

SPANISH COMPETITION

Highlights ...

Weekly follow-up: 04 - 08 Mar.

The CNMC investigates possible anti-competitive practices in the market for the distribution of medicinal, health and parapharmaceutical products

The CNMC carried out dawn raids at the premises of a company, between 26 and 29 February, to investigate possible anti-competitive practices in the market for the distribution of medicinal, health and parapharmaceutical products.

Conducts under investigation

As reported by the CNMC, the practices could consist of a business engagement strategy to attract, build and retain the loyalty of pharmacies in the medium/long term, which would constitute an infringement of art. 2 LDC for abuse of dominant position.

As the CNMC recalls in its communication, these inspections are a preliminary action in the process of investigating the alleged conduct and do not prejudge the outcome of the investigation. If, after the investigation, evidences are found, the sanctioning proceedings would be formally initiated.

The conduct of tying and the Tetra Pak case

Abuse of dominance can take various forms, one of them being tying. A tying agreement arises where a supplier makes the supply of one product (the “tying product”) conditional upon the buyer also buying a separate product (the “tied product”).

Competition authorities have previously sanctioned these conducts. In this regard, in Tetra Pak II Case (IV/31043), Tetra Pak required customers to whom it supplied liquid packaging machines to purchase cartons from it; it also insisted that only it should provide the services of repair and maintenance. The European Commission stated that it was not customary to tie cartons to machines and concluded that the cartons formed a separate market upon which the dominant firm was trying to eliminate competition.