

IN-DEPTH

Merger Control

SPAIN



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Merger Control

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Introduction

Regulations

The merger control regime is regulated by the Competition Act^[2] and its implementing regulation^[3] and interpretative guidelines.

Authorities

The national competition authority is the National Competition and Markets Commission (CNMC). The CNMC was created in 2013, bringing together under a single roof the pre-existing National Competition Commission and various national sector regulatory authorities (energy, telecommunications and media, railways, postal services and airports). This affected merger control review in regulated sectors, hitherto subject to the need for a cross-report from the relevant regulatory authority. The possibility of separating (again) the competition authority from the regulatory authorities is discussed from time to time, and in February 2024 the government initiated the works to segregate the energy regulatory authority from the CNMC.

Leaving aside potential changes, the CNMC currently has a dual structure, which is reflected in its regulatory and competition enforcement rules. A collegiate body, the Council, is the decision-making organ of the CNMC. The Council has 10 members, in two chambers of five members each: one chamber deals with competition matters and is presided over by the president of the CNMC; the other deals with regulatory supervision and is led by the vice president. The chambers may meet separately or jointly in a plenary session. The president has the deciding vote in the event of a tied vote at the Council.

In the area of merger control, the Council of Ministers (Cabinet) has a role in problematic mergers where the CNMC considers either prohibition or imposing conditions. This role of the Council of Ministers is further described below.

Appointment of the CNMC Council members, including the president and vice president, is entrusted to the government upon proposal of the Ministry of Economy. Council members are appointed for non-renewable terms of six years.

The bulk of the CNMC is made up of various directorates that deal with investigations and provide the substantial back-office research and knowledge required for the day-to-day work of the CNMC. The Competition Directorate deals with the enforcement of competition law and, in turn, is divided into various sub-directorates of economic intelligence, industry and energy, information society, services, leniency and cartels, and a monitoring sub-directorate. There is no specific merger task force, which means that mergers are allocated internally. The Competition Directorate is a professional office with career civil servants who act impartially and with a businesslike attitude when addressing companies' issues.

Pre-merger notification and approval

Transactions that qualify as a merger

A concentration takes place when there is: (1) a stable change of control of an undertaking as a result of a merger of two previously independent undertakings; (2) an acquisition of control of an undertaking or a part thereof by another undertaking; or (3) the creation of a joint venture (JV) or the acquisition of joint control of an undertaking, provided that the JV is full-function and performs its economic activity on a long-term basis.

An acquisition of control results from contracts, rights or any other means that, taking into account the circumstances of fact and law, confer the possibility of exercising decisive influence over the acquired undertaking. The concept of 'control' encompasses ownership of shares or assets, contracts, rights or other means that provide decisive influence over the composition, deliberations or decisions of the governing organs of the company.

Purely internal restructuring within a company group does not constitute a change of control. Likewise, the acquisition of control must involve a business having access to the market and, therefore, a business to which a market share or market turnover can be assigned. Hence, an acquisition of a business previously providing an internal service solely to the selling group will not amount to a merger, provided that there are no sales from the acquired business to third parties within a start-up period from the acquisition (a start-up period is generally three years). Temporary shareholdings by financial entities, holding companies and receiverships are excluded in the circumstances described by the Competition Act.

Thresholds triggering merger control in Spain

The Competition Act provides that concentrations that meet either of the following thresholds must be notified to the CNMC for merger control purposes:

That:

1. as a result of the concentration, a market share of 30 per cent or more of the relevant product market in Spain, or a relevant geographical market within Spain, is acquired or increased. A de minimis exemption applies if: the turnover of the acquired undertaking in Spain does not exceed €10 million; and the concentration does not lead to acquiring or increasing a market share of 50 per cent or higher in the relevant product or service market or in any other market affected by the concentration; or
2. that the aggregated turnover in Spain of the parties to the concentration exceeds €240 million in the previous accounting year, if at least two of the parties to the concentration each have an individual turnover in Spain exceeding €60 million.

If either of the above thresholds is met, filing is mandatory and the concentration cannot be implemented prior to having been authorised. The Competition Act provides for a derogation system that enables total or partial closing of a merger prior to having gained merger control clearance. This is discussed further in Section III.

