

SPANISH COMPETITION

Highlights...

Weekly follow-up: 24 – 30 June

The CNMC has sanctioned the SGAE for abusing its dominant position in the implementation of radio and television tariffs.

On 19 June 2024, the National Competition Authority ("**CNMC**") ruled the Decision S/0641/18, DAMA-UNION RIGHTS VS SGAE, sanctioning Sociedad General de Autores y Editores ("**SGAE**") with 6,387,819 euros for two infringements of abuse of dominant position in its tariff practices for licensing intellectual property rights on musical and audiovisual works used by radio and television operators.

The CNMC indicates that SGAE, by designing and applying its tariff policy for broadcasters, caused two negative consequences for competition:

1. Exploitative abuse: Users paid prices unrelated to the actual use of SGAE's repertory, both in terms of the number of works and the intensity of their use;
2. Exclusionary abuse: The flat rates hindered the entry and expansion of competitors, reinforcing SGAE's dominant position.

Moreover, for musical works rights, SGAE reinforced its exclusion by presenting its repertory as universal and offering guarantees against third party claims, discouraging users from contracting with competitors.

For these reasons, the CNMC has declared SGAE responsible for two infringements of Articles 2 of the Spanish Competition Act and 102 of the TFEU consisting of an abuse of a dominant position in (i) the markets for the granting of authorisations for the reproduction and public communication of musical works for the radio audiovisual communication service and for the television communication service and (ii) for the design and application of tariffs for availability in the market for the management of remuneration rights of authors of audiovisual works.