when the interbank markets dried up. The deterioration of the creditworthiness and expectations of CCM were reflected in successive reductions in its rating which further hampered the bank's access to wholesale funding. The bank was unable to control the gap between investment credit and retail deposits when most wholesale financial markets were closed and distrust of CCM was growing.
11. In 2008, the rating agency Fitch downgraded CCM twice: from A + to A- on 11 July and from A- to BBB + on 26 September. In February 2009, CCM was downgraded again to BB + (non-investment grade).
12. As a consequence, the main source of potential funding became the financing facilities of the European Central Bank ("ECB"). However, this option was not available due to CCM's lack of eligible collateral and its inability to sell off assets

¹ A caja de ahorros is a type of credit institution foreseen in the Spanish legislation. In particular, a caja de ahorros is the Spanish form of a savings bank.

without making large losses. Under those circumstances, CCM needed an urgent provision of liquidity in order to be able to meet its outflows.

13. CCM's solvency position was significantly impaired by the concentration of its assets in the real estate sector (over 40% of total credit investments), which was already starting to suffer severe underperformance, together with the aforementioned lack of liquidity. Delinquency rates increased rapidly from 0.5% to 5.1% over the course of 2008 while provision coverage was reduced from 385% to 35% during the same period. Those effects came mainly from loans to developers and construction companies, which showed severe delinquency rates (above 9%).
14. Impairments of the loan portfolio initially amounted to EUR 600 million, while estimates of the Bank of Spain increased them to approximately [...] million. On the other hand, the small annual operating profit of CCM (about EUR 150 million) did not provide enough resources to absorb those impairments.
15. Finally, the total effect of those events decreased CCM's reported equity² by EUR 652 million after tax as of 31 December 2008 (from EUR 830 million to 178 million); that situation reduced its solvency ratio at 1.26%, well below the 8% required. At the end of 2008 total capital was EUR 242 million, well below the EUR 1,594 million legally required.

2.2. THE EVENTS TRIGGERING THE MEASURES

16. During 2008 and the first quarter of 2009 the Bank of Spain monitored CCM on site to assess its weak situation. At this time, the Bank of Spain concluded that the best solution for CCM's growing liquidity and impaired asset problems was to consolidate CCM with another sound credit institution. Meanwhile in February 2009, and as a consequence of the impossibility for CCM to raise capital in the wholesale markets after being rated below investment grade, the Bank of Spain provided CCM with an ELA guaranteed by assets mobilised by CCM itself. On March 2009 the ELA was fully reimbursed and replaced for a new ELA guaranteed by the State (see recital 19).
17. On 28 March 2009, the Bank of Spain decided to place CCM under administration: CCM's managing board was replaced by three interim directors.
18. After assessing CCM's financial situation, the new directors confirmed the Bank of Spain's conclusion that CCM would not be able to overcome its financial difficulties on its own. Hence, the new directors hired an investment bank (UBS) to find potential investors to take over CCM. Therefore, the restructuring of CCM will consist in integrating CCM with another solvent credit institution (see recital 31).

2.3 THE LIQUIDITY MEASURE

19. On 31 March 2009, the Bank of Spain provided CCM with a EUR 9 billion ELA. The ELA was guaranteed by the State up to EUR 3 billion³. The annual nominal interest rate equals the ECB marginal lending facility plus 100 basis points. The annual fee for the State guarantee was [...] % of the average amount of the credit facility used. The effective use of the ELA currently amounts to EUR 1.15 billion.

* Confidential information.

² See auditor's report. <http://www.cnmv.es/AUDITA/2008/11681.pdf>

³ See Royal Decree-Law 4/2009, of 29 March and Ministerial Order of 31 March 2009.

20. CCM's restructuring plan sets out that the ELA is to be fully reimbursed to the Bank of Spain once CCM's banking assets are transferred to Banco Liberta (see also recital 41).

2.4 THE RECAPITALISATION MEASURE

21. On 27 April 2009, the managing board of the FGD agreed to provide a EUR 1.3 billion capital injection in the form of preference shares, which allowed CCM to lift its solvency ratio to 11%. Those shares are treated as Tier 1 capital by the Spanish regulator. The remuneration of the preference shares is: nil during the first five years, 3% from the fifth to the tenth year; and after that a rate equal to the average rate of preference shares issued in the Spanish market by companies with the same rating as CCM within the three-month period prior to the tenth year. Should that rate not be possible to determine, the alternative rate will be equal to that on ten-year State bonds' rate + 300 basis points as from the tenth year.
22. CCM's restructuring plan foresees that the capital injection is to be reimbursed to the FGD as part of the exchange for CCM's non-banking assets that will be transferred to the FGD (see also recitals 41 and 54).

2.5 THE HYBRID CAPITAL

23. Two previous issues of preference shares were called. In particular, preferred shares issued in 2001 (EUR 120 million) were amortized on 31 August 2009 and preferred shares issued in 2005 (EUR 85 million) were bought back between 15 July and 31 August 2009. In spite of the absence of distributable profits, both calls were offered at par value.
24. In addition CCM made discretionary coupon payments on hybrid capital in 2009 although it was loss-making in 2008.

2.6 THE MAIN FEATURES OF THE FGD

25. The FGD was created by Royal Decree 2860/1980, of 4 December. Under Royal Decree 2606/1996, of 20 December the FGD has a separate legal personality and full capacity to act in pursuance of its objectives under private law and is not subject to the rules governing public institutions. It covers cajas de ahorros, while commercial banks and cooperative banks are covered by two separate funds. Membership for a fund is mandatory for all Spanish banking entities in accordance with Directive 94/19/EC on deposit guarantee schemes⁴.
26. The managing board of the FGD comprises eight members, all appointed by the Spanish Finance Minister. Four members represent Bank of Spain, and the other four representatives are proposed by the association of cajas de ahorros.
27. In accordance with its governing regime, the FGD guarantees the amounts deposited in credit institutions but it can also perform all necessary pre-emptive actions to avoid the guarantee on deposits being triggered. Pre-emptive actions are only admissible when guarantees are likely to be triggered. The FGD must take into account the financial cost of any pre-emptive measure relative to the cost of the reimbursing depositors before any such measure is agreed by the Board. Any

⁴ Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, OJ L 135 of 31.05.1994, p. 0005-0014.

decision to recapitalize an entity must be adopted by qualified majority (two-thirds of the board members)⁵.

28. The FGD's financing is mainly based on member credit institutions' periodic contributions to the FGD, which are legally determined and based on potential needs of the FGD to fulfil its statutory goals. Until 1994, Bank of Spain also contributed to the FGD. Bank of Spain may also contribute to the FGD under exceptional circumstances, which are determined by law⁶.
29. According to the preamble of the Royal Decree 2606/1996 one of the goals of the FGD is to guarantee financial stability.
30. On 26 June 2009 Spain approved the Royal Decree-Law *sobre reestructuración bancaria y reforzamiento de los recursos propios de las entidades de crédito*, which laid down the creation of the Spanish recapitalisation fund (FROB)⁷. The FROB has an established original funding of EUR 9 billion, of which EUR 6.75 billion is contributed by the State Budget and the rest (EUR 2.25 billion) by the FGD along with the Deposit Guarantee Funds of commercial banks and credit cooperatives.

2.7 THE RESTRUCTURING OF CCM

31. The restructuring of CCM consists in integrating its banking activities after restructuring with another solvent credit institution. To this end, CCM's interim directors decided to seek a partner with which to integrate launching a process based on: i) a competitive auction process with a significant number of financial institutions, ii) focusing initially on cajas de ahorros (given their special legal form and the greater likelihood of success compared to other financial institutions entities), iii) the resulting entity having an adequate financial and solvency profile, and iv) ensuring the election of the best financial offer for the integration of CCM.

2.7.1. The tender process

32. In September 2009 CCM hired UBS to search for a buyer. During the pre-process (evaluation of the alternatives), UBS contacted several Spanish and foreign financial institutions in order to find potential bidders. Two types of contacts were carried out: i) specific conversations regarding CCM with parties potentially interested in acquiring or absorbing CCM; and ii) general conversations with foreign institutions on expansion into Spain and in particular, into the Spanish cajas de ahorros sector.
33. The first set of contacts resulted in conversations with five commercial banks and nine cajas de ahorros. The banks and cajas de ahorros that were contacted were: [...] , [...] , [...] , [...] , [...] , [...] , [...] , [...] , [...] , [...] and [...].
34. The second set of contacts allowed [...] to test the appetite for CCM's assets that foreign banks (such as [...] , [...] and [...]) might have. Separately, UBS also contacted hedge funds and other fund managers (notably investors in distressed assets) in order to test their potential appetite for a separate sale of problematic assets held by CCM.

