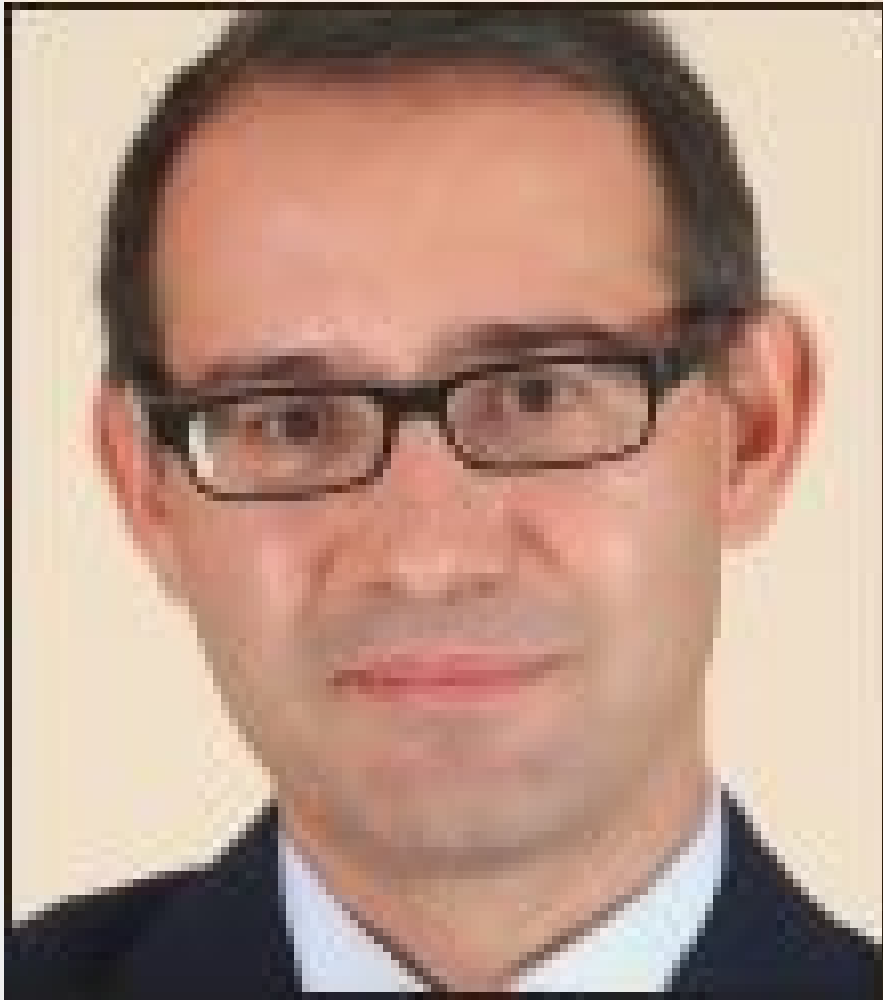


THE NEED TO UNDERSTAND ALL THE ISSUES - DLA PIPER

Posted on 04/02/2009



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An analysis of a clients position under competition law requires much more than an understanding of the applicable legal regime, it requires an understanding of all the dynamics at play, insists Juan Jiménez-Laiglesia, competition partner at DLA Piper in Madrid.

'There is no doubt that competition enforcement in Spain now has a much higher profile than at any time previously and that under the current President, Luis Berenguer, the Comision Nacional de la Competencia (CNC) is clearly establishing its own set of priorities. But in responding to the competition threat businesses need to look beyond merely the letter of the law.'

It is fundamental that businesses adhere to the relevant legal guidelines, he says, but business leaders need also to understand the responsibilities of the different regulatory agencies that may

have an interest in their operations, and to be able to make a proper economic analysis of the impact of their business. The competition team at DLA Piper is among the few to have economists on staff.

'There is a difference between the responsibility of the CNC to analyse the structure of a business sector and the behaviour of operators within it, and the role of the Comisión Nacional de Energía (CNE), for example, which promotes and regulates activity within the energy sector – but which may also have an interest in the impact of competition issues.'

It is important also for businesses to be able to undertake an economic analysis of their own and their competitors business strategies, believes Jiménez-Laiglesia, which can prove crucial in the event of a regulatory investigation and in helping to assess the validity of damages claims.

'The economic problem is invariably the legal problem and if clients are to know the true legality of their position they must know all the dynamics at play: not only where they stand under the law and who has an interest in their operations, but also the economic impact of their business on the sector as a whole, if necessary on an international scale.'

Advisers must be able to present all the facts, he insists. 'Healthy competition is not an excuse to do things wrongly, clients have to be able to know whether they are doing something they may later regret.'