In our experience, the market share threshold poses some practical questions; for instance, the market share threshold can be met if the target company alone has a share of 30 per cent (or 50 per cent, as the case may be) in a relevant market, even if the acquirer has a zero per cent market share, although this would be a candidate for a short-form merger

filing and quick review. Market definition must be carried out on the basis of existing merger control practice and precedents persuasive in Spain, including those of the CNMC. Another practical question to be borne in mind is that, because of the literal drafting of the applicable statute, the market share threshold must be measured on the basis of resulting market share in Spain (i.e., taking into account size of market and sales of the parties in Spain, even if the relevant geographic market is international).

Generally, the market share threshold need not be problematic; it can be dealt with expediently and in a constructive fashion by resorting to experienced counsel.

Finally, the European Commission's Communication on the Article 22 European Merger Regulation (EUMR) referral mechanism^[4] is likely to affect concentrations that do not meet national thresholds but that may be examined by the Commission under the referral mechanism. The Communication foresees that national competition authorities may refer certain concentrations to the Commission if they significantly affect competition, even though they do not meet applicable national merger control thresholds. Consequently, a concentration that is not reportable under the Spanish Competition Act may end up being examined by the Commission. This will probably cause uncertainty because the referral of the transaction can take place up to six months after the transaction has been closed.^[5]

Consequences of failing to notify a reportable transaction

Closing a transaction without having obtained the required merger control approval is a serious infringement under the Competition Act. The CNMC actively monitors gun-jumping, including that of transactions that had to be reported pursuant to the market share threshold, which the CNMC has shown it has the will to enforce (with the majority of gun-jumping investigations being triggered by the market share threshold). Closing a reportable transaction without having gained merger control approval may carry fines of up to 5 per cent of the turnover of the acquiring group. Closing in contravention of the terms of a merger control decision may result in fines of up to 10 per cent of turnover. In April 2021, the Competition Act was amended to clarify, inter alia, that the relevant turnover for the purposes of the calculation of fines is the worldwide turnover of the infringing company. Fines are imposed following a separate administrative investigation into gun-jumping. Furthermore, companies condemned for gun-jumping may potentially be disqualified from supplying goods and services to public administrations under the public procurement laws. The CNMC has been very active in recent years in the prosecution of gun-jumping, particularly when it originates in the non-observance of the market share threshold.

Filing fee

A filing fee must be paid and proof of payment included as part of the merger filing. The amount of the fee is determined in an annex to Law 3/2013 of 4 June 2013 on the creation of the CNMC. The amount of the fee (which may be updated annually) is currently as follows:

1. €5,502.15 when the aggregate turnover of the merging parties is equal to or less than €240 million;
- 2.

- €11,004.31 when the aggregate turnover of the merging parties is between €240 million and €480 million;
3. €22,008.62 when the aggregate turnover of the merging parties is between €240 million and €3 billion; and
 4. a fixed amount of €43,944 when the aggregate turnover of the merging parties is above €3 billion, adding €11,004.31 to the fee for each additional €3 billion of aggregate turnover of the parties, up to a maximum fee of €109,906.

The filing fee for short-form filings is currently €1,576.51.

Year in review

The year 2023 has generally continued the post-pandemic trend of recovery and acceleration in the number of merger reviews, perhaps with some slowdown in the second part of the year. In summary, the most significant merger control matters are as follows.

Maritime and ports sector

In the maritime and ports sector, mention should be made to the review of Grimaldi Group's acquisition of Terminal Ferry de Barcelona (TFB) subject to conditions. The operation affects two sectors: (1) the management of roll-on/roll-off (ro-ro) and passenger port terminals; and (2) the regular ro-ro and passenger maritime transport. Grimaldi's acquisition led to control of the only two public ro-ro and passenger terminals in the port of Barcelona. This merger led to the absence of an alternative competing terminal to provide these services, which would give Grimaldi the incentive and the ability to raise prices and change the conditions of access to its services. Moreover, the CNMC also considered that Grimaldi could strengthen its position in the market for scheduled maritime transport of ro-ro and passengers (vertically related market) on the routes between Barcelona and the Balearic Islands, by applying less favourable conditions (timetables, frequencies or fares) to competing shipping lines requiring access to these terminals than those of its own vessels.

Grimaldi offered commitments during the first phase that the CNMC considered insufficient to resolve the competition concerns, and therefore the transaction came under second-phase scrutiny. The main goal sought by the commitments was to enable the development of a new ro-ro and passenger terminal in the port of Barcelona. The commitments offered by Grimaldi and accepted by the CNMC to authorise the notified merger were the following:

1. relinquishing to the Barcelona Port Authority (APB) part of its current terminal concession in the port with a view to enabling alternative terminal capacity;
2. facilitating direct boarding from the gangway and finger of its current terminal to any third party occupying the divested area;
3. providing maritime terminal services in the event that a new maritime terminal is not built on the divested area;

4. not participating in the tender that the APB may call for the concession of the divested area in the future; and
5. maintaining the commercial conditions to third-party shipping companies to which TFB currently provides port services, until the effective entry of a third party in the area to be divested or until the fifth anniversary of the CNMC's decision.

