THE SECOND YEAR OF OPERATION

of the Basque Competition Authority

ANNUAL OPERATIONS REPORT
THE SECOND YEAR OF OPERATION
of the Basque Competition Authority
ANNUAL OPERATIONS REPORT
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Abreviations used
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<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AEDC</td>
<td>the Spanish Association for the Defence of Competition</td>
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<tr>
<td>ARD</td>
<td>AVC Research Division</td>
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<td>AVC</td>
<td>Basque Competition Authority</td>
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<tr>
<td>CC</td>
<td>Constitutional Court</td>
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<tr>
<td>CECOBI</td>
<td>Retail Business Confederation of Biscay</td>
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<tr>
<td>CLPE</td>
<td>Comparative Law and Political Economy Research Centre, Toronto, Canada</td>
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<tr>
<td>CNC</td>
<td>National Competition Commission</td>
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<td>CNMC</td>
<td>National Markets and Competition Commission</td>
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<td>CVC</td>
<td>Basque Competition Board</td>
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<tr>
<td>ECJ</td>
<td>European Court of Justice</td>
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<tr>
<td>EIZIE</td>
<td>Basque Association of Translators and Interpreters, Euskal Itzultzaile, Zuzentzaile eta Interpreteen Elkartea</td>
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<tr>
<td>ELSA</td>
<td>European Law Students Association</td>
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<td>ERA</td>
<td>Academy of European Law</td>
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<td>FIDE</td>
<td>Foundation for Research in Law and Business</td>
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<td>GBs</td>
<td>Government Bodies</td>
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<td>IHE</td>
<td>Institute for Higher Education</td>
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<td>ITV</td>
<td>Spanish MOT test</td>
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<td>LDC</td>
<td>Competition Act</td>
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<td>LEC</td>
<td>Code of Civil Procedure</td>
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<tr>
<td>LRJ-PAC</td>
<td>Legal Framework and Common Administrative Procedure</td>
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<tr>
<td>OMIC</td>
<td>Municipal Consumer Information Office</td>
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<td>PTD</td>
<td>Popular Tourist Destinations</td>
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<td>RDI</td>
<td>Research Development and Innovation</td>
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<td>REA</td>
<td>Real Estate Agents</td>
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<td>SIEG</td>
<td>Services of General Economic Interest</td>
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<td>SVDC</td>
<td>Basque Defence of Competition Service</td>
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<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<td>TSJPV</td>
<td>High Court of Justice of the Basque Country</td>
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<tr>
<td>TVDC</td>
<td>Basque Court for the Defence of Competition</td>
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<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<tr>
<td>UNED</td>
<td>National Distance Education University</td>
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<tr>
<td>UOC</td>
<td>Open University of Catalonia</td>
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<td>UPV</td>
<td>Public University of the Basque Country</td>
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</tbody>
</table>
II
Letter from the President

I am pleased to present this report regarding the Basque Competition Authority (AVC) and its activities during its second year.

As the reader can see from this document, the work of the AVC throughout this period has been of great significance from both a quantitative and qualitative perspective. The AVC’s activities have increased significantly and, above all, the importance of the tasks carried out by this institution are beginning to reflect the significance that free competition has on a society such as that of the Basque country which is characterised by its entrepreneurial and innovative spirit.

Our task can be competently explained using the “classics” in the work of Competition Authorities.

We have attached great importance to Advocacy in Competition. In the short life of our agency we have been able to verify a pressing need to generate a culture of competition in our society, within our institutions, within our businesses and amongst our consumers. Only when the beneficiaries of competition policy are aware of their rights and of the advantages of the enforcement of the law, can we fully experience the benefits of competition in our society.

This is the reason why the AVC has dedicated much of its work throughout the year to devising and implementing various actions to promote a culture of competition which has ranged from conducting a massive campaign on the maintenance of lifts, to the most basic training at high school level, through to the relationship with the Government and the various agents that impact the market.

We have seen some results already, but there is still a long way to go.

The successes in this field and the increased activity of our Authority have had a direct effect which has ranged from dealing with the maintenance of lifts, to the most basic training at high school level, through to the relationship with the Government and the various agents that impact the market.

The AVC is the result of a clear reinforcement of the roles and means that the Basque Parliament has wanted to grant to the agency in order to guarantee Free Competition. This reinforcement is particularly commendable at a time when the legislative trend in other regions of the state is precisely the opposite, to the detriment of the public interest. This commitment by the Basque Legislature to competition is merely the reflection of the society that it sustains, accustomed since time immemorial to providing support to innovative entrepreneurs who committed to their environment and to the welfare of the society that they serve.

This same commitment is a sign of support through the reinforcement of institutions of corporate control and administration at a time when society demands transparency, independence and reliability of performance.

The Competition Authorities have two main roles, firstly, to ensure that companies respect the rules of the game and do not abuse their power against others, against the government or against consumers; secondly, to prevent the occurrence of market failures by the institutions, either by insufficient consideration of the advantages of competition in their actions, or because they are victims of influences from lobbyists or corporate groups.

Market economies in which there are no free competition control authorities are less efficient, less competitive and the pressures and abuses inflicted upon them often go unpunished. The commitment to strengthening the supervisory authorities, however, results in a wider range of products, better prices, better quality, more jobs, more wealth, innovation and ultimately to an increase in the competitiveness of the economy and in sustainable economic growth.

The aim of this report is to show the commitment of all members of the Basque institution and the society that it serves, to work together to achieve the goals set by law so that the maximum benefits for companies operating in our markets are achieved and that these result in greater benefit to our citizens.

Furthermore, this report reflects the continuous improvement of an entire workforce that has made it possible to reach the achievements outlined in this document. Those allow us to predict a future full of hope for Basque competition.

Bilbao, July 2014

Maria Pilar Canedo
Chairperson
III

Defence of Competition
The defence of competition involves researching the existence of potential anti-competitive conduct in the market which is prohibited by the Competition Act (LDC) (collusive conduct, abuse of a dominant position and distortion of free competition by unfair acts affecting the public interest), research which is conducted within disciplinary proceedings which may be finalised by imposing a penalty.

The defence of competition differs from its promotion in that it is fundamentally preventive and aims to promote, improve and favour competition in markets. The promotion of competition is conducted via outreach, training or consultation activities, never through represive actions.

The LDC separates the pre-trial proceedings, which the Research Division (ARD) carries out, from the resolution activities which correspond to the Basque Competition Board (CVC) \(^1\).

At the point where it is known through any channel that there is conduct that may be anticompetitive, a “project” is initiated within the AVC in which informal inquests are held to verify the existence of those actions. These inquests may lead to the conclusion that there is no conduct related to competition, that it is necessary to carry out promotional activity, or that it is necessary to continue with the case for the defence of competition.

The inquests usually take the form of requests for information made to outline the issue and in order to decide whether to begin a confidential report or take other decisions.

Under current law, when there is evidence of an infringement of competition law, a confidential report is initiated, by order of the Director of Research.

In this phase, the inquests necessary to determine whether the actions under analysis qualify as illegal are held, in order to decide whether the proceedings are instituted or archived. During this phase, no documents are accessible to anyone involved as there are not yet any parties to the proceedings.

The information may become declassified by resolution of the case of the proceedings, issued by the CVC, if the existence of anti-competitive conduct is not found, or through the initiation of disciplinary proceedings by order of the Director of Research.

Upon the performance of these pre-trial proceedings, the facts considered to constitute the infringement are declared in a Statement of Facts and together with the allegations made by the parties and the evidence gathered, converge in a Proposal for a Resolution, which is raised before the CVC for resolution.

The resolution of the CVC may declare the existence or inexistence of conduct prohib-

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2. Projects in the early stages of processing during this year.

During the AVC’s second year, investigative work on a total of 27 Defence Projects has been carried out.

The level of development of these projects depends on which stage the proceedings are at.

There are 18 projects in a preliminary stage of analysis to determine whether there is evidence to justify the initiation of disciplinary proceedings.

Amongst these, 8 projects are under preliminary proceedings. 10 projects are at the classified information stage.

There are 4 projects relating to proceedings initiated that are being assessed by the procedural steps of the Law.

Finally, there is a group of 5 projects, the processing of which has been completed this year and which has been subject to Resolution by the Board of the AVC.

The following chart shows that the areas affected are diverse, highlighting the issues relating to professional associations and public procurement, accounting for 22% and 19% of cases respectively.
In the case of Professional Associations, the reason for this concentration may be found in the existence of dynamics that still pervade in these entities despite the liberalization of the Professional Services which operate under a mandate of EU regulation to avoid performing actions that constitute barriers to access to the professional activities and practice.

However, in cases where proceedings have been initiated, these professional bodies have attempted to remedy the harm caused to competition through the submission of commitments within the framework of an Agreed Settlement.

During this period, 14 cases have been initiated for the Defence of Competition (since the confidential reports and proceedings initiated are included in this concept).

If changes in the number of new cases in the history of the implementation of Competition Law in the CAE are analysed, a stable development is observed over time even with a substantial rise in the number of cases filed in the last year.

The classified information being processed by the AVC relate to the following sectors:

<table>
<thead>
<tr>
<th>Sectors Classified Information Phase</th>
<th>No. of Cases</th>
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<tbody>
<tr>
<td>Textiles</td>
<td>1</td>
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<td>Public Services</td>
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<td>Professional Services</td>
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<td>Health</td>
<td>1</td>
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<td>Hydrocarbons</td>
<td>1</td>
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<td>Sports</td>
<td>1</td>
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<tr>
<td>Public Procurement</td>
<td>2</td>
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<td>Professional associations</td>
<td>2</td>
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</tbody>
</table>

Throughout this year, the AVC has worked on 9 cases that were in the initiation phase.

As prescribed in Law, the AVC must notify the parties concerned regarding the initiation of each case so that they may exercise their rights of defence. Furthermore, the AVC publicises the initiative of these cases through the dissemination of a press release that is divulged to the media and published and the relevant reference posted on the website.

A strong emphasis is placed on the fact that the initiation of disciplinary proceedings does not prejudge the final resolution. Since the initiation of the case, a period of 18 months for the investigation and resolution thereof is initiated.
<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Date of Initiation</th>
<th>Taxable entities of the case</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/2014</td>
<td>Public Works Álava</td>
<td>31/03/2014</td>
<td>Arabako Lanak, S.A.</td>
<td>Initiated</td>
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<td></td>
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<td></td>
<td>Aranán Town Council</td>
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<td>Aramaio Town Council</td>
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<td>Artziniega Town Council</td>
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<td>Barrundia Town Council</td>
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<td>Labastida Town Council</td>
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<td>Laguardia Town Council</td>
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<td>Lapuebla De Laberca Town Council</td>
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<td>Moreda Álava Town Council</td>
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<td>Navaridas Town Council</td>
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<td>Peñacerrada-Uribahena Town Council</td>
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<td>Samaniego Town Council</td>
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<td>Regional Council of Álava</td>
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<td>Antoñana Administrative Board</td>
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<td>Argóniax Administrative Board</td>
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<td>Larriambe Administrative Board</td>
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<td>Navarrete Administrative Board</td>
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<td>Ollávarre Administrative Board</td>
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<td>Quintanilla De La Sierra Administrative Board</td>
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<td>San Román De Campazito Administrative Board</td>
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<td>Santa Cruz De Campazito Administrative Board</td>
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<tr>
<td>3/2013</td>
<td>Guipuzcoa Solicitors</td>
<td>20/01/2014</td>
<td>Guipuzcoa Solicitors Association</td>
<td>Resolved</td>
</tr>
<tr>
<td>3/2011</td>
<td>Biscay Solicitors</td>
<td>20/01/2014</td>
<td>Biscay Solicitors Association</td>
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<td>2/2013</td>
<td>Funeral Homes Bidasoa</td>
<td>17/12/2013</td>
<td>Ocaso, S.A. Insurance and Reinsurance Company</td>
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<td></td>
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<td>M.J.G.P. Exclusive Agent</td>
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<td>Tenatorio del Bidasoa, S.A.</td>
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<tr>
<td>7/2012</td>
<td>Driving Schools of Vitoria-Gasteiz</td>
<td>04/11/2013</td>
<td>Mendizorroz Driving School, S.C.</td>
<td>Initiated</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>J.L.A.A. (Añau Driving School)</td>
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<td>Salazar Driving School, S.L.</td>
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<td></td>
<td>J.A.S.A. (Arabakurrar Driving School)</td>
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<td>Mendiko Driving School, S.C.</td>
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<td>Alava Driving School, S.L.</td>
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<td>Gasteiz Driving School, S.C.</td>
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<td>Olarizu Driving School, S.L.</td>
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<td>Zadorra Driving School, S.L.</td>
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<td>Aramiega Driving School, S.L.</td>
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<td>D.C.S. (Leceta Driving School)</td>
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<td>Gorbea Driving School, S.Coop</td>
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<td>M.A.Z.O. (Zakítvar Driving School)</td>
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<td>R.I.T (Aurrera Driving School)</td>
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<td>San Prudencio Driving School</td>
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<td>Sum, S.L.L. (Km0 Driving School)</td>
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<td>3/2013</td>
<td>Biscay Surveyors</td>
<td>01/07/2013</td>
<td>Official Association of Surveyors and Technical Architects of Biscay</td>
<td>Resolved</td>
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<td>4/2013</td>
<td>Basque Country Association of Biologists</td>
<td>08/06/2013</td>
<td>Official Association of Basque Biologists</td>
<td>Resolved</td>
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<td>10/2012</td>
<td>Pharmaceutical Services to Residences-2</td>
<td>30/10/2012</td>
<td>The Health Department of the Basque Government</td>
<td>Agreed Settlement</td>
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<td>Regional Council of Biscay</td>
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<td>Regional Council of Gipuzkoa</td>
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</tr>
<tr>
<td>1/2012</td>
<td>Eizie Translation Rates</td>
<td>07/04/2014</td>
<td>EIZIE</td>
<td>Resolved</td>
</tr>
</tbody>
</table>
3. Home inspections conducted.

The AVC has the authority to conduct home investigations recognized by law, at the headquarters of the companies allegedly involved in a certain practice, in order to determine whether the circumstances justify the opening of a case or in order to gather evidence of the existence of illegal activity. The home inspection can refer to premises, facilities, land and means of transport of companies and associations of companies, and even (with court approval) to the homes of business managers and other staff members of that company.

To enter any premises where the conduct of an inspection is required, it is necessary to have the prior consent of the persons concerned or, failing that, to have court authorisation. Home inspections must be carried out by law enforcement officials who may be assisted by inspection experts as well as experts in the field of information technology.

During inspection, books, records and documents relating to the business may be inspected, whatever their material format. Copies of documents may be obtained, the documentation may be retained for a maximum period of ten days and the premises or documents may even be sealed throughout the duration of the inspection.

On 15 March 2013, a complaint filed by a funeral company against other companies in the funeral services market were observed amongst several of the companies investigated. Therefore, on 17 December 2013, the Head of the Investigation Department, on the basis of the information gathered was attached.

The case is being investigated by the AVC.
regulation of competition had occurred, the CVC found that the Competition Act 15/2007 would apply to procedural matters while the Competition Act 16/1989 would apply to the merits and the penalty. This consideration is due to the fact that the classification of the prohibited conduct is identical in both standards but the penalty regime to apply that would be the most beneficial, would be the Law of 1989.

The CVC decided that EJZIE had conducted a pricing recommendation, defined in Article 1.1 of Law 16/1989, which tended to standardise the prices of services and limit the ability of operators in determining these through the establishment of translation rates applicable in the work of written translation, oral interpretation and proofreading and their distribution to partners and third parties. Such conduct is considered proven from 2001 to 11 years. Law 16/1989 does not require the existence of anti-competitive effects, it is sufficient that the conduct has the prevention, restriction or distortion of competition as its aim (whether it succeeds or not) or to produce this effect (even though there was no will to do so). In this case, the goal is to standardise conduct through recommendations and the characteristics of certain substantial elements of the provision of service, therefore limiting the scope for competition of agents operating in the market. Furthermore, the CVC points out that such conduct was not suitable to generate benefits for consumers, it has limited the freedom of competition in price, this is the main element of competition in the market affected.

Regarding the illegality of the conduct, it consists of the limitation of the independence of each of the operators that should be governed by a system of free competition.

The CVC sets a penalty of 8,000 euros, reifying the gravity and duration of the conduct, as well as, the lack of awareness by the association of the unlawfulness of the conduct.

B. Official Association of Basque Biologists (Case 4/2013) 10 June 2014

Agreed Settlement accepting the commitments proposed by the Association of Biologists.

The website of the Official Association of Basque Biologists allowed the Official Endorsement Certification Regulations to be downloaded, as well as and the professional services contract, documents containing elements that could generate distortions in competition.

Regarding the official endorsement certification, it was established that this is obligatory for all work performed by a biologist in the exercise of their profession. Moreover, if a member of the professional body does not have this certification, the Governing Board will apply a surcharge of up to 50% for the certification fee, which could rise to up to 100% in the case of recurrency. The conduct, therefore, consisted of the requirement by the Association of the compulsory certification of said Association in cases that the Law did not provide for such perceptiveness, as well as the costs that were derived from them.

Regarding the Professional Services Agreement, the obligation is established to pay the professional fees due under the fee rates in force, as well as other General Conditions referring to expenses and supply.

When requested by the AVC, the Association modified its website to include the optional nature of the official endorsement certification, as well as the work leading to the adoption of the requirements established in the Regulations for access to the lists of experts and shall be excluded from being admitted into the Group of experts or to those which, although integrated into the Group of experts, did not meet the Regulation requirements.

In light of the facts, the CVC considered the commitments sufficient to resolve the effects on competition, leaving the public interest sufficiently guaranteed. These commitments involved the amendment of the Official Endorsement Certification Regulations and the so-called Professional Services Contract, as well as advertising decisions (generally, on the website of the Association, and specific through personalised communication to each member of the body).

C. Official Association of Surveyors and Technical Architects of Biscay (Case 9/2012) 25 June 25 2014

Agreed Settlement accepting the commitments proposed by the Association of Surveyors and Technical Architects.

The Association of Surveyors and Technical Architects of Biscay has the facilitation of the relationship between judges or courts and the professional associations that may be required for the provision of legal expertise services as one of its many roles.

Regarding this role, the General Assembly of the Legal Experts of the Association of Surveyors and Technical Architects of Biscay formed in 1998 by professional surveyors and technical architects in the Association who are willing to be integrated into the Group of experts.

This “Group of Experts” is governed by a Regulation adopted in 1998 under which the Association is responsible for making the lists of experts and for making them available to the Courts.

The regulation also provides that the professionals who are not part of the Professional Association, or not integrated into it do not meet the requirements established in the Regulations. Therefore, they shall not be admitted into the lists of experts and shall be excluded from being able to access services providing legal expertise required by a Judge or Court.

Upon analysis of the requirements established in the Regulations for access to the lists of experts that the Association submits to the Courts, it was noted that they went beyond those established by applicable legislation (Article 340 of the Code of Civil Procedure (LEC)), and that their application generated competition problems as it is a regulation which restricts access to the expert legal services required by a Judge or a Court to those professionals not belonging to the Group of experts or to those which, although integrated into the Group of experts, did not meet the Regulation requirements.

It is understood, therefore, that an unjustified restriction was established on the exercise of a profession by establishing requirements for access to lists of experts.

During the case, the Association requested that the initiation of actions towards an Agreed Settlement be agreed. For this, a proposal of commitments that resolved the competition concerns identified was submitted, as established by the AVC, since it ensured the removal of all the requirements to access the list of legal experts which did not have coverage under any statutory provision of legal standing, the public interest being sufficiently guaranteed. Therefore an Agreed Settlement of a nature bound to the disciplinary proceedings was agreed upon.

The commitments were focused on changing the Regulations so as not to impose requirements that are not required by Law to integrate the list of experts, with an obligation to publicise the decisions.
The Basque Competition Board considers the commitments submitted sufficient so that the case be finalised by means of a resolution of an Agreed Settlement.

5. Monitoring cases.

The AVC Research Division is responsible for all necessary actions to monitor the implementation and compliance with the resolutions adopted by the CVC.

The Council, in adopting its resolutions, sometimes notifies the addressee of the time available to fulfil certain obligations, warning them that they could face a penalty if they fail to comply. When the ARD concludes that it has breached a resolution of the CVC, it may prepare a surveillance report. After hearing the parties, it will be submitted to the CVC in order for it to declare the compliance of obligations or declare their non-compliance.

The resolution of the CVC to declare a breach of an obligation imposed in its resolution will also include the specific penalty payment to be imposed on the breaching party identified.

The reference case concerned the existence of an exclusivity clause in the lease of service contracts related to the inspection of gas installations. It was resolved by a resolution of an Agreed Settlement on 11 October 2012.

The contracts linked to the company responsible for the provision of natural gas and the inspection of facilities. The aforementioned clause entailed an exclusive relationship whereby the companies responsible for conducting periodic inspections or installing facilities could not work for any company outside the group of companies who had signed the lease services contract.

The distribution company submitted some commitments aimed at the Agreed Settlement of disciplinary proceedings. The AVC accepted the commitments submitted.

The company promised to remove the General Condition which included the exclusivity clause of all signed contracts with the companies responsible for the inspection of facilities; to submit an addendum with the modification of said contracts; to not include exclusivity clauses in future leasing service contracts with companies in charge of the inspection of facilities; and to link, through the commitments, to the company that subscribed to the leasing contracts within the group of the distributor. The AVC also established the obligation to post the commitments on the website of the distributor and to publish the resolution by the distributor and the entity in charge of

The Illustrious Bar Association of Gipuzkoa had established a fixed fee for funding the Notification Service regardless of the number of uses of that service by the users. The value of the fee for the Notification Service was obtained by dividing the share of the wages and staff costs by the number of practising professionals and the twelve monthly instalments. Moreover, a computerised system of judicial procedure enabling an accurate count of the number of acts of notifications carried out in each procedure is not installed on the CAE.

Therefore, whilst there is no system that allows such a count, the Association proposed some commitments aimed at achieving the purpose of the procedure by means of an Agreed Settlement.

The commitments involve the adoption of a system for determining the amount of the contribution for intervention (CFI) per procedure, based on a mathematical formula that categorises the means of notification by type of procedure. Moreover, this formula only takes into account the costs directly linked to the Notification Services.

