

## **SPANISH COMPETITION**

# ***Highlights ...***

***Weekly follow-up: 23 – 27 Oct.***

### **A busy week for the CNMC in its inspection work**

From 23 to 26 October, the Comisión Nacional de los Mercados y la Competencia ("**CNMC**") carried out an unannounced inspection at the premises of a company active in the pharma sector for the alleged existence of anti-competitive practices constituting an infringement of articles 1 and 2 LDC and 101 and 102 TFEU.

The anti-competitive conduct would affect the market for the supply of digital pharmaceutical logistics tools for pharmacies in Spain.

In the same week, dawn raids were also carried out at the headquarters of several operators in the railway sector. These inspections are aimed at analysing the possible existence of anti-competitive practices in the market for rail freight and rail traction services for freight transport.

The conduct under investigation could constitute an infringement of articles 1 and 2 LDC and 101 and 102 TFEU. Additionally, such conduct could constitute a failure to comply with the CNMC's surveillance Resolution of 28 February 2017 (Case S/DC/0511/14: RENFE OPERADORA).

### **The increase in the CNMC's inspection activities**

The CNMC is playing an increasingly active role in its inspection work compared to the last three years. In this regard, so far this year, it has carried out seven inspections in six cases, while, according to the 2022 Reports, it carried out five inspections in the framework of four cases during the year 2022, four inspections in the framework of three cases in the year 2021 and four inspections in the framework of four cases in the year 2020.

### **Recommendation for inspections**

To manage properly an inspection by the competition authority, it is important to have legal advice from competition specialist to ensure that the officials fulfil all formalities and respect the legal burdens. Additionally, to collaborate actively with the CNMC during the inspection is a must.

It is also recommended to follow the guidelines published by the CNMC in its "Information note on the inspections carried out by the CNMC's Competition Directorate in matters of Antitrust", which include not destroying or concealing documents, or not obstructing the inspection activity, among others.