Mediapath Network AB

Also in second phase, the CNMC authorised the acquisition of Mediapath Network AB (Mediapath) by Ebiquity plc (Ebiquity) subject to commitments aimed at preserving competition in the market for advertising investment performance auditing or evaluation services in Spain.^[6] Ebiquity is a market leader in the market for advertising investment performance auditing or evaluation services and, by acquiring Mediapath, its main competitor, Ebiquity would acquire a quasi-monopolistic position, reinforcing its ability and the incentive to make it difficult for potential competitors to enter the market.

The CNMC considered that the transaction led to horizontal overlaps with a significant addition of market share and strengthening its database (consisting of data on costs and qualitative variables of the advertising investment made by advertisers) entailing higher barriers to entry, which could restrict competition. However, the CNMC considered that market features such as the competitive pressure exerted by other smaller operators, potential competitors and the countervailing power of advertisers would mitigate the risks of price increases or loss of quality for commercial users, provided that the parties did not resort to exclusivity policies or long-term contracts.

Consequently, the CNMC authorised the notified merger subject to the following commitments offered by Ebiquity: (1) not to include exclusivity clauses or incentives in contracts with advertisers using advertising investment performance auditing services in Spain; (2) not to include clauses in contracts limiting the ability of advertisers to share their advertising investment data with third party operators; (3) to limit the effective duration of contracts to one year; and (4) to inform their commercial users of the commitments.

Acquisition of Distribuidora de Publicaciones del Sur

Also in second phase, the CNMC has authorised the acquisition by Compañía de Distribución Integral de Publicaciones Logista (Logista Publicaciones), through its subsidiary Logista Regional, of Distribuidora de Publicaciones del Sur (Distrisur) (owned by Boyacá); and simultaneously Boyacá acquired a minority stake in Logista Regional.^[7] The merging parties were active in the market for the distribution of periodicals and, in particular, magazines. The markets already displayed high concentration and barriers to entry. The CNMC considered that the transaction could alter the competitive tension between the parties. The CNMC approved the merger subject to the following commitments:

1. Boyacá cannot appoint representatives to Logista Regional's board of directors for a period of three years (the CNMC can extend this period for an additional year);
- 2.

once the prior period ends, there is a prohibition of interlocking directorates (i.e., Boyacá designated directors in Logista Regional cannot simultaneously be directors in Boyacá, for an additional period of three years which may be extended by the CNMC for one additional year); and

3. Logista Publicaciones undertakes that any contracting with Logista Regional or Boyacá for the distribution of possible new titles will be carried out under market conditions and non-discriminatory terms. This latter commitment is of indefinite duration.

Ongoing second phase reviews

Ongoing second phase reviews notified in 2023 and still pending include:

1. the acquisition by Smurfit Kappa Bulgaria ODD of the bag-in-box business of Artemis ODD,^[8] one of the world's leading manufacturers of paper, cardboard and plastic packaging. The CNMC, in the first phase analysis, concluded that the transaction led to a significant increase in concentration likely to adversely affect competition in the market for the manufacturing and marketing of non-aseptic bag-in-box type bags for food applications with a capacity of less than 25 litres, both in Spain and in the EU; and
2. the acquisition by JCDecaux Spain (a subsidiary of JCDecaux Europe Holding, a world leader in outdoor commercial advertising) of sole control of Clear Channel Spain, a subsidiary of one of the world's largest outdoor advertising groups.^[9]

Acquisition of Mi-Tech

(Failed) acquisition of Mi-Tech by Boston Scientific.^[10] This merger affected the market for the production and supply of metallic gastrointestinal (non-vascular) stents. Although the CNMC did not conclude the matter (the merger was abandoned and the filing withdrawn), the CNMC was concerned, inter alia, that the merger:

1. led to significant horizontal overlaps;
2. led to high barriers to entry, including the high cost and time of acquiring a sufficient degree of market reputation and liability, in addition to regulatory barriers;
3. the transaction led to important portfolio effects as the merged entity would have a range of stent product unlikely to be replicated by any other competitor and which could be a hard to replicate competitive factor in public or hospital tenders; and
4. concerns of additional bundling with other related medical material required to instal or insert the stents in the human body.

