# [ES] Competition Authority Imposes Fine for Monopoly in Audiovisual Signal Distribution

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On 19 May 2009, the Spanish Comisión Nacional de la Competencia (National Commission for Competition - CNC) imposed a fine on Abertis, the main operator for signal distribution in the Spanish audiovisual sector, of EUR 22.6 million for "well-established anticompetitive practices in the sector of DTT signal distribution, due to its notorious dominant position in the industry".

A comprehensive analysis of this situation ought to begin in 1988, when the end of the State monopoly in Spanish television led to the creation of three new commercial television operators and the privatisation of the infrastructures for signal distribution. The exploitation of those infrastructures was assigned to a new firm, called Retevision, which was focused more on telecommunications than on the audiovisual sector.

Retevision's ownership changed several times over the next decade. It finally joined the international telephone group Orange, while its audiovisual signal transport business was taken over by a new society, called Abertis, which was linked to one of the main financial brands in Spain, La Caixa.

Abertis has occupied an important position as the leading force for La Caixa activities in manufacturing and, more particularly, services. As such, Abertis manages a number of heterogeneous services, from toll highways in Italy to airports and telecommunication services in Latin America, as well audiovisual services in Spain, an area in which it enjoys a position of virtual monopoly. These services include traditional analogue services, DTT and satellite television (with Abertis being the key stakeholder of both Hispasat and EutelSat).

This monopoly, however, was challenged with the arrival of DTT. Until then, the national television operators had used Abertis services without discussion. However, the Spanish strategy of promoting DTT through regional and, mostly, local services, created a puzzle of "mini-markets", too small to attract Abertis, but promising enough to attract new entrants into the market.

One of these new entrants, Axion, the regional operator of broadband services in Andalusia, complained to the CNC that the contents of the agreements between Abertis and the main commercial networks prevented effective competition. There were two main elements taken into account by the CNC: the excessive

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time-length of the agreements imposed by Abertis (which offered an important discount to those television operators who would accept periods of between 5 and 10 years) and the very severe financial penalties that those agreements established for television operators who would end their contract before the scheduled date. The CNC has recognised that these two features “prevented the possible action of new competitors” and that this is especially serious in a recently liberalised market, where all steps have to be taken in order to ensure an appropriate level of competition.

Abertis has announced its intention to appeal this resolution before the European Court of Justice. Ironically, it has also brought a case before the Luxembourg Court against the European Commission, which supported the intervention of the Italian government against the merger of Abertis and Atlantia.

***Resolución del Consejo de la Comisión Nacional de la Competencia (CNC), expediente sancionador nº 646/08 AXION/ABERTIS, 19 de mayo de 2009***

http://www.cncompetencia.es/Administracion/GestionDocumental/tabid/76/Default.aspx?EntryId=30442&Command=Core_Download&Method=attachment

*Decision of the National Commission for Competition, 19 May 2009*

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