The CVC found that the commitments submitted by the Association resolved the effects on competition resulting from the application of the system of financing from the notification service, regardless of the workload generated by different attorneys and procedures. Likewise, the public interest is adequately guaranteed.

The Association is required to post the resolution and the commitments on its website and to communicate the content of the resolution and commitments to each of its members individually.

The Association is also committed to publishing the resolution and the accompanying commitments individually.

The Official Bar Association of Biscay had established a funding system - called Contribution for Intervention (CFI) - mandatory for any attorney to make use of the Notification Services and the translation of copies.

The CFI varied depending on the type of procedure, but did not discriminate by the number of interventions that each attorney effectively made given that a computerised system of judicial procedure enabling an accurate count of the number of acts of notifications carried out in each procedure is not installed on the CAE. Furthermore, in order to determine the amount thereof, the Association included costs that were not directly related to the activity inherent to the Notification Services.

The Association submitted some commitments which they assumed for the calculation of the CFI. Only staff costs and operating costs that originated from the Notification Services were taken into account. Moreover, whilst it is not possible to establish the counting of notifications by procedure, a methodology based on means of notifications that could be considered justification for the amount of the CFI was established. It is considered that this system increases transparency and resolves the competition concerns identified.

The Association is also committed to the commitments individually.

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signing the leasing contract in the press.

The company submitted the addendum to which it had committed and it was found that the lease contracts had been modified, so that they did not include any exclusivity clause.

The AVC has no knowledge of the signing of any new lease contract, through which it would have the opportunity to verify the non-inclusion of exclusivity clauses. The gas installation inspection companies with whom the distributor has lease contracts are the same that have been aware throughout the processing of the case. The lease contracts with these have been verified and do not include exclusivity clauses.

The company that endorsed the lease contracts remained bound by the commitments and signed the amendment to the existing lease contracts to accommodate the commitments acquired.

The posting of the commitments remained on the website, until at least 15 November 2013, i.e., the minimum stipulated period of twelve months.

On 15 November 2012, the distributor and the subscriber of the lease agreements published a note in El Correo and El Diario Vasco, reporting the Agreed Settlement, which reported the ban on the exclusivity clauses and included a link to the businesses websites, where the full commitments were posted.

### B. The Pinosolo Case.

**Case 5/2012**

The “Sports Complex” competition is aimed at the drafting of the project, construction management, coordination of health and safety and performance of the works of the new Pinosolo sports complex. At the same time, it was considered to be established that there had been an agreement between two companies to level the playing field in the procurement process of the “Sports Complex” competition by sharing information prior to the preparation of tender documents. Similarly it was considered sanctioned that there had been unfair competition in violation of the public interest.

The AVC imposed a penalty on each company and ordered Leioa Kirolak to terminate the contract, abstaining from paying any kind of compensation for damages or harm to the offender or, if necessary, recovering the amounts already paid for such.

One of the offenders paid the relevant fine whilst the other sought judicial stay of execution of the penalty. The High Court of Justice of the Basque Country (TSJPV) accepted the request.

During this year, exercising oversight, Leioa Kirolak SAU has requested various pieces of information and had stated that it had not paid any compensation for damages to the offenders.

### C. EIZIE - Translation Rates.

**Case 1/2012**

On 7 April 2014 it was considered proven by the AVC that EIZIE had posted some rates for translation, proofreading and interpreting services on its website that served as guidelines for their partners when agreeing their own rates with their clients.

The existence of a collaborative agreement was therefore declared and a fine was imposed on EIZIE, as was the obligation to refrain from similar anticompetitive conduct in the future and the obligation to post the contents of the resolution on its website, as well as to report the contents thereof to each of the partners.

The monitoring of this case has involved the verification of compliance with all aspects related to the penalty imposed: the payment of any financial penalty, refraining from repeating similar anticompetitive conduct and posting of the resolution, both general (through the website) and personalised (to each of the partners).

The penalty has been paid.

So far, no further anti-competitive behaviour by EIZIE has been detected.

Given that the obligation of general posting extends over the period of a year, monitoring will continue throughout this period.

Finally, with respect to the individual posting, the verification process could be more complex. EIZIE sent the email that it sent to its associates to the AVC.

### D. Official Association of Basque Biologists.

**Case 4/2013**

This case, resolved on 10 June 2014, began when the AVC became aware that the Association of Biologists had posted the Official Endorsement Certification Regulations and professional services contract on its website. The wording of the two documents was drafted under the assumption that the official endorsement certificate was mandatory in cases where the law makes no such requirement.

The Association of Biologists submitted commitments aimed towards an Agreed Settlement of the disciplinary proceedings. The AVC accepted the commitments submitted.

The Association is committed to removing the Official Endorsement Certification Regulations and the contract of services from its website; referring the new Official Endorsement Certification Regulations to the AVC when accepted by the Board of Governors; reporting the voluntary nature of the certification, the lack of standards of professional fees and other terms, until the new regulations see the light of day, in general form (via the web) and personalised (to each member); modifying the content of the contract of professional services model to avoid the hindrance of any possible free agreement between the professional and their client, and to individually communicate the entire contents of the resolution to the members.

The Association removed both documents from its website. Even before the adoption of the resolution of an Agreed Settlement.

The Association sent the new Regulations to the AVC and it was found that its wording was respectful of the competition rules and
leaves no doubts regarding the voluntary nature of the association certificate.

Until the adoption of the Regulation, the website of the Association included the voluntary nature of the certification. In addition, the Association sent the document to the AVC that it sent to its members informing them of the voluntary nature thereof and regarding the absence of professional fee regulations.

With respect to the professional services, its content was modified so that there is no doubt about the freedom to negotiate the terms between the professional and their client.

Finally, the Association sent the communication that it sent to the members on an individual basis regarding the full contents of the Resolution to the AVC.

6. Collaboration in legal defences in Court

Resolutions dictated by the CVC after the processing of disciplinary proceedings declare the existence or inexistence of conduct prohibited by the LDC.

E. Official Association of Surveyors and Technical Architects of Biscay. Case 9/2012

The ARD has proceeded to verify the degree of compliance of the commitments approved by the CVC in its Resolution of 25 June 2014. These commitments involved the immediate withdrawal of the regulations from the association’s website that led to the opening of the case and all the texts included therein which were contrary to competition law, amending the Rules of the Association of legal experts, adapting them to the legislation in force, as well as the general posting (which must continue for a minimum period of 12 months) and the personalised notification of the Resolution to each of the members.

So far, the Association has fulfilled part of its obligations. There is evidence that it has amended the Regulation and has posted it on its website. With respect to obligations, the fulfilment of which is extended in time and the term not having ended throughout the period in which the reprimanded Association must meet them, the ARD will continue to periodically check their compliance.

During the year we have collaborated in the preparation of the defence of Resolution Case 07/2011, CITY OF BILBAO PHONE CONTRACT and of the Resolution Case 05/2012 PINOSOLO COMPETITION, both appealed before the TSJPV.
iv
Promotion of Competition
2. Single subject meeting on evaluation of costs and action to recover fees for professional services.

In July 2014, the first multilateral meeting between the President of the High Court of Justice of the Basque Country, Mr Juan Luis Ibarra, the Chief Judge of Bilbao, the Chief Clerk, the Deans of the Bar Association of the three territories and the Basque Competition Authority represented by María Pilar Canedo, Natividad Goñi and Ibon Alvarez was held.

The purpose of the meeting was to discuss the practical issues which entail the prohibition of using scales in the valuation of costs and action to recover fees for professional services, unique legal situations in which the law permits the use of indicative guidelines. The definition of this vague legal concept to ensure respect for the Law has required the formation of a committee to analyse the issue in depth.

3. Reports.

A. Concerning Professional Associations and Councils

The exercise of closed professions should be performed in conditions of free competition and be subject in its entirety to the LDC. Submission of the Associations and Councils to the rules is not limited to the literal text of the Statutes or other rules of the Association, but extends to the entire performance. Therefore, they should not adopt decisions, recommendations or impose obligations and requirements that limit competition.

The obligation of membership represents a restriction of activity for professionals, holding a certain degree, they should also be members. This exclusive reservation of the exercise of a profession for the professional members is a barrier to entry for third parties. In this regard, the Constitutional Court (CC) has established that compulsory membership will only be constitutionally permissible if justified by the need to serve the public interest. It will be the legislator to identify which professions meet that requirement. However, in the absence of legal regulation thus far, a transitional regime is applied for which the pre-existing mandatory memberships have been consolidated into the “Omnibus Law”.

The representation of members by the Association is voluntary. Therefore, there must be a specific request by the member. For those professions in which compulsory membership exists, the Associations will maintain the power of exclusive representation of the profession. In addition, these Associations must ensure the inclusion of all those professionals whose formal qualifications equip them with sufficient technical capacity to exercise the profession. The so-called Bologna process led to the disappearance of the “catalogue of qualifications” and incorporated the possibility of creating new degrees by universities. Therefore the linking of a priori access of a professional association to a catalogue of specific qualifications would not be justified. Finally, the requirements for those wishing to become a member should be clearly stated in the Statutes and be public, and entry fees must be proportionate, non-discriminatory, being founded and established on the basis of the actual cost of processing. In short, the entrance fee or any other membership services should not be used as a funding source, or as a way to discourage access to the profession.

However, if in a given profession there are Associations in only some of the Autonomous Regions, professionals will be governed by the law of the place where they have established their only or main professional address. In short, the possibility being opened of a professional performing in an Autonomous Region where membership is compulsory, without that professional being a member.

In the case that membership is compulsory throughout the territory, the principle of single membership throughout the national territory means that an Association may not demand any communication or authorisation, or payment of fees other than those usually required of their Associations, to professionals who practice in a different territory to that of membership.

The Statutes of Associations must not collect duties beyond that legally recognized. On one hand, they should refrain from attributing roles to the Associations that correspond to the members. On the other hand, the Association would be competing with the members and would generate concerns about unfair competition between the Association and the members. The professional work itself of the members affiliated to the Associations should be performed by the members. The Association lacks the title to carry them out. Furthermore, in no way can fees be charged for consultations or work that, by displaying some technical complexity, is usually charged by the members.

With respect to the official endorsement certification of professional jobs, these are designed to verify the identity and professional qualifications of the individual author of the work, as well as the formal correction and completeness of the documentation in accordance with the rules applicable to the work in
question. In those cases where the association certificate is mandatory, its cost shall be reason-
able, not abusive or discriminatory. In addition, the Associations will be expected to advertise
the cost of the certification, which can be pro-
cessed electronically.

When there are several competent pro-
fessional associations in the field, professionals
can obtain certification from any of them. That
is why the Statutes should be especially careful
not to include restrictions on work certificates
depending on the qualifications of the person
who presents or holds them.

On the other hand, with regard to the
cases considered to be unfair competition
of the members amongst themselves,
the Statutes must strictly adhere to the acts es-

tablished in the Unfair Competition Act. Fur-
thermore, the performance of the Association
must be limited to the disclosure of the judge
or competent authority for the implementation
of the rules, and once there is a court decision
declaring the existence of unfair competition,
the Association, if deemed necessary, may take
disciplinary action.

The mandatory imposition of signing up for services and activities related
to the professional activity by an Association
has no legal basis. Thus, the actual economic
burden of these services must rest solely with
those who have contracted voluntarily.

Similarly, the charging of fees by the Association is optional: the Association has the
duty to handle the collection of receipts, wages
or professional fees when so freely and expressly
requested by the member. However, the chan-
nelling of the fees of a significant number of
members would pose a risk for competition, for
the dissemination of such information could fa-
cilitate the standardisation of rates.

The development of lists of legal ex-


perts is one of the roles of the Associations.
However, the method of preparing these lists
is likely to create barriers to access and have an
effect equivalent to compulsory membership if
it doesn’t exist. It is important to emphasise that
membership is not a prerequisite to gain access
to the expertise. The only condition would be
the degree.

Similarly, regarding the ordering of the lists, the form of the duties produces a restric-
tive effect on competition. In addition, the law
does not establish any criteria for the organising
of lists, but is more respectful of competition
regulations and would order them following to-
tally objective criteria. However, the law itself
states that the first designation of each list
shall be made by drawing lots and, from it, the
following appointments will be made se-
quentially.

It has established a general prohibition
on guideline fees. The only exception would
be the establishment of guideline criteria (not
“scales”), these being understood as the set of
elements to be taken into account for the val-
uation of costs (and action to recover fees for
professional services in the case of lawyers), and
not the quantitative result of applying these cri-
tera in each individual case, that would be the
price or fee.

The law sets no provision on the compos-
tion of the bodies of the Associations, unless
the governing body shall be composed of persons chosen from among all the members.
Therefore, the establishment of additional un-
justified requirements may pose a dispropor-
tionate obstacle.

The law only allows the restriction of the
simultaneous exercise of professions when
so provided in law. Thus, any reference in the
Statutes to incompatibilities that seems to refer
to the inability to provide multidisciplinary ser-

c\nices to consumers must be deleted.

The qualified professionals have a duty
to cover the civil liability risks that may be
incurred due to professional work performed
incorrectly through the relevant insurance. For subscribing to professional civil liability
insurance, the Association cannot im-
pose adherence to a specific insurance policy
or company. Moreover, in the case of damages
arising from professional work which was certi-
fied by the Association, the Association will be
secondarily liable for damages originating from
defects that should have been revealed by the
Association, and which are relevant to the ele-
ments certified in the work.

With respect to the Professional Coun-
cils, they are governed by the same rules as the
Associations. The representation and defence
of the profession entitled to carry out the Pro-
fessional Councils must be based on defending
the interests of the Associations integrated into
them and in protecting the interests of con-
sumers and users of services of their members.
In addition, the Boards and the Associations
must not adopt decisions, recommendations or
impose obligations or requirements that limit
competition.

There is an agreement with the Man-
agement of Administrative Records and with
the Local System of the Department of Public
Administration and Justice of the Basque Gov-
ernment under which it must submit the draft
statutes of the Boards and Professional Asso-
ciations to the AVC before they are finally ap-
proved, in order for the AVC to issue a report
on their compliance with the current regula-
tions regarding the defence of competition.


The Statutes of the Board established
that it showed the defence of the Associations
integrated into it, as well as of the corporate
interests of the members. However, the Board
may only represent the members if there is a
specific request by the member. Therefore,
the Statutes should be drafted so as to reflect
the voluntary nature of the representation of
members by the Board.

The Statutes foresaw the partnerships
with government in regulating the general con-
ditions of the exercise of the profession of the Social Graduate. The AVC recalled that the
conditions for the exercise of the profession
could not create restrictions to free access and
the pursuit of such economic activity. There-
fore, any scheme approved by the Board must
comply with current regulations.

The inclusion of provisions which, whilst
not competitive in themselves, may facilitate
the emergence of restrictions on competition, must
be monitored; Thus, the Statutes established
the obligation of the Associations to pursue
cases of professional infiltration and of illegal
or irregular activities which affect the interests
of the profession. It is important to remember
that cases that are considered to be regarding
unfair competition must adhere strictly to acts
established in the Unfair Competition Act, lim-
iting the Association to putting the matter be-
fore a judge or competent authority.

The need for an address and an office in
the territory of an Association integrated into
the Board is a disproportionate obstacle to ac-
cess to the governing body of the Board and
unnecessary to meet the obligations as a mem-
ber of the Board.

b. Statutes of the Official Association of Estate Agents of Gipuzkoa (24 July 2013)

The Statutes of Association stipulated that
it would aim for the exclusive representation of
the Real Estate Agents (REA) of Gipuzkoa.
However, membership is not mandatory in this
case, so the Association could not assume exclu-
sive representation of the profession for itself.

The representation of the Association can
only occur when there is an express request by
the member. Therefore, the Statutes, must be
drafted so that no doubt is left regarding the
voluntary nature of the representation of
the members by the association.
The authority to demand information, from all CFI members in Gipuzkoa, regarding the purpose of membership that does not have a strictly reserved nature lacks a legal basis. Furthermore, it could also be a mechanism for consultation between professionals (pricing or any other condition in which the services are rendered). The A VC proposed its deletion.

Regarding the certification, the Statutes established the certification of professional work amongst the roles of the Association. Despite having opted for the wording enshrined in law, the A VC considered it appropriate to amend the wording of the Articles of Association. The current regulations did not establish the perceptiveness of certification of any professional work likely to be performed by a CFI. So, the certification requirements occurred only in professional jobs at the express and voluntary request of clients. So the A VC proposed deleting reference to the possibility that the current regulations impose the certification.

Included amongst the roles of the Association is the adoption of measures to prevent unfair competition. However, the definition of the situations of unfair competition corresponds solely to the Law and their prosecution to judges. The A VC recommended that the Statutes expressly include that the role of the Association would be to inform the competent authorities of the unfair practices identified, and to take disciplinary action if there is a court decision declaring the existence of unfair competition.

In addition, another of the functions of the Association was the issuance of lists. The A VC highlighted that the lists were transparent, non-discriminatory, and provided for the resolution of appeals against the actions of the Board itself. The A VC recommended deleting the reference to the actions of the Board itself.

One of the functions of the Board set out in the Statutes extends to the role of reporting on regulatory projects that would affect the profession. Such wording of the role would exceed the provisions of the legal text, therefore the A VC proposed its deletion.

The Statutes included the promotion, creation, organisation and coordination of institutions, services and activities, regarding the profession, such as mutualism. The A VC recalled that the Board must not impose mandatory subscription of services and activities related to the professional activity.

Regarding the Board’s sources of funding, the A VC recommended that the nature of the work for which the Board would obtain revenues be specified in the Statutes. Thus, the Board would have no title to carry out work of a professional nature, given that these are typical of the members.

The competence to represent the profession assumes the obligation of membership of an association. However, this obligation is temporary, as long as it is not regulated in a regulation of legal standing. Therefore, the A VC considered it desirable that the Statutes established a reference to the transience of the representation of the profession.

With regard to the proper functioning of the Government which purported the guardianship or coordination of the practice of the profession, the Statutes got around the legal condition that they were delegated by the Directors of the CAE.

The Statutes included references to the “incompatibilities” that may exist, seeming to refer to the inability to provide multidisciplinary services to consumers. Therefore, the A VC recommended replacing the term “incompatibilities” with “situations of conflicts of interest”.

d. Statutes of the Association of Technical Agricultural Engineers of the Basque Country (24 July 2013)

The A VC highlighted the restrictions on competition resulting from compulsory membership. However, at the date of the issuance of the report, the aforementioned compulsory nature was legal, by pre-existing conditions of the Omnibus Law and the announced legislative development having not yet been produced. In spite of everything, it did not happen that, among its functions, the Association could “exclusively” represent the profession without including at least that it was on a temporary basis whilst the new Law of Professional Services is not approved.

However, membership being compulsory, defining the necessary qualifications for membership is of particular importance. The A VC recommended a drafting of the Statutes to include all those official qualifications with sufficient technical capacity to practice the profession.

The Statutes established that to practice throughout the national territory the incorporation of just one of the Associations would suffice. However, the legally established possibility that a professional does not become a member due to the fact that their professional address was in a Region where membership was not mandatory was not included. The A VC proposed its amendment.

With regard to the lists of experts, the A VC recalled that the Association should be careful with the requirements for its preparation or for the appointment of experts, such as that the lists were transparent, non-discriminatory and allowed for the inclusion of all profes-

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The Statutes included a general enabling clause allowing the Board to represent the Associations that integrated everything that was not expressly and exclusively attributed to each of the Associations. This general enabling clause must be deleted.

The Boards may approve a Single General Statute. In the legal text, unlike in the Statutes, the procedure for approval is included. The A VC proposed the correction of the wording of the Statutes to complete their content.

The legal text provided for the resolution of appeals against the acts of the Associations. However, the Statutes went further and provided for the resolution of appeals against the actions of the Board itself. The A VC recommended deleting the reference to the acts of the Board itself.

One of the functions of the Board set out in the Statutes extends to the role of reporting on regulatory projects that would affect the profession. Such wording of the role would exceed the provisions of the legal text, therefore the A VC proposed its deletion.

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Regarding the Board’s sources of funding, the A VC recommended that the nature of the work for which the Board would obtain revenues be specified in the Statutes. Thus, the Board would have no title to carry out work of a professional nature, given that these are typical of the members.

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With regard to the lists of experts, the A VC recalled that the Association should be careful with the requirements for its preparation or for the appointment of experts, such as that the lists were transparent, non-discriminatory and allowed for the inclusion of all profes-
sional or that they desired. At the same time, the establishment of duties should be avoided.

The AVC reiterated the risks to competition for the provision by the Association of services including the collection of fees. The Statutes include said service within the epigraph relating to the rights of the members.

With regard to the certification, the AVC recalled that the importance of the wording of the Statutes did not pose a restriction to professional work certification depending on the qualifications of the person who presents or holds them.

Finally, the AVC impacted on the importance that no association's internal regulations would include any elements that favored the coordination of fees or restricted the free determination of the professionals.

**f. Statutes of the Official Association of Nursing of Álava (17 December 2013)**

The Statutes did not include any reference that the obligation of membership is held temporarily, whereas the rule of legal standing that included which professions would be compulsory members was not enacted. Therefore, the AVC recommended the inclusion of some reference scenario to that transitional nature of compulsory membership.

Regarding the necessary qualifications for membership, the AVC recalled the need to include a reference to all other formal qualifications with enough technical skills to practice the profession.

The Article of Association regarding the certification did not mention the voluntary nature thereof; therefore the AVC deemed it necessary to provide an alternative wording to the article.

Regarding the unfair competition of the members amongst themselves, given that the definition of the cases of unfair competition corresponding to the law, the AVC suggested the inclusion in the Statutes of an express reference to the very few types under the Unfair Competition Act where they can engage the members. It was also recommended that the possibility be discarded of the Association taking action before it carries out the practice. In fact, the Association must make the competent authorities aware of the unfair practices and, when appropriate, take disciplinary action once there is a court order.

It did not specify in the Statutes what the activity itself consists of that can generate revenue to finance the Association. For that reason, the AVC recalled that the Association is unable to provide the services themselves of the profession of their members, so it recommended amending the provision to include this point.

