

SPANISH COMPETITION

Highlights...

Weekly follow-up: 27 Nov - 01 Dic

The ACCO appeals against Barcelona City Council's tax on home delivery of products bought online.

The Catalan Competition Authority ("**ACCO**") has filed a contentious-administrative appeal in the High Court of Justice of Catalonia ("**TSJC**") against Tax on Home Delivery Products approved by Barcelona City Council early this year.

In essence, the charge is imposed on the use of public roads by postal operators when delivering products purchased through e-commerce to consumers' homes.

ACCO considers that the tax generates discrimination between competitors that is not properly justified and restricts the freedoms of establishment and provision of services. The latter is due to the fact that only postal operators have to pay the charge, while transport companies and businesses with their own delivery fleets are exempted, despite generating a similar environmental and traffic impact.

In addition, the tax is only imposed on deliveries from e-commerce, but not on deliveries from physical commerce or other channels. The ACCO considers that all deliveries have the said environmental and traffic negative effects, regardless of which sales channel they originate from, so it does not make sense that the tax only applies to online commerce.

The faculty to appeal against the acts of administrative bodies

The ACCO makes use of the faculty that the competition authorities have to appeal acts of public administrative bodies and general provisions with lower status than law, provided for in art. 13 LDC and art. 27 of Law 20/2013, of 9 December, on the guarantee of market unity.

This is not the first time that the ACCO has appealed an administrative act. For instance, on 23 December 2022, it filed an appeal to the TSJC against the Metropolitan Taxi Regulation, on the grounds that forcing taxi drivers to have the taxi ordering app installed inhibits competition and is discriminatory.

The CNMC has also made use of this faculty on numerous occasions. In this regard, in June 2023, the National High Court upheld an appeal filed by the CNMC against the Getxo City Council's administrative specifications for incorporating solvency requirements that limited access to operators in a tender for the provision of regulated parking services.