⁵ See Article 10 of Royal Decree 2606/1996, 20 December sobre fondos de garantía de depósitos en entidades de crédito

⁶ See Article 3.6 of Royal Decree 2606/1996, 20 December sobre fondos de garantía de depósitos en entidades de crédito

⁷ FROB is a newly created public entity in order to facilitate restructuring of Spanish financial institutions and strengthening their capital position. See Royal Decree-Law 9/2009 of 26 June and Commission Decision of 28 January 2010 in State aid case N 28/2010 – *Recapitalisation measures in favour of the banking sector in Spain*, OJ C 57/1 of 9.3.2010, p. 2.

35. The conclusion drawn by UBS from all those contacts is that some cajas de ahorro showed strong interest in the transaction, while domestic and foreign commercial banks were lukewarm about the possibility of a deal. In light of this initial exploration of the market, the tender process continued with cajas de ahorros only.
36. Spain has pointed out that limiting potential bidder to cajas de ahorros sought to increase the likelihood of a successful and quicker transaction in light of the peculiarities and complexity of the governance model of cajas de ahorros. However, UBS had planned a second tender process open for banks in case the first one would fail.
37. Based on the pre-process evaluation, seven bidders ([...], CajAstur, [...] , [...] , [...], [...] and [...]) were identified by UBS and included in the tender process. The parameters considered to select them were size, financial strength and capacity to manage a complex integration process thanks to a buffer of managerial resources.
38. The actual sale process was split in two parts: during the first part, potential purchasers were asked to confirm their interest in CCM and to submit a formal offer. Five such bids were received, from [...] , CajAstur, [...] , [...] and [...] .
39. In the second phase, bidders were provided with more details on CCM's financial situation. All five bidders received the same information and had equal access to the data room. Two bids were received from CajAstur and [...] , whilst [...] , [...] and [...] withdrew their application. Eventually, the bid of CajAstur was considered the best bid taking into account all relevant factors and the cheapest for the FGD.

2.7.2 Summary of the restructuring plan for CCM

40. Under the terms of the offer, CajAstur will acquire CCM's banking business using its subsidiary, Banco Liberta which will hold equity worth EUR 410 million at the moment of the acquisition. Other relevant terms are:
 - the net assets of CCM transferred into Banco Liberta are EUR 23.2 billion;
 - During negotiations [...] a 8% Tier 1 ratio was established as a minimum own fund level for Banco Liberta as part of CajAstur's bid. Given total assets transferred, this implied that Banco Liberta would need about EUR 852 million to respect that threshold. CajAstur offered to inject EUR 410 million into Banco Liberta while CCM would transfer assets and liabilities to Banco Liberta for a net value of EUR 442 million.
 - FGD will have to provide a guarantee of EUR 2.47 billion (described in more detail below under 2.7.2.1) on a EUR 7.7 billion portfolio of impaired assets, consisting mainly of loans to the real estate development sector; and
 - CCM will receive a maximum of 25% of the shares in Banco Liberta in exchange for the net assets transferred.
41. Under CCM's restructuring plan, the current amount of the ELA (EUR 1.15 billion) is to be fully reimbursed to the Bank of Spain. In addition, the EUR 1.3 billion capital injection by the FGD will be offset by the transfer of CCM's non banking assets to the FGD as specified in recital 54.

2.7.2.1 The impaired asset measure contained in the restructuring plan

42. CajAstur's offer for CCM involves a five-year guarantee from the FGD on a portfolio of certain of CCM's impaired assets, which can be rolled over for an additional two years.
43. That portfolio consists of loans and credit facilities amounting to EUR 6.89 billion, and guarantees and commitments to provide advances amounting to EUR 0.82 billion, for a total of EUR 7.7 billion. All of the guaranteed assets and advances qualify as delinquent or sub-standard. Total provisions on the assets covered by this measure are EUR 1.24 billion.
44. The guarantee covers all losses in excess of the provisions linked to the portfolio, with a total capacity of EUR 2.47 billion. Hence, the amount guaranteed will be up to EUR 2.47 billion worth of losses (second loss) in excess of EUR 1.24 billion (first loss). Total losses in excess of the amount guaranteed are not covered by the FGD and, as a consequence, they will be assumed by Banco Liberta. Thus, if total losses exceed EUR 3.72 billion, the difference between the total loss and EUR 3.72 billion will be taken by Banco Liberta.
45. The guarantee is pre-paid, which means that the FGD will provide advances to Banco Liberta and settlement will take place at the end of the five-year period during which the guarantee operates. Settlement is to be done once the actual impairments are known, at the end of the guarantee period. Advances will be given according to the following calendar:

[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]

46. At the end of the five-year period the guarantee will be settled: any amounts advanced in excess of total losses will have to be reimbursed to the FGD. However, if total losses are larger than the amounts advanced, Banco Liberta will receive no reimbursement.
47. Banco Liberta will also receive a bonus on the amounts recovered from the assets guaranteed. That bonus will be between [...] % and a [...] % of all recoveries from the assets guaranteed, according to a scale directly related to the amounts recovered.
48. The FGD has an option to purchase assets at the end of the guarantee period. The purchase price will be determined by an expert using the valuation criteria agreed by the FGD, Banco Liberta and CCM.
49. The annual premium payable by Banco Liberta for the guarantee will be [...] % on the total guaranteed amount net of new provisions built up in the year.
50. Bank of Spain estimates losses covered by the FGD (second loss) under three different scenarios to be as follows:

<i>Scenario</i>	<i>Total loss net of provisions (EUR</i>	<i>% of the guarantee used</i>
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	<i>million)</i>	
I	[0-50]	[0-2]
II	[500-1,000]	[20-40]
III	[1,000-2,000]	[40-80]

51. CajAstur on the other hand foresees that the (second) losses will exceed the capacity of the guarantee and consequently that the whole guarantee will be exhausted.

2.7.2.2 The liquidity contribution

52. In the framework of the restructuring, the FGD will make an additional contribution of EUR 350 million for the reimbursement of certain banking liabilities which cannot be contractually transferred to Banco Liberta. This liquidity line will be repayable over 9 months. In doing so, the banking assets of CCM to be transferred to Banco Liberta will worth EUR 442 million, which will allow Banco Liberta to reach the 8% core capital target that otherwise could not have reached. The remuneration for that liquidity contribution is the fixed part of a nine-month midswap plus [...] basis points.
53. This measure is to be offset as part of the transfer of CCM's non-banking assets and liabilities to the FGD, as explained in recital 54.

2.7.2.3 The transfer of CCM's non-banking activities to FGD

54. Once CCM's banking assets and liabilities have been transferred to Banco Liberta, the remaining assets of CCM (i.e., those assets not related to CCM's banking business, which are also unrelated to the "*obra benéfico-social*"⁸) will be transferred to the FGD and will be set off against the EUR 1.3 billion capital injection and the EUR 350 million additional liquidity contribution.
55. The FGD will realize these assets by means of a sale process over the next seven years. Losses incurred after the completion of the sale process, if any, will be shared between the FGD and CCM. This loss-sharing mechanism may result in CCM being obliged to transfer to the FGD up to 60% of its 25% stake in Banco Liberta. A company within the CajAstur group will manage the sale process in return for a fee of EUR [...] million per year⁹.

2.2.1. The continuation of the "obra benéfico-social"

56. Finally, CCM has called a general meeting on 30 June 2010 to approve, among others, the surrender of its banking licence and, consequently, its transformation into

⁸ "Obra benéfico-social" is intended to allow the reversion to the society of the "surplus earned" by cajas de ahorros, by investing in charitable, cultural or social services.

⁹ The fee is composed of: i) a fixed part linked to the amount of the managed portfolio (EUR [...] million) and ii) a variable part (EUR [...] million).

a charitable foundation (hereinafter the "**CCM Foundation**") aimed only at continuing to support "*obra benéfico-social*"-related projects in Castilla-La Mancha.

57. The CCM Foundation will hold only [...]: 25% of Banco Liberta. Of this stake, 60% (i.e. 15% of Banco Liberta) will be pledged in order to guarantee the FGD for any losses arising from the realization of the non-banking activities. Dividends from the Banco Liberta shares will be used by CCM Foundation to finance the "*obra benéfico-social*", subject to a yearly cap of EUR 11 million, which is to be used to fund existing commitments. Any revenue above that annual cap will be collateralised to guarantee any subsequent liabilities of the CCM Foundation vis-à-vis the FGD as a consequence of the loss-sharing mechanism.

2.8 SUMMARY OF THE MEASURES GRANTED IN FAVOUR OF CCM

58. As described above, CCM has benefited from the following measures:
- A State guarantee amounting to EUR 1.1 billion on a EUR 9 billion ELA granted by the Bank of Spain;
 - A EUR 1.3 billion capital injection granted by the FGD;
 - A EUR 2.47 billion guarantee granted by the FGD on an impaired assets portfolio;
 - A EUR 350 million liquidity contribution granted by the FGD.