Regarding the advertising of the profession, the Statutes established obligations beyond those enshrined in the legal texts. The Associations can not set higher limits than those provided by the General Advertising Act; therefore, the AVC recommended changing the provisions of the Statutes in order to limit the prohibitions contained set out in the law.

The wording of the provision on the lists of experts did not involve any rebuke from the AVC; however, the AVC took advantage to reiterate that the Association should be careful with the requirements for creating the lists so that the lists were transparent, non-discriminatory and allowed for the inclusion of all the professionals who want it.

**g. Statutes of the Official Association of Technical Industrial Experts and Engineers of Álava (17 December 2013)**

The Statutes of the Association referred to the obligation of membership, therefore the AVC proposed, either to delete any reference to compulsory membership, to make a specific reference to compulsory membership reflected in the rule of legal standing of Royal Decree and therefore, its effect was transient.

Linking access to membership to a catalogue of specific qualifications would not be justified. Therefore, the requirement to be in possession of specific qualifications to have access to the membership should be modified.

The conditions of membership set out in the Statutes proved to be inaccurate. In the professions with compulsory membership, it is essential that the requirements are already established and are public. Therefore, the AVC proposed specifying or deleting the requirement to “comply with the rules of membership”.

The requirement to notify the Association that a professional member of another Association will practice in the Province of Álava should be deleted.

The AVC recalled that the service of charging fees was optional and must be specifically requested by the professional. It was further reiterated that the Association must refrain from engaging in anticompetitive behaviour when executing that service.

Regarding the establishment of criteria for the valuation of costs, it recalled that the legal text allowed the establishment of indicative criteria, i.e., the set of elements to be taken into account for the valuation of costs.

Regarding the official endorsement certification, the AVC reiterated that the certification requirement must not bind professional jobs depending on the qualifications of the person who provides them. In addition, the current regulations require the certification in certain professional jobs, in which the physical integrity and safety of the people could be affected by the work. Therefore, the Association could only certify professional jobs that were voluntarily requested by the clients and those of compulsory certification under applicable law.

Included amongst the roles of the Association were those leading to the prevention of intrusion and unfair competition. The AVC recommended the inclusion of a specific reference to the types under the Unfair Competition Act that could be affected by professional practices. The cited types are very scarce.

The Association included the rights for the issuance of reports and expert legal opinions requested of the Association in its Statutes as a source of funding. However, it did not include what the nature of these jobs was. The AVC stressed the need to reiterate that those rights could not come in any case from the provision.
of the Associations own services of the profession. Otherwise, the Association would be competing with its own members.

In the provision that linked the regular resources of the Association, the Statutes included the registration fee. The AVC took advantage of it to recall that said fee or other membership services should not be used as a source of funding, or as a way to discourage access to the profession.

The Statutes, relating to liability for work performed incorrectly, included the duty of the members to subscribe to civil liability insurance. The AVC recalled that the Association could not force members to subscribe to a specific insurance policy or company. With regard to the liability of the Association, the AVC advised the inclusion of a reference to the secondary liability of the Association.

h. Statutes of the Official Association of Surveyors and Technical Architects of Alava (4 March 2014)

According to the principle of single Membership for the entire territory, the Statutes of the Association could not establish the additional requirement to communicate its professional activities in other districts to the Association. In addition, the Statutes had established an additional requirement of an obligation of having to be certified by the Association, for any work performed in its territory and in order to practice it. The AVC deemed it necessary to remove that requirement.

The Statutes established the obligation to register the professional commissions that they received. However, this requirement was included in the epigraph “Certification Service” so that it could be understood that the obligation to register the commissions referred only to cases in which the certification is requested. To avoid potential confusion, the AVC recommended the amendment of the article so as to make it clear that the registration was only required in respect of professional jobs that required certification or in which it was voluntarily requested.

Regarding the establishment of criteria for the valuation of costs, the AVC established that it should be pointed out that only guidance “criteria” can be fixed, not guidance “scales”. Regarding the entry fee, the AVC recalled that it must be proportionate, non-discriminatory, being founded and established on the basis of the actual cost of processing.

While the obligation to subscribe to professional civil liability insurance or another equivalent guarantee exists, the AVC took the opportunity to reiterate that the Association could not, under any circumstances, demand adherence to a specific insurance policy or company.

The admission fee, as the AVC recalled, should be proportionate, non-discriminatory, being founded and established on the basis of the actual cost of processing. Similarly, other membership services should not be used as a funding source or as a way to discourage access to the profession.

j. Statutes of the Official Association of Surveyors and Technical Architects of Gipuzkoa (4 March 2014)

The Statutes established the mandatory nature of disclosing the professional activities of members in other districts. The AVC indicated that when a profession is organised by territorial associations, there is no such requirement for communication.

The registration of all professional commissions is therefore required. However, as the AVC indicated, said registration could only be required in the course of professional work that required certification, either legally or by express and voluntarily request.

The collection of fees is allowed, provided that it is carried out at the request of the members. However, the AVC recalled the significance of avoiding anticompetitive behaviour when the Association acts in performance of that role.

Regarding the establishment of criteria for the valuation of costs, the AVC recommended pointing out that what the Association is able to do is define the set of elements to take into consideration for the valuation of costs (indicative criteria).

With regard to the certification requirement, the AVC considered it relevant to point out that no provision is made by law to regulate all matters relating to the certification, therefore the provision should be redrafted and where reference is made to the existence of a law that requires the certification, replace it with current regulations.

When the profession is organised in territorial associations, the incorporation of one of them in order to practice throughout the country will suffice. Therefore, the additional requirement consisting of having to be certified by the Association, for the performance of work in its territory and to be able to practise in it should be deleted.

The admission fee, as the AVC recalled, should be proportionate, non-discriminatory, being founded and established on the basis of the actual cost of processing. Similarly, other membership services should not be used as a funding source or as a way to discourage access to the profession.

k. Statutes of the Basque Board of Veterinarians (30 April 2014)

The Statutes of the Board made an exhaustive drafting of the roles assigned to the Board, exceeding the roles that the law itself attributes to the Boards. Therefore, the AVC considered that said article of the Statutes must be deleted, or limited to relate the legally included functions.

Regarding compulsory membership, although the Statutes do not regulate the matter, the AVC deemed it necessary to include any reference to the authority to represent the profession of the Board being held temporarily un-
The practice of the profession must be performed in conditions of free competition, so that the establishment of the payment of fees must be free. The Statutes established that the Association could “interpret the questions that may arise concerning the application of fees to be received in their professional activities”. However, the AVC recalled that the Association must not reserve any function relating to the interpretation thereof, therefore it recommended deleting this provision. The Association may only set up indicative criteria for the valuation of costs; under no circumstances may it provide the quantitative results obtained from applying the elements that must be taken into account for the valuation of costs in each specific case.

With regard to the certification, the AVC indicated that the Association must not restrict its performance solely to projects developed by qualified professionals in technical industrial engineering and/or engineering graduates. Furthermore, when several associations were competent, professionals could apply for certification from any one of them. One of the regular resources of the Association was the charge payable for the issuance of reports or expert legal opinions that were requested by the Association. The nature of this work performed by the Associations was not included in the Statutes. Therefore, the AVC recommended the inclusion of a reference that those reports or expert legal opinions might not have the services themselves of the professions as an objective.

The Association had opted to establish lists or labour exchanges. The AVC recalled that, in such case, it should refrain from imposing unjustified registration requirements that prevent access to all the professionals who want it. In addition, the Association should refrain from performing actions that could favour market sharing among its members.

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that said legislative amendment could generate on the conditions of competition in the market of the sector analysed.

The report begins with an analysis of the regulation of the CAE in the taxi sector. The principles of good regulation by which the Government Bodies (GBs) must be governed in their performance were subsequently included. In this regard, Article 39bis of the Common Legal Framework and Administrative Procedure Act (LR-APC) states that when in the exercise of its powers, the GBs establish measures restricting the exercise of individual or collective rights or require compliance with requirements for the development of an activity, they must explain the need for protection of the public interest and justify their suitability to achieve the ends sought and choose the least restrictive measure, but in any case differences in discriminatory treatment occur.

Article 4 of the Sustainable Economy Act, meanwhile, establishes the principles of need, proportionality, legal certainty, transparency, accessibility, simplicity and effectiveness as principles of good regulation applicable to the regulatory initiatives of the GBs. All these principles are taken into account when compiling the report. The section concludes by pointing out how shallow the main restrictions on competition identified in the Basque regulations are, concluding on that point that this is a highly regulated sector with a least restrictive measure, the principle of transparency, accessibility, simplicity and effectiveness as principles of good regulation applicable to the regulatory initiatives of the GBs. All these principles are taken into account when compiling the report. The section concludes by pointing out how shallow the main restrictions on competition identified in the Basque regulations are, concluding on that point that this is a highly regulated sector with a highly interventionist policy and which presents multiple barriers to both access to the profession - the principle of existence of a numero clauson of licences granted by the City Hall - and for its practice - regulated schedules, inability to hire salaried drivers, etc.

The next section analyses the market for taxi services in Bilbao, where the market is described in terms of three segments addressing the way in which clients contract the service: hiring of vehicles that drive on public roads, hiring vehicles authorised to use taxi stands and vehicles previously hired by a switchboard, taxi radio or other means.

The number of taxi licenses in Bilbao is 274 (73-80% of the maximum allowed by the regulation), with no new licenses having been issued since 1978.

Below, the market is analysed by performing an evaluation of the opportunities and threats posed by potential competitors, the availability of alternative products in the market and bargaining power given to clients and suppliers, after which it is concluded that this is a market with very high barriers to entry, that these operators have significant market power due to the closed licensing system in which incentives to compete are reduced, that the threat of entry of alternative products is incalculable and the bargaining power of clients and their capacity to choose are virtually nil.

Then the section which addresses the analysis of the proposed regulations begins. As a preliminary matter concerning the regulation of the maximum time frame of the provision of service by operators specifies that neither Law 2/2000 of 29 June on Urban Public and Intercity Passenger Transport in Tourist Vehicles nor its development regulation establish any a priori limitation, so in the absence of explicit regulation through a municipal ordinance there would be no restriction on the number of hours per day that the operator could provide their services.

It is the City of Bilbao which, in the exercise of its powers, decides to regulate the maximum hours of service provision by means of the aforementioned ordinance.

It is particularly relevant that the taxi drivers are freelancers who provide a service in a market where the level of competition between operators is very low, a fact that creates a risk of practices aimed at adopting market agreements or supply constraints on the provision of services that might be contrary to the interests of users and the public interest.

It so happens that the proposed regulatory amendment responds to the request made by the two main taxi associations operating in Bilbao, a request that was submitted by putting the issue to a vote in their respective assemblies, although there was a significant percentage of votes against.

It therefore appears that what is intended is that the City Hall gives legislative basis for an aspiration of “self-regulation” of the sector, which would be to limit the provision of service giving the appearance of legality and mandatory character to a practice that could constitute an infringement.

The report also analyses the potential negative effects of the proposed amendment on competition. The first would be the diminished supply of the number of taxis in service according to estimates made by the AVC, there would be approximately 50 less taxis active on working days, whilst on holidays the supply would be reduced by about 30 taxis, this decrease in supply could lead, in turn, to an increase in the waiting time for an available taxi as well as a reduction in the freedom of choice. The second effect would be the decrease in competitive rivalry. The Ordinance as currently worded, establishes a maximum of 12 hours, with no obligation to provide service for the entire duration of this time, if it is reduced to 10, it would be depriving freedom from the driver who is willing to compete to attract clients during those two hours. The third negative effect would be a possible rate increase. The fees are set taking into account the changes that the items making up the cost structure have undergone and involving significant changes in the economic balance of the service, so that the taxi drivers could request its increase.

In the subsection concerning the justification of the measure, the principles of necessity, proportionality, transparency, efficiency and accessibility are analysed. The principle of necessity implies that the initiative must be justified by reasons of the public interest. The case processed contains no report justifying the amendment, although it does include a report by the
The last principle analysed is accessibility, which requires the government to establish mechanisms for consultation with stakeholders involved in the process of drafting legislation, thus the CVC warmly welcomes the proposal from the City Hall to be heard at the Basque Federation of Consumers and Users and at the AVC, as the guardian of competition in the markets, but considers it appropriate to consult with the other taxi operators and potential competitors (eg, with service providers leasing the vehicle with driver).

The last section contains the conclusions. The first is that the proposed amendment is brought solely due to the request of some of the taxi service providers and intervention of the council should pursue the search for efficiency in the service and the protection of the public interest, taking into account the effective protection of the rights of consumers and users. The second is that regulatory measures that are adopted shall be governed by the principles of necessity, proportionality and minimum distortion of competition. The third is that, although the objectives sought by the proposed regulatory changes are not made explicit, reconciliation of family life; safety and quality of service; the rational distribution of demand, or the reaction of the sector facing the current economic crisis are looming as the most plausible, in view of those which the legislative amendment may not be considered necessary or proportionate of those which the legislative amendment may not be considered necessary or proportionate of the competition authorities. These, in their promotional work, analyse the legislative functions and the role of the economic operator in the Administration. In fact, disciplinary procedures to which the Administrations are the subject of offences are becoming more and more frequent.

In the case of the AVC, Law 1/2012 ensures the functional and organisational independence of the Authority. In addition, the law itself provides for the exclusion of any regulatory restructuring of the AVC, a point which should be explicitly included in the Preliminary Draft. The AVC is not a classic independent body but is an independent entity, as noted by the Legal Advisory Committee. For this reason and in order to ensure the independence of the AVC, the Preliminary Draft must include an express reference to independent administrations. It also includes various provisions that, as an independent administration, must not be applied to the Authority, all relating to the rules applicable to autonomous bodies.

The Authority currently meets the requirements established by the European Court of Justice (ECJ) for an organisation to be considered a “judicial authority” and is authorised to refer matters to the ECJ. Therefore, the AVC has the ability to present preliminary matters to the Court of Justice. Otherwise, it would be at a disadvantage compared to the National Markets and Competition Commission (CNMC) and would be a step backwards with regards to Law 1/2012.

The AVC must be able to directly access the ECJ and get the authentic interpretation of the regulations of the Union. In short, for the AVC to continue having the opportunity to refer matters to the ECJ, the following aspects must be maintained: the legal origin of the organisation; its permanent nature; its mandatory nature; the adversarial nature of the proceedings, ensuring the implementation of legal regulations by the body; and an independent status.

The system of resources contained in the Preliminary Draft does not correspond to the regime of resources established under the Special Creative Act of the AVC, so it would not apply to the Authority.

In relation to the collaboration agreements, the ability of the entities of institutional administration to sign agreements should be reflected. With regard to impact assessments, the AVC has requested that the impact assessment of the regulation on competition be included in the Preliminary Draft. Thus, the adoption of a rule or regulation is likely to have effects on the functioning of free market competition. Therefore, it is essential to assess early on whether legislation may introduce negative effects on competition which are not justified by the objectives of the regulation or that could be mitigated if a regulatory alternative is opted for. In addition, the Competition Report should not be limited to the regulations of higher rank, but must also be made regarding development and implementation regulations.

The AVC considered that the liberalisation of trading hours is necessary and in the interests of society. Furthermore, it urged the Basque Government to amend the Decree implementing the Basque Law on Business Activity, which sets more restrictions contained in state law on Trading Hours.

The AVC issues a report on the amendment proposed by the Basque Government of the regulations regarding trading hours at Popular Tourist Destinations (PTDs). The State Law on Trading Hours has regulated the matter of trading hours in a basic way. It regulates establishments with special arrangements for opening hours, including, among other categories, the aforementioned PTDs. In these areas, traders will be free to determine the days and hours that they will be open to the public.
The preliminary draft of the regulations concerning the PTDs is being developed at the CAE. Its purpose is to incorporate the concept of PTDs into Basque Law on Business Activity. The method of determination shall be initiated by the City Councils concerned and shall be resolved by the competent Viceconsejería on trade.

The Preliminary Draft submitted to its report is accompanied by an economic study from which the AVC obtained the primary data on the impact of regulations on the time flexibility provided by the policy change.

The AVC revealed in its report that commercial distribution is one of the most important sub-sectors within the field of services. The regulation has imposed barriers to entry and limitations on the exercise of this activity. CAE figures show that the goal pursued by the Basque protectionist regulation of protecting small businesses, has not been met. What have been generated are heavy restrictions on the freedom to set trade policies of certain business models.

Business hours are an important element of the supply of services that serve to differentiate between operators. It must be within reach of the trader’s selection of their policy, without any legal or other restrictions unless it is established that they are necessary to protect other legal interests, which are proportionate to the aim sought and are not discriminatory.

Freedom of trading hours would benefit society: it would increase the choices of citizens and businesses, increase jobs, improve economic performance and, ultimately, increase social welfare. These are conclusions that are endorsed by empirical evidence and the demographic and social developments that have changed the demand profile.

Consumer habits have changed. Consumers have emerged with time restraints for consumption that are different from the traditional. Reconciling work and family life suggests new opening hours for businesses. In addition, a part of society links leisure and consumption, focusing its demand on weekends and holidays. Not to mention that online business is used with increasing frequency, so that the limitations to traditional trade increase the risk of demand shift towards this new type of trade.

A coherent institutional commitment to making shopping a tourist attraction or an active complement to tourism should ensure a commercial offer tailored to the needs of tourism. Ultimately, the increased spending by tourists would have a corresponding impact on turnover, productivity and employment. It would result in economic growth.

The Preliminary Draft authorises the Basque Government to issue regulatory provisions on shopping hours. The Decree currently in force maintains significant restrictions on the provisions of the State Law on Trading Hours and therefore, the AVC urges the amendment of that Decree, without waiting for approval into law of the Preliminary Draft.

C. Others


The AVC stressed that certain paragraphs of the draft of the Protocol could contravene competition law. It is not considered that they were justified or that they were proportionate to the aim pursued.

The Statutory Director of Development of the Department of Public Administration and Justice of the Basque Government requested that the AVC issue a report regarding said draft of the Protocol.

According to the Law on Ports, the Ports of Pasaia and Bilbao are commercial ports of public interest, while the Port of Bermeo is a commercial port. The proposed agreement has therefore been signed between entities that are of a different nature.

On one hand, the CAE has exclusive jurisdiction over ports. Therefore, the Port of Bermeo, which is not of public interest, is managed by the Basque Government. Furthermore, regarding the ports of public interest, the state has exclusive jurisdiction over them. Thus, the ports of Bilbao and Pasaia are managed by their corresponding Port Authority (a legal body) and coordinated by the State Ports Authority.

With regard to services provided in a port, they can be classified into general services, port services, commercial services and maritime signalling.

Both the Port Authorities and the Basque Government, whilst managers of the ports, perform a dual role: guaranteeing the public interest (developing functions not subject to competition regulations) and economic operators (developing functions that are subject to competition regulations).

In light of these considerations, the AVC appreciated certain provisions of the draft of the Protocol which could contravene competition law. It did not consider that the entire agreement was exempted from the prohibition on conducting collusive agreements, an exemption contained in Regulation 1218/2010 of the Commission concerning certain categories of specialisation agreements. Nor does it consider that it was within the exemption in Article 1 of the Competition Act, under which certain agreements may be exempted from the ban if they contribute to improving the production or marketing and distribution of goods and services or to promoting technical or economic progress. However, in order to apply this exemption, it would have been necessary to show the efficiencies that would result from the agreement, it not being sufficient that the benefit would only be felt by companies.

The AVC also stressed that the agreements between companies which include market sharing clauses or of clients restricting competition beyond what is necessary to attain the positive effects of an agreement, which can not be exempted from the ban.
b. Recommendation of the AVC regarding the grant from the Bonodenda campaign (14 April 2014)

The Business Confederation of Trade of Biscay (CECOB) had requested financial assistance from the Department of Economic Development of the Regional Council of Biscay to support the retail industry in Biscay. One such initiative was aimed at encouraging consumption in urban trade or local shops (Bonodenda).

The Bonodenda Campaign voucher could be purchased at any multi-service cash machine from a bank or financial institution with any kind of credit card or debit card (without any charge in the case of cards from banks other than the selected bank). The programme included a subsidy of 10 euros for users, the other than the selected bank. The programme was aimed at encouraging consumption in urban trade or local shops (Bono-denda).

The AVC recommended to the Council that it should ensure secure access to the Bonodenda campaign for all establishments that might be interested in participating, without favouring the partners of CECOBI in any way. Secondly, it recommended to the Council that it should ensure that the incorporation and processing of the data regarding the establishments that want to participate in the computer files belonging to CECOBI were for the sole purpose of applying the conditions of the campaign.

Finally, the AVC recommends to the Council that it consider the possibility of assessing 1) the compatibility of the aid with the EU regulations on public aid; 2) the possibility of publicising the initiative and opening a competing process allowing the open participation of all operators or organisations interested in participating in the programme, and 3) the opening of intervention as collaborators of various banks.

However, one of the requirements to become a participating establishment was having up to 10 employees. Therefore, the AVC considered that there was no consistency between the intended target and the aid granted, as urban trade or local shops were not incentivised, only “small businesses”.

Furthermore, the AVC also appreciated the lack of justification when selecting the principal activities to which the establishment should be devoted. Finally, neither was it verified whether all the assets of the participating establishments deserved to be beneficiaries of the grants.

The AVC recognised the authority of the Council, as guarantor of the public interest and within its objectives, to intervene in the economy through the concession of subsidies, provided that transparency was ensured and discrimination between operators was eliminated in order not to distort competition and to promote market efficiency.

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c. Regarding the organisation of the Comedy Theatre Festival “Umore Azoka” (8 May 2014)

The AVC highlighted, for future editions, the need to spread the campaign so that all local stakeholders can participate in it; in establishing requirements that, ensuring quality of service, are not excessive for the intended purpose and in the distribution of demand in an open, transparent and justified manner by the Administration.

The AVC was informed by the media of a dispute arising in the hospitality industry in Leioa on the occasion of the celebration of the comedy theatre festival “Umore Azoka”, an exhibition of street performers.

Leioa City Council conducted the “Complicit Establishments” programme “to promote the hospitality industry of Leioa”. To do this, it financed the payment of some living expenses of participants in the festival. There were two categories of tickets, one of very low value with a complimentary drink and another proposed for main meals that are funded by the programme.