Another interesting procedural aspect of this merger concerns the international coordination with overseas agencies, notably with those in the United States.^[11]

Fight against gun-jumping

Another constant in merger enforcement in prior years has been the fight against gun-jumping, where the CNMC issues several fining decisions every year, notably in connection with the infringement of the statutory market share threshold. At the time of writing, the CNMC has just fined KKR Génesis Bidco, SLU (KKR) €1,138,870^[12] in connection with the acquisition of sole control of the GeneraLife Clinics SL fertility group. After being required to do so by the CNMC, KKR notified the transaction in August 2023. According to the CNMC, the concentration was reportable because it met the relevant market share threshold (acquisition of 30 per cent share in the markets for reproductive medicine healthcare services to private patients and private patients of free choice in the province of Seville and to private patients who are beneficiaries or holders of civil servants' mutual insurance companies in the province of Madrid). It appears that the parties did not contest the CNMC's market definition (or at least it decided not to do so) since, once the CNMC's Resolution Proposal was issued, KKR acknowledged its liability to terminate proceedings and proceeded to pay the fine with a 40 per cent reduction on the basis of Article 85 of Law 39/2015, of 1 October, on administrative procedure, which enables a reduction in those circumstances.

Although not strictly a gun-jumping case, it is worthwhile mentioning in this section the CNMC's Decision of 30 April 2024, Rheinmetall, file SNC/DC/081/23. Rheinmetall is a publicly listed German military equipment and weapons manufacturer who acquired Expal, another Spanish military and weapons company. The transaction was reported and cleared by the CNMC on 8 February 2023 under the short form applicable to non-issues mergers. By means of the 20 April 2024 Decision, the CNMC fined Rheinmetall AG €13 million for facilitating incomplete and deceiving information in the merger control process. The decision amounts to a record fine in this area and it contains a detailed account of points where Rheinmetall failed to provide complete or accurate information. The CNMC clarifies in its decision that Rheinmetall's omissions impaired the CNMC's review, notably regarding vertical foreclosure issues of explosive components; and that with complete information the outcome of the merger review process might have been different, even contemplating the possibility that an Article 22 EUMR referral to the Commission might have been requested.

The merger control regime

Waiting periods and time frames

Pre-notification is customary and is advised when possible. Pre-notification is not subject to statutory deadlines. In most cases, two or three weeks should be allowed, although it can take substantially longer if the transaction is complex from a competitive standpoint, or if the CNMC requires additional information to be included in the notification form.

The formal merger control investigation is divided into first phase and second phase proceedings. The majority of files are cleared in first phase, whereas only a fraction are referred to second phase in-depth analysis. In recent years there has been a slight increase in the number of second phase reviews.

First phase proceedings, in principle, last for one month, counted from the date a complete notification is filed with the CNMC. Where the notifying party submits commitments (this possibility exists during the 20-day period after the filing), the first phase statutory maximum period is extended by 10 days. In the case of transactions that meet the conditions for using the short form, it is 15 days, provided that a confidential draft notification form has been submitted to the Competition Directorate prior to the notification to clarify the formal or substantive aspects of the concentration.

The maximum period for second phase proceedings is two months, counted from the date the CNMC decides to open a second phase review. The maximum period is extended by 15 days if commitments are submitted in second phase (the notifying party can offer commitments up to 35 days after the start of second phase proceedings).

In the event of second phase decisions blocking or imposing obligations, the Minister of Economy is entitled to refer the case to the Council of Ministers within 15 days of the second phase decision being issued. If referred to it, the Council of Ministers has one month to issue a final decision, which may confirm the second phase CNMC decision or may authorise the merger, with or without conditions.

All maximum periods can be interrupted by the CNMC in regulated events, such as formal information requests, and as a matter of fact the statutory periods are extended in complex matters.

Parties' ability to accelerate the review procedure, tender offers and hostile transactions

As discussed, in practice, pre-notification normally makes a review easier.

A merger cannot be closed prior to having gained the prerequisite merger clearance. It is possible to request a derogation from the suspension effect of the merger filing, although this is very rarely granted nowadays. In the past, the exception has been used in limited instances to enable quick closing of a merger in non-problematic geographical areas while enabling a second phase review limited to problematic areas (e.g., in supermarket, petrol station and other mergers with local geographical markets). As a general rule, in practice, the CNMC has a preference not to use this derogation procedure, as it entails considerable analysis; rather, where possible, the CNMC prefers to move towards quick merger clearance if the circumstances merit it.