3. POSITION OF THE SPANISH AUTHORITIES

3.1. The State guarantee on the ELA

59. The Spanish authorities consider that CCM only received temporary State aid, through the State guarantee provided to facilitate the granting of the ELA by the Bank of Spain, and only until the FGD committed to provide financial support for the orderly restructuring process of the banking activities carried out by CCM.
60. The Spanish authorities submit that that temporary State aid measure is compatible with the internal market on the basis of Article 107(3)(b) TFEU, as it remedies a serious disturbance in the Spanish economy.
61. According to Spain, the disorderly failure of CCM would have had severe effects: (I) an immediate systemic risk spreading through the Spanish financial system, undermining the confidence of depositors in other cajas de ahorros, which could limit the latter's ability to obtain funding on the wholesale markets, and (II) an important economic impact in the region as the entity holds a relevant regional market presence. These effects could have created significant difficulties for other cajas de ahorros, to an extent that could have precipitated the demise of other entities. As a result, market confidence would have eroded rapidly, potentially fanning out more widely across the financial system, with a domino effect on the financial market.
62. The Spanish authorities note that urgent action had to be taken to protect CCM's depositors and ensure financial stability, and the only means to implement this action was to facilitate the provision of an ELA to ensure short-term financial stability.

63. From this perspective, the Spanish authorities are of the opinion that the ELA granted against the State guarantee has not distorted competition, since:
- (i) it was a rescue aid in place only for the time required to design the restructuring process of the beneficiary;
 - (ii) the withdrawn amounts were limited to the minimum needed to preserve the continuity of the CCM banking activities;
 - (iii) the withdrawn amounts accrued market-oriented rates of interest; and
 - (iv) a fee was established to compensate the State for the granting of the guarantee.

3.2. The FGD involvement

64. The Spanish authorities do not consider the involvement the FGD in the EUR 1.3-billion capital injection and the measures within the orderly restructuring process of the banking activities of CCM as State aid, for the following reasons:
- The FGD is a private mutual fund funded by the private sector, with no link whatsoever to public funds. In other words: there is no involvement of public or Government funds in the funding of the FGD.
 - The FGD is governed by a managing body whose members represent both the saving banks contributing to the FGD and the Bank of Spain, on a 50/50 basis. Nevertheless, its decisions regarding financial support to its members cannot be approved by solely the majority of the representatives of the Bank of Spain, so that those decisions are, hence, not attributable to the Spanish State.
 - The FGD does not give a specific advantage to any of the participants in the operation, as the funds of the FGD have been contributed by all saving banks, and ex ante contributions to the FGD are correlated to the deposit quota of each entity in the financial system. The beneficiaries can be all members of the FGD, not providing a specific advantage to any of them.
 - In line with its statutory tasks, the FGD can provide financial support in order to avoid having to reimburse amounts due by member banks to depositors, and to the extent that such financial support is less costly for the FGD.
65. The Spanish authorities also consider that, were any State aid element present in the involvement of the FGD, *quod non*, it would be compatible with the Treaty, as it is explained below.

3.2.1. The transfer of CCM's banking activities to Banco Liberta

66. According to the Spanish authorities, the terms and conditions for this transfer result from the offer submitted by CajAstur in the competitive process conducted by UBS on behalf of CCM. These terms and conditions were modified during the negotiation process to benefit the FGD, which required stricter conditions for its support such as the establishment of a fee for granting the impaired asset measure.

67. As such, the terms and conditions for the transfer of CCM's banking activities reflect their fair value, since they come from the best offer received in a competitive process. They may, hence, be considered as representing the market conditions for this transaction, therefore excluding any State aid element.
68. CajAstur offered, indeed, a 25% stake in Banco Liberta as it would result from the transaction provided that the banking-related assets and liabilities of CCM were valued at EUR 442 million and that, after the transaction, Banco Liberta would comply with the regulatory solvency ratio of Tier 1 capital (8%).
69. At the same time, CajAstur committed to supply EUR 410 million in liquid assets to support Banco Liberta, so as to ensure a 8% Tier 1 ratio, and to provide its management capacity, knowledge and goodwill to maximise the value of the bank.
70. In this regard, the Spanish authorities note that in the absence of the transaction the economic value of CCM's banking activities would be significantly eroded due to its inability to access capital market funding, its negative results and the inability of the management board to provide a viability plan for the entity. This is, precisely, the rationale behind CCM receiving only the consideration for the accounting value of its banking activities, and not benefiting from the synergies resulting from the consolidation of these assets into a group with full access to capital market funding and well-regarded management.
71. Due to legal constrains, subordinated debt holders are to be transferred to Banco Liberta. Notwithstanding this, in order for them to contribute to the restructuring process of CCM, the Spanish authorities provided the commitment that Banco Liberta's will not exercise any call options during the period it enjoys financial support from the FGD.
72. In light of the above, the Spanish authorities are of the opinion that no State aid element could be found in the terms and conditions of this transfer.
73. On similar grounds, the Spanish authorities consider that no State aid element in favour of CajAstur is present in the impaired asset measure provided by the FGD. Its main terms and conditions are the result of a competitive process and, as such, reflect the market terms and conditions. What is more, the terms and conditions initially offered by CajAstur were modified to meet the FGD's requirements regarding appropriate remuneration for the guarantee and payments schedule.
74. The [...] % fee established after the negotiations between CajAstur and the FGD takes appropriately into account the costs of having covered the losses guaranteed under the impaired asset measure through capital buffers and, hence, could be deemed as market-oriented.
75. No State aid element could either be found in the payments schedule of the impaired asset measure, since the "financial effect" of the payments to be made by the FGD to CajAstur is neutralised by means of an interest ratio agreed by the parties.

3.2.2. The transfer of CCM's non-banking activities and the continuation of "obra benéfico-social"

76. The Spanish authorities further state that the involvement of the FGD has taken into consideration the peculiarities of the savings banks model in Spain, particularly their activities related to social support ("*obra benéfico-social*").
77. Considering that there was merit in preserving the savings banks model to avoid negative fallout on the market regarding a valuable part of the Spanish banking sector, the FGD decided to fulfil previous commitments by CCM in this field, which will be carried out by the CCM Foundation.
78. For this objective to be achieved, the CCM's non-banking assets and liabilities (other than those devoted to "*obra benéfico-social*") are transferred to the FGD and set off against the outstanding liabilities of CCM. In addition, up to the 60% of the CCM Foundation's stake in Banco Liberta (i.e 15% of Banco Liberta) will be pledged to guarantee the FGD for any losses arising from the realization of the non-banking activities. In the same vein, the FGD has required that the CCM Foundation caps the yearly amount to be dedicated to "*obra benéfico-social*"-related projects at EUR 11 million. CCM Foundation will collateralise any revenues from Banco Liberta in excess of EUR 11 million per year to guarantee its eventual liabilities vis-à-vis the FGD.
79. As a separate issue but included in the transaction, CajAstur group will be entrusted with the management of the non-banking assets to be acquired by the FGD. The Spanish authorities share the FGD's view that this is the best way to maximise the realisation value of these assets. The Spanish authorities note that these assets will require, in many cases, additional funds to be realised at their best prices and only CajAstur group will be in a position to provide this additional funding since it will benefit from the general guarantee granted by CCM on the process and be secured by a pledge on the 25% stake of the CCM Foundation in Banco Liberta. Apart from that, the management services to be provided by CajAstur group will be remunerated at fees which may be considered in line with market practices, without, thus, involving aid elements.
80. From this perspective, the Spanish authorities note that the total wind-up of CCM through the transfer of its banking activities to Banco Liberta and the remaining assets (other than those devoted to "*obra benéfico-social*") to the FGD represent a major compensatory measure and own contribution amounting to the cessation and complete liquidation of the business which had until recently been central to CCM, and generated significant revenues. The Spanish authorities submit that this break-up of CCM is a substantial and deep restructuring of the former which is proportionate to any distortive effect of the measures in place.

4. COMMITMENTS OF THE SPANISH AUTHORITIES

81. The Spanish authorities have undertaken a number of commitments related to the restructuring of CCM. These commitments also aim at addressing the issues of burden-sharing and limitation of the distortion of competition resulting from the State support. These commitments are supposed to ensure that planned restructuring measures, including CCM's winding-up would be meaningful and that they will be implemented in a most efficient way.

Commitments related to behavioural measures

82. The Spanish authorities committed that Banco Liberta will not carry out any new expansion of economic activities or any aggressive commercial policy or use the fact that it is being supported by the FGD in any way, for the duration of such support.
83. With regard to subordinated debt transferred from CCM to Banco Liberta as part of CCM's banking business, the Spanish authorities committed that Banco Liberta will not effect any call options during the period it enjoys financial support from the FGD.
84. With regard to the FGD, it committed not to lend additional financial support to any of the entities involved in the restructuring of CCM.
85. As to the "*obra benéfico-social*", Spain committed that the CCM Foundation will limit the finance paid annually to the "*obra benéfico-social*" to EUR 11 million and that this will be targeted to existing commitments only. Any additional revenue will be collateralised to guarantee any subsequent liabilities of the CCM Foundation vis-à-vis the FGD as a consequence of the loss-sharing mechanism.