Whilst the programme that generated a very low cost was opened to all catering establishments in Leioa, the one which focused the bulk of the grant was centred on two establishments managed by the same legal entity.

The AVC stated that the centralisation on two ticket management establishments that carry with it the most important expense represented an intervention by the City Council in the restaurant market in their municipality that was unjustified and inconsistent with the purpose of the program.
4. Queries.

The AVC implemented for the first time this year a rapid response system for citizens’ queries, covering telephone, email, online and face-to-face options. These channels served to respond to more than 100 specific queries regarding different aspects of our economy.

They may be grouped into the sectors of economic activity set out in the following figure:

<table>
<thead>
<tr>
<th>Sector</th>
<th>% Queries Grouped by Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance services</td>
<td>59%</td>
</tr>
<tr>
<td>Public procurement</td>
<td>2%</td>
</tr>
<tr>
<td>Professional services</td>
<td>10%</td>
</tr>
<tr>
<td>Commercial sector</td>
<td>2%</td>
</tr>
<tr>
<td>Penalty proceedings</td>
<td>3%</td>
</tr>
<tr>
<td>Agricultural sector</td>
<td>2%</td>
</tr>
<tr>
<td>School uniforms</td>
<td>19%</td>
</tr>
</tbody>
</table>

Of particular significance is the maintenance services sector which accounts for the greatest number of queries (59%), followed by the professional services sector, with 19%, and those connected with the commercial sector, accounting for 10%.

5. AVC on video.

A. Informational videos

The Basque Competition Authority (AVC) developed this year a series of informational videos aiming to help explain the benefits of competition in society.

These videos are inspired by the specific benefits which competition and the AVC offer for Basque society.

They are divided into various sections:

- What Competition Protection means, and what we do at the Basque Competition Authority (11:27 minutes);
- the Basque Competition Authority (2:32 minutes);
- the benefits of Free Competition (2:34 minutes); and
- the Competition Protection Act (5:04 minutes).

The aim is to inform the wider public of the work undertaken by the AVC, employing the videos as a tool to present operations and as a teaching tool for members of the body involved in talks at various levels.

The videos are also posted on the AVC website.

B. Specialist videos

The AVC has likewise embarked on a policy of maximum dissemination of the results of its promotional activities. It has to this end begun to use the website as a working tool, along with specialist and public events, which are recorded and subsequently made available on the website.

At present it is the Professional Services and Associations Seminar which is available online, although this section will shortly be supplemented by other seminars of particular interest for those affected and professionals within the sector.
6. Competition among the youngest citizens.

A. University

a. Degree

Presentation for the Dual Law/Enterprise Degree at Deusto University.

Natividad Goñi and María Pilar Canedo gave a presentation on Tuesday, 19 November 2013, of the activities of the Basque Competition Authority at the Commercial Law class given by Prof Carlos Llorente for students on the Dual Law and Enterprise Degree course.

The seminar addressed the application of competition regulations by regional authorities and Act 1/2002, on the distribution of competencies between regional and national authorities.

The heart of the presentation was a discussion as to the main cases resolved by the AVC in terms of both promotion and penalisation.

Deusto University delivers the International Contracts and Labour Law course, which includes two seminars on European competition law. The students attending the seminar, overseen by María Pilar Canedo, come from various European countries where the significance of competition law has been acknowledged in curriculums for some time now. Its relationship with students within our jurisdiction gives the seminar particular interest.

b. Master’s

Master’s in International Commercial Law at the Public University of Navarre.

Natividad Goñi delivered eight 2-hour classroom sessions in January and February 2014 for students on the Master’s course, addressing the international contracts most often employed in international trade, and the risks they entail from the competition perspective. They essentially analysed agency and distribution contracts, and potential vertical restrictions on competition.

Master’s in International Trade Law at Carlos III University, Madrid.

In March 2014 María Pilar Canedo delivered two 4-hour classroom sessions to 35 students on the Master’s course at the University’s Getafe campus dealing with penalty proceedings in the field of competition and the importance of respecting company protection rights, guaranteeing a standard of protection compatible with the required deterrent effect.

Master’s in International Trade Law at Carlos III University, Madrid.

María Pilar Canedo had the task of delivering doctorate teaching sessions in the field of competition on the official course at Carlos III University. Official doctorates addressing competition are of particular importance in order to guarantee progress in research and excellence in academic work, which can then be put into professional practice at the AVC. The tutoring of studies in the field of competition provides academic and practical feedback are of vital importance for competition authorities.

b. Doctorate

Competition Protection Doctorate, Carlos III University, Madrid.

On 16 May 2014, María Pilar Canedo was invited to take part in the tribunal for the doctoral thesis entitled “the international application of competition regulations”. The thesis was unanimously awarded an Honours Distinction. The bibliographical section on the economic vision of Competition thus serves to enrich the library of the AVC.
d. AVC internship programme

During this second year of operations, the Basque Competition Authority has continued the internship programme made available to universities studying competition matters to a greater or lesser degree of depth.

The universities with which Educational Collaboration Agreements have been signed are Deusto University, the University of the Basque Country, Comillas Pontifical University (ICADE) and San Pablo CEU University.

The AVC has hosted up to 4 students:

**Ander Brizuela Cieza.** Law Undergraduate at UPV.

**Alicia Reboredo de Diego.** Law Master’s student, San Pablo University.

**Alejandro San Martín Martínez.** Law Undergraduate, UPV.

Este año la AVC ha diseñado un Programa a través del cual estudiantes han tenido la oportunidad de realizar prácticas en el seno de la institución.

**Noemi Angulo Garzaro.** Student on the Master’s in Transnational Trade Law and Finance, Deusto University.

The students will take part in a training programme tailored to their academic background, and will make different contributions to the tasks of the AVC and the business of publicising the benefits of Competition.

The AVC internship programme has been especially attractive for students of law, economics and related fields, and has received applications from other schools, the last of which is the University of the Basque Country.

The AVC has presented its activities and provided training in the principles of free competition for students studying economics at high schools in all three Basque provinces. The AVC offers this opportunity to receive training to all CAE high schools, and delivers the tuition in the Basque, Spanish, English and French languages.

The training has been delivered by members of the AVC, the Secretary and various legal and economics specialists at the AVC.

**7. The AVC and society**

**A. Conferences organised or delivered by the AVC**

**ELSIA Summer School – San Sebastian, 5-9 August 2013**

The course focused on European Union Competition Law, and addressed a range of anti-competitive practices from the EU perspective. Theory classes were given in the morning, followed by workshops in the afternoon, in order to put the knowledge explored into practice.

Prof. Álvaro Mateo Sixto, a lawyer at the firm Gómez-Acebo & Pombo gave a class on the abuse of dominant position. He first of all set out an introduction to Competition Law. This was followed by an analysis of regulations regarding abuse of dominant position, with a host of practical examples. In the afternoon, Maria Pilar Canedo organised a workshop which discussed the case of a dominant company which had refused to provide an essential service to one of its competitors.

Prof. Fernando Cachafeiro, a member of the Galician Competition Council, analysed...
She likewise emphasised that the National Markets and Competition Commission has been given powers of challenge with regard to market unity, powers which have not, however, been vested in the Autonomous Regions.

The representative of the National Competition Commission, Mr Juan Manuel Contreras Delgado de Cos, discussed the issue of own resources, public authority procurement and competition. In the opinion of the speaker, public authorities must in their actions be guided by the principle of competitive neutrality. Where a public authority creates its own resource, then, it cannot generate an advantage over private operators. This principle serves to underpin transparency, responsibility and efficiency in the use of public funds.

The President of the Catalan Competition Authority, Mr Arseni Gilbert, then spoke about regulation and competition, making reference to one problem which in his judgment exists, namely the harmful effect on economic activity in general caused by many legal regulations which restrict or distort competition. In his opinion, excess regulation lies at the heart of the problem, and he emphasised the significant impact of regulations issued by local authorities.

The morning of this first session ended with an address by the President of the Galician Competition Council, Mr Francisco Hernández, who spoke about procurement and competition. In his opinion, competition in public procurement can be affected by internal and external limitations. As an example of internal limitations, the speaker highlighted the poor design of public tenders, which occurs when the specifications impose unjustified requirements of solvency or experience. External limitations arise out of agreements between companies not to compete. Such agreements take various forms, such as the presentation of symbolic or courtesy bids, the elimination of bids to ensure that only one is submitted, the rotation of bids or geographical distribution of markets.

The afternoon featured a roundtable discussion on good and bad practice in public authority procurement, involving Mr Antonio Lopez Miño, of the Galician Competition Council, Mr Francisco Javier Vázquez, of the Public Procurement Tribunal of Navarre, and Mr Javier Serrano, of the Contractual Appeals Body of the Basque Country.

Mr Antonio Lopez Miño emphasised the importance of applying the terms of the Twenty-Third Additional Provision of the consolidated text of the Public Sector Procurement Act, which establishes that the procurement bodies must inform the competition protection bodies of any circumstances of which they may learn in performing their functions which could constitute a violation of competition protection law.

Mr Francisco Javier Vázquez expressed his opinion in favour of objective criteria for the evaluation of bids, at least to a proportion of sixty per cent. He likewise rejected framework agreements which, in his opinion, serve to close up the market, above all where they are of lengthy duration.

Mr Javier Serrano felt it was fundamental that operators should understand that the contract has not been awarded in advance, in order to encourage them to present lower-priced bids. He likewise declared his opposition to public authorities establishing bizarre mathematical formulae to evaluate the most beneficial economic offers.

The second session of the course began with a talk by Mr Ricardo Alonso Soto, Chair of Commercial Law at Madrid Autonomous University, regarding the definition of the relevant market in port services and its impact on competition matters. In the opinion of the speaker, each of the services provided at port facilities represent different relevant markets. He there-
The day continued with an address by Mr Francisco González Castilla, President of the Competition Protection Commission of the Valencia Region, with regard to the links between Act 1/2002 and transport infrastructure, emphasising the reductionist interpretation given by the aforementioned Act 1/2002 of Constitutional Court Judgment 208/1999, which acknowledged the competency of the Autonomous Regions with regard to the protection of competition.

Mr Francisco Jiménez de Cisneros, of the legal practice Jiménez de Cisneros Abogados, then gave an address on ports and public authority concessions. In his opinion, various principles of the Consolidated Text of the State Ports and Merchant Marine Act distort competition, such as the concession periods of up to 50 years (Article 82), or the project competition procedure, as an alternative to a public tender process (Article 85).

Following this address, the President of the Public Authority Litigation Chamber of the High Court of the Basque Country, Judge Luis Ángel Garrido Bengoetxea, made reference to the key role played by the courts in the liberalisation of the ports. According to him, since the Port Authorities must in their operations comply with the provisions of private law, even in acquisitions of assets and procurement, and except when exercising public authority functions vested in them by the regulations, any dispute which may arise may be settled by civil jurisdiction, which lacks specialisation important matters.

Prof José Eugenio Soriano, Chair of Administrative Law at Complutense University, then discussed the matter of regulatory evolution in Spain and its impact on port competi-

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The afternoon began with a contribution by Mr Joaquín Coello Bruñó, of Applus+, who highlighted a number of key factors regarding ports and competitiveness. He emphasised in this regard that one of the main problems faced by Spanish ports is the existence of a stevedore service monopoly, which could be resolved through the automation of offloading. He likewise expressed his clear support for the elimination of the State Ports Agency as a public body, this being an organisation which exists in no other country.

This address was followed by a roundtable discussing the Basque ports, moderated by the Deputy Regional Minister for Territorial Planning and Transportation of the Basque Government, Mr Antonio Aiz. The panel involved representatives of the ports of Bilbao and Pasaia, Mr Agustín Bravo and Mr Ricardo Peña, who explained the economic situation of the two ports, along with representatives of the main port operations unions (Mr Mikel Abella- nal, of the EGAS union, Mr Xabier Alonso, of the OUTPB, and Mr Federico Landera, of the ATAP), who explained the problems faced in the various port operations.

The summer school ended with a final mastersclass by Ms Nuria Arenas, of the Broseta Abogados legal practice, regarding the package of compensation for damages in the field of competition. With regard to the impact of the clemency.
The Bilbao Chamber of Commerce invited the President of the AVC on 27 September 2013 to explain to the business people in attendance the main benefits generated by competition in Basque society and the enterprise and industrial fabric of the region. The large number of attendees and the interesting and substantial debate all provided proof of the interest aroused by the initiative and its contribution to this body’s intended aims.


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On 17 January 2014 the President of the AVC attended the Congress on the Economic Analysis of Competition Policy staged at the University of Seville by the Chair of Competition Policy and the Competition Protection Agency of Andalusia at the University of Seville.

At the Congress, María Pilar Canedo gave an address entitled “The activity of competition protection authorities and coordination mechanisms”.

e. Biscay Law III Seminar – Deusto University (Bilbao), 30-31 January 2014

The Basque Competition Authority was the joint organiser of the Local Law Seminars staged at Deusto University, addressing various aspects of the work performed by local authorities in the economy. The seminar organised by the AVC discussed the issue of public procurement and competition law. The attendees

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The Roundtable on procurement addressed the Euskotren case handled by the AVC. The members of the various competition panels, accompanied by Pedro Hernando, Deputy Regional Minister of Public Finance, were joined by some of the leading experts in the field of procurement and competition from all around Spain. Martín Zazquin, Professor at the Public University of Navarre; José Antonio Corchete, a Constitutional Court lawyer; Javier Serrano, a lawyer for the Basque Government; Antonio Maudes, CNMC Director of Promotion; Fernando Cachafeiro (Galicia), Arseni Gibert (Catalonia), Rafael Buirruga and Guillermo Aranzabe (Basque Country) set out some of the most significant cases settled by competition authorities.

They all emphasised the long journey still to be covered in this field in order to achieve appropriate application of competition regulations in order to guarantee the general interest. As regards the Basque Country, a number of matters were addressed regarding the cases of Pinosolo, directly connected with public authority procurement and the protection of competition, and Euskotren, focused on the issue of promotion.

The School of Public Administration of Andalusia and Pablo de Olavide University in Seville organised, under the tutelage of Prof. Manuel Terol, an internal local public authority training course for the Autonomous Region of Andalusia, in partnership with the Andalusian Public Administration Institute. Within the context of the seminar, María Pilar Canedo was invited to give a training seminar to public procurement managers at Andalusian local councils, given the proven experience of the AVC in matters connected with this field. The seminar took place in February 2014.

The future of professional associations and services was analysed in Bilbao at a seminar involving representatives of the State Competition Protection Authorities and the President of the High Court of Justice, Juan Luis Barra. The seminar was likewise attended by the Deputy Regional Minister of Economy of the Basque Government, Pedro Hernando, and the Deputy Regional Minister of Justice, Ana Agirre. Nazario Oleaga and Luis Berenguer recounted their extensive experience in this field from a different perspective and approach.

The representative of the Ministry of Economy and Competitiveness in attendance was the Deputy Director for Legal Structure. The contribution made by José Manuel Rodríguez de Castro served to present in greater detail the Professional Services Green Paper, legislation regarding professional associations which will be required to define which professions maintain universal control over practising professionals.

Regulations regarding professional services and the opening up of this field to free competition represent a task embarked upon by various governments over recent years. In the opinion of a number of the speakers all executive bodies, irrespective of their political hue, have failed to make progress on the path to achieving genuine liberalisation. Over the course of the seminar it was established that there is no horizontal legislation in this field, but rather a host of regulations which are in many cases obsolete, and even date back to the 19th century.

It was in this regard asserted that the aim of the new Bill is to create a framework for professional practice suited to the 21st-century, aiming not for deregulation, but quite the contrary.

For the speakers, the future of Professional Associations lies in attracting member professionals, serving as an additional extra rather than a mandatory requirement. In short, the
red line is marked by consumer service, the requirements being those of necessity, proportionality and non-discrimination.

It was emphasised that we are now at a point at which the Internet has brought about a revolution in the service sector. Consumers are less subject to information asymmetry, while professionals and clients have access to new work thanks to the remote provision of services. Liberalisation and openness to free competition in professional services is seen as an element adding dynamism to the economy. Such liberalisation is expected to foster job creation, the entry of new professionals into markets, improvements in the quality of service, an increase in innovation and a reduction in the price of professional services. These arguments, which place the emphasis on the enhanced conditions made available to consumers and users, come up against the possibility that quality assurance in services could be undermined. This is the argument presented by corporations, colleges and associations opposed to liberalisation.

The competition authorities, as in the case of Andalusia, set out specific cases and examples of their actions in this field. The seminar reviewed cases such as mandatory professional association membership, the imposition of fees and prices, the fight against professional encroachment and reconciliation with free competition.

The economic importance of the matter is illustrated by the figures set out throughout the seminar, such as those provided by the Ministry of Economy: the professional association sub-sector generates some 10% of gross domestic product, and currently accounts for a proportion equivalent to 10% of all employment.

The conclusions gave rise to a lively debate involving guests belonging to a number of professional associations. A debate which pitted those who believe that there must be control over the access to markets guaranteeing compliance with certain quality standards, and prices which provide decent earnings for the professions affected, against those who argue that the proposed regulations seek to protect the privileges of the past, increasing the cost of services without achieving quality assurance.

The seminar director, the President of the Basque Competition Authority, María Pilar Canedo, brought what was a productive gathering to a close, directly addressing the representatives of the various professional associations and colleges. Ms Canedo presented an offer of collaboration and consultancy, making the services of the AVC available to the professional associations. The President of the AVC emphasised the role of the Basque competition protection organisation in providing infor-
mation and explanations, and lastly highlighted that another facet of the AVC, namely penalty proceedings in cases involving elements which impede free competition in the offering of professional services, need not come into play provided that there is a written collaboration and communication.

h. 7th CLPE Conference - Osgoode University, Toronto, Canada

i. 7th National Competition Conference - Valencia, 10 and 11 April 2014

At this annual gathering of competition authorities, the CNMC and Autonomous Regional Authorities addressed various pressing issues connected with the application of Competition Law. The seminar was attended by all the technical staff of the AVC, along with members of the Council and the Director of Investigation.

The panels discussed the following issues:

“Present and future of the administrative application of competition law” Moderator: Francisco González Castilla, President of the Competition Authority of Valencia.

The Council Member of the National Markets and Competition Commission, María Ortiz Aguilar, explained how the new CNMC body functions.

Juan Ignacio Ruiz, Professor of Commercial Law at the University of Valencia, spoke about administrative application and private application of competition law. He discussed compensation suits and the programme of leniency available to companies. The speaker also revealed a highly critical attitude with regard to the new CNMC (very opaque website; questionable public savings; absence of equivalent bodies in other countries, etc.).

Francisco Hernandez Rodriguez, President of the Galician Competition Council, mentioned that this aspect does not fit in with the Spanish system, given the lack of evolution seen, as it is State and Autonomous Regions Coordination of Competencies Act 1/2002, of 21 February 2002, which governs the field of the protection of competition, an Act which takes into account only the legal effects, and in truth provides no coordination. He revealed his trust in the Spanish decentralised administrative application system for competition, in defence of the public interest, on the basis both of the proximity of the authorities and their specialisation, and also because it allows the CNMC to focus its efforts on the most significant cases.

“The application of Competition Law to Specific Sectors” Moderator: Vicente Cuñat Edo, Emeritus Professor of Commercial Law, University of Valencia.

The President of the Competition Protection Council of Andalusia, Isabel Muñoz Durán, focused on the agri-food sector. She emphasised the fact that the starting point for application of competition regulations to the agri-food sector lies in Article 39 of the TFEU, indicating that the case law performs a highly restrictive application, in accordance with all the objectives of the sector set out in Article 39. She likewise indicated the importance of the EU doctrine of useful effect.

The President of the Basque Competition Authority, Pilar Canedo Arrillaga, analysed the Transport sector, and specifically port transportation. She emphasised the different types of activity undertaken at a port: public domain and public service activities and economic activities, which are all handled differently in terms of competition policy.

With regard to Article 160 FFEU (Services of General Economic Interest), she men-
tioned the Muller and Corsica Fenics Cases as examples of the prevalence of service provision, with competition regulations nonetheless being applied. The conclusion is that a case-by-case analysis is required in the case of SGEI.

The speaker likewise highlighted the significance of distinguishing between different types of competition: inter-port and intra-port, with the corresponding differences in effect.

Luis Berenguer, Senior Advisor at Broseta Abogados, analysed the Sports sector, summarising the different aspects which have been underpinned by the Decisions of the Competition Protection Tribunal, and subsequently CNC Decisions, such as contracts not of long duration, block negotiation, the ban on the right of pre-emption and the subjection of exclusive arrangements to competition regulations.

“The future of the regulation of vertical restrictions” Moderator: Stella Solernou Sanz, Member of the Competition Authority of Valencia.

Mercedes Curto Polo, Professor of Commercial Law of the University of Salamanca, presented a comparative analysis of the regulation of vertical restrictions (selective and exclusive distribution agreements, etc.) in the Commercial Code Bill and the New Block Exemption Regulation of the European Commission, highlighting a number of contradictions between the two texts.

UPV Commercial Law Professor Aitor Zurimendi emphasised the Chicago School theory, which holds that vertical agreements are harmless for competition unless they can be classified as cartel instruments, or the contracting parties are in a position to dominate the market. However, these principles have gradually lost ground, having been viewed as excessively simplistic, while instead the idea which has taken hold is that there are cases in which vertical restrictions are beneficial to competition and cases in which they are harmful, and that they must therefore be examined on a case-by-case basis in order to establish whether or not they are lawful.

Enrique González-Díaz, Partner at Cleary Gottlieb Steen & Hamilton LLP, Brussels, analysed the concepts of agency contracts, the imposition of resale prices and the imposition of a most-favoured-nation clause through the e-books Case.


The speaker explained the relationship between sectoral and competition regulations, indicating that at present the aim of the sectoral regulations is to reduce ex-ante conditions, with only competition regulations being applied. He likewise indicated that the role of the European commission in this sector is to define the relevant markets in both product and geographical terms.

“A view of competition protection from the legal profession” Moderator: Javier Vicinco Pastor, Professor of Commercial Law at the University of Valencia.