Public offers can be launched, including as a condition for the validity of the merger control clearance. The Competition Act enables launching a public tender without having gained merger control, provided that the CNMC is notified of the merger within five days of the formal application for authorisation of the public tender with the Securities Exchange Commission and that the voting rights are not exercised except when required to preserve the value of an investment, with the authorisation of the CNMC.

Hostile public offers are rare in Spain. Past experience shows that hostile takeovers, particularly in strategic sectors, can be extremely complex. The hostile bid for Endesa launched by Gas Natural in 2005 was not successful, and competing offers required intervention from the European Commission under Article 21 of the EU Merger Regulation.^[13] In the same transaction, the initial merger control authorisation gained by the first bidder (Gas Natural) was frozen by the Supreme Court on interim review.

Third-party access to the file and rights to challenge mergers

Third-party access is expressly contemplated in the Competition Act in second phase merger proceedings. Parties with a legitimate interest have the possibility to access the merger file and submit comments on the statement of objections and proposed commitments. These are normal dynamics in second phase, where third parties have a relevant role and provide input that can help shape the outcome of the merger proceedings.

The law does not foresee the possibility that interested parties have a role in first phase. First phase proceedings are confidential and the file cannot be accessed by third parties. However, as there is no express provision banning participation of third parties in first phase merger proceedings, it is broadly accepted that third parties make representations and submissions to the CNMC regarding a merger also during first phase merger proceedings. An example of this is the Helios/Quironsalud merger,^[14] in which the participation of a third party in the proceedings was expressly discussed in the merger decision.

The CNMC will listen to third parties' concerns and, if these have merit, the CNMC should be expected to raise the level of scrutiny of a given merger.

Third parties also play an important role in complaining against unreported mergers falling under the thresholds. This is a risk that cannot be underestimated.

Resolution of authorities' competition concerns, appeals and judicial review

The CNMC should, at least in theory, solve most initial concerns in pre-notification. The CNMC will make use of formal information requests, stopping the clock when necessary. Once the proposed transaction has been formally filed, the CNMC might be keen, depending on the circumstances, to deal with any questions informally, without stopping the clock (particularly if the transaction has been pre-notified).

Merger decisions by the CNMC may be appealed within two months before the High Court. In instances where the Council of Ministers decides on the merger, the Supreme Court is competent to review the merger decision.

Effect of regulatory review

Mergers reviewed by the CNMC may be reviewed concurrently by other administrative agencies dealing, for instance, with regulatory and licensing issues. The potential friction and lack of coordination between the CNMC and sector regulators has been minimised in some instances in economic sectors where the CNMC also acts as a regulatory authority. In areas such as banking, where the regulator is not within the CNMC, merger review is suspended while the sector regulator completes its review.

Other strategic considerations

In general, it is far better to pre-notify transactions if at all possible. The CNMC has in the past recommended pre-notification and it clearly dislikes transactions being notified for merger control without pre-notification. Furthermore, pre-notification enables preliminary discussion about many strategic issues, including the use of the short-form filing, occasionally even in situations not expressly foreseen by the applicable regulation.

Another benefit of pre-notification is the expected timing for approval. Even though, initially, pre-notification implies additional delay, in practice, the CNMC will reduce the time dedicated to the review and often approve more quickly if pre-notification has taken place. In non-problematic cases, recent experience shows that the CNMC often grants approval within five to 15 days of filing.

It is possible to apply for formal guidance from the CNMC regarding whether or not a change of control arises as a result of the projected merger and the merger thresholds are met. One issue here is the lack of a binding deadline for the CNMC to act on a request for formal guidance. For this reason, another course of action regularly used, depending on the circumstances, is that of the *ad cautelam* merger pre-notification, requesting that a concentration be treated as non-reportable and, on a subsidiary basis should the CNMC consider that the concentration is reportable, that the pre-notification is treated as a merger pre-notification so the merger review can start as soon as possible. In practice, and in most cases, this has proved to be a more functional device.

Merger control is an important tool and, in the past, the CNMC has vigorously investigated and pursued gun-jumping or closing of reportable transactions without having obtained the necessary merger clearance. The CNMC has recently made it clear that it is ready to use its powers to punish individual directors and managers for competition breaches (which has not yet materialised in any individuals being fined for gun-jumping, although this might change).

