



The Spanish Competition Authority monitors the health sector closely and reinforces its intervention mechanisms

A new procedure is triggered in the sector of test strips for blood sugar control; and the Collaboration Procedure is reinforced

Utmost stringency

Spanish authorities in charge of the defense of competition continue to act firmly against activities which may restrict or prevent competition in any manner. The preamble of Law 15/2007 is very clear to this regard: the existence of effective competition between companies constitutes one of the elements that define market economy and the administration is not ready to lower its guard.

Recently, the Spanish Competition Authority informed about the opening of proceedings in the sector of blood glucose test strips. Various companies of the sector and the association to which these companies belong are affected by these proceedings. The companies and the association are accused of an alleged exchange of information and of having reached agreements for the fixing of prices and other commercial conditions. According to the press release, said agreements would have been reached within the association and would have affected competition when entering into contracts with public administrations. Apparently, the agreements would also have affected the position that companies adopted in public procurement procedures of hospitals and regional health authorities.

The start of the procedure does not advance the result of the investigation; but it will result in the need to dedicate important efforts and resources to defending the case.

Complaints and Collaboration

In Spain and in other EU countries, the authorities in charge of applying competition rules have developed various mechanisms under which they may get access to information about prohibited conducts. Detecting a price agreement or a market sharing agreement is difficult, unless someone reveals its existence. Based on these principles, leniency programs were put in place, and this allowed those who have participated in cartels to denounce them, in exchange for total or partial exoneration of the fine that would otherwise apply. The channels to file complaints are becoming increasingly simpler and the administration allows complainants to use special procedures.

In addition to formal complaints, the Spanish Competition Authority wishes to rely heavily on private collaboration, and allows individuals and companies to contact it, so that they may provide information about possibly illegal conducts. All this can be done through a mailbox or over the phone, without having to file a formal complaint.

It all seems to indicate that secret agreements have a short future ahead. This is known to many. It is also important to know what to do when finding oneself in a compromised situation without meaning to become involved. In order to avoid problems, it is better to step out of this situation as soon as possible, and to record this fact in an appropriate manner.