Holm Brokelmann, Partner at Martinez Lage, Allenesalazar & Breckelmann, indicated the importance of the definition of the relevant market, giving as an example the definitions adopted in various CNC decisions, such as the retail mobile voice call service, which does not include SMS/MMS messages, the wholesale call termination market or the wholesale call origination market, in which a collective dominant position arises.

Alfonso Guíterez Hernández, Partner at Uriá Menéndez, argued that there is an over-exploitation of object-based violation decisions on the part of the Competition Authorities, presenting a review of the various National High Court Judgments analysing object-based violations serving to support this thesis. He indicated, among others, the Sedigas judgment, the Swiss Insurance judgment, the Corte Inglés judgment (2015), the Architects of Madrid judgment (2013), the Asphalt Cartel judgment and the Oracle judgment (December 2013).

Salomé Santos Lorenzo, Antitrust Counsel, Associated British Foods plc, analysed the Supreme Court Judgment of 7 November 2013, which ordered the sugar companies involved in a cartel to pay compensation damages to their clients, sweet manufacturing companies.

“The new role of the promotion of competition”. Moderator: María José Vañó Vañó, member of the Competition Authority of Valencia.

The Director of the Competition Promotion Department of the CNMC, Antonio Maude, emphasised the importance of supplementing the task of competition promotion by means of efficient economic regulation. Competition policy is an instrument serving to achieve the efficient assignment of scant resources.

The President of the Catalan Competition Authority, Arseni Gisbert Bosch, emphasised Promotion as a tool with a substantial future. He indicated that market analyses, unlike complaints, serve to select the sector to be investigated, improving analytical capacity and allowing expert knowledge to be built up, while also raising the awareness of companies and disseminating a culture of competition.

He lastly argued for the creation of a hybrid between penalty proceedings and the promotion of competition, allowing for adaptation to the speed of the modern world, which likewise affects the markets. He also emphasised the benefits of the decentralised Competition Protection system.

Juan Luis Millán Pereira, Professor of Applied Economics, University of Malaga, spoke about whether there is a need for a new model of public intervention in the economy. In his opinion, the result of self-control in regulation has proved fairly unsatisfactory given the limited effect, simply eliminating procedural steps, while there is a degree of inconsistency across the regulations.

Closing Conference: José María Marín Quemada, President of the National Markets and Competition Commission.

The speaker emphasised legal certainty as a fundamental element in the actions of the CNMC; based on collaboration, engagement and coordination. He also emphasised the fact that the CNMC has been strengthened by the
The Basque Competition Authority was invited to take part as a speaker on the roundtable addressing “Communication strategies of competition authorities as a tool for organisational effectiveness”. On this expert panel, the AVC recounted its experience of communication and promotion of competition. The Basque Authority was selected as a successful case study by the UNCTAD. The AVC was invited to make a presentation to the Department of Public Finance of the Basque Government on the activities of the AVC. An understanding of the Authority on the part of the members of the Department was viewed very positively by the attendees, given that this allows for closer and more efficient collaboration among the different Government bodies.

Given the intrinsic relationship between competitiveness and competition, the members of the Department proved highly receptive to closer ties of cooperation in various strategic areas.

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The AVC, in accordance with its contributions towards promoting a culture of competition in Basque society, has begun work to establish a competition library covering the clear need for our society to have in place a direct, complete and accessible source of academic and legal documents with regard to competition.

The work to set up what would be a flagship library in the Basque Country specialising in competition matters covering the legal and economic aspects is both of the utmost importance in underpinning the substantial efforts made by the AVC, and also a hugely complex task if it is to result in benefits for our society.

We are therefore at the initial stage of a project which will demand care and effort over the coming years.

The creation of a database of the graphical sources, legal theory and reports which are difficult to access via conventional libraries has been and will be the focus of attention on the part of technical staff from the AVC, along with external resources.

This product will provide accessibility for the consultation of bibliographical records, an objective which the AVC aims to achieve in the medium term.
C. Presence on competition and training forums


On 25 November 2013 Natividad Goñi and María Pilar Canedo took part at the roundtable addressing extension and disassociation of collective agreements. The seminar discussed legal and jurisprudential aspects arising out of the new employment regulations, and considered possible solutions to the genuine problems which are emerging in business practice, and for which neither the regulations nor legal theory at present offer clear or predictable solutions.


The workshop thus debated the various strategies and tools for promotion which competition authorities may employ in order to play a more effective role in the promotion of the benefits of competition, fostering the introduction of pro-competitive reforms and intensifying processes of liberalisation, in particular at times of economic crisis. Discussions above all focused on strategies to improve the execution of evaluation of the impact of regulation and administrative acts on competition. On the competition problems raised by public procurement and the training of Public Authority and public supervisory technical staff.

Maria Natividad Goñi Urriza took part in the workshop “Advocacy: a driver for change”, on the promotion of competition, organised by the International Competition Network in Rome on 12-13 December 2013. The International Competition Network is an international forum for authorities responsible for the promotion and protection of competition. The mission of the institution is to uphold the adoption of regulations and procedures established as competition policy, to present proposals for procedural and substantive convergence, and to ensure effective international cooperation for the benefit of competition authorities, consumers and the global economy.

The competition promotion group addresses the development of tools and practical guides to improve the effectiveness of the competition promotion activities of its members. The workshop thus debated the various strategies and tools for promotion which competition authorities may employ in order to play a more effective role in the promotion of the benefits of competition, fostering the introduction of pro-competitive reforms and intensifying processes of liberalisation, in particular at times of economic crisis. Discussions above all focused on strategies to improve the execution of evaluation of the impact of regulation and administrative acts on competition. On the competition problems raised by public procurement and the training of Public Authority and public supervisory technical staff.

Ignacio Alday attended this conference organised by the AEDC in collaboration with the Association of Portuguese Competition Lawyers.

Various issues were discussed with regard to experience in the application of competition law over recent years and trends in the application of such law in the future. The main issues addressed were:

- Decentralisation and uniform application of law. Cases of coordination among the various competition authorities were analysed. The distribution of workload, the European Competition Network and the uniform application of law. The analysis focused on the problems of applying different national competition laws, and those arising between national and European law.

- The conclusion reached was of the need to reform Regulation 1/2003, on coordination, the need to harmonise substantive law and to give greater uniformity to the various rulings.

- Procedure and penalties. Issues regarding the effectiveness of means of investigation, the efficacy of leniency programmes and penalties and transactions were addressed.

The conclusion reached was that it is difficult to investigate cartels because they are secret (hence the fact that they are cartels: their secrecy, or at least that of their decisions). It was

c. Forum on the Market Unity Act - Madrid. FIDE

Ministry representatives perform a presentation about the Act.

Maria Pilar Canedo and Natividad Goñi attended the presentation of the Market Unity Guarantee Green Paper at the FIDE. Technical staff from the Ministry of Economy and Competitiveness set out the key aspects of the Act.

The objectives and scope of application include access and pursuit of economic activities under market conditions, thus affecting all acts and provisions of the various Public Authorities with an impact on access and the pursuit of economic activities. The seminar analysed the cooperation mechanisms established in the planned regulations and instruments for administrative review and jurisprudence, with a major role being set aside for the State Competition Authority.

d. 3rd Luso-Hispanic Conference on Competition Law - Lisbon, 28-29 November 2013

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indicated that leniency programmes, despite their negative aspects, are of interest, although only past cases are uncovered and reported. The lack of an incentives programme (not only an exemption from penalty) was likewise analysed. Lastly, emphasis was placed on the need to distinguish in penalties and investigations as to whether the conduct is based on object or effect. The problem arising out of the European communication on the exchange of information (among companies) came to light.

The Proposal for a Directive on claims for damages (compensation). A Directive will be approved over the coming months with implications for compensation law as a result of Articles 101 and 102.

This addresses compensation for damages inflicted by a party in breach of competition law against companies and/or consumers. Although we are far from the implementation of claims for damages, this matter is likewise seen as an effective tool for the deterrence of anti-competitive practices. The analysis likewise addressed the difficulty of applying such actions to cases derived from leniency programmes, and their application to applicants, and the method for resolution in accordance with Article 11 of the proposed Directive. There was lastly a debate as to the collective protection of consumers.

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The conference received an excellent response from private enterprise and public authority professionals. It was attended by, among others, the President and Vice President of the CNMC, and also the Competition Director. The event was brought to a close by the Portuguese Minister of Economy, Mr Antonio Pires de Lima.

**Conference closing panel.**

Various proposals have been made for the elimination of obstacles to effective compensation, such as: Access to evidence, the binding elimination of obstacles to effective compensation of all members of a cartel, etc. There is a need to distinguish in penalties and investigations as to whether the conduct is based on object or effect. The problem arising out of the European communication on the exchange of information (among companies) came to light.

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**e. Conference on Horizontal Agreements and Electronic Markets - Valladolid (University of Valladolid), 12 and 13 December 2013**

Rafael Iturriaga attended this conference, which addressed the following matters:

1. **Liability of the parent company**: Javier Gutiérrez Gilanz (Rey Juan Carlos University).
2. **Agreements for co-investment, sharing of infrastructure and telecommunications usage rights**: José Carlos Laguná (Valladolid University).
3. **The cartel with public cooperation**: Pedro Rabío (Valladolid University).
4. **Settlement and conclusion by convention**: Fernando Díaz Estella (Antonio de Nebrija University).
5. **Problems of competent jurisdiction and applicable law in the case of cartels**: Carmen Vaquero (Valladolid University).

**f. Chair of Competition Policy and Economic Recovery - University of Seville, 16 May 2014**

Within the context of the activities of the Chair of Competition Policy at the University of Seville, on 16 May 2014 María Pilar Canedo attended the conference given by Prof Amadeo Petitbó, presenting various aspects of the required role of competition authorities in reactivating the economy and in the pursuit of benefits for society and consumers.

**g. Delivery of specialisation courses**

Maria Pilar Canedo and Ainara Herce delivered the University Public Sector Procurement Expert course organised by the Department of Administrative Law of the UNED Foundation, the aim of which is to offer an overview of public sector procurement.

The course began in January and ended in June 2014. Among other aspects, the following themes were analysed: subjective scope of application of Public Sector Procurement Act 30/2007; objective scope, excluded contracts and businesses; the price and value of contracts; preparation and awarding of contracts, and disqualification in official procurement.

The course ended with an evaluation comprising a multiple choice examination and a personal study of around 40 pages. María Pilar Canedo produced a study on “The direct awarding of in-house contracts”, in accordance
with the case law of the European Court of Justice: origin, evolution and state of the matter”, while Ainara Herce focused on “Procurement and Protection of Competition”.

The significance of official procurement within the work of the AVC has been demonstrated both by the volume of cases raised to date, and the individual significance of each of them.

Course on official penalty proceedings - UNED, January-June 2014.

Natividad Goñi successfully completed the UNED specialisation course in Official Punitive Law. The course addressed such significant aspects in penalty proceedings as type classification, anti-lawfulness and culpability. There was in particular an in-depth exploration of the exclusion of liability based on legitimate trust and the evidential value of acts and resolution.

The skills were evaluated by means of the resolution of actual case studies. These were to be resolved by means of:
- data gathering methodology,
- identification and analysis of the different variables involved in the problem to be analysed,
- commenting of the key results obtained and their possible solutions.

Course on “Data Analysis for Micro-enterprises”.

Maria Luisa Fraile attended the course delivered during 2014 at the Business School belonging to the UOC (Open University of Catalonia). The aim was to address three of the main problems currently faced by the fabric of SMEs and micro-enterprises: training in creation, management and administration of enterprises, changes in enterprise, and productivity and competitiveness.

In pursuing these objectives the aim is to develop the skills and abilities required to create, manage and direct SMEs and micro-enterprises in order to achieve more efficient management, incorporate structural change, innovate, embark on new ventures and globalise.

The skills were evaluated by means of the resolution of actual case studies. These were to be resolved by means of:
- data gathering methodology,
- identification and analysis of the different variables involved in the problem to be analysed,
- commenting of the key results obtained and their possible solutions.


Jaione Aberasturi and Zorione Garitano delivered this seminar online during the months from November to February 2014.

Dozens of items of information and statistics are continuously received regarding the economic situation, the employment market, public finance, overseas trade, etc. The outcome of this excess of information, combined with a lack of time, makes it difficult to establish a clear and constantly updated idea allowing us to incorporate and apply such information in the actual dealings of our companies.

This course presented an overview of economic indicators and concepts and the main sources of information in order to remain well-informed, with access to the most detailed evaluations and the reference documents most commonly used for analysis and opinion-forming in macroeconomics and enterprise.

Course on Public Authority Litigation Jurisdiction.

Ibon Alvarez Casado took part in the course delivered by the UNED Foundation on Public Authority Litigation Jurisdiction.

This presented a comprehensive analysis of public authority litigation jurisdiction from the perspective of jurisdictional organisation and public authority litigation proceedings.

The course was approached from an eminently practical perspective. A comprehensive analysis of the Public Authority Litigation Jurisdiction Act went hand in hand with an examination of the case-law applied to this field by the law courts, and specifically the Supreme Court and National High Court, the High Courts of Justice, etc., and the legal theories which exist as to each matter examined.

Ibon Alvarez focused the knowledge acquired throughout the course on specific issues arising in the application of competition law and the individual examination of the pronouncements handed down in this field within Public Authority Litigation Jurisdiction.

Course in Pricing: how to establish a pricing strategy - Bilbao Chamber of Commerce, 18 and 19 June 2014.

Zorione Garitano, an economist at the AVC, attended this course, which was organised by the Bilbao Chamber of Commerce. The seminar was held on 18 and 19 June, and delivered by Araceli Maseda. The speaker emphasised that price is a fundamental factor among the attributes of a product or service, and furthermore has a direct impact on a company's bottom line.

Prices have traditionally been set in accordance with the volume which was to be placed on the market. However, this technique today proves entirely ineffective, making it vital to establish a pricing strategy. Pricing is a further organisational function within the Marketing Department of a company, which must be undertaken in collaboration with the Sales Department.

All the contents of the course were explained by means of practical case studies analysed by the students.

- Taking the consumer as the starting point, the key milestones in pricing strategy are as follows:
  - Know what the needs of the consumer are, in order to offer a product or service which fulfills them.
  - Calculate how much the consumer is prepared to pay for the product.
  - Establish your market positioning objective.
  - Calculate the value of your product for the client, in other words the degree of utility in satisfying the needs or fulfilling the well-being of the client.
  - Perform the calculations required in order to set the price, taking into consideration the following aspects:
    - Contextual or external analysis.
    - Internal analysis. In this aspect it is vital to establish the elasticity of demand with regard to changes in price.
Miguel Flores is a Chilean researcher with a widely established international standing. Prof Flores has based his career and studies on the field of Competition. He specialises in theoretical studies into the effects of deregulation of trading hours. He worked at the Chilean Competition Agency, and wrote his doctoral thesis on Competition, and currently pursues his academic work at the Advanced Competition Research Centre in England.

Prof Flores came to the AVC’s premises to deliver a training programme for the technical staff and members of the management body of the Basque Competition Authority. Prof Flores has specialised in Competition, and his studies into the effect of deregulation of trading hours provide a blueprint for public authorities responsible for legislating in this field.

In this regard, the Basque Competition Authority, as a part of its continuous training and improvement process, called on Prof Flores to deliver a seminar in which the academic shared his experience and suggested possible operational approaches in this field. The seminar will provide the starting point and theoretical basis for the generation of subsequent reports and initiatives in this area, which has such a substantial impact on retail competition.

Prof Flores asserted at the seminar that, according to his professional experience, the debate as to the deregulation of trading hours should be based on the effect which will be generated. This provides the initial input in order to establish the focus. There are various perspectives in this regard. In the opinion of the Chilean researcher, aspects such as the way in which, in a context of crisis, there may be a desire to extend trading hours. There may also be a temptation on the part of employers to impose longer working hours on their employees, an aspect which would correspond more to the field of employment law than competition issues.

The seminar studied the effects of deregulation in terms of industry structure and the potential impact on end consumers. These are spheres in which a Competition Authority would be required to issue an opinion. Consumers who find that opening hours do not offer them availability, according to Prof Flores, are affected by rigid and regulated trading hours. And it could be that an extension of trading hours could cause companies to increase prices, which would be to the detriment of all consumers. These are two opposing effects: one negative, through the increase in prices, while the other is positive, for those consumers who appreciate more flexible opening hours. The balancing of these and other aspects formed a part of the theoretical contributions provided by Prof Flores in the training session, which will, following the relevant reflection, provide the starting point for the AVC’s studies and initiatives.

b. Seminar on forensic investigation techniques applied to new technologies. Dirk Van Erps

Dirk Van Erps has been tied to the European Commission’s Directorate-General for Competition since 1991. During his first 7 years at the Directorate-General for Competition he worked in the competition protection unit, dealing with the pharmaceutical industry, agriculture and consumer sectors. He later spent almost 3 years at the so-called Mergers Taskforce. From 2001 to 2004 he returned to his original anti-monopoly sectoral unit, as Assistant Head of Unit. Following a brief period at the Energy Unit in early 2005, he was given responsibility for the Cartel Oversight Unit in May 2005. At the Cartel Unit he investigated the following sectors: acrylic glass, synthetic rubber, professional videotapes, power transformers, pre-stressed steel and LCD. Dirk currently manages the Forensic IT team at the European Commission's Competition Directorate.

The progress of technology within our society is generating ever more information, stored and distributed by electronic means. This requires that Competition bodies, and in particular their investigation directorates, improve their procedures in order to increase the gathering and analysis and use of digital evidence as a tool to combat cartels.

Dirk Van Erps visited AVC headquarters to deliver a seminar in which he explained to the workforce, technical staff and executive team the good practice developed in this field by the European Union’s Competition Directorate. He was likewise able during his visit to offer an overview of the techniques and procedures for the gathering of digital evidence to be employed in the fight against cartels.

During the seminar, Mr Erps presented an account of operational proceedings in compiling digital information at the companies under investigation, and provided an introduction into current European legislation facilitating such actions.
Challenge of legal regulations of lower status than and Act, or official decisions
The regulation was published on 22 July 2013, and subsequently analysed by the CVC in order to decide whether its lawfulness should be examined before the corresponding jurisdiction.

The regulation covers all procurement bodies of those agencies belonging to the Devolved Public Sector of the Historic Territory of Guipúzcoa. The regulation entails the application of the working conditions of the Collective Agreement for Construction and Public Works of Guipúzcoa to the public procurement procedures of public authorities in the province, along with other conditions which are not demanded by the legislation applicable to such contracts.

This imposition could have the effect of dissuading companies from taking part in tender processes where they were not previously obliged to apply this collective agreement and these demands.

Such a situation could represent an unjustified burden for companies not previously covered by the Collective Agreement for Guipúzcoa, and could deter certain firms from bidding, or could furthermore reduce those elements distinguishing between the different offers, making the tender process more competitive.

For all these reasons, the AVC decided to have recourse to jurisdiction in order for the law courts to resolve these matters.

The Plenary Session of the Basque Parliament held on 5 June 2014 debated and rejected the non-legislative proposal presented by the EH Bildu parliamentary group regarding the withdrawal by the AVC of the court proceedings lodged against Devolved Regulation 4/2013, on social clauses, approved by the General Authorities of Guipúzcoa on 17 July 2013.

A. CVC (Basque Competition Council) Report into Devolved Regulation 4/2013, of 17 July 2013, on the inclusion of social clauses in Devolved Public Sector works contracts

This report was drawn up in order to establish the compliance of Devolved Regulation 4/2013, of 17 July 2013, on the inclusion of social clauses in Devolved Public Sector works contracts with competition regulations.

The regulation was published on 22 July 2013, and subsequently analysed by the CVC in order to decide whether its lawfulness should be examined before the corresponding jurisdiction.

The parliamentary debate highlighted the need scrupulously to respect the functional autonomy of the AVC, a body which operates independently of the Basque Government.

B. The instruction of the Devolved Provincial Authority of Biscay

On 8 January 2014, the CVC addressed the analysis of the “Instruction approved by the Devolved Provincial Authority of Biscay on 29 October 2013 establishing criteria regarding the maintenance of working conditions and social measures for application in procurement procedures of the Devolved Provincial Authority of Biscay”, in order to establish whether it should be brought before Public Authority Litigation Jurisdiction.

The Instruction approved by the Council of Deputies of the Devolved Provincial Authority of Biscay (or DFB) covers its procurement bodies, setting out criteria for uniform application in the devolved public sector of the Consolidated Text of the Public Sector Procurement Act with regard to contracts in force, in addition to clauses which could be added to new contractual processes in order to moderate the effects which, in contractual terms, could be generated by the modification of working conditions as a result of the mechanisms incorporated by the employment regulation reform, and in particular termination of the extended validity of collective agreements applicable to public sector contractor firms in the devolved province of Biscay.

The purpose of the Instruction is to establish the criteria and operational guidelines to be taken into consideration in current and future procurement processes in the devolved public sector of Biscay, criteria which will be applied in those cases in which the contractor opts unilaterally to adopt measures which, as a result of the termination of extended validity of the corresponding collective agreements, would undermine the fundamental working conditions which had been applied to the workers attached to contracts signed by devolved public sector entities, and on the basis of which the contract price was determined, and also to regularise the application of the so-called social clauses, in this case on a general basis covering all contracts.

The Instruction requires mandatory application both to contracts currently under way and those arranged in the future, wherever the estimated value of the contract is in excess of 120,000 Euros, and any of the following circumstances applies:

a) The contract provisions entail a fundamental economic component comprising the cost of manpower, in particular with regard to the security and surveillance, cleaning, road passenger transportation and dependent person residential accommodation sectors.

b) Where they include clauses which require the contractor to subrogate the employment contracts of the workers who had previously been performing the service forming the object of the contract.

c) Where, in accordance with the specific circumstances which apply to the contract to be arranged, the procurement body deems it necessary to apply the criteria set out in the Instruction.

The DFB holds that in general it is not reasonable that contractor firms should proceed, during the term of validity of a contract, unilaterally to weaken the working conditions of the personnel attached to the contract as taken into consideration when the bids were submitted, thus representing a factor in the determination of the contract award price.