Outlook and conclusions

The current CNMC is the result of the integration of Spain's main national regulatory authorities in various network industries and regulated sectors into the competition authority in 2013. The integration was criticised at the time. However, the Spanish government has recently initiated the procedure for the segregation of the CNMC (see discussion above).

The CNMC is well aware that the formal guidance procedure enabling it to give clarity on the reportability of a merger is impaired by the lack of a binding deadline. This may perhaps change by dealing with the matter in new legislation that may be introduced to revert to the previous model of separation between competition enforcer and sector regulators.

The pandemic period has triggered considerable financial difficulty for many companies in a country where tourism and transportation-related activities are very important to the economy. To a great extent, those difficulties have been solved but they still linger in some areas. In this regard, the failing firm defence is acknowledged and may well apply to future concentrations, provided that it can be substantiated and evidenced appropriately. In the past, the CNMC has invoked the failing firm defence in restrictive circumstances only, and

has avoided its use in temporary crisis situations (e.g., the Antena 3/La Sexta merger).^[15] However, the CNMC continues to be sceptical of this line of defence.

Another area that overlaps with merger control, and which is of direct relevance to concentrations, is that of foreign direct investment (FDI) screening. In April 2020, the government introduced a new FDI screening regime, which is very broad in scope and, like merger control, requires clearance prior to the closing of an acquisition, under penalty of fines of up to the consideration of the transaction. The FDI regime has been reformed several times since its inception in April 2020. In September 2023, Royal Decree 571/2023 of 4 July on foreign investment, an implementing regulation to the FDI law, entered into force, providing further details of its scope and its procedures.

In principle, no radical changes are expected in the merger control arena in Spain. The CNMC is likely to continue to enforce competition policy vigorously, including merger control laws. Going forward, it is quite likely that the CNMC will include individuals as subjects of fines for gun-jumping, in line with the trend in antitrust enforcement cases, and that the level of fines will increase.

Endnotes

- 1 Pedro Callol is a partner at Callol, Coca & Asociados. [^ Back to section](#)
- 2 Law 15/2007 of 3 July 2007 on Competition. [^ Back to section](#)
- 3 Royal Decree 261/2008 of 22 February 2008, approving the Competition Implementing Regulation. [^ Back to section](#)
- 4 European Commission Communication of 26 March 2021, on guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases. [^ Back to section](#)
- 5 This has been confirmed by the European Union courts (see General Court of the EU, Judgment of 2 September 2022, *Illumina v. Commission*, Case T-227/21, with an appeal before the Court of Justice pending). The recent Advocate General Opinion of 21 March 2024 (*Illumina/Grail*, case C-611, 625/22P), however, suggests quashing the General Court Judgment. [^ Back to section](#)
- 6 Decision of 29 November 2023, *EBIQUITY/MEDIAPATH*, file C/1406/23. [^ Back to section](#)
- 7 Decision of 14 June 2023, *LOGISTA PUBLICACIONES/DISTRISUR*, file C/1348/22. [^ Back to section](#)
- 8 Decision of 12 February 2024, *SMURFIT BULGARIA/ARTEMIS BIB*, file C/1424/23. [^ Back to section](#)
- 9 Decision of 23 February 2024, *JCDECAUX ESPAÑA/CLEAR CHANNEL ESPAÑA*, file C/1426/23. [^ Back to section](#)

- 10 CNMC file C/1336/22BSC/MI TECH. This transaction was abandoned by the parties so there is no final merger decision, however there is some information available in the notice to third parties published by the CNMC at the moment of opening of second phase (https://www.cnmc.es/sites/default/files/4573339_0.pdf). ^ [Back to section](#)
- 11 According to the Federal Trade Commission, the parties abandoned the proposed transactions 'in response to investigations by FTC staff and our overseas enforcement partners': <https://www.ftc.gov/news-events/news/press-releases/2023/05/statement-regarding-termination-boston-scientific-corporations-attempted-acquisition-mi-tech>. ^ [Back to section](#)
- 12 Decision of 1 April 2024, KKR GENERALIFE, file SNC/DC/077/23. ^ [Back to section](#)
- 13 Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (EUMR). ^ [Back to section](#)
- 14 Decision of 22 December 2016, Helios/Quironsalud, File C/0813/16. ^ [Back to section](#)
- 15 Decision of 13 July 2012, Antena 3/La Sexta, File C/0432/12. ^ [Back to section](#)

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