

PRESS RELEASE

The CNMC has issued 171 million euros in fines to 21 automobile manufacturing and distributing companies in Spain, as well as two consulting companies, for anti-competitive practices.

- The CNMC considers it to have been proven that the fined companies exchanged commercially sensitive and strategic information in the Spanish market for distribution and after-sales services of vehicles of the participating brands.
- The anti-competitive practices proven took place in three distinct areas: business management, after-sales and marketing.
- The investigation and sanctioning of these conducts took place following a Clemency Request filed by SEAT. SEAT, S.A. and the companies forming part of the group it belongs to (Volkswagen Audi España and Porsche Ibérica) have been exempted from paying the fine.

Madrid, 28 July 2015. The CNMC (Spain's National Authority for Markets and Competition) has issued a total of 171 million euros in fines to 21 companies present in the distribution and marketing of motor vehicles market and/or the provision of after-sales services throughout Spain, as well as two consulting companies, for practices contrary to the Competition Protection Act ([file S/0482/13](#)). The CNMC considers the practices to constitute a cartel.

More specifically, the CNMC considers it proven that there was a single continued infraction of article 1 of the Competition Protection Act and of article 101 of the Treaty on the Functioning of the European Union, which consisted of the systematic exchange of confidential and commercially sensitive information, both current and future, and which was highly disaggregated, and which covered almost all of the activities carried out by the sanctioned companies via their distribution and after-sales Network: sale of new and used vehicles, provision of garage, repair and maintenance services and sales of official replacement parts.

The combined market share of the brands participating in the conduct analysed in these sanctions proceedings reaches around 91% of automobile distribution in Spain, including almost all regular brands and some premium brands.

Furthermore, it has been proven that the companies carried out said exchanges of information secretly and behind closed doors, using specific mechanisms to allow said exchanges of information using to consulting companies, Urban Science and Snap-On.

The exchanges of information were structured around three areas or exchange forums, although it was all part of a complex agreement which had been developed,

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depending on the companies, from Feb. 2006 to Aug. 2013

In the **business management** area, information was exchanged in relation to the distribution and marketing of the vehicles distributed in Spain by the brands participating in the so-called "Brands club", with the collaboration of the consulting company Snap-On since 2009. Subsequently, some of the companies participating in the "Brands club", together with some new brands, decided to expand and complete the information exchanged on their **after-sales** services and activities. In order to do this, they created, in collaboration (from 2010 onwards) with Urban Science, a "Programme for Exchange of information on after-sales indicators", and they met at so-called "After-Sales Directors Meetings" to analyse the information exchanged and future commercial policies to be implemented by said brands.

Finally, with regard to the **marketing** area, some of the companies exchanged confidential information at meetings between After-Sales Marketing managers at so-called "Constructor Days".

From the investigations carried out by the CNMC at the offices of various companies at the end of July 2013 documentation was obtained which proved the illicit conduct, complemented by the information provided by SEAT, S.A. in its request for exemption from payment of the fine.

This exchange of sensitive information had negative effects on effective competition in the market, as it caused an artificially reduced uncertainty of the companies in relation to the sales policies of their competitors. The subsequent decrease in competition during the extensive period in which these exchanges of information took place was passed on to consumers in the form of less discounts, less aggressive commercial policies by the brands, and reduced effort in distinguishing themselves from other companies with higher quality services.

As for Snap-On y Urban Science, the CNMC considers that they played a key role as active facilitators of the cartel, and providers of key instruments for the exchange of information and the continuance of the conduct.

As a result, 23 operators have been fined. Nevertheless, the CNMC has waived payment of the corresponding fine for infringing conduct for SEAT, S.A., as well as Volkswagen Audi España, S.A. and Porsche Ibérica, S.A., all belonging to the same group, as they had requested clemency. This is due to the fact that they provided sufficient evidence to order the inspections carried out, as well as providing further evidence during the investigation of the file, which allowed the CNMC to detect and prove the existence of the cartel. The total fine waived from the companies requesting clemency came to 39.443 million euros.

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The CNMC resolved to impose the following fines:

1. Automóviles Citroën España, S.A: 14.768 million euros
2. B&M Automóviles España, S.A.: 776,012 euros
3. BMW Ibérica, S.A.U. : 8 million euros
4. Chevrolet España, S.A.U.: 138,580 euros
5. Chrysler España, S.L.: 265 euros
6. Fiat Group Automobiles Spain, S.A.: 6.968 million euros
7. Ford España, S.L.: 20.234 million euros
8. General Motors España, S.L.U.: 22.827 million euros
9. Honda Motor Europe Limited sucursal en España, S.L.: 609,325 euros
10. Hyundai Motor España, S.L.U.: 4.415 million euros
11. Kia Motor Iberia, S.L.: 2.074 million euros
12. Mazda Automóviles España, S.A.: 656,390 euros
13. Mercedes Benz España, S.A.: 2.379 million euros
14. Nissan Iberia, S.A.: 3.157 million euros
15. Peugeot España, S.A.: 15.722 million euros
16. Renault España Comercial, S.A.: 18.203 million euros
17. Snap-on Business Solutions, S.L.: 52,785 euros
18. Toyota España, S.L.: 8.657 million euros
19. Urban Science España, S.L.U.: 70,039 euros
20. Volvo Car España, S.A.: 1.706 million euros

Furthermore, the proceedings conducted against Peugeot Citroen Automóviles España, S.A., Renault España, S.A. and ORIO SPAIN have been definitively closed as no infractions by these companies were proven.

To calculate the fines, the CNMC, in accordance with the Competition Protection Law and the recent Supreme Court Ruling of 29 January 2015, applied various sanctioning rates which vary between 0.10% and 2% of total turnover in 2014.

The CNMC recalls that no administrative appeal can be made against these rulings but that a contentious-administrative appeal may be lodged with the National High Court within two months of the day following notification.

Any persons or companies that may consider themselves to have been affected by the anti-competition practices described in these rulings may present a lawsuit for

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damages derived from the mentioned conducts due to a breach of the regulations of the defence of competition, before civil courts.

The CNMC considers the fight against cartels to be a priority and recalls that, to detect the same, it has the [Leniency Programme](#), by means of which any companies and/or executives who may have participated in a cartel may provide information on the same, in writing or verbally, in the premises of the CNMC, in exchange for the total exemption from (or a reduction in) the fine that they would have had to pay.

In addition, the CNMC has enabled a [Collaboration Box](#) in which any citizens or companies may provide information to the competition authority on this type of very serious breaches.

The non-confidential version of the decision will be made available under the case number [\(S/0482/13\)](#) on the CNMC's website once any confidentiality issues have been resolved.

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