[ES] Mediaset Fined for Breach of Commitments in Telecinco/Cuatro Merger

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On 6 February 2013, the Comisión Nacional de la Competencia (Spain's antitrust authority - CNC) ruled that its Resolution of 28 October 2010 concerning the merger of TV broadcasters Telecinco and Cuatro had been breached and that Mediaset España Comunicación, S.A. (owner of Telecinco) had therefore committed a very serious infringement under Article 62.4.c) of the Spanish Competition Act 15/2007 of 3 July 2007. Accordingly, it fined Mediaset EUR 15,600,000 pursuant to Article 63.1.c) of that Act.

On 28 October 2010, the CNC had approved the merger between TV channels Telecinco and Cuatro subject to the commitments given by Mediaset's channel (see IRIS 2011-1/25). On 6 June 2012, the CNC opened formal proceedings against Mediaset (owner of Telecinco) on the basis of the following allegations:

- Mediaset had breached the requirement for advertising companies Publiespaña and Publimedia to be functionally separate from each other, as the same persons were members of the managing bodies of both enterprises.

- Mediaset had unjustifiably delayed waiving its pre-emptive rights for the acquisition of audiovisual content and had also delayed or omitted granting option rights for adjusting the term of contracts in force. Furthermore, Mediaset had included prohibited clauses in certain contracts for the acquisition of audiovisual content.

- CNC found prima facie evidence that Mediaset had breached a commitment relating to the advertising market by implementing a strategy to link, de facto, the sale of advertising time on its different channels, a strategy strengthened by the recent introduction of a new advertising sales model by Mediaset.

Press release of the CNC, 7 February 2013

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