The DFB thus holds that such contracts will be subject to:

1. Operational criteria for contracts under way (subsection 4):
A breach will be deemed to occur if the actual salary/hour is lower than that collectively agreed, unless it can be demonstrated that application thereof corresponds to an agreement signed with the workers’ representatives.

If the cover sheet of the Dossier of Specific Administrative Conditions established a specific obligation precisely to comply with the regulations in force regarding employment affairs, modifications to the working conditions entailing an increase in the working day or reduction in the salary of the workers attached to the contract, in accordance with the alleged loss of validity of the collective agreement applicable when the contract was awarded, will cause the procurement body to inform the Employment Inspectorate of this circumstance, in case it could constitute an employment regulation violation. The confirmation of this circumstance will give rise to definitive official termination or a binding judgment.

The consequences resulting from a declaration of an employment regulation violation within the context of a public authority contract will be: In the event that it is open to extension, it will not be extended. In the event that the service could be increased or reduced, this will be interpreted on a restrictive basis.

2. Operational criteria for future contracts (subsection 5):

Subsection 5.1 lays down criteria connected with the purpose of application of the extended validity of collective agreements. The conditions will be required to include a clause under the terms of which the contractor will be obliged to maintain the conditions of the collective agreement applicable at the time when the bid is submitted, with regard to working hours and salary on an annualised basis, applicable to the workers attached to the contract. If subsequently the collective agreement is subject to a renewal or update, the salary/hour parameter would be adjusted.

A breach will be deemed to occur if the actual salary/hour is lower than that collectively agreed, unless it can be demonstrated that application thereof corresponds to an agreement signed with the workers’ representatives.

The procurement bodies will monitor the working conditions in order to detect possible breaches, employing for this the monitoring and oversight procedure described for contracts which are under way. Following accreditation of the existence and scope of the breach, the contract administrators will draw up a report/penalty proposal (if the deviation is equal to or less than 10%) or termination of the contract (if the deviation is greater than 10%).

A breach of the clauses set out in the conditions will give rise to more or less substantial consequences (imposition of penalties, cancellation of the contract, etc.).

On the basis of the above, from the perspective of competition regulations those economic operators which meet the conditions to take part in tender processes announced by the Devolved Provincial Authority of Biscay or agencies corresponding to the devolved public sector of Biscay are faced with no barrier to entry preventing them from participating in and/or being awarded the tender. From the perspective of employment regulations, the Collective Agreement applicable to each economic operator will be that in force on the date when the bid is submitted, notwithstanding the possibility that this agreement may be modified by the parties over the course of execution of the contract. The price of the contract will be established in accordance, among other aspects, with staff costs, and this price is paid by the contracting party during execution of the contract. This applies irrespective of whether the collective agreement could become invalid through application of legal or collectively agreed provisions regarding the termination of the validity of collective agreements. In this case the obligation will be deemed to have been performed if the salary/hour is maintained in accordance with the collective agreement in force at the point immediately prior to that when, as applicable, it would cease to be valid.

The obligation will likewise be deemed to be performed if the modification to the agreed salary/hour is adopted as a result of an agreement reached by the company and the workers’ representatives. Any breach of the obligation to maintain the working conditions as here set out gives rise to penalties.

The CVC was of the opinion that this regulation does not entail a barrier preventing entry to the market corresponding to procurement, and therefore does not violate competition law, as the employment law regime to be applied by bidding companies to their workers is that corresponding to them when they submit their bids, the prices of the services or works to be provided to the public authority, and to be paid for by it, being calculated in accordance therewith. It is true that the DFB penalises the application of Article 86 of the Workers’ Statute to contracts awarded by it, and this could violate employment regulations, although from the perspective of competition regulations access to the market is not limited, nor are there barriers to access, since all parties are free to take part in the procurement process with the binding collective agreement in place with their workers.

The aforementioned instruction was struck down by the High Court of Justice of the Basque Country in July 2014.
Institutional activity
1. Appearance before the Parliamentary Economy Committee.

On 1 October 2013, the AVC made its first appearance before the Economic Committee of the Basque Parliament, for the purpose of presenting a report on its first year of operations. This was the first contact between the institution and the Parliament, which has subsequently requested a number of reports from the body.

2. Participation in the Competition Council.

During this year of AVC operations, no Competition Council meeting was called at the CNMC. The change in the nature of the State institution is behind the failure to call any meetings of the Council, despite the regulatory mandate set out in the Regulation which created it (Act 1/2002, on cooperation between the State and autonomous regional competition authorities).

3. Participation in working groups of the CNC.

A. Investigation Directorate coordination groups

On 9 April 2014 a meeting was held in Valencia of the Working Group for assignment of cases and coordination, which involves the Investigation Directorates of the competition protection bodies, at which there was presented, for arguments to be raised by the Autonomous Regions, a document on the procedure to be followed in response both to the change in competent authority for examination of the case (reassignment), and at the Consultative Board in the event of conflicts. The debates likewise addressed matters involving professional associations, termination of collective agreements, funeral services, lists of expert witnesses or court agent notification services, which are of particular interest with regard to the effective collaboration of all investigation bodies.

B. Promotional groups

On 10 April 2004 Valencia hosted a meeting of the Promotional Working Group, at which the attendees were informed of the work performed with regard to ITV vehicle road-worthiness examination centres. A number of proposals were likewise raised for joint work on specific matters where a networked approach could considerably enhance results.

C. Consultative Trade Commission

On 2 April 2014 the Department of Economic Development and Competitiveness called a meeting of the Consultative Trade Commission of the Basque Country, at which the AVC was represented by Guillermo Aranzabe. At the aforementioned meeting the Regional Deputy Minister for Trade, Itziar Egalza, presented the following programmes: Commercial Establishment Modernisation Support, Grants intended to incentivise zonal strategies for Cooperation, Catalysis and Competitiveness in Urban Trade, Bursaries for the training of commercial administration catalysation agents, grants intended for Trade Catalysis Offices, and Reactivation of Commercial Demand. The presentation given to the attendees was followed by a debate in which each of the representatives set out their opinions in this regard. Guillermo Aranzabe spoke to declare the AVC’s favourable opinion of the programmes submitted.

On 18 June 2014 the Department of Economic Development and Competitiveness called a meeting of the Consultative Trade Commission of the Basque Country at which the AVC was represented by María Pilar Canedo. At the aforementioned meeting the Vice-Councillor for Trade, Itziar Egalza, presented the Green Paper for the fourth modification to the Commercial Activity Act, including a reference to the creation of Major Tourism Influx Zones. The presentation to the attendees on the economic report commissioned by the Government was followed by a debate at which each of the representatives set out their opinions in this regard. María Pilar Canedo spoke to state the AVC’s opinion and announced the presentation of a report setting out the institution’s position and highlighting the benefits for economic competitiveness represented by the establishment of certain measures to liberalise opening hours.

D. Strengthening of networks

a. European Commission

María Pilar Canedo was invited to the conference delivered by Joaquín Almunia at Deusto University. At the aforementioned conference the President had the opportunity to ask the European Commissioner about the existing relationship between the development of sound competition policies and economic competitiveness, and the importance of the creation of strong and independent competition authorities in contributing to the decentralised application of competition.

The presence of the AVC, represented by its President at the conference delivered by the Interior Affairs Commissioner of the European Union, Informal relations with the Commission have allowed the AVC to strengthen its collaborative links to the Commission and enhance the quality of work of our institution.

b. Autonomous Regional Authorities

Arseni Gilbert, Catalan Authority, Fernando Cachaferino, Galician Authority and María Pilar Canedo, Basque Authority.
Although Act 1/2002, of 21 February 2002, on the Coordination of Competences of the State and the Autonomous Regions establishes with regard to the Protection of Competition entirely vertical collaboration in terms of the competition authorities in existence within the Spanish State, there is an informal network of autonomous authorities which has generated numerous positive results in accordance with the uniform application of competition law.

This network essentially comprises of the Catalan, Galicia, Andalusian, Valencian and the Basque authorities, and has resulted in the joint execution of numerous initiatives and coordinated reports and courses which unquestionably assist in the generation of a culture of competition in our societies.

**c. International Federation for Company Law Training**

The AVC has been a member of the FIDE, thereby contributing to a higher profile on the part of Basque Competition on expert forums in this field.

**d. Spanish Competition Law Association**

The AVC has been involved in the AEDC. This forum comprises specialists in the field of competition, undertaking a range of initiatives to achieve a greater analysis of specific matters within the process of competition protection.

This year the documents generated addressed leniency proceedings, the defence rights of companies in proceedings, the execution of inspections and the rights of companies in such processes, as well as the case-law of the National High Court with regard to the handling of the confidentiality of documentation in competition matters.

4. Other focuses of institutional relations.

**A. Public Policies and Development**

The AVC has embarked on a project to collaborate with a range of internal and international networks to contribute to development cooperation by means of the administration of public policy. To this end contact has begun with the Basque Development Agency, along with a relationship established with the Taxation and Development Task force.

In this regard, María Pilar Canedo attended the seminar given by Mick Moore on 9 June 2014 at the University of Deusto.

**B. Collaboration with the Public Prosecutor’s Office**

During the year, the AVC implemented a mechanism for collaboration with the General Public Prosecutor’s Office of the Basque Country in order to refer a complaint submitted to the AVC when it was detected that the circumstances it involved could have criminal implications. The result of the aforementioned collaboration was the instigation of criminal proceedings before the courts of Vitoria.

**C. Ertzaintza Police Force**

During the inspections conducted over the course of the year, the AVC was assisted by officers of the Basque police force, the Ertzaintza, with expertise in information technologies.

The collaboration proved particularly beneficial for the AVC since the Ertzaintza has considerable experience in the investigation of computer and economic crimes, and could provide great assistance in the inspection of competition violations.

**D. Kontsumobide**

Collaboration with the Kontsumobide Agency was arranged informally through the relationship between the presidents of the two institutions, Elena Unzueta and María Pilar Canedo.

This cooperation has resulted in an exchange of complaints between the two institutions, which although they protect different legal interests, address the same key individual consumers.

This informal cooperation could result in the execution of joint projects in the future which will achieve results of greater public significance thanks to the collaboration of the two institutions.
E. UNCTAD competition research platform

Maria Pilar Canedo took part at the fourth meeting of the Platform of Research of Competition Law.

The aforementioned meeting addressed issues of neutrality in the field of competition, public procurement and competition, and compliance programmes.

The AVC is the only non-state authority represented on this expert forum.

F. UNCTAD competition authority network

The AVC belongs to the UNCTAD group of Competition Authorities. This United Nations body brings together the work of competition authorities from all round the world with the aim of generating shared operational guidelines to support the development of economies and achievement of the objectives generated for society by competition.

Involvement in this network has a bi-directional impact, since the AVC is able to draw on the experience of other authorities around the world (England, Canada, France…), whilst also providing assistance to other global authorities.
VII

Competition-related publications of the members of the AVC


VIII Academic Research in the field of competition
The A VC is involved in two R&D+i Projects of the State Research, Development and Innovation Programme focused on Challenges Facing Society.

One of these, which has the reference code DER2013-46327-C3-2-R, is entitled “Mutations of the Economic Constitution of the European Union (EURECON), 2014-2016”, and was presented by the University of Deusto. The duration of the project is 2014-2017.

The second Project was presented by the University of Valencia, and addresses Competition Law and the “Legal regime of the food distribution chain as a decisive factor in food quality and sustainability of the primary sector in Spain and Europe” (Lead Researchers: Juan Ignacio Ruiz Peris and Francisco González Castilla).

It is likewise involved in the research team Public Authority and enterprise in a multi-level and transnational context, ref. IT607-13 (UD-R2013), subsidised by the Department of Education, Language Policy and Culture. Duration: 2013 (January) - 2015 (December).

Lastly, the A VC is involved in the project selected as the Jean Monnet module at the University of Deusto The Economic Constitution of the European Union, Jean Monnet Module 553481-EPP-1-2014-1-ES-EPPJMO-MOD-ULE/Grant Decision 2014-1391/001-001, Number of participants: 2. Duration: 2014 (September) - 2017 (August).

IX
Communication policy
1. Tools available to the AVC: the corporate website.

The principle of efficacy: The obligation of the Public Authority to act in accordance with the principle of efficacy and on the basis of criteria of maximum efficiency, austerity and organisational economy, are fulfilled by means of the AVC website.

Following the first year of online operations, over the course of this second year the website was consolidated both in terms of the incorporation of content and the introduction of a new, more visual and iconographic design, serving to consolidate and adapt to the intended audience groups.

A channel for dialogue with the general public: The AVC website was developed in order to serve as a channel for dialogue and participation, consultation and opinion, in order to receive evaluations and suggestions from those groups affected by or with an interest in the actions of our body. It is furthermore the perfect vehicle by means of which to present reports, complaints or information regarding actions which undermine free competition within the scope of the Basque Country. It is, in short, a platform to promote and guarantee within the scope of the Basque Country. It is, in short, a platform to promote and guarantee free competition. These channels are already in use, and have now become an important tool in the functioning of the AVC and in its strategic definition of objectives.

An accessible and transparent website: Our website likewise applies the criteria defined by the General Basque Country Administration in order to promote and apply accessibility criteria to allow persons with any type of functional diversity to access services under equal conditions, irrespective of their personal circumstances, their resources or knowledge, and irrespective of the official language in which they wish to receive information or browse.

The information provided on our corporate site has helped to remove limitations and restrictions for both users and enterprises, and for the public authority itself. Traditional concepts of space and time are extended on a website which reproduces all of the Authority’s standard operations. Those groups with an interest in our operations no longer, thanks to the website, have to leave their home in order to perform a procedure, nor comply with fixed opening hours. Access to information has been made faster, simpler and more convenient, since by logging on to the website users can obtain all the information they may require, not only via their computers but also, thanks to the responsive design, by means of other devices, such as for example mobile phones. The website has furthermore opened up simple, and on occasion anonymous, channels for the consultation or reporting of practices violating free competition. These channels are already in use, and have now become an important tool in the functioning of the AVC and in its strategic definition of objectives.

A professional website, structured and comprehensive information: Meanwhile, in addition to optimising the service offered to citizens, the corporate site has also increased the efficacy of our information procedures. A professional section has been established for media professionals, journalists and academics, providing them with access to an extensive database of our reports, rulings, press releases and references in dossier format of all public appearances by the AVC.

Another added service is the online database, of interest to professionals, enterprises, the academic world and the general public, setting out a selection of national, European and international news items connected with free competition. This database is updated weekly, and is generated by consulting a substantial corpus of textual and audiovisual media. This section is generated by an archivist who works by searching through the media in our area of influence for items connected with the protection of competition, or any cases which could give rise to action taken by the AVC ex officio. The dossier is not only published on the website, but also serves as an early warning service for our Investigation Department. In practice, cases such as possible price collusion in the real estate sector within our working area was abandoned without the need to embark on penalty proceedings thanks to an analysis of press information based on our operations. An action which as it was taken prior to the collusion was confined to the explanatory aspect with the agents involved.

In a specific section entitled the “Press Room” intended for the media, all our press releases and radio and TV appearances are gathered together on an accessible platform. News items connected with the protection competition.

Monitoring of results: Everything can be measured on the Internet, and this allows us to establish the true scope of our initiatives, and ascertain the return in terms of response, reactions, clicks, etc. By including code on our website we have during this second year provided direct and periodic access to administrative indicators, while furthermore allowing for the monitoring of the results achieved in the application of improvements in accordance with the content which proves of greatest interest to our target audience. The visiting traffic analysis service provides us with hugely valuable data in order to improve our communications, such as the origin of visitors, how many minutes they spend on our website, the pages they view and how they reached our site: whether via search engines or other direct channels. In short, data which will tell us whether the intended objective is being achieved.

2. Info-competition as a tool for a direct relationship with the public.

The AVC has created a generic email address which is being used to relate to citizens, as a means of direct contact with them and a channel allowing them to inform the AVC of any potential behaviours which could violate competition standards.

This tool has proved itself to be truly useful in connection with the policy developed in dissemination, training and communication campaigns.

3. The media, an agent communicating information and values.

We view as a priority the involvement of journalists in conveying information about our initiatives to the general public.

The purpose of the strategic communication policy comprised at the initial stage the identification of those journalists with a professional interest and/or operational sphere coinciding with ours. We met up with them, resulting in an agenda of trained professionals who understand the actions taken by our Agency and convey them to the general public.

We have performed a significant educational task with professionals. When a journalist writes about our actions and reports them to the general public, this serves to present clear and documented information, as can be seen in the enclosed dossier.

Our tactic is to communicate every day, to ensure that our work is understandable. The intention of our communications strategy is to
provide Basque society with an insight into the advantages of adopting these values and the need for a freely competitive market.

In this regard our first appearances in the media were at the initial stage distinctly educational in function, with in-depth interviews with the president of the AVC serving to explain the work performed by the agency, its aims and how our services can be accessed.

At the secondary stage, the media reflected specific initiatives and certain actions have received comprehensive coverage. In short, the media reflect our actions, making them more comprehensible to the general public, and providing a chain which conveys the agency’s values.

4. Media presence.

El Correo, 22 July 2013

Competencia advierte de que reducir en Bilbao la jornada de los taxis puede ser ilegal

El Ayuntamiento y el sector confían en que el dictamen definitivo avala el pacto logrado para limitar a 10 horas la circulación diaria de los vehículos

BILBAO. La Autoridad Vasca de la Competencia no lo ve claro. Recientemente ha comunicado al Ayuntamiento de Bilbao que el pacto alcanzado entre el Consistorio y los taxistas para reducir la jornada de estos profesionales a 10 horas parece no ser legal. En breve, la Administración local remitirá al órgano dependiente del Gobierno vasco toda la documentación que tiene en su poder sobre esta iniciativa, con el objetivo de que emita un dictamen definitivo. Algunos confían en que la resolución permita por escrito una propuesta aclarada de suma importancia si se quiere regular el trabajo existente y mejorar la productividad.

El acuerdo entre los taxistas y el Ayuntamiento fue consensuado a principios de año, con el objetivo de preservar toda la trayectoria y continuar con la nueva normativa en enero de 2014. «Han pasado mucho tiempo incógnitos en las páginas, estamos en rueda. Y estamos en rueda, porque estamos haciendo una propuesta que es una propuesta que es importante si se quiere regular el trabajo existente y mejorar la productividad», asegura María Trinter, encargada de la Asociación de Taxis de Bilbao.

La mayoría de los titulares de las 754 filiales existentes en la capital vascana están a favor de la nueva regulación horaria. No obstante, el número de detenciones es también importante. Por ejemplo, en la asociación Taxis Bilbao, que engloba a unos 150 miembros, se ven las detenciones como un problema en el que se está trabajando.

«El techo del Consistorio»

La elección inicial del organismo fue que los taxistas son autónomos y no se puedan limitar las condiciones laborales de este tipo de trabajadores. No obstante, el tema aún no tiene una resolución definitiva, y se ha producido un acercamiento con el organismo competente.

«El techo del Consistorio»

Los comerciantes inician del organismo podrán venir por el hecho de que los taxistas son autónomos y no se pueden limitar las condiciones laborales de este tipo de trabajadores. No obstante, el tema aún no tiene una resolución definitiva, y se ha producido un acercamiento con el organismo competente.

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La AVC habló en el programa sobre el mantenimiento de los ascensores en las Comunidades de Propietarios. El mantenimiento es obligatorio. De hecho, una parte importante de los gastos de las comunidades se destina a los gastos en mantenimiento.

Es importante que los ciudadanos conozcan sus derechos, por lo que la AVC ha publicado un informe que ha distribuido entre las comunidades de propietarios y entre las asociaciones de consumidores. Es importante tener presente que la instalación del ascensor y el mantenimiento del mismo son dos cosas diferentes, por lo que no es obligatorio que el mantenimiento sea realizado por la empresa que lo instaló. Las comunidades tienen libertad para contratar el mantenimiento con la empresa que les ofrezca el mejor servicio. Además, las empresas que instalan los ascensores están obligadas a poner a disposición de las mantenedoras las piezas que estas últimas necesiten para llevar a cabo sus labores de mantenimiento.

La AVC recuerda la necesidad de pedir presupuestos a diferentes empresas, no sólo para conocer el precio del servicio, sino también para conocer la duración del contrato.
El poder sindical en el Puerto de Bilbao sigue siendo enorme

José Eugenio Soriano, Catedrático de Derecho Administrativo

El último tema que trato en este artículo es el de las patentes de los trabajadores en el puerto de Bilbao. Transcurridos muchos años desde que se abrió el puerto, es tiempo de reflexionar sobre los problemas que enfrenta. En este sentido, me gustaría analizar algunos aspectos relevantes.

En el artículo anterior, me referí a la situación de los trabajadores en el puerto de Bilbao. Ahora, quisiera hablar sobre la formación y desarrollo de sus derechos laborales.

En un estudio realizado por el Gobierno vasco, se determinó que el 70% de los trabajadores en el puerto de Bilbao no tienen formación adecuada. Esta situación es preocupante, ya que se debe a la falta de inversión en la formación de trabajadores.

No obstante, hay algunos trabajadores que se han venido formando voluntariamente. En este sentido, se pueden destacar los casos de los trabajadores de la empresa de transporte de mercancías Marítimo Transportes.

En cuanto a la formación, hay que señalar que el Gobierno vasco está trabajando para mejorar la situación. Se han realizado varias acciones para aumentar la formación de los trabajadores en el puerto de Bilbao.
El Ministerio Fiscal debe tomarse en serio la vulneración de la competencia en los puertos

La Autoridad Vasca de la Competencia abordó la pasada semana en Donostia la aplicación de la competencia en los puertos, en un encuentro en el que varios expertos destacaron la problemática relacionada con el Derecho de la Competencia y los puertos. A pesar de las crecientes concienciones de los agentes económicos, la situación sigue siendo crítica, y la falta de una regulación eficaz ha llevado a una serie de comportamientos anticompetitivos.

Los puertos, entre la competencia y la anticompetencia

En los puertos, la competencia es un factor fundamental para su desenvolvimiento. Sin embargo, la anticompetencia también es un problema en estos espacios. En el caso de los puertos, la anticompetencia puede manifestarse de diversas maneras, como el establecimiento de acuerdos entre empresas por el precio de la mercancía, o el establecimiento de barreras que impiden el acceso de nuevos competidores.