Commitments related to the Monitoring

86. The Spanish authorities committed to reporting yearly on the liquidation of the assets transferred to the FGD, starting from the date of the present decision.
87. The Spanish authorities committed to provide final information on the stake in Banco Liberta held by the CCM Foundation, once the liquidation process is completed.
88. The Spanish authorities committed to provide yearly reports on the social support activities of the CCM Foundation.
89. In order to verify that the restructuring plan for CCM is being implemented properly, the Spanish authorities committed to provide regular detailed reports. The first report will have to be submitted to the Commission not later than six months after approval of the restructuring plan.

5. ASSESSMENT OF THE AID

5.1. Existence of aid

90. Article 107(1) TFEU lays down that any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.
91. The measures to be assessed are as follows: the State guarantee on the EUR 1.15 billion ELA and the measures granted by the FGD: the EUR 1.3 billion recapitalisation, the EUR 2.47 billion impaired asset measure and the EUR 350 million additional liquidity contribution.

5.1.1. The State guarantee on the ELA

92. The Commission must first assess whether the State guarantee on the ELA (EUR 1.15 billion) constitutes State aid.
93. The Commission observes that this measure fulfils all conditions laid down in Article 107(1) TFEU. It involves State resources, and it is undoubtedly selective in nature, as it is an individual aid granted to facilitate the viability of CCM. As regards the existence of an advantage, the State intervened because of the extraordinary amount of risks held and the progressive worsening of the quality of CCM's financial and non-financial portfolio. That behaviour of the State is therefore not similar to that of a market economy guarantor in similar circumstances. As a consequence, this selective measure provides a clear advantage to CCM since it allows CCM to remain in the market.
94. By preventing CCM's market position from deteriorating its market position and allowing it to remain active, the State intervention distorts competition. The State intervention also affects intra-Union trade since some competitors of CCM on the Spanish retail deposits and mortgage markets are subsidiaries of foreign credit institutions.
95. As a result, the Commission considers that the State guarantee on the ELA constitutes State aid. In addition, the Spanish authorities do not contradict this finding (see recital 59 above).

5.1.2. The measures adopted by the FGD

96. The Commission considers that the intervention of the FGD constitutes State aid within the meaning of Article 107(1) TFEU. Indeed, the measures are being financed through State resources, are imputable to the State, are selective in nature, and provide CCM with a clear advantage distorting or threatening to distort competition and affecting trade between Member States.

State resources and imputability

97. **As to the State resources**, according to settled case-law, all the financial means by which the public sector may actually support undertakings, irrespective of whether or not those means are permanent assets of the public sector, fall under Article 107(1) TFEU, provided that they constantly remain under public control, and therefore available to the competent national authorities. In particular, State resources are generally considered to be involved where funds come from contributions made compulsory by State legislation and are managed and apportioned in accordance with that legislation, even if they are administered by institutions separate from the State¹⁰. The status of the body or undertaking granting the aid in question is not regarded as a determining factor for the application of State aid rules; otherwise, given the growing interpenetration of the public and private sectors of the economy, a significant portion of State measures having the effects of State aid would escape the scrutiny of the Union's institutions.¹¹
98. In the case at issue, the members' contributions which finance the FGD are mandatory and determined by law up to a certain level. Moreover, as explained in

¹⁰ See Case C-173/73 *Italy v Commission*, [1974] ECR 709, paragraph 16.

¹¹ See Opinion of Advocate General Poiares Maduro in Case C-237/04 *Enirisorse*, [2006] ECR I-2843, point 50.

section 2.6, Bank of Spain can decide to stop those contributions before the upper limit is reached; and it can also decide to finance the FGD itself should insufficient funds be available. In addition, Bank of Spain contributed to the FGD until 1994¹².

99. The Court of Justice held in its ruling in *PreussenElektra*¹³ that "a measure which is made obligatory by the public authority but which is financed by private undertakings, while the public authority has at no time power of disposal of the funds in question, does not involve any direct or indirect transfer of State resources". The Commission considers however that the *PreussenElektra* case-law does not apply to this case as: i) the financing of the FGD does not have a purely "private" origin as Bank of Spain contributed to the FGD until 1994 and may also contribute to the FGD under exceptional circumstances, which have to be determined by law¹⁴; ii) the funds do not flow directly from private party to private party but transit via an independent body (the FGD)¹⁵; iii) the beneficiaries of assistance from the FGD are not necessarily those who pay the contributions¹⁶ and iv) the measure is implemented in the context of a public interest mission defined by the State and does not have a purely commercial objective¹⁷. In light of the above, the Commission considers that FGD's involvement in the case at hand to involve State resources in the meaning of Article 107(1) TFEU.

100. **As regards imputability**, the Court of Justice¹⁸ has clarified that imputability to the State of an aid measure taken by a prima facie independent body (for instance, a public undertaking) can be inferred from a set of indicators arising from the circumstances of the case, such as the fact that the body in question cannot take the contested decision without taking into account the requirements of the public authorities, or the fact that, apart from factors of an organic nature which link it to the State, it has to take into account the directives issued by the State before taking the contested decision. Other indicators might, in certain circumstances, be relevant in concluding that an aid measure taken by a public undertaking is imputable to the State¹⁹.

101. Similarly, the fact that private persons participate in the running of an entity (such as the FGD) is not sufficient to exclude imputability to the State of the measure at issue²⁰.

102. Indeed, in the case of CCM there are several elements which indicate that the intervention in CCM was managed and monitored by the Spanish authorities in the

¹² See Article 3.6 of Royal Decree 2606/1996, 20 December sobre fondos de garantía de depósitos en entidades de crédito.

¹³ Case C-379/98 *PreussenElektra*, [2001], ECR I-2099, paragraph 59.

¹⁴ Case T-136/05 *Salvat père & fils and Others v Commission*, [2007] ECR II-4063 paragraph 160.

¹⁵ See Case T-25/07 *Iride and Iride Energia v Commission*, [2009] ECR II-245, paragraph 27.

¹⁶ See Case C-345/02, *Pearle and Others v Commission*, [2004], ECR I-7139, paragraph 36 as well as Case T-136/05, *Salvat père & fils and Others v Commission*, [2007] ECR II-4063, paragraph 162.

¹⁷ See Case C-345/02, *Pearle and Others* [2004], paragraphs 37 and 38 as well as Case T-136/05, *Salvat père & fils and Others v Commission*, [2007] ECR II-4063, paragraph 164.

¹⁸ Case C-482/99 *France v Commission ("Stardust Marine")* [2002], ECR I-4397, paragraph 55. See also Case C-303/88 *Italy v Commission* [1991] ECR I-1433, paragraphs 11 to 13.

¹⁹ See Case C-482/99 *France v Commission ("Stardust Marine")* [2002] ECR I-4397, paragraph 56: "Such other indicators include, in particular, its integration into the structures of the public administration, the nature of its activities and the exercise of the latter on the market in normal conditions of competition with private operators, the legal status of the undertaking (in the sense of its being subject to public law or ordinary company law), the intensity of the supervision exercised by the public authorities over the management of the undertaking, or any other indicator showing, in the particular case, an involvement by the public authorities in the adoption of a measure or the unlikelihood of their not being involved, having regard also to the compass of the measure, its content or the conditions which it contains".

²⁰ Case T-136/05 *Salvat père & fils and Others v Commission*, [2007] ECR II-4063, paragraph 142.

context of the current financial and economic crisis. The fact that the Bank of Spain's intervention was essential in the decision process²¹, that half of the members of the board are members of the Bank of Spain and all its members are appointed by the Minister of Finance, that contributions to the FGD are mandatory and determined by law and that the Bank of Spain can decide to stop contributions to the FGD, as well as participate in the decision of the extraordinary measure at issue, all point to the existence of a degree of control of the State over the resources of the FGD.

103. The Commission underlines the active role played by the Bank of Spain in the rescue phase. On February 2009 CCM received emergency liquidity assistance from the Bank of Spain. On 28 March 2009 the Bank of Spain replaced the managing board of CCM and put the entity into administration and appointed interim directors. Given CCM's weak financial position and the risk of it not being able to meet its commitments, interim directors who had been appointed by the Bank of Spain asked the FGD to provide a capital injection which allowed CCM to fulfil the regulatory requirements. The decision to inject capital in CCM was adopted unanimously by the managing board of the FGD (in which representative of the Bank of Spain hold 50% of the votes). Moreover, the viability plan presented by CCM to the FGD is subject to the approval of the Bank of Spain.

104. The interplay between the FGD and the *Fondo de Reestructuración Ordenada Bancaria* ("FROB") also suggests some form of public influence on the FGD. The FROB is funded by the State Budget and by the FGD along with the Deposit Guarantee Funds of commercial banks and credit cooperatives. It was originally funded by EUR 9 billion, of which EUR 6.75 billion were contributed by the State Budget and the rest (EUR 2.25 billion) by the FGD along with the Deposit Guarantee Funds of commercial banks and credit cooperatives. The contribution of the FGD to the FROB was required under Spanish law. The funding relationship between the FGD and the FROB reinforces the view that there is involvement of public authorities in the adoption of the measures by the FGD because:

- The decision to dispose of a significant amount of the resources of the FGD has been determined by law;
- The FGD and the two other guarantee funds have contributed to FROB without making any reservation as to the subsequent use of such funds. As a consequence, amounts contributed by FGD which originated from one type of credit institutions may be used by FROB to support a different kind of institutions, i.e., banks may ultimately support cajas de ahorros and vice versa;
- The fact that FROB may make loans to the FGD in order to provide the latter with the means necessary to meet its commitments is also consistent with involvement of the public authorities in the adoption of the measures by the FGD.

