CNMC fines Atresmedia and Mediaset for anti-competitive practices

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Media groups Atresmedia and Mediaset, the largest commercial state broadcasters in Spain, were fined by the national regulator (*Comision Nacional de los Mercados y la Competencia* – CNMC), for a breach of the anti-trust rules governing TV advertising. The illegal conduct infringes Article 1 of Law 15/2007 and Article 101 of the Treaty on the Functioning of the EU. Mediaset has been fined EUR 38.9 million, while Atresmedia was fined EUR 38.2 million. They have been instructed to modify their commercial strategies within the next three months.

Atresmedia and Mediaset have developed commercial policies in respect of the sale of TV advertising that has resulted in high concentration: their channels account for over 85% of the overall market. As a consequence, the capacity of other operators to secure revenue has been endangered and the risk of those operators being expelled from the market has increased.

Anti-competitive practices have included, on the one hand, imposing high minimum investment thresholds on advertisers (with failure to comply resulting in possible penalties), and, on the other hand, paying incentives to media agencies when a certain volume of investment is achieved. A combination of such tactics has influenced advertisers and agencies to invest most of their budgets in Mediaset and Atresmedia.

Additionally, both companies have “commercialised” their advertising slots in fixed packages – that is to say, advertisers are forced to purchase advertising slots placed on the companies’ respective larger and smaller channels as a set package and not slot-by-slot. Moreover, all the networks’ channels broadcast the same commercials simultaneously, according to a schedule determined by their leading channels.

These actions are considered to constitute vertical single-branding agreements that impose minimum purchase requirements, as defined in the European guidelines on vertical agreements.

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Resolución Expte. S/DC/0617/17 ATRESMEDIA/MEDIASET

https://www.cnmc.es/sites/default/files/2746591_3.pdf

Resolution S/DC/0617/17 ATRESMEDIA/MEDIASET

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