En su análisis de los puertos portuarios, el economista de la Universidad Autónoma de Madrid, Javier Marín, ha destacado la importancia de establecer una regulación adecuada que garanta la libre competencia en estos espacios.

Cartelización

Por su parte, José Eugenio Serrano, de la Universidad Complutense de Madrid, ha ahondado en la problemática de la cartelización en los puertos. Según él, la cartelización puede ser un problema grave, ya que puede llevar a la supresión de competencia, lo que perjudica a los consumidores y a la economía en general.

Definiciones de competencia

En el debate, los expertos han destacado la importancia de definir claramente qué significa la competencia y qué comportamientos son anticompetitivos. Según ellos, es fundamental establecer una regulación clara y eficaz que garantice la libre competencia en los puertos.
«Los puertos vascos pueden competir pero también colaborar»

JUAN MARÍA MADOZ
La responsable de la CNC, María Jesús Mazo, subdirectora de Servicios de la Dirección de Investigación de la CNC, propuso el tema: “Las oportunidades de los puertos en el mercado de la competencia, aparte de las ayudas a las empresas que se desarrollan a través de el fomento de la eficiencia, la calidad, la innovación, etcétera”. La CNC propuso el tema: “Las oportunidades de los puertos en el mercado de la competencia, aparte de las ayudas a las empresas que se desarrollan a través de el fomento de la eficiencia, la calidad, la innovación, etcétera”. La CNC propuso el tema: “Las oportunidades de los puertos en el mercado de la competencia, aparte de las ayudas a las empresas que se desarrollan a través de el fomento de la eficiencia, la calidad, la innovación, etcétera”. La CNC propuso el tema: “Las oportunidades de los puertos en el mercado de la competencia, aparte de las ayudas a las empresas que se desarrollan a través de el fomento de la eficiencia, la calidad, la innovación, etcétera”.

Diario del Puerto, 10 September 2013

MARÍTIMO • María Jesús Mazo, subdirectora de Servicios de la Dirección de Investigación de la CNC

“Es difícil compatibilizar la competencia con el buen funcionamiento de un puerto”

La CNC propone que las autoridades portuarias se vean enfrentadas a presiones por parte, sobre todo, de asociaciones de empresas que practican actividades contrarias a la libre competencia.

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Diario del Puerto, 10 September 2013

Puertos, transportistas y estibadores, frente a la Competencia

Miguel Ángel Bajo, presidente de la AP de Bilbao, considera que la falta de infraestructuras es un obstáculo para que los puertos españoles sean competitivos. "El problema no es que los puertos sean ineficientes, sino que no ofrecen las mismas condiciones de servicio que los puertos extranjeros. En muchos casos, los puertos españoles no tienen las mismas condiciones de calidad que los puertos de la UE. Por lo tanto, es necesario que los puertos españoles se adapten a las nuevas condiciones de competencia.

Diario del Puerto, 10 September 2013

Cursos de Verano

Podrán estar durando prósperas anticonvertibiles en los puertos que, a falta de demostraciones o por una insuficiente implicación del Ministerio Fiscal, estarán quedando impunes y oscilan a la vista de la CNC.

Diario del Puerto, 10 September 2013

A Estadi, como país, se le ha comentado que los puertos de Bilbao y Vizcaya tienen directamente entre ellos una serie de costes que se reducirían de manera sustancial.
La Autoridad Vasca de la Competencia apunta hacia el sector portuario

Antonio López-Miró y Javier Vázquez y Javier Semarro, del Organismo de mezclas contractuales de Navarra y País Vasco, respectivamente. Todos ellos desempeñan un papel destacado en la economía y en la regulación de la competencia y las transacciones comerciales en relación con las competencias que llegan a las tribunales de control de la mercancía por la Autoridad Vasca de la Competencia.

En su trabajo, los autores afrontan la necesidad de mejorar la eficiencia en el sistema de transporte fluvial, buscando soluciones que permitan una mejor conciliación entre la competencia y los intereses de los usuarios. La propuesta se centra en el análisis de las distintas modalidades de transporte fluvial, identificando áreas de mejora y oportunidades de mejora.

En conclusión, los autores destacan la importancia de la competencia en el sector portuario y la necesidad de una regulación adecuada que promueva la eficiencia y la equidad en la prestación de servicios.

Intertransport, 23 September 2013

Intertransport, 23 September 2013
Diario del Puerto, 26 September 2013

La Autoridad Vasca de la Competencia expone ante los empresarios las ventajas de la libre competencia.

Inversión finanzas.com, 27 September 2013

Presidencia de Competencia Vasca: Protegemos intereses de empresas eficientes.

El Mundo, 28 September 2013

Organización ‘Factores externos a la competencia’.

Berría, 3 October 2013

Itzulpenen Ebaepena, Aurki
La Autoridad Vasca de la Competencia presenta sus credenciales en la Cámara de Comercio de Bilbao

José Ángel Corres presenta la invitación, con intervención previa sobre las ventajas que la libre competencia genera en el mercado y las posibilidades que tiene para las empresas si se conocen bien las normas y los casos legales que llevan el sistema.

Competencia rechaza el plan de los taxistas de Bilbao para reducir su jornada a 10 horas

Emite informe negativo, sin carácter vinculante, porque el cambio no entorpecería beneficios para los consumidores ni para el interés general.

Comenta la reacción de la patronal, que fue inmediata, because the text is not legible.
Competencia lleva a los tribunales las exigencias de la Diputación en las obras públicas

Impugna la norma foral que impone a todas las empresas licitadoras el convenio colectivo de Guipúzcoa

DARIO TAMBURRI

Así lo señaló esta semana la Consejería de Hacienda y Administraciones Públicas de la Diputación de Guipúzcoa, que ha presentado una denuncia ante el Juzgado de lo Contencioso-Administrativo de Donostia-San Sebastián por considerar que la norma foral viola el convenio colectivo de Guipúzcoa.

La norma foral, que impone a todas las empresas licitadoras el convenio colectivo de Guipúzcoa, vulnera el derecho de los trabajadores a elegir el convenio colectivo que más se adapte a sus necesidades, así como el derecho de los municipios a contratar obras con empresas que cumplan con los requisitos establecidos en el convenio colectivo.

El acuerdo del Consorcio Vasco de Bomberos, que representa a todos los municipios de la comunidad autónoma, reconoció que la norma foral es incorrecta y que el convenio colectivo de Guipúzcoa es el que se debe aplicar.

La Diputación de Guipúzcoa ha denunciado el caso ante el Juzgado de lo Contencioso-Administrativo de Donostia-San Sebastián, solicitando que se declare la norma foral inadmisible y que se permita a los municipios contratar obras con empresas que cumplan con el convenio colectivo de Guipúzcoa.

La Diputación de Guipúzcoa también ha presentado una denuncia ante la Consellería de Hacienda y Administraciones Públicas de Foral de Navarra, que ha presentado una denuncia ante el Juzgado de lo Contencioso-Administrativo de Vitoria-Gasteiz por considerar que la norma foral viola el convenio colectivo de Navarra.

La Diputación de Guipúzcoa ha denunciado el caso ante el Juzgado de lo Contencioso-Administrativo de Vitoria-Gasteiz, solicitando que se declare la norma foral inadmisible y que se permita a los municipios contratar obras con empresas que cumplan con el convenio colectivo de Navarra.
El Diario Vasco, 5 November 2013

El Diario Vasco, 6 November 2013

Berria, 6 November 2013
Debate sobre comercio y crisis en Tele 7, 22 November 2013

María Pilar Canedo intervino en el debate organizado por Tele 7 junto con representantes de la Cámara de Comercio de Bilbao, Asociaciones de consumidores y de comerciantes de Barakaldo.

Grabación disponible en la página web.

Deia.com, 12 January 2014

Competencia ayuda a contratar el mantenimiento de ascensores

Domingo, 12 de enero de 2014

Recomendaciones y advertencias La AVC ha elaborado un estudio con recomendaciones y advertencias Bilbao. El contrato de mantenimiento del ascensor de un edificio supone una parte importante de los gastos de las comunidades de propietarios, pero además del aspecto económico, acertar en la elección de la empresa encargada de estas labores es relevante para la calidad de vida de los residentes o usuarios del inmueble.

El mercado de mantenimiento de ascensores, como otros muchos, se ha ido abriendo a la competencia, aunque todavía hay comunidades que desconocen las posibilidades de contratación y las condiciones de funcionamiento de las empresas. Ante esta situación y debido a que en el pasado abundaron conductas restrictivas, la Autoridad Vasca de la Competencia (AVC) está llevando a cabo el reparto de un estudio con recomendaciones sobre las empresas proveedoras de mantenimiento de ascensores. Está previsto que 42.600 comunidades de propietarios de edificios con ascensor, 800 profesionales de la administración de fincas y medio centenar de asociaciones y oficinas de defensa del consumidor reciban el estudio. En el informe titulado 10 claves para ahorrar en el mantenimiento de ascensores, los responsables de la Autoridad Vasca de la Competencia advierten de que durante todo el tiempo que el ascensor esté en uso es imprescindible poseer un contrato de mantenimiento en vigor. También señalan que, en contra de lo que muchos creen, el mantenimiento del ascensor no lo puede realizar únicamente la empresa fabricante, por lo que recomienda informarse sobre los distintos proveedores de este servicio. “La empresa mantenedora no tiene por qué ser la misma empresa que fabricó el ascensor o lo instaló. Existen empresas dedicadas exclusivamente al mantenimiento de ascensores que están capacitadas para mantener y reparar varios marcas. También los fabricantes de ascensores suelen mantener marcas que no son suyas. Pregunte e informése: puede ahorrar mucho dinero todos los años con la misma calidad”, dice textualmente el estudio de la AVC.

Competencia recomienda a las comunidades de propietarios que se informen sobre las empresas que ofrecen este servicio en Euskadi y recuerda que aunque existen muchas vías para hacerlo, una de las más seguras es el registro autonómico. El documento se ha enviado a 42.600 comunidades, 50 asociaciones y 800 administradores acceso a las páginas de Luis de Prado, presidente del Colegio de Administradores de Fincas de Bizkaia, señaló a DEIA que la situación del mercado de mantenimiento de ascensores ha mejorado respecto a lo que pasaba hace unos años, aunque reconocieron que hay un problema que persiste: “Cada empresa fabricante tiene sus propios cuadros de mano obra, de forma que cuando del mantenimiento se ocupa una empresa distinta puede que se encuentre con dificultades para mantenerlos porque no tiene las piezas necesarias, que son distintas para cada fabricante. Y es que aunque la ley obliga a que se dispensen las piezas, a que haya recambios para todos los modelos y fabricantes, la realidad es otra. ¿Quién controla los plazos? ¿Y qué sucede si yo tengo una avería en un ascensor y la pieza tarda en llegar cinco, quince o veinte días, ¿quién controla si realmente esa pieza no está aquí y hay que pedirla a Madrid o a no sé dónde?”.

Luis de Prado explicó que “hay una cierta tendencia a contratar mantenimiento con la empresa fabricante”, aunque “ahora las compañías más potentes están haciendose con la mayor parte de las piezas de los cuadros de mano de todos los tipos de ascensores” para poder cumplir satisfactoriamente con los contratos de mantenimiento. El presidente de los administradores de fincas detalló que “los cuadros antiguos de reales eran intercambiables y cualquiera podía repararlos, pero cuando se trata de circuitos electrónicos, cada fabricante tiene los suyos y todas las piezas no están en el mercado, de forma que tienes que pedirlas a quien lo ha fabricado”. La fabricación y conservación de ascensores es un mercado que mueve en el Estado español cerca de 3.000 millones de euros. Una cifra que fue más alta en los años del boom inmobiliario y que ahora no solo ha bajado porque al haberse reducido la construcción de vivienda nueva se instalan menos equipos de elevación, sino también porque el aumento de la competencia entre empresas ha abaratado los contratos de mantenimiento. La conservación, que incluye el mantenimiento y reparación de ascensores, supone ahora el 70% de la facturación de un sector caracterizado hasta hace unos años por el escaso dinamismo competitivo y una movilidad de clientes bastante reducida. Puede que buena parte de la culpa de esa escasa movilidad de clientes la tengan unas prácticas empresariales que ya están empezando a cambiar. Más competencia “Antes se daba con mucha frecuencia que las grandes empresas del sector de elevación establecían contratos con duraciones muy largas, de hasta 10 años, mientras que los 5 años no eran infrecuentes. Así, cuando alguien decidía que quería cambiar el contrato a menor se encontraba con que estaba preso porque lo acababa de renovar, el contrato se iniciaba otro año y lo quedaban por delante 9 o 4 años, según los casos. Así se daba un cierto abuso, pero esas situaciones se han ido corrigiendo poco a poco”, señaló Luis de Prado. Las recomendaciones sobre la contratación del servicio de mantenimiento de los ascensores contenidas en el documento de la Autoridad Vasca de la Competencia se basan en un estudio realizado hace un par de años por el organismo estatal y que obedecían a una situación del mercado mucho más restrictiva que la actual. En este sentido, Luis de Prado apuntó que “durante bastante tiempo las compañías de ascensores han practicado una política de escasa competencia en precios, pero eso empezó a cambiar gradualmente y en estos momentos la situación es radicalmente distinta. Además, la propia situación de crisis ha hecho que esta mayor competencia de precios se acelere, obligando a las empresas a ajustarse. En Euskadi el ajuste no ha sido tan fuerte como en otros países, donde hay que vivir un mayor nivel de canibalismo entre empresas”.

Deia.com, 12 January 2014
El 19 de enero de 2014 María Pilar Canedo fue entrevistada por Elsa Domaika en el programa para hablar sobre la labor de la AVC en materia de competencia y consumidores. Dos proyectos fueron iniciados a raíz de llamadas llevadas a cabo por oyentes del programa que se pusieron en contacto con la AVC a raíz de la entrevista.
La sospecha de un pacto de precios entre autoescuelas da pie a una investigación

LA AUTORIDAD VASCA DE LA COMPETENCIA BUSCA PRUEBAS EN 16 NEGOCIOS DE VITORIA

Se demuestran el pacto, las empresas se verán multadas con el 10% de su facturación.

JONAS SANTO

VITORIA. El Grupo de competencia de Vitoria, que ha buscado pruebas sobre el pacto de precios de las empresas de autoescuela, ha celebrado una reunión con empresas de la provincia de Vizcaya para hablar sobre los posibles abusos en el sector. La autoridad vasca de la competencia ha abierto una investigación sobre la existencia de un pacto de precios en el sector de la autoescuela.

Nueva jornada de huelga de los monitores del transporte escolar

La mayoría de los monitores de transporte escolar y de los centros de enseñanza pública de País Vasco se han mostrado en huelga esta semana en protesta por las condiciones laborales y salariales.

COMPETENCIAS INVESTIGA A ASIGANADAS, FANCERAS Y TANATARIOS

MAKELIAR

La Autoridad Vasca de la Competencia ha abierto una investigación sobre una presunta competencia desleal en el sector de las empresas de funeraria. La autoridad vasca ha recibido denuncias sobre presuntos abusos en el sector de las funerarias, y ha abierto una investigación para determinar si existen prácticas anticompetitivas.

Según el informe de la Autoridad Vasca de la Competencia, se ha observado que algunas empresas han utilizado prácticas anticompetitivas en el sector de las funerarias, como la fijación de precios, la exclusión de competidores y la creación de barreras para acceder a los mercados. La autoridad vasca ha pedido a las empresas que informen sobre sus prácticas y que demuestren su legalidad.

Los responsables de la Autoridad Vasca de la Competencia han abierto una investigación sobre la presunta competencia desleal en el sector de las funerarias. La autoridad vasca ha recibido denuncias sobre presuntos abusos en el sector de las funerarias, y ha abierto una investigación para determinar si existen prácticas anticompetitivas.

Según el informe de la Autoridad Vasca de la Competencia, se ha observado que algunas empresas han utilizado prácticas anticompetitivas en el sector de las funerarias, como la fijación de precios, la exclusión de competidores y la creación de barreras para acceder a los mercados. La autoridad vasca ha pedido a las empresas que informen sobre sus prácticas y que demuestren su legalidad.
Pilar Canedo Arrilaga: "Tener cultura de la competencia es que los pactos entre empresas no nos parezcan tolerables"

La Autoridad Vasca de la Competencia realiza una importante labor divulgativa al mismo tiempo que vigila para que no se lleven a cabo prácticas restrictivas

BÉNEZIT ZOTILLO - Martes, 10 de Marzo de 2014 - Actualizado a las 05:10h.

BILBAO - Pilar Canedo (Bilbao, 1962), que preside la Autoridad Vasca de la Competencia desde que ésta empezó a funcionar, autodenomina las facultades del Servicio y el Tribunal Vasco de la Competencia en junio de 2012, “un absolutamente necesario y muy importante” fomentar la cultura de la competencia entre los ciudadanos. Por eso dedica gran parte de su trabajo a lograr “que los consumidores sean conscientes de las ventajas que para ellos implica que haya libre competencia en el mercado y que conocen los perjuicios que les ocasiona que no la haya”.

¿Qué es su diagnóstico de la situación de la competencia en Euskadi?

- La sociedad vasca se caracteriza por estar muy vinculada con la empresa y la industria, por ser muy creativa y emprendedora y por eso es lógico que quieran trabajar en empresas que puedan prestar servicio en buenas condiciones. Pero también partimos de un régimen jurídico que históricamente no ha sido muy favorable a la competencia, porque ha habido muchos monopolios estatales y la gente se ha acostumbrado a trabajar en unas condiciones y en las que la no competencia era algo normal. Son inercias que hay que romper al mismo tiempo que se revierte la falta de cultura de la competencia.

¿Cuáles son sus argumentos para romper las inercias?

- Consisten en saber que la competencia genera ventajas, tanto para el interés general, al aumentar las posibilidades de crear empleo, de que haya empresas innovadoras, de que se presten servicios de mayor calidad y en mejores condiciones económicas.

Una de las formas de llevar a cabo la Autoridad consiste en difundir esa cultura de la competencia.

- Creo que es absolutamente imprescindible fomentar la cultura de competencia y estamos haciendo varias cosas. Tenemos un programa de colaboración con universidades que a mí me parece importante, porque las universidades del País Vasco prestan muy poca atención a la competencia. Esta carencia es muy lamentable si se compara con sus programas con los de otras universidades de la Unión Europea. En Francia, por ejemplo, competencia es asignatura obligatoria en Derecho y Economía. Además hemos iniciado otra campaña más novedosa, de formación en institutos. Hemos remitido a todos los profesores de Economía de los centros de Bachillerato del País Vasco un ofrecimiento para dar charlas sobre competencia y la respuesta ha sido interesante.

¿Qué se han encontrado los especialistas de la Autoridad cuando han ido a los institutos?

- Nos hemos encontrado con que los chavales de 16 o 17 años no tienen un juicio previo de la ventaja que la competencia implica para ellos. Sin embargo, cuando lo oyen en una charla se dan cuenta muy rápidamente de todas las implicaciones que esto tiene en su vida ordinaria, en telefonía móvil, en transportes… prácticamente en todo.

¿Sus explicaciones suenan a chino a los jóvenes?

- He comprobado que los chavales tienen unos conocimientos de Economía infinitamente mayores que los que yo tenía a su edad. Són perfectamente conscientes de lo que son el mercado y las fuerzas económicas. Conocen el entramado económico muchísimo mejor de lo que yo esperaba y, sin embargo, les falta el conocimiento de por qué la libre competencia genera ventajas. Pero como ya tienen una base sólida es muy fácil abrirles a estas cuestiones. Ellos ya han oído hablar de la restricción de Google, de la del Libor, de los sobres electroestimulantes…

¿En qué consiste generar cultura de la competencia?

- El presidente de la Autoridad Catalana lo explica con un ejemplo: si en Estados Unidos un ciudadano ve que hay unas empresas que están pactando precios lo percibe exactamente igual que si ve a un sujeto que conduce bajo los efectos del alcohol, arroja a alguien y se marcha. Es decir, que lo ve como algo impensable. Se trata de que aquí también recayamos las prácticas anticompetitivas y no nos parezca ni normal ni tolerable que las empresas pacten para obtener mayores beneficios.

¿Hay que cambiar la mentalidad?

- El objetivo es lograr que los ciudadanos sean conscientes de que cuando los fabricantes de champú reduzcan el tamaño de los botes porque no quieran pactar precios pero quieran ganar más, fuimos nosotros los que sufrimos el peineta. Cuando las entidades financieras realizan acuerdos para modificar el Euribor, quienes pagamos más por la hipoteca somos los ciudadanos. Si permitemos que haya un grupo de profesionales que cierren un mercado para que solamente ellos puedan prestar un determinado servicio, no se genera empleo. Si limitamos los horarios comerciales y no dejamos que haya empresas que den servicio libremente cuando lo permite la ley, son los consumidores los que no
Deia.com, 10 March 2014

La Autoridad sigue insistiendo en resolver este tema.

¿Hay poco hecho hasta ahora con el responsable del Ayuntamiento de Bilbao, porque tenemos en el centro distrito de comercios el tráfico más intenso y el tráfico mas céntrico de la ciudad.

¿Qué es lo que se precisa para mejorar la situación?

La Autoridad Vasca de la Competencia ha recomendado a Bilbao nuevamente iniciar los trámites para resolver el problema de la competencia.

El protocolo de coordinación entre Vizcaya y Pasajes con Oregi colaboración entre puertos.

El País, 15 March 2014

Competencia desmonta el plan de Oregi de colaboración entre puertos

El protocolo de coordinación entre Bilbao y Pasajes vulnera leyes de mercado.

Oregi: "el problema es la competencia, no la competencia con nuestra forma de hacer las cosas".

DeuxForum: "el problema es la competencia, no la competencia con nuestra forma de hacer las cosas".

Correo, 19 March 2014

Los colegios profesionales se quejan de que la Autoridad no les deja poner precios orientativos de sus servicios.

La realidad demuestra de manera fehaciente que los precios orientativos se acaban convirtiendo en precios mínimos y en general un claro perjuicio para el consumidor. Quien tiene que determinar con absoluta libertad el precio de un servicio es el particular.

