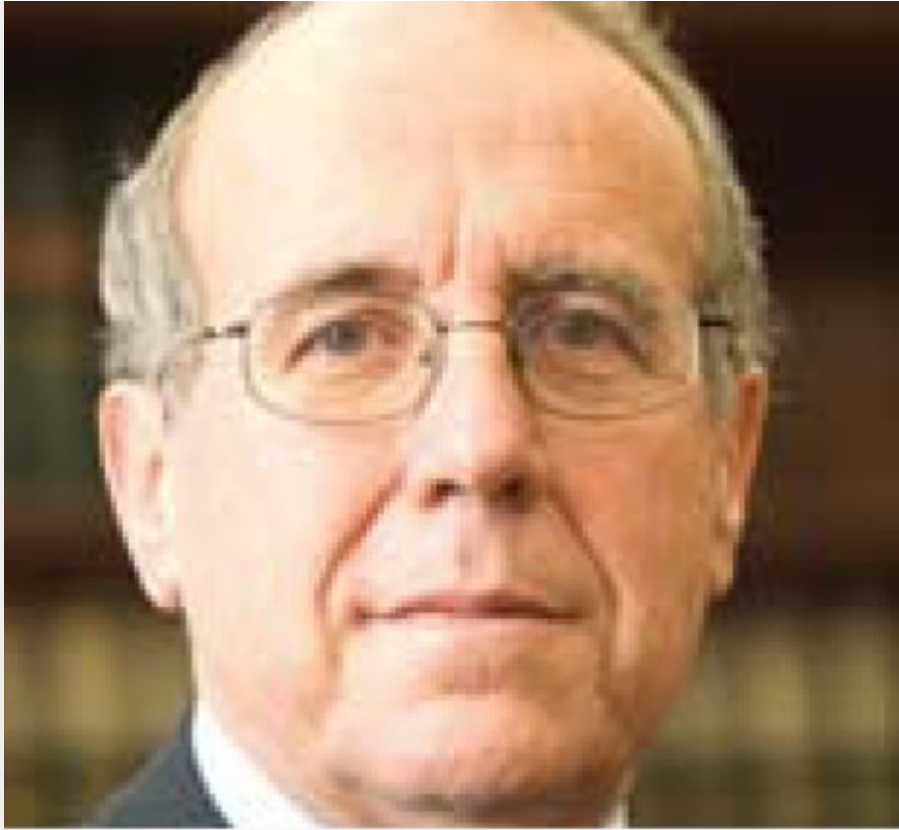


IMPOSING THE RULES OF THE GAME - CNC

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In the current business climate the continued rigid application of competition law rules can play a vital role in helping to encourage economic recovery

"In order for Spanish companies to continue to prosper in both the domestic and international arenas they must be agile, innovative and efficient. These are all characteristics that competition law encourages," says Luis Berenguer, President of Spain's competition regulator, Comisión Nacional de la Competencia (CNC).

Competition principles must be adhered to in both the good and bad times, he says. But while there may be no room for flexibility in the way the CNC applies policy there may be flexibility in the way punishments are enforced.

"We maintain a 'zero tolerance' approach in the way we apply and enforce competition law but are

open to exploring alternative ways in which fines are repaid. There is no benefit to the economy if a fine imposed sends a company into insolvency."

An area in which the CNC has had evident success has been in breaking cartel behaviour. Recent investigations have focused on the hair products sector, Jerez wine producers, IP rights management societies and public works sub-contractors.

An evident emerging trend however has been for businesses to seek negotiated settlements with the CNC through "conventional terminations", says Berenguer. Cartel members are now coming forward at very early stages and looking to remedy any anti-competitive behaviour they may have entered into. "There is a competition culture developing in Spain and businesses are fearful of investigation and prosecution. Settlements enable businesses to remedy wrongdoing while avoiding public disclosure and reputational damage. They are putting their hands up in order to make amends privately."

Many may applaud the CNC's successes but much work remains to be done, believes Berenguer. A significant area of current emphasis is on reducing barriers to entry to doing business in Spain and lobbying the Government to apply competition principles in Ministerial decision-making. "We need the Government to take into account the competition implications of proposed reforms. We want the rules of the game to be adhered to at all levels."