105. The context in which the recapitalisation of CCM was decided has also to be taken into account, and in particular the financial crisis, which forced public authorities, including those in Spain, to intervene with the introduction of State aid measures and to take an active role in protecting the stability of the banking system to restore confidence in the sector.

²¹ See in this regard, Opinion of Advocate General Lenz in Case C-44/93 Namur - Les Assurances du Crédit vs Office national du croire and Belgian State [1994] ECR I-3829, at point 44: "The involvement of the State in the material decision for the purposes of Article 92 et seq. does not have to go so far as to constitute an instruction in the aforesaid sense. Instead it is sufficient that the third party (whose action raises the question as to whether it should be imputed to the State) could not take the decision in question without taking account of the requirements of public authorities".

106. Therefore, the Commission considers that the measures undertaken by FGD in the case at hand are imputable to the State for the purposes of Article 107(1) TFEU.

Selectivity

107. The Commission also has to assess whether the measures confer a selective advantage on the beneficiary or beneficiaries of the aid. The measures concerned are selective as they solely benefit CCM and the CCM's activities transferred to Banco Liberta.

Advantage

108. **The EUR 1.3 billion capital injection.** According to well-established principles of EU law, if additional capital is made available to an 'undertaking' on conditions better than normal market conditions this could fall within the remit of Article 107(1) TFEU as it would favour that undertaking. In order to determine whether such advantage is granted, the Commission applies the market economy investor principle. According to this principle, where, in similar circumstances, '*a private investor operating in normal market conditions of a market economy of a comparable size to that of the bodies operating in the public sector could have been prompted to make the capital contribution in question*', no State aid would be involved. The Commission must therefore assess "*whether a private investor would have entered into the transaction in question on the same terms*".²² The attitude of the hypothetical private investor is that of a prudent investor,²³ whose goal of profit maximisation is tempered with caution about the level of risk acceptable for a given rate of return.²⁴

109. With regard to the issue of whether the FGD behaved as a market economy investor, there is a series of factual indicators related to the decision-making process of the capital injection that departs from what would be expected from a private investor:

110. The low level of remuneration that the recapitalisation measure entails is not justified from a market investor's perspective. The objective of the measure was to rescue CCM by increasing the capital buffer to fulfil the legal requirement, which is consistent with what the Spanish authorities have claimed were the intentions of the FGD to minimize costs. However, that objective does not adequately explain long-term (up to 10 years) low remuneration (see recital 21).

111. Based on the above considerations, the Commission considers that the FGD did not behave as a market economy operator when it injected capital into CCM. Therefore, CCM has benefited from advantage within the meaning of Article 107(1) TFEU that it could not have obtained under normal market conditions.

112. **The measures implemented by the FGD in the framework of the restructuring.** The Commission considers that the financial resources granted by the FGD to support the restructuring of CCM (the EUR 1.3 billion capital injection, the EUR 2.47 billion impaired asset measure, and the EUR 350 million liquidity contribution) are not in line with market economy behaviour.

113. First, the Commission notes that the FGD measures undertaken as part of the restructuring of CCM follow the EUR 1.3 billion capital injection previously granted by the FGD in April 2009. As established in the case-law of the Union courts²⁵,

²² Judgment in Joined Cases T-228/99 and T-233/99 *Westdeutsche Landesbank GZ v Commission* [2003] ECR II-435, paragraph 245.

²³ Case C-482/99 *France v. Commission* [2002] ECR I-4397, paragraph 71.

²⁴ Joined Cases T-228/99 and T-233/99, already cited, paragraph 255.

²⁵ See Case T-11/95 *BP Chemicals Ltd v Commission*, [1996] ECR II-599.

when assessing the support provided by the State the Commission should take into account any earlier aid measures provided by the State to the same beneficiary. Thus, the Commission considers that the FGD measures undertaken in the framework of the restructuring must be seen in the context of the earlier State aid granted to CCM.

114. In addition, the role of the FGD in the restructuring phase has to be considered, in particular the fact that one of the goals in its intervention has been to preserve the role of cajas de ahorros related to their social support activities ("*obra benéfico-social*"). Spain has not provided convincing evidence that the FGD chose a course of action that is less onerous for itself than the full liquidation of CCM, a behaviour that is not compatible with the market economy investor principle.
115. The Commission considers that the measures implemented by the FGD should be regarded as a whole and seen as an action taken not within the logic of market, but within a systemic logic which pertains typically the intervention of the public authorities. Indeed, the measures are interlinked and supported by Spain. Because of the strength of the current financial crisis and its impact on CCM, the Spanish authorities decided to take the lead and back CCM in its purpose of selling the banking activities and winding-up the remaining part while preserving CCM's influence in its territory by supporting the continuation of "*obra benéfico-social*". The Commission notes that the sale of the CCM's banking business to CajAstur would not have been possible without the contribution from the FGD to match the assets to the liabilities.
116. Therefore, the Commission considers that the market investor principle is not respected in this case as no investor would have financially supported the sale of the CCM's banking business in the same terms and conditions that the FGD has done.

Distortion of competition and effect on trade between Member States

117. Given that CCM is an undertaking active in the financial sector, which is open to intense international competition, the Commission considers that any advantage from State resources to CCM would have the potential to affect intra-Union trade and distort competition.
118. Additionally, CCM's banking activities to be transferred to Banco Liberta will be competing on the Spanish retail deposit and mortgage lending markets. In those two markets, some competitors are subsidiaries of foreign banks. The measures are therefore able to affect trade between Member States.

Identification of the beneficiaries of the aid.

119. The Commission identifies four parties that could potentially benefit from the aid to CCM: i) CCM's retail depositors; ii) the purchaser of CCM's banking activities, in this case CajAstur; iii) CCM's banking business; and iv) CCM itself, including the entity that will result from the implementation of the plan, i.e., the CCM Foundation.
120. As to **the retail depositors**, the Commission, in line with its previous Decisions regarding Bradford & Bingley, Kaupthing Luxemburg and Dunfermline²⁶, is of the view that there is no State aid to the retail depositors of CCM because they are

²⁶ Commission Decision in Case NN41/2008, Rescue aid to Bradford & Bingley, OJ C290, 13.11.2008, p. 2, Commission Decision in Case NN344/2009, Restructuring of Kaupthing Luxemburg, OJ C247, 15.10.2009, p.3 and Commission Decision in Case NN19/2009, Restructuring of Dunfermline Building Society, OJ C101, 20.04.2010, p.8.

individuals and not undertakings. Even if there are enterprises among the depositors, the aid should be considered *de minimis* and therefore outside State aid control.

121. With regard to the **purchaser (CajAstur)**, it could be an advantage if the price it paid for the acquisition of CCM's banking activities was too low. On the basis of the information provided by the Spanish authorities, the Commission considers that the sale process of the CCM's banking activities is equivalent to an open and non-discriminatory tender which resulted in the best bid winning the tender taking into account the specific circumstance of the sale²⁷. Based on a pre-process evaluation in which several credit institutions were approached, seven firms were included in the tender procedure and the parties had equal access to information. The fact that the offer made by CajAstur does not correspond to the accounting value of CCM does not preclude that the sale price reflects the market value of CCM as no other participant made a higher offer. Furthermore, the mandate of searching for a buyer granted to UBS (see recital 18 and 32) was publicly disclosed in mid-June 2009 and benefited from wide media coverage in Spain (CCM is a regional bank within the country); other potentially interested parties could therefore contact UBS in order to gather available information, if any, on the progress of the CCM restructuring process. The Commission has, therefore, no reason to believe that the price paid did not reflect the market price. Consequently, the Commission concludes that CajAstur did not receive aid.
122. The liquidation of the CCM's non-banking assets transferred to the FGD will be managed, under the control of the FGD, by a company within the CajAstur group at market fees. The Commission has no elements to believe that the fees contain State aid elements.
123. With regard to **CCM's banking business to be transferred to Banco Liberta** as part of the restructuring process, the Commission has to investigate whether it continues to undertake economic activities. If the Commission concludes that this is so, the Commission has to establish whether the economic activities transferred can be considered as a potential beneficiary of State aid.
124. The Commission notes that the business transferred comprises a substantial part of CCM's business activities (of the EUR 25 billion of CCM's total assets, assets worth around EUR 23 billion are to be transferred to the new entity), including: branches, staff and IT together with originated mortgages, subordinated debt, retail deposits and wholesale deposits. After the transfer of the banking business to Banco Liberta, the CCM branches and network will continue to operate as normal as a subsidiary of CajAstur group.
125. The transferred entity will thus be allowed to continue to provide the same products to its customers as it did before the transfer (i.e. mortgages, personal savings, etc). CajAstur has communicated its intention to operate Banco Liberta issuing CCM as a separate brand, within CajAstur Group.
126. The business transferred to Banco Liberta undertakes economic activities, as it provides a variety of financial services to its customers on the financial markets. Taking the above into consideration, the Commission finds that the CCM's banking business transferred to Banco Liberta continues to undertake an economic activity.
127. The Commission observes that the State intervention allowed most of CCM's economic activity to continue. Indeed, the CCM's banking business would not have

²⁷ In the context of the current crisis CCM has been the only credit institution benefiting from the FGD intervention; after CCM's rescue, a new legal framework assuring that sale processes will be conducted through competitive procedures entered into force. See Article 7.5 of Royal Decree-Law 9/2009 of 26 June.

been transferred to Banco Liberta without the EUR 1.3 billion capital injection, the EUR 350 million liquidity contribution and the EUR 2.47 billion impaired asset measure. Therefore, the FGD's contribution constitutes an advantage in favour of the economic activities transferred.