El presidente de Pascual y Pablo Renes, responsable por su parte, se niega a respetar la competencia. ¡No se puede permitir que se haga el silencio porque no se hable de la competencia! Se hace una competencia de posición entre los pueblos y en el interior de los pueblos, pero no entre ellos. ¡No se puede permitir que se haga el silencio porque no se hable de la competencia! Se hace una competencia de posición entre los pueblos y en el interior de los pueblos, pero no entre ellos.
La Autoridad vasca de la Competencia ve «indicios de infracciones» en Arabako Lanak

I. OCHOA DE OLANO
VITORIA. La Autoridad vasca de la Competencia ha iniciado un expediente sancionador contra la Diputación, su ente público Arabako Lanak, nueve ayuntamientos alaveses y ocho juntas administrativas al apreciar «indicios racionales de infracciones» en el procedimiento de contratación de obra pública de la sociedad foral. El organismo autónomo, de carácter administrativo, adscrito al Departamento de Hacienda y Finanzas del Gobierno vasco, admite así a trámite la denuncia que el Colegio Oficial de Arquitectos Vasco-Navarro (COAVN) interpuesta en octubre contra las entidades mencionadas.

En esa demanda, la corporación profesional acusa a la instrucción alavesa y a su polémica entidad de acaparar buena parte de la obra pública que se ejecuta en los municipios y de hacerlo, además, a través de un procedimiento «ilegal». Asimismo, señala responsabilizar de vulnerar el derecho a libre competencia y de garantizar la Ley de Contratos del Servicio Público.

Tres de los seis meses dedicados a recabar información sobre este espeso asunto, la Autoridad vasca de la Competencia considera que nuevo ayuntamientos y ocho juntas administrativas han llevado a cabo mejoras en sus respectivos ámbitos «estudiando el cumplimiento de la normativa reguladora de la contratación pública mediante encomiendas de gestión realizadas directamente a Arabako Lanak» –la fórmula complicada durante la legislatura actual, del PP–, «o bien, a través de la Diputación» –el patrón que se siguió en el mandato anterior, del PNV. «Eso supone», agrega, «el cierre del mercado de redacción de proyectos y dirección de obras».

«En solfa todo un sistema»
El organismo, que emitió su fallo final en un plazo máximo de dieciocho meses, cree que la entidad foral «no reúne los requisitos legales para ser considerado como un medio propio de esos municipios y entidades locales». El equipo foral de gobierno siempre ha defendido lo contrario y así lo volverá a hacer en las alegaciones al proceso.

El Gobierno de Andrés no ha ocultado su «preocupación» por la decisión de la Autoridad vasca de la Competencia de investigar el asunto. «Supone poner en entredicho todo el sistema de contratación pública de todas las instituciones», afirma.
El Gobierno prohíbe a las inmobiliarias asociadas la práctica de «políticas comerciales comunes»

La Autoridad vasca de la Competencia advierte que el modelo de Aiba «contraviene la ley» y que tampoco permitirá la «ratificación única»

El autor: BIBENDU

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El nuevo gerente de Arabako Lanak dice que «no ha habido mala praxis»

Admite ante las Juntas Generales haber detectado un largo periodo de tensión en la plantilla de la sociedad foral la existencia de dos bandos.

David Ochoa de Olano

VITORIA, 14 de abril. La multa de administración local de la Diputación, iniciada a propósito de una acusación en las Juntas Generales. Exige que se le declare el derecho a la asistencia de un abogado y que se le dé una copia de los documentos que constituyen la denuncia.

La petición de comparecencia, formulada hace ya dos meses por EH Bildu, le ha dirigido a san- marcos, y ya ha pedido que acueste al sávido en tanto a las adjudica- ciones y las subastas en la so- ciiedad. Como que ya se encuentran en el proceso de Arabako Lanak, los proveedores requieren que, en una carta, deben solicitar el impulso de los administradores de la empresa, y así lo ha hecho. No obstante, la Fiscalía investiga y el Ayuntamiento de Gipuzkoa ha previsto la contratación de la entidad.

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Juan Carlos Corral

La Fiscalía investiga el Ayuntamiento de Gipuzkoa por el fraude en la contratación.

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3 de marzo. La Fiscalía inves- tiga el Ayuntamiento de Gipuz- koa por el fraude en la contrata- ción.

4 de abril. El nuevo gerente de Arabako Lanak dice que «no ha habido mala praxis».

A pesar de las constantes denuncia- ciones de que existen dos bandos en la entidad, los proveedores requieren que, en una carta, deben solicitar el impulso de los administradores de la empresa, y así lo ha hecho. No obstante, la Fiscalía investiga y el Ayuntamiento de Gipuzkoa ha previsto la contratación de la entidad.

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Competencia dice que el Bono Denda discrimina a comerciantes

Asegura que el plan sólo incentiva los pequeños negocios y que debe abrirse

La Autoridad Vasca de la Competencia ha dado un toque de atención a la Diputación de Bizkaia por la campaña de Bono Denda. Reclama que incorpore criterios más «coherentes y justos» para que el plan de ayuda al pequeño comercio minorista alcance al mayor número posible de establecimientos y no deje fuera, como ocurre en la actualidad, a un amplio sector.
IMANOL PRADALE
DIPUTADO FORAL DE PROMOCIÓN ECONÓMICA

El Correo, 17 April 2014

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Asegura que el plan sólo incentiva los pequeños negocios y que debe abrirse

Comercio minorista: ¿Sólo beneficio a los negocios pequeños, ya que excluyen a los locales o a partir de su empleo? Entidades financieras: «La Diputación debería abrir el programa a todos los establecimientos bancarios»

La Autoridad Vasca de la Competencia ha dado un toque de atención a la Diputación de Bizkaia por la campaña de Bono Denda. Reclama que incorpore criterios más «coherentes y justos» para el plan de ayuda al pequeño comercio minorista, al mencionar el número posible de establecimientos y no dejar fuera, como en el actual, a un amplio sector. Dice que el plan para estimular el consumo sólo incentiva los pequeños negocios y que debe «abrirse a todos los interesados» para evitar exclusiones.

BILBAO. La Autoridad Vasca de la Competencia (AVC) ha dado un toque de atención a la Diputación. La organización adscribe a la consellería de Hacienda y Finanzas del Gobierno vasco a la Administración Foral que revoca a fondo los planes del Bono Denda e incorpora criterios más «coherentes y justos» para que el plan de ayuda al pequeño comercio minorista alcance al mayor número posible de establecimientos y no deje fuera, como en el actual, a un amplio sector. Dice que el plan para estimular el consumo sólo incentiva los pequeños negocios y que debe «abrirse a todos los interesados» para evitar exclusiones.

BUENAS INTENCIÓN

Como se sabe, las buenas intenciones son por lo general muy peligrosas. No es raro que se encuentren al comienzo de los grandes logros y de bastantes hechos graves. Una de las cosas más normales en este mundo es hacer algo con buena intención y terminar en la cárcel. O delante de un tribunal, al menos. Si hay suerte, el tribunal puede ser solo de la competencia, lo que desde luego resulta menos doloroso. Lo acaba de pasar a la Diputación, que en 2012 puso en marcha la campaña del llamado Bono Denda, ya saben, esa subvención destinada a fomentar el consumo en el comercio minorista. Se trata de apoyar a las tiendas de proximidad en tiempos difíciles, no una buena intención, ¿qué duda cabe? Sin embargo, la medida no satisfizo al mínimo a todos los comerciantes del ramo. Algunos pretendieron que se trataba de una gran idea bastante mal aplicada, entre otras razones porque la Diputación no gestiona el Bono Denda directamente sino a través de Cebeci, una de las federaciones del sector. Podrían entendiéndose que eso no tiene la menor importancia.
Bizkaidendak reitera sus críticas a la Diputación por gestionar el Bono Denda sólo con Cecobi

La Federación de Comerciantes y Hosteleros discrepa de Competencia sobre la necesidad de extenderlo a todo el sector. «Sólo debe servir al pequeño», dice

BILBAO. José Andrés Cebrasco, presidente de la Federación de Asociaciones de Comerciantes y Hosteleros de Bilbao (Bizkaidendak), que cuestionó la instrumentalización excesiva del Bono Denda a través de la Confederación Empresarial de Comercio de Bilbao (Cecobi), se reafirmó ayer en la «gran oportunidad» que supone el plan foral de ayuda al pequeño comercio, si bien insistió en que no tiene ningún sentido que «todo el sector» tenga que trasponer sus datos «a la otra patronal» para beneficiarse de las ayudas de la Diputación.

Cebrasco reprochó de este modo las críticas vertidas por la Autoridad Vasca de la Competencia (AVC), que ha concluido que el programa dirigido a los negocios minoristas discrimina a comerciantes y bancos, aunque se desmarcó de la AVC, que lamentó que sólo incentiva el consumo en los pequeños negocios al dejar fuera a los establecimientos con más de diez empleados.

El presidente de Bizkaidendak recordó que la recepción está castigando especialmente a los minoristas. «No podemos ser blandos con la AVC cuando se postula a favor de impulsar a todo el comercio urbano con ayudas públicas».

La organización adscrita a la Asociación de Haciendas y Finanzas del Gobierno vasco propinó un duro vareapa al Departamento foral de Promoción Económica al acusarle también de autorizar únicamente a los cajeros de la BBK la concesión de los bonos con los que conseguirán descuentos de 10 euros en compras superiores a 50. Al igual que hiciera en las conferencias de la Diputación de la segunda campaña del Bono Denda, Cebrasco denunció «la mala gestión» del programa y que se «nunquen» a su organización, con más de 2,000 asociados. «De la única que nos quejamos antes y ahora es de que no la canalizaron a través de Cecobi cuando hay más entidades», Bizkaidendak, que cuenta con representantes en casi todas las comarcas de Bizkaia, opina que la iniciativa «se va quedando muy buena» para el comercio minorista. Sostiene que las subvenciones son más necesarias que en momentos de bajo consumo. «El Bono Denda es fundamental. Discrepamos de la forma en que se está llevando a cabo», sentenció.

Cebrasco volvió a criticar también el uso que Cecobi podría hacer de las dotaciones transferidas por los integrantes de otras organizaciones y exigió de nuevo a la Diputación la posibilidad de «inscribirse ante la Administración foral directamente o ante sus asociaciones» para, de cara a futuras ediciones, acceder a las subvenciones. «De otra manera, se obliga, por ejemplo, a los comerciantes de Ondarreta a perder una mañana para inscribirse».

Cebrasco cuestionó, sin embargo, los reproches de la AVC hacia la BBK por ser la única entidad bancaria que emite los tickets. «Es verdad que se puede entender a otros bancos y que nos haría la vida más fácil, pero es cierto que hay entidades que no están preparadas y otras que tampoco han mostrado ninguna disposición», apuntó.
Los ojos que vigilan a las empresas

La Autoridad Vasca de la Competencia vela por la "limpieza del mercado". El organismo también controla las condiciones de la contratación pública.

“Asegurar que el mercado funcione con limpieza”. La presidenta de la Autoridad Vasca de la Competencia, Pilar Canedo, define la misión que tienen encomendada con un aparentemente sencillo “asegurar que el mercado funcione con limpieza”. El organismo, que comenzó a funcionar en julio de 2012, se enfrenta sin embargo a una tarea titánica, la de velar para que tanto las empresas como la administración pública, cumplan con todas y cada una de las reglas de juego a la hora de prestar servicios, o de fijar precios. Un frente casi infinito como se puede apreciar en los procedimientos que a día de hoy tienen abiertos. De los ocho incoados destacan el abismo que la ciudadanía ha detectado en el precio de los servicios de las autocuevas de Vitoria por —supuestamente— haber pactado el precio de sus servicios; contra las funerarias de Bilbao; los procuradores de Bizkaia y Gipuzkoa; y el Colegio de Bilingües de Euskadi. Canedo explica que resalta fundamental para la Autoridad que la ciudadanía entienda y comparta el papel que juegan las instituciones de defensa de la competencia. “Si las empresas buscan beneficios con parámetros legales, perfecto.

Pero a veces las empresas pasan ese lemite y entonces lo que hacen es obtener un beneficio extraordinario que va en perjuicio de alguien, y directa o indirectamente siempre es un perjuicio para el ciudadano”. Las funciones de la institución se dividen en dos áreas fundamentales, la primera corresponde a la vigilancia, a la defensa de la competencia propiamente dicha y en la que se impulsa, en caso de que fuese pertinente, los correspondientes expedientes sancionadores. La segunda área, menos visible tiene por objeto la promoción de la competencia, es decir, la sensibilización y concienciación sobre la importancia del trabajo del organismo. Todo, entre otras cosas, para que “por ejemplo, los jóvenes profesionales que quieren entrar en el mercado no se vean con las trabas de los que ya están dentro. Los beneficios para la sociedad son amplísimos”, resume. Las labores del organismo además se complementan con la redacción de informes y estudios. Hasta la fecha, la institución ha emitido 47 resoluciones, “109 informes y siete estudios.

Hay empresas que se ponen de acuerdo en contra de la competencia si bien “la administración tiene una conciencia de la relevancia que tiene para la competitividad y para la bonanza de la economía que se respeta la competencia”, defiende Canedo, todavía hay muchas cosas que mejorar. “Hay muchas inercias en la administración que no fomentan que entren nuevos operadores”. Las irregularidades o malas prácticas que pueden cometer el sector público van de las más graves, como romper la reglamentación, violar directamente la legislación, a otras más sutiles como elegir la fórmula más restrictiva para contratar. En la contratación pública, explica Canedo, hay varias fases a las que resulta esencial prestar atención. La primera de ellas es la fórmula elegida y la segunda, la redacción de los pliegos. “Muchas veces se cogen los mismos pliegos de la última obra contratada, y esa es una manera de limitar el acceso, ya que pueden estar impidiendo la entrada de pequeños profesionales o la posibilidad de repartir la obra en lotes”, zanja Canedo.
La Cámara rechaza retirar el recurso de la norma laboral de obras en Gipuzkoa

El Parlamento Vasco ha rechazado hoy una iniciativa de EH Bildu que reclamaba la retirada por parte de la Autoridad Vasca de la Competencia del recurso que ha presentado contra la norma foral de Gipuzkoa, que obliga a las empresas a cumplir con los convenios territoriales en obras contratadas por la Diputación.

Las Juntas Generales de Gipuzkoa aprobaron en julio de 2013 una norma foral que pone de plazo el año de 2014 para entrar en vigor y que obliga a las empresas a cumplir con los convenios colectivos de su sector.

La norma promovida por el Gobierno foral de Bildu contó con el respaldo de Bildu, Arrasate y PSOE-EE, mientras que el PNV se abstuvo a entender que la regulación carece de encaje jurídico, al igual que el PP.

La norma obliga a las compañías contratadas por la Diputación y a sus subcontratas a cumplir con los convenios colectivos, así como con las cláusulas referidas a la salud y la seguridad laborales, la prevención de riesgos y las condiciones laborales pactadas.

Esta norma fue recogida por la Autoridad Vasca de la Competencia y la Abogacía del Estado al entender que invade competencias que no corresponden a la Diputación, pero en febrero de este año el Tribunal Superior de Justicia del País Vasco rechazó suspender de forma cautelar la vigencia de la misma.

Hoy, EH Bildu ha levantado este debate al plantear al Parlamento Vasco para reclamar que se imponga a EH Bildu y a que la Autoridad Vasca de la Competencia abandonen la vía judicial emprendida contra dicha norma ya que la defensa de los derechos de los trabajadores debe prevalecer sobre el principio de competencia.

La parlamentaria de EH Bildu, Aran Zulaika ha defendido esta norma porque garantiza condiciones dignas de los trabajadores, pero la iniciativa ha sido rechazada con los votos en contra de todos los partidos, por diferentes motivos.

Tampoco han salido adelante las emisiones a la totalidad defendidas por el PNV, por el PSOE-EE y por UPN-O, por lo que en este debate no ha sido aprobada ninguna de las propuestas a debate.

En su emisoria, que sólo ha sido apoyada por el PP, el PNV manifestaba su escrúpulo respeto a la autonomía de funcionamiento de la Autoridad Vasca de la Competencia, organismo que, según ha recordado la portavoz Ana Oñatadari el EH Bildu, funciona de manera independiente al Gobierno Vasco.

La emisoria socialista ha recibido el apoyo de EH Bildu aunque tampoco ha sido suficiente para que saliera adelante. El socialista Bixen Isacso ha planteado que el Gobierno Vasco incluya cláusulas administrativas para exigir el cumplimiento de los convenios sectoriales en los pliegos para la licitación de obra pública.

Desde el PNV, el único grupo que no ha emprendido a la totalidad el texto de EH Bildu, Antón Maritorena ha advertido a la coalición abertzale que la norma foral gipuzcoana puede vulnerar la competencia dado que empresas vizcaínas, alavesas, del resto de España o de Europa no
ATAP tratará su conflicto con Maersk Line con la Autoridad de la Competencia y el Puerto de Bilbao

La Asociación de Transportistas Autónomos del Puerto de Bilbao (ATAP) ha decidido retirar su "previsio" de huelga contra Maersk Line después de tener el compromiso de la Autoridad Vasca de la Competencia y de la Autoridad Portuaria de Bilbao de que ambas instituciones encararán a analizar la situación creada por la política de precios de la naviera.

De esta forma, ATAP, según manifiesta su presidente, Federico Landera, en un comunicado, "muestra una vez más su talante negociador y su aversión por el diálogo" y asegura que "nos descartarán hasta solucionar el problema con la naviera y en el caso de que no se lograse una solución, sabremos plantear las acciones oportunas dentro de la legalidad".

La asociación de transportistas acusa a Maersk Line, una de las principales operadoras de la cáscara bilbaína, de rebajar los precios de tal forma que hacen invisible económicamente el servicio de transporte. Con el previsio de huelga Landera recalcó que se trataba de una medida de "pura necesidad" y que la huelga no se plantea para "fijar tarifas, sino de que no podemos permitir que de modo irracional se bajen los precios y no podamos ni cubrir los costes del transporte. Ahora lo que tenemos es una situación de dumping que debe erradicarse".

La propia Autoridad Vasca de la Competencia ha sido quien ha recomendado a ATAP que retirase el previsio de huelga y se ha ofrecido a estudiar los motivos que han llevado a esta asociación de transportistas, que reúne al 85 por ciento de los profesionales autónomos del Puerto de Bilbao, a emprender acciones de este tipo.

La primera de las reuniones entre ATAP, el Servicio Vasco de la Competencia y la Autoridad Portuaria de Bilbao tendrá lugar el próximo 14 de julio y los transportistas están dispuestos a efectuar cuentas encuentros hechan falta para buscar una solución.

ATAP insiste en que su modelo sindical tiene muy poco que ver con otras organizaciones sindicales portuarias y que su modelo se sustenta en mejorar las condiciones laborales de los transportistas, pero desde la colaboración con las otras actividades portuarias, para propiciar un sector fuerte y de calidad.
**Bilbao pierde 59 millones por no implantar la zona de gran afluencia turística**

La Autoridad Vasca de la Competencia asiste a un conjunto de audiencias en Madrid, que se realizan en el marco del proceso de control de la concentración de Dow Chemical y de la Compañía Vasca de Electricidad.

**El Gobierno vasco asegura que la liberalización «puede funcionar a la mayoría de los comerciantes»**

En el proceso de transición a la nueva regulación de la competencia, el Gobierno vasco sigue trabajando para facilitar la situación de los comerciantes.

**«Siempre hemos sido favorables a una mayor flexibilidad de horarios», dice el alcalde de Bilbao**

Ibon Anez defiende la «colaboración de su gobierno» en la declaración de una zona de gran afluencia turística, que hizo efectiva en diciembre de 2012.

**El precio del bilbao de Bilbao, Ibon Anez, sólo es aplicable a la dirección de una empresa de transporte y entre el Guggenheim y el Casco Viejo.**

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La Autoridad Vasca de la Competencia expone su trabajo en un foro internacional

Ha sido el único ente no estatal que participó en el panel de expertos

B. SOTELO - Viena, 11 de Julio de 2014 - Actualizado a las siete

BILBAO - La Autoridad Vasca de la Competencia (AVC) participó ayer como ponente de la mesa redonda sobre las estrategias de comunicación de las autoridades de competencia como una herramienta para la eficacia del organismo. En ese panel de expertos la AVC, que fue seleccionada como caso de éxito por la UNCTAD (Conferencia de las Naciones Unidas sobre Comercio y Desarrollo) expuso sus experiencias en comunicación y promoción de la competencia en Euskadi.

La conferencia, que tuvo lugar ayer en Ginebra, forma parte de unas jornadas en las que también han participado las autoridades de Chile, Canadá y Egipto, y en las que la AVC es la única autoridad no estatal que intervino como panelista. La exposición de la labor que desarrolla la AVC corrió a cargo de su presidente, María Pilar Canedo, que, entre otras cosas, habló de la ventajas de la descentralización de funciones y de la cercanía a la hora de fomentar la competencia y controlar las prácticas contrarias a los intereses de los agentes socioeconómicos. Fuente de la AVC explicaron que el panel de expertos reunido en Ginebra tiene como objetivo revisar estrategias de comunicación y promoción de la cultura de la competencia. Añadieron que "una agencia de competencia eficaz se puede definir como aquella que logra los objetivos mediante el uso de sus recursos disponibles de la manera más eficaz y adecuada. Sin embargo, una agencia de la

competencia es sólo una de las muchas partes interesadas en el entorno de la competencia, y todas ellas están llevando a cabo acciones para lograr sus propios objetivos".

La Conferencia de las Naciones Unidas sobre Comercio y Desarrollo (UNCTAD), es un órgano de la Asamblea General de la ONU creado en 1964 para atender a asuntos relacionados con el comercio, las inversiones y el desarrollo. Sus objetivos son "maximizar las oportunidades comerciales, de inversión y desarrollo de los países en vías de desarrollo".

ACTUACIONES La intervención de María Pilar Canedo en la mesa sobre estrategias de las autoridades de la competencia incidió en los actos que la AVC ha desarrollado para fomentar la cultura de la competencia, haciendo ver sus ventajas y alertando sobre los efectos negativos de las medidas restrictivas. Así, por ejemplo, