

DAWN RAIDS RAISE THE STAKES IN COMPETITION ENFORCEMENT

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The entry into force in September 2007 of a new Spanish Competition Law has brought a dramatic rise in the regulatory emphasis against cartels, says Pedro Callol, Head of Competition at Roca Junyent. The result being that the first leniency applications are now on the horizon.

La promulgación el año pasado de la nueva ley de la competencia ha comportado cambios fundamentales respecto al contexto regulatorio

en España, y con esto, un incremento de los poderes de investigación y de ejecución por parte de las instituciones locales (NCC), afirma Pedro Callol, Director del departamento de competencia de Roca Junyent. Las empresas deben por lo tanto entender la lógica que ampara estos nuevos poderes y saber cómo gestionar las problemáticas que puedan surgir.

The entry into force in September 2007 of a new Spanish Competition Law has brought a dramatic rise in the regulatory emphasis against cartels, says Pedro Callol, Head of Competition at Roca Junyent. The result being that the first leniency applications are now on the horizon.

'There is no doubt that the recent legislative changes have brought a renewed vigour to the activities of the new National Competition Commission (NCC) by bringing its powers in line to those already enjoyed by regulators across Europe,' he says.

Notable say some, has been the new emphasis of the NCC on consumer goods businesses as concerns over rising inflation and declining economic activity increase.

'Some public authorities have commented on an apparent link between cartel type activities and rising prices, or at least less competitive prices. The NCC has notably paid a lot of attention to food, detergent, cosmetic, wine and petrol prices – which they say are not always reflective of falls in the price of oil,' says Callol.

The changing regulatory framework has also brought with it new investigatory and enforcement powers to the NCC, including the ability to conduct 'dawn raids' in the fight against cartel activity.

'Dawn raids can be among the most

intrusive actions the State can make on a company, enabling the NCC to seize documents and IT equipment, including blackberries and mobile phones. It can place a huge strain on employees so it is important that they are prepared and that the correct strategies are in place to deal with such situations,' believes Callol.

There is a growing perception, he adds, that a number of recent actions have been sparked by competitors as a direct result of leniency applications made through the NCC's new whistle-blowing procedures.

'A number of dawn raids have taken place over the summer in connection with which the courts will have to decide in due course. Likewise, a number of actions in the antitrust damages arena are now pending in court. These present a very important step forward in our new competition regime. The entire competition landscape is changing."