

# SPANISH COMPETITION *Highlights...*

*Weekly follow-up: 13 Mar – 17 Mar*

**Spanish Supreme Court (“TS”) upholds the annulment of the 2017 dawn raid at ALTADIS premises.**

## **The annulled inspection**

Back in 2017, the CNMC conducted unannounced inspections at several headquarters of different tobacco companies. Among them, the ALTADIS premises. The gathered information allowed the CNMC to open the [S/DC/0607/17: TABACOS](#) file, which ended with the imposition of fines amounting to EUR 57.71 million.

## **Grounds for the annulment**

When the external lawyers arrived at the ALTADIS premises, they inquired the inspectors about the existence of a court order authorizing the inspection. In response to these questions, the head of the inspection team replied that “*there was no court order denying entry*”. Minutes later, the dawn raid began. The TS has ruled that such elusive response on the existence of a court order implies concealing a fact that, given its relevance, invalidates the consent provided by ALTADIS.

## **Main implications for the main proceeding**

As a result of the annulment of the inspection, the documentation obtained cannot be used and must be returned.

Now, it remains to be determined what is going to happen with the [S/DC/0607/17: TABACOS](#) Decision. Unlike other rulings (e.g, the TS’ ruling that annulled the inspections carried out on Repsol premises in the S/0474/13: PRECIOS COMBUSTIBLES AUTOMOCIÓN file), the TS has not pronounced on the nullity of the sanctioning proceeding.

However, it seems likely that the Decision will be annulled and the CNMC will be prevented from initiating a new proceeding due to the statute of limitations (4 years after the infringement ceases).