

# COVID-19: PRESSURE POINTS: THE CNMC LAUNCHES A WHISTLEBLOWING/ ENQUIRIES TOOL FOR COMPETITION LAW MATTERS RELATED TO THE COVID-19 OUTBREAK (SPAIN)

01 April 2020 | Madrid  
Legal Briefings

---

The CNMC bolsters its online whistleblowing hotline to pursue anticompetitive conduct in any sector, although with a special interest in the medical equipment, funeral and cremation services sectors.

An enquiries platform is also launched so that operators can make competition law enquiries to the CNMC regarding temporary arrangements aimed at guaranteeing the supply of those products and services taking into account the current situation. The procedure is exceptional and there is no indication as to how enquiries will be answered and the timeframe for doing so.

Any operator wishing to enter into an arrangement of this kind would be able not only to make a self-assessment on competition grounds, but also to bring it to the CNMC's attention by means of the enquiries tool.

[View Spanish Version](#)

On 31 March the Spanish National Competition and Markets Commission (“**CNMC**”) announced that it has launched an online hotline for operators to report anticompetitive practices or to make enquiries in matters of competition law related to measures or practices adopted as a result of the health crisis caused by the COVID-19 outbreak. Anticompetitive practices can be reported or enquiries can be sent to the following email address: [covid.competencia@cnmc.es](mailto:covid.competencia@cnmc.es).

In its press release, the CNMC acknowledges that the exceptional situation could force companies to use temporary cooperation mechanisms to provide essential products and services. It goes on to explain that the CNMC will assess those arrangements from the perspective of competition provisions, while also taking into account the exceptional situation. The CNMC also points out that certain operators might try to take advantage of the situation and use practices that are detrimental to consumers, particularly in terms of pricing; the CNMC will investigate those anticompetitive practices.

The CNMC points out in particular that the main sectors affected are the medical equipment and funeral and cremation services sectors. It also mentions the need to assess “essential” products and services, which would expand the scope of the tool considerably if we take into account the essential activities defined by Royal Decree-law 10/2020, of 29 March<sup>1</sup>. In that context, the CNMC points out that it is monitoring those sectors closely, particularly in terms of pricing, to detect any irregularity.

The CNMC already had an online whistleblowing hotline through which anyone could informally report anticompetitive conduct. The CNMC has stressed the added importance of this tool in the current circumstances given the rise in demand for certain products and services and, as a result, the potential risk of anticompetitive conduct in connection with them.

What is new is the creation of an enquiries platform so that operators can ask the CNMC as to the viability of cooperation arrangements from a competition law perspective. The CNMC’s press release does not indicate whether enquiries will be answered formally or informally, how long an answer will take or the order of priority given. The only criterion offered is that cooperation arrangements will be approved in the public interest if they help to solve supply issues caused by the health crisis. If a cooperation arrangement ventures beyond that, the CNMC will not approve it.

Therefore, from now on any operator that adopts a cooperation arrangement in the current circumstances will – as well as making a self-assessment as to the lawfulness of the arrangement from the perspective of competition law – be able to make an enquiry to the CNMC through the online enquiries tool as to the lawfulness of that arrangement.

---

<sup>1</sup> Royal Decree-law 10/2020, of 29 March, which regulates recoverable paid leave for workers in non-essential services in order to reduce movement in the fight against the COVID-19 outbreak.

[COVID-19: EUROPE](#)

[MORE ON COVID-19](#)

## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**HENAR GONZÁLEZ  
DURÁNTEZ**  
PARTNER, MADRID

+34 91 423 4016  
[Henar.Gonzalez@hsf.com](mailto:Henar.Gonzalez@hsf.com)



**PILAR CARRASCO**  
ASSOCIATE, MADRID

+34 91 423 4138  
[Pilar.Carrasco@hsf.com](mailto:Pilar.Carrasco@hsf.com)

---

## LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2021

---

**SUBSCRIBE TO STAY UP-TO-DATE WITH LATEST THINKING, BLOGS, EVENTS, AND  
MORE**

[Close](#)

