

REPORTING ON ANTI-COMPETITIVE BEHAVIOUR - ROCA JUNYENT

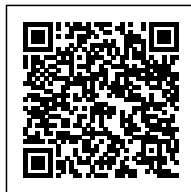
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The Spanish Competition Authority's market reports are challenging the way businesses operate but are also prompting debate around their compilation

The recent publication of a Report on Professional Associations by Spain's Comisión Nacional de la Competencia (CNC) has highlighted the continuing willingness of the authority to investigate business practices even in markets in which no anti-competitive prosecutions have yet been forthcoming, says Pedro Callol Head of EU and Competition at Roca Junyent. "These reports are important as they help layout the position of the CNC vis-à-vis certain business sectors and practices

and therefore, looking ahead, help suggest the issues on which businesses are likely to be judged. To a certain extent they lay out what the legal stance will be."

Other reports on the automotive fuel sector, intellectual property rights collecting associations, service professions and professional associations, and even court advocates, have prompted further investigations, and in some instances prosecutions.

"The CNC sees such reports as useful in helping to highlight the significance of potential anti-competitive behaviour among the wider public, and for businesses to understand that a deeper analysis may well be made in their sector."

For the legal community, often much of what is published is not new, but based on previous findings, but the concerted effort by the CNC to focus on particular sectors can nonetheless help prompt businesses to audit their own practices and where necessary make changes, he says.

But issues nonetheless arise around such reports, notes Callol. In some instances the CNC has questioned the entire rationale for business associations, while concerns have also arisen around the ability of businesses to have an input into the research processes.

"There is a right to be heard and a danger that the CNC might prejudice the position of businesses as a result of the stance it takes. There is no doubt that the CNC is being brave in seeking to effect changes where it perceives anticompetitive practices, but a balance has to be reached taking into account due process and the right to reply."