

The National Markets and Competition Commission (NMCC) has fined totalling EUR 88.2 m various Spanish milk suppliers.

The NMCC has imposed fines totaling EUR 88.2m on nine companies and two associations operating in the country's raw cow milk supply market for an infringement of Article 1 of the Spanish Competition Act (**SCA**) and Article 101 TFEU.

The NMCC initiated proceedings as a result of a report on the dairy industry referred by the Regional Competition Authority from Castilla y León. This report stated *(i)* the existence of an alleged anticompetitive behavior in the raw cow milk supply market and *(ii)* a complaint submitted by Unions Agrarias (a small farmer trade union) against milk processing companies.

Following an investigation, which included dawn raids in the main companies of the sector, the NMCC has considered that Asociación de Empresas Lácteas de Galicia (AELGA), Calidad Pascual (before Grupo Leche Pascual S.A.), Central Lechera Asturiana (CLAS), Central Lechera de Galicia (CELEGA), Corporación Alimentaria Peñasanta (CAPSA), Coprimeo Danone, Gremio de Industrias Lácteas de Cataluña (GIL), Grupo Lactalis Iberia, Nestlé España, Puleva Food y Senoble Ibérica have been involved in anticompetitive practices breaching competition law. Lácteas Asturias (ILAS), Leche Río, Feiraco, Leche Celta, Forlactaria, would have also been responsible, although these could not be subject to the NMCC Decision since the infringement was time-barred.

The anticompetitive practices carried by the infringers consisted of information exchanges, at national and regional level, regarding purchase price of raw cow milk, farmer's purchase volumes and milk surplus.

Such information exchange took place in various meetings and dealt with different matters, although all had the common purpose of agreeing and adopting a common strategy to control the raw cow milk supply market. In addition, at certain times, this strategy would have materialized in concrete agreements to coordinate pricing and allocate clientele.

For instance, the processing companies agreed and exchanged information concerning: *(i)* purchase prices offered by the processing companies to their respective farmers, *(ii)* the identity of farmers and the acquired volumes, or *(iii)* the identity of farmers who had the intention of switching processing company and possible measures to avoid it.

This information allowed companies to adapt their behavior and avoid offering better prices and trading conditions to farmers, limiting competition in the raw cow milk supply market.

As a result, farmers were not free to set the price of their product (and were forced to depress their prices), distorting the normal functioning of the market for the benefit of the processing companies.

These agreements aggravated the situation in a market which is already concentrated on the demand side. In particular, the downstream industry (processing companies) has great bargaining power *vis-à-vis* farmers a far more fragmented sector, who are forced to sell their production to preserve their milk quota allocated under the agricultural regulations.

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Furthermore, some of the companies exchanged information with the purpose of controlling the surplus of milk and its conversion into milk powder, artificially conditioning the price of raw cow milk supply.

In these information exchanges two associations played an important role: Aelga and Gil, acting as facilitators, for which they are considered co-authors of the infringement.

The NMCC Council has imposed the following fines:

- Danone: EUR 23.2m
- Corporacion Alimentaria Penasanta: EUR 21.8m
- Grupo Lactalis Iberia: EUR 11.6m
- Nestle Espana: EUR 10.6m
- Puleva Food: EUR 10.2m
- Calidad Pascual (former Grupo Leche Pascual): EUR 8.5m
- Senoble Iberica: EUR 929,644
- Central Lechera Asturiana: EUR 698,477
- Gremio de Industrias Lacteas de Cataluna: EUR 200,000
- Asociacion de Empresas Lacteas de Galicia: EUR 100,000
- Central Lechera de Galicia: EUR 53,310

In the case of Industrias Lacteas Asturianas, Grupo Leche Rio, Feiraco Lacteos, Leche Celta and Forlactaria Operadores Lecheros, the NMCC concluded that the infringement was time-barred.

This alert has been drafted on the basis of publicly available information.

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