[ES] Major Film Distributors Sanctioned by Spanish Competition Court

IRIS 2006-6:1/18

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On 10 May 2006, the Spanish Competition Court sanctioned 5 major film distributors. Walt Disney Company Iberia (Buenavista International Spain), Sony Pictures, Hispano Foxfilm, United International Pictures and Warner Sogefilms were fined EUR 2.4 million each. The Spanish Competition Court also imposed a EUR 900,000 fine on the Spanish Federation of Film Distributors.

The Spanish Competition Service opened an investigation into alleged price-fixing and the abuse of a dominant position by these film distributors and also probed the actions of the Spanish Federation of Film Distributors, following a complaint lodged by the *Federación de Empresarios de Cine de España* (Federation of Spanish Cinema Entrepreneurs).

According to the Spanish Competition Court, the said film distributors had concerted their commercial practices vis-à-vis the film exhibitors and had thus shared amongst themselves a substantial part of the film distribution market. More specifically, the Spanish Competition Court concluded that these film distributors had concerted their practices as to the prices they set for exhibitors, as well as with regard to other commercial terms and conditions imposed on the exhibitors.

The prices which the 5 film distributors set for the film exhibitors were practically identical. In most cases, for the most popular films, the agreement reached between the film distributor and the film exhibitors consisted of a percentage of box office earnings. The maximum was 60% of the amounts collected during the first week of exhibition of the film, decreasing by 5 points each week thereafter. All five film distributors engaged in the same conduct from 1978 to 2004.

Furthermore, copies of the agreements signed between the indicated film distributors and film exhibitors demonstrated that the film distributors used almost the same conditions with regard to the essential elements of their contractual relations with the film distributors: selection of the theatres and length of run, weekly payments to be made by the film exhibitors to the film distributors, payment terms, conditions for collecting the films, exclusion of discounts by the film distributors (even if exhibitors did offer such discounts), and the mechanism used to monitor the box office take.

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The Spanish Competition Court found the contractual clauses included in the standard agreements used by the film distributors and the price conditions applied to the film exhibitors to be similar. This led the Competition Court to conclude that the film distributors had concerted their practices, either tacitly or expressly, thus they were not competing with each other when negotiating the commercial conditions for the exhibition of their films. Such conduct caused serious prejudice not only to the film exhibitors but also to consumers.

The Spanish Federation of Film Distributors, of which all the accused film distributors are members, was fined EUR 900,000 for having prepared data based on sensitive commercial information, such as box office take and run lengths. Also, it was through the Federation of Film Distributors that the film distributors exchanged information regarding the planned dates for releases. This enabled them to avoid scheduling first showings of popular films on the same date.

Tribunal de Defensa de la Competencia, Resolución de 10 de mayo de 2006, Expediente 588/05

http://www.tdcompetencia.es/HTMl/resoluciones/2006/2097.htm

Decision of the Spanish Competition Court of 10 May 2006, case 588/05

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