

SPANISH COMPETITION

Highlights ...

Weekly follow-up: 27 – 31 May.

The CNMC analyses the internal procurement between Enusa Group companies

The Enusa Group is a public limited company with activity on the nuclear sector. As a public company, their contracts must respect the Public Sector Contracts Law (“**LCSP**”). This regulation allows contracts between public companies of the same group when, among other requirements, competition in the markets is not distorted.

The Enusa Group Intragroup Contracting Report

The State Industrial Holdings Corporation requested the National Competition Authority (“**CNMC**”) to draft a report focusing on intragroup contractual relationships for the provision of transport services of radioactive and nuclear materials from the subsidiary to the parent company.

The CNMC does not appreciate distortions of competition insofar as:

- The analysed contract aims to address certain needs of the parent company's activity.
- There are no indications that the prices of this contract are not market-based.
- The assignment or subcontracting clauses do not alter the relationship between the companies of the corporate group, maintaining the principle of competitive neutrality.

The advisory role of the CNMC

The CNMC in the exercise of the competences conferred by Article 5.2 of Law 3/2023 on the creation of the National Competition Authority, may act in an advisory capacity. Likewise, Article 321.6 of the LCSP establishes the CNMC's power to issue a report analysing contracts between public companies within the same group belonging to.

This is not the first time that the CNMC has analysed internal contracting between same group public companies. As an example, see the reports INF/CNMC/028/21, of the CESCE Group; INF/CNMC/063/21, of the HUNOSA Group and INF/CNMC/074/21, of the Correos Group.