128. With regard to **CCM Foundation**, the transfer of the CCM's banking business to Banco Liberta and the CCM's non-banking assets to the FGD combined have enabled the orderly restructuring of CCM. Even though CCM Foundation will limit its activity to "*obra benéfico-social*"-related projects, it potentially could continue to carry out economic activities²⁸ and therefore can be considered to be an undertaking.

5.2. The amount of aid

129. As a result of the restructuring plan, CCM will receive significant amounts of State aid:

- i) the State guarantee on the ELA granted on March 2009 of up to EUR 3 billion which subsequently was issued to EUR 1.15 billion;
- ii) the capital injection from the FGD of EUR 1.3 billion in preference shares;
- iii) a further liquidity line from the FGD of EUR 350 million to reimburse liabilities of CCM towards third parties which cannot be contractually transferred to other financial institution;
- iv) an impaired asset measure on a portfolio of EUR 7.7 billion. The Commission experts have evaluated the State aid in the impaired asset measure at the whole value of the guarantee, i.e. at EUR 2.47 billion.

130. Regarding the impaired asset measure, the Commission has assessed the features of the portfolio guaranteed by Spain, and the main results of the analysis are the following:

- The current market value of the portfolio is significantly below its nominal value, since losses expected under the current market conditions are EUR 5.6 billion out of the EUR 7.7 billion value of the portfolio.
- The estimated real economic value (REV) of the assets is also significantly below the nominal value of the portfolio, since losses expected under the base scenario are EUR 3.6 billion (i.e., a REV of EUR 4.1 billion) and EUR 4.2 billion under the stressed case (giving rise to a REV of EUR 3.5 billion).

131. In order to carry out the assessment above, the Commission consulted a panel of experts on the valuation of the impaired assets guaranteed by the FGD, as foreseen in point 43 of the Impaired Assets Communication²⁹.

132. The current market value has been inferred from a set of indicators: the current value of Spanish residential mortgage-backed securities, recent bids on mortgages given to individuals on Spanish property and the estimated value of securities backed by loans to real estate developers with an equivalent rating.

133. The real economic value has been determined using the same methodology as the Spanish authorities, but using a more granular approach to distinguish among the

²⁸ According to the Spanish legislation, foundations can carry out economic activities related to the foundational purposes, and will be subjected to competition rules (see Article 24 of Law 50/2002, of 26 December 2002).

²⁹ Communication from the Commission on the Treatment of Impaired assets in the Community Banking Sector, hereinafter the "Impaired Assets Communication" (OJ C 72, 26.3.2009, p. 1)

different asset classes, and under assumptions based on data observed at the market, which are more severe than those assumed by Bank of Spain.

134. Based on all of the above, the Commission is of the opinion that the value of the guaranteed portfolio is lower than that estimated by Spain, and in line with the value estimated by CajAstur. In other words, losses expected by the Commission are higher than those expected by Spain.
135. Based on the valuation of the portfolio, the Commission expects that the whole guarantee will be exhausted. As a consequence, the whole guarantee is regarded as State aid, i.e. EUR 2.47 billion.
136. The total aid amount (around EUR 5.3 billion) is very significant both in terms of total assets (21%)³⁰ and of risk weighted assets (RWA) (51.7%). Given that the beneficiaries have received a considerable amount of aid a far-reaching restructuring is needed.

5.3. Legality of the aid

137. The Commission notes that the aid has been put into effect without notification and prior approval by the Commission. Spain has thus not complied with its obligations under Article 108(3) TFEU.

6. COMPATIBILITY OF THE AID WITH THE INTERNAL MARKET

138. As a preliminary remark, the Commission notes that the aid measures taken in this case combine rescue aid measures, which have been implemented without prior notification, and were followed by the restructuring of CCM through the sale of the banking business and the liquidation of the remaining part.
139. As regards compatibility of these measures with the internal market, the Commission first has to assess whether the aid remedies a serious disturbance in the economy of Spain. Subsequently, the Commission needs to assess if the measures at issue are in line with the conditions set out in the Commission's Communications on the application of Article 107(3)(b) TFEU³¹.

6.1.1. Application of Article 107(3)(b) TFEU

140. Article 107(3)(b) TFEU empowers the Commission to find that aid is compatible with the internal market if it is intended "to remedy a serious disturbance in the economy of a Member State". The Commission has acknowledged that the global financial crisis can create a serious disturbance in the economy of a Member State and that measures supporting banks are apt to remedy this disturbance. This has been confirmed in the Banking Communication³², the Recapitalisation Communication³³,

³⁰ The CCM's consolidated total assets as of 30 June 2009 were EUR 25 billion whilst the risk weighted assets were EUR 10.2 billion.

³¹ See the Communication from the Commission on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis, hereinafter the "Banking Communication" (OJ C 270, 25.10.2008, p. 8); the Communication from the Commission on the recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, hereinafter the "Recapitalisation Communication" (OJ C 10, 15.1.2009, p. 2); the "Impaired Assets Communication" and the Communication from the Commission on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules, hereinafter the "Restructuring Communication" (O J C 195 , 19.08.2009, p. 9-20).

³² Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis, OJ C 270 of 25.10.2008, p. 8.

the Impaired Asset Communication³⁴ (IAC) and the Restructuring Communication³⁵, adopted by the Commission. In respect of the Spanish economy this was confirmed in the Commission's various approvals of the measures undertaken by the Spanish authorities to combat the financial crisis³⁶. Therefore, the legal basis for the assessment of these aid measures should be Article 107(3)(b) TFEU.

6.1.2. The framework for evaluating compatibility of restructuring plan

141. The Commission has established that the rescue of CCM required an initial set of aid measures to keep the bank afloat before the restructuring of the bank took place, i.e. a State guarantee on an ELA granted by Bank of Spain and a capital injection by the FGD, as specified in recitals 19 and 21 above.
142. The restructuring of CCM required a further set of State aid measures that have benefited both CCM Foundation and the CCM's banking business transferred to Banco Liberta.
143. The present decision therefore aims at assessing whether the various State aid measures constitute compatible restructuring aid based on the restructuring plan submitted by Spain in light of the conditions set out in the Commission's Communications on the application of Article 107(3)(b) TFEU.

6.1.2.1. Compatibility under the Restructuring Communication

144. As regards compatibility of the restructuring aid measures with the internal market, the Commission has to assess whether the measures at issue are in line with the conditions set out in amongst others, the Restructuring Communication
145. The Restructuring Communication sets out the State aid rules applicable to the restructuring of financial institutions in the current crisis. According to the Restructuring Communication, in order to be compatible with Article 107(3)(b) TFEU, the restructuring of a financial institution in the context of the current financial crisis has to:
- (i) Lead to a restoration of the viability of the bank/orderly liquidation;
 - (ii) Include sufficient own contribution by the former shareholders and capital holders of the bank (burden-sharing);
 - (iii) Contain sufficient measures limiting the distortions of competition.

6.1.2.1.1. The restoration of viability/wind-up in an orderly fashion

146. The Restructuring Communication provides in points 9 and 10 that the Member State should provide a comprehensive and detailed restructuring plan which should include a comparison with alternative options. Where a financial institution cannot be restored to viability, the restructuring plan should indicate how it can be wound up in an orderly fashion. The plan should furthermore also identify the causes of the

³³ Communication from the Commission – The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10 of 15.1.2009, p. 2.

³⁴ Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C 72 of 26.3.2009, p. 1.

³⁵ Commission communication on the return to viability and the assessment of the restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195 of 19.8.2009, p. 9.

³⁶ See i.a. Commission Decision of 28.01.2008 in State aid case N 28/2010, *Recapitalisation measures in favour of the banking sector in Spain*, OJ C 57/1 of 9.3.2010, p. 2.

difficulties faced by a financial institution. Section 2 of the Restructuring Communication sets out that the Member State should provide a comprehensive and detailed restructuring plan which provides complete information on the business model and which restores the bank's long-term viability.

147. In the present case the Commission observes that the Spanish authorities have chosen to sell CCM via a competitive tender process. As a result, the banking business was transferred to CajAstur's subsidiary Banco Liberta and the CCM's non-banking activities are transferred to the FGD with the goal to be fully liquidated in a timeframe of seven years. No activities will remain in CCM Foundation after the transfers, save for assets and liabilities linked to the exercise of "*obra benéfico-social*". The Commission therefore has to assess whether a) the banking business of CCM transferred to Banco Liberta will be viable, and b) CCM is liquidated in an orderly fashion.

Viability of the entity transferred to CajAstur Group

Restoration of long-term viability

148. The Restructuring Communication in point 17 confirms that a sale of (part of) the financial institution to a third party can help to restore its long-term viability. Given the sale process and the business profile as well as financial standing of CajAstur described below, the Commission is satisfied that the requirements in the Restructuring Communication are met.
149. The CajAstur group is a saving banking group incorporated in Oviedo with 358 branches and 1,984 employees. [...] the balance sheet total was EUR 15.8 billion with a consolidated profit of EUR 166.6 million. In the first quarter of 2010 the CajAstur group posted a positive result of EUR 53.7 million.
150. The Commission notes that the impact of the acquisition of CCM on CajAstur's balance sheet is significant (more than 60%) based on a consolidated balance sheet of EUR 15.4 billion as of June 2009.
151. However the Commission takes note that as regards the quality of credit portfolio the CajAstur group presents a level of non-performing loans (NPL) which is very low (3.36%) and a level of provisions ("ratio de cobertura") of NPL of 65.83%. The average for the Spanish banking sectors for these two indicators is 5.3% and 56.7% respectively. The current long term rating granted by Fitch to CajAstur is A whilst Moody's assigned A2 for the same maturity. In addition its legacy exposure from the past was also addressed by timely write-downs (more than EUR 3.4 billion).
152. The Commission thinks that the CajAstur group is a viable group and it has the ability to manage the business they acquired. Moreover, according to data provided by the Spanish authorities, the CajAstur group has the required ability to own and manage the CCM's banking activities in compliance with regulatory and prudential requirements.
153. The Commission also considers the CajAstur group to be viable after restructuring. The restructuring measures initiated by the interim administrators appointed by the Bank of Spain will be continued by the buyer, remedying the specific causes of the CCM's problems. In particular, the management of CCM was replaced, a due diligence exercise with the help of an external consultant was conducted and

substantial measures were taken to reduce the risk profile of the activities of the bank (see recitals 16-22 above).

154. In addition, the Commission also considers the CCM banking activities transferred to CajAstur to be viable. The liabilities include all the retail deposits and wholesale funding. As regard the asset side, the Commission observes that the loan portfolio has been cleaned and all other illiquid assets (participations in the real estate sector) have to be liquidated. Moreover, the expected capital base (9.1%) and the total capital ratio of CajAstur group after the integration (13%) by the end of 2010 are going to be well above the minimum capital requirements.
155. As regards the efficiency of the new entity after the integration, the business operations will be optimised by gradually raising income and by lowering costs in the forthcoming years. To achieve this goal the management of CajAstur is implementing an in-depth restructuring. Finally, Banco Liberta will have an adequate funding capacity position due to the capacity of the parent undertaking to provide liquidity.
156. In addition, at the beginning of 2009, CCM had some 590 branches. As of 30 September 2009 the branches of CCM numbered 555. After implementing the restructuring, a total of 88 branches will be closed as loss making (of which 14 are located in CCM's core area), 45 branches will be dismissed for overlapping with CajAstur. Around 20% of the branches will be closed.
157. The Commission notes that the restructuring plan based on reasonable underlying macroeconomic assumptions. In particular, the restructuring plan will allow CajAstur to comply with the relevant regulatory requirements even in stress scenarios with a protracted global recession in line with point 13 of the Restructuring Communication.
158. The Commission considers that the plan demonstrate how CajAstur will show adequate profitability, allowing it to cover all its costs including depreciation and financial charges.
159. On the basis of the above, the Commission is satisfied that the restructuring put in place by CajAstur group is capable of ensuring the long-term viability of the integrated entity.

Orderly liquidation of CCM

160. CCM has called a general meeting on 30 June 2010 to approve, among others, the relinquishing of its banking licence and, consequently, its transformation into a charitable foundation (CCM Foundation) aimed only at continuing to support "*obra benéfico-social*"-related projects in Castilla-La Mancha.
161. CCM's banking activities will be transferred to Banco Liberta. In this regard, the Commission notes that the tender process conducted to sell CCM's banking assets helped to maximise its price and thus limit the contribution of Spain to the restructuring of CCM.
162. Regarding CCM's non-banking activities, its assets (mainly participations in companies that are at the same time clients of the bank) and liabilities (mainly the capital injection of EUR 1.3 billion and the further EUR 350 million in liquidity from the FGD) will be transferred to the FGD.

163. The FGD will realize CCM's non-banking assets by means of a sale process within the next seven years. A company within the CajAstur group will manage the sale process in return for a fee, under the control of the FGD.
164. CCM Foundation will hold [...] a 25% stake in Banco Liberta. Of this stake, 60% (i.e. 15% of Banco Liberta) will be pledged to guarantee the FGD for any (likely) losses arising from the realization of the non banking activities.
165. Dividends from the Banco Liberta shares will be used by CCM Foundation to finance the "*obra benéfico-social*" with a yearly cap of EUR 11 million to fund existing commitments. Any additional revenue will be collateralised to guarantee CCM eventual liabilities vis-à-vis the FGD as a consequence of the loss-sharing mechanism.
166. This arrangement reflects the special nature of the Spanish cajas de ahorros as a means to fund charitable activities.
167. The Commission takes note of the commitment by Spain that the CCM Foundation will not undertake any economic activity other than those linked to the "*obra benéfico-social*", avoiding therefore actions that unduly injure competitors or distort competition. Furthermore, the resources that will eventually flow to the "*obra benéfico-social*"-related activities are limited to the minimum necessary to continue funding ongoing commitments.
168. On the basis of the above, the Commission has no reason to doubt that CCM has been broken-up in an orderly manner.

6.1.2.1.2. Own contribution/burden-sharing

169. The Restructuring Communication indicates that an appropriate contribution by the beneficiary is necessary in order to limit the aid to minimum and to address distortions of competition and moral hazard. To that end, firstly, the restructuring costs should be limited while, secondly, the aid amount should be limited and a significant own contribution is necessary.
170. The Restructuring Communication indicates in point 23 that the restructuring aid should be limited to cover the costs which are necessary for the restoration of viability.
171. The Restructuring Communication also indicates that, in order to keep the aid limited to a minimum, the banks should first use their own resources to finance the restructuring. The costs associated with the restructuring should not only be borne by the State but also by those who invested in the bank. This objective is achieved by absorbing losses with available capital and by paying an adequate remuneration for State interventions.
172. As regards the contribution of CCM to the financing of the restructuring costs, the Commission observes that the stakeholders of the credit institution lost ownership and that the banking business is sold via a tender process, thus minimising the costs for the State. Moreover, the remaining activities of CCM are to be transferred to the FGD. Therefore the tender process has helped to limit the contribution of Spain to the sale process.
173. As concerns the remuneration of the various aid measures, the Commission considers that the pricing of the State measures granted for a credit institution under liquidation should be in principle market-oriented.

174. In the case at stake, the remuneration for each of the aid measures is not in line with the relevant Communications of the Commission, as specified below.

The State guarantee on the ELA: Compatibility with the Banking Communication

175. The Banking Communication sets out the framework for assessing the provision of funds to financial institution in difficulties in the framework of the financial crisis.

176. The Commission notes that the pricing for the State guarantee is [...] % of the average amount of the credit facility used. The ECB Recommendations of 20 October 2008 indicating a flat fee of 50 basis points for guarantees of less than one year when the guarantee is granted to solvent entities. However, as CCM was distressed, the remuneration for the State guarantee is lower than would generally be considered as adequate for distressed entities.

177. Nevertheless, it should be noted that the ELA and the State guarantee are to be terminated as of the date of completion of the transfer of the banking assets to Banco Liberta in the framework of the restructuring of CCM, thus limiting the aid.

The capital injection: Compatibility with the Recapitalisation Communication

178. The capital injection is not fully in line with the Recapitalisation Communication. In particular, the interest rate applied for the first five years is 0%, 3% from the fifth to the tenth year and only after the tenth year will market rates be applied. In addition, the low level of remuneration does not incorporate appropriate incentive to reimburse the capital injection.

179. Under the Recapitalisation Communication, it is possible to accept that a distressed bank pays a lower remuneration than is normally necessary, provided that this is required to ensure financial stability and is accompanied by the presentation of a thorough and far-reaching plan, including a change in management and corporate governance where appropriate.

180. Nevertheless, the capital injection will be reimbursed by the transfer of CCM's assets and liabilities to the FGD, as described in recitals 41 and 54 thus limiting the aid.

The impaired asset measure: Compatibility with the IAC

181. The specific conditions applying to asset relief measures are laid down in the Impaired Assets Communication. Pursuant to section 5.2 of the Impaired Assets Communication, an asset relief measure should ensure ex-ante transparency and should provide for adequate burden-sharing followed by the correct valuation of the eligible assets and the correct remuneration of the State so that the asset relief measure ensures shareholders' responsibility.

182. Regarding the compatibility of the impaired asset measure with the Impaired Assets Communication, it is been priced considering the capital relief effect for CCM (over the duration of the guarantee, the capital relief corresponds to the whole guaranteed amount). However, the premium paid does not fully reflect the capital relief effect. Furthermore, CCM will not pay premiums to compensate for the losses; Banco Liberta will pay them. In that sense, the measure is not aligned with the criteria defined in section 5 of and Annex IV to the Impaired Assets Communication.

183. The Commission notes that, as mentioned in recital 135, the whole guarantee is likely to be exhausted. In that case, the measure could not strictly speaking be a

guarantee on impaired assets. Instead, it would be a loss-sharing mechanism, in which CCM takes some part of the loss (first loss), the State takes another part (second loss) and, if total impairments are larger than the first and second loss, Banco Liberta would assume the rest (third loss).

184. It should be noted that the Impaired Assets Communication recognizes that in-depth restructuring compensates for potential misalignments with the criteria in section 5 of that Communication. The existence of in-depth restructuring on CCM, to the extent that CCM will cease carrying out banking activities, is an element that could justify compatibility with the Impaired Assets Communication. Thus, the measure should be assessed together with the rest of the measures in favour of CCM and as a part of the far-reaching restructuring of CCM. .
185. In addition, the terms of the guarantee on impaired assets were determined as a result of a competitive process open to market participants, in which the bid presented by CajAstur was considered to be the least expensive. As a consequence, the measure has to be assessed together with the rest of the restructuring measures, and within the context of the offer presented by CajAstur to take over CCM.

The liquidity contribution: Compatibility with the Banking Communication

186. In relation to the additional liquidity line of EUR 350 million granted by the FDG to CCM, the Commission notes that the pricing for the nine-months liquidity contribution, which equals the fixed part of a nine-month mid-swap plus 20 basis point, does not seem to reflect the degree of risk that would generally be considered as adequate for distressed entities.
187. The Commission acknowledges that this measure is dictated by the necessity to satisfy legal constraints regarding some subordinated liabilities which can not be transferred to Banco Liberta.

Conclusion on the remuneration of the aid measures

188. Point 25 of the Restructuring Communication sets out that any derogation from an adequate burden-sharing ex ante which may have been exceptionally granted in the rescue phase for reasons of financial stability should be compensated by a further contribution at a later stage of the restructuring, for example in the form of claw-back clauses and/or by farther-reaching restructuring including additional measures to limit distortions of competition.
189. Point 34 of that Communication further states that where the entry price has been set at a level significantly below the market price for reasons of financial stability it should be ensured that the terms of the financial support are revised in the restructuring plan (e.g. via early redemption of the State support) so as to reduce the distortive effect of the subsidy. This has been the case of the State guarantee, the capital injection and the liquidity line, as stated above.
190. The Commission therefore concludes that the compatibility of the aid measures can be assessed in light of the far-reaching restructuring of CCM.
191. In relation to the continuation by the CCM Foundation of some "*obra benéfico-social*"-related activities, the Commission considers that this arrangement is not contrary to the burden-sharing principle, but rather reflects the special nature of the Spanish cajas de ahorros as a means to fund charitable activities. The Commission takes account of the of the fact the Spain committed that no new activities will be

undertaken by the foundation and that an annual cap of EUR 11 million is to be fixed to fund existing commitments.

192. CCM has not complied with the Commission's policy on hybrid instruments as stipulated in point 26 of the Restructuring Communication³⁷. The Commission clarified there that in a restructuring context the discretionary offset of losses (for example by releasing reserves or reducing equity) by beneficiary banks in order to guarantee the payment of dividends and coupons on outstanding subordinated debt, is in principle not compatible with the objective of burden-sharing. The Commission notes that the payment of coupon in 2009 did not respect that principle and should be compensated by a more in-depth restructuring. The same would be applicable to the two buyback of preference shares called at par value in July and August 2009.
193. To compensate for the insufficient burden-sharing by subordinated bond holders, the Commission considered that far-reaching restructuring of the bank can be sufficient to compensate for the lack of burden-sharing.
194. In relation to the transfer of subordinated debts to Banco Liberta as part of the banking business, the Commission takes stock of the commitment by Spain that, in order to contribute to the restructuring process of CCM, Banco Liberta will not effect any call options during the period it enjoys financial support from the FGD, i.e. for a period of five years through the guarantee on the impaired asset portfolio.

6.1.2.1.3. Measures addressing distortions of competition

195. The Restructuring Communication requires that the restructuring plan proposes measures limiting distortions of competition and ensuring a competitive banking sector. In this context, it should also address moral hazard issues and ensure that State aid is not used to fund anti-competitive behaviour.
196. The Restructuring Communication stipulates (point 30) that the Commission has to take into account in its assessment the amount of aid and the conditions and circumstances under which that aid was granted and the effects of the position the financial institution will have on the market after the restructuring. On the basis of that analysis, the Commission should verify that the potential distortion of competition arising from the aid is not disproportionate.
197. The Restructuring Communication notes (point 31) that when assessing the amount of aid and the resulting distortions, the Commission has to take into account both the absolute and relative amount in relation to the beneficiary's RWA. In this respect the Commission notes that the relative amounts of aid is particularly significant, amounting to 51,7% of CCM's RWA (see recital 137), requesting therefore proportionate compensatory measures.
198. In relation to CCM, the entity will be liquidated and continue its activity only as charitable foundation. Spain committed (see recital 85) that CCM Foundation will not undertake any economic activity other than those linked to the "*obra benéfico-social*", avoiding therefore activities which unduly injure competitors or distort competition.
199. The Commission finds that the exit of a failed entity which engaged in excessive risk-taking is a clear indication that moral hazard is addressed, in that commercial

³⁷ Cf. MEMO/09/441 of 8 October 2009- Commission recalls rules concerning Tier 1 and Tier 2 capital transactions for banks subject to a restructuring aid investigation

failure results in a break-up and liquidation. As a result, the distortion of competition resulting from the State aid is greatly reduced.

200. In addition, the sale of the banking business to a competitor has been undertaken in an adequately open, transparent and non-discriminatory tender procedure. This has given competitors the opportunity to acquire CCM's banking business. The procedure, which closely simulates the situation on the market without aid, has the effect of limiting the distortions of competition as it aims to ensure the establishment of a market price for the assets and liabilities taken over by the purchaser.
201. As regards the CCM banking business transferred to Banco Liberta, the Commission notes that this entity, which also benefits from the aid, owes its existence to State aid. It is therefore necessary to assess whether appropriate measures to limit the distortion of competition are necessary in light of the characteristics of the market on which the beneficiary will operate.
202. In this respect, the Commission considers that the distortions of competition due to the banking business' continued market presence are limited. CCM has a limited market presence in the Spanish market (see recital 5). In June 2009, before the implementation of the restructuring plan, the group consolidated assets were EUR 27 billion, representing 1% of the total assets in the Spanish financial system. CCM's market shares in deposits and in loans were respectively 1.18% and 1.05%.
203. As regards the restructuring plan of CCM, the Commission takes note of the significant downsizing of the banking activities transferred to Banco Liberta.
204. The Commission also notes that the regions where CCM has the strongest position are well targeted by the restructuring plan.
205. In addition, the Commission takes stock of the commitments by Spain (see recital 82) with regard to Banco Liberta that it will not carry out any new expansion of economic activities or any aggressive commercial policy or use the fact that it is being supported by the FDG in any way for the duration of such support.
206. On the basis of the above elements, the Commission considers that the scale and nature of measures proposed by CCM are sufficient and adequate to address the distortions of competition created by the aid.

6.1.2.2. MONITORING

207. The restructuring plan presented by Spain will need to be properly implemented. In order to ensure a proper implementation, Spain committed that it will provide the Commission with:
 - 1) Yearly reports on the liquidation of the assets transferred to the FGD and on the social support activities of the CCM Foundation, starting from the date of the present decision (see recital 86 and 88);
 - 2) Final information of the stake in Banco Liberta held by CCM Foundation, once the liquidation process is completed (see recital 87).
208. The Commission considers that these reports will allow it to monitor the progress of the wind-down process, its impact on competition and the fulfilment of the commitments which have been made by the Spanish authorities.

7. CONCLUSION

The Commission has accordingly decided to consider the aid measures implemented by Spain in the context of the restructuring of CCM to be compatible with the internal market.

The Commission notes that for reason of urgency Spain exceptionally accepts the adoption of the Decision in the English language.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_es.htm.

Your request should be sent by registered letter or fax to:

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Yours faithfully,

For the Commission

Joaquín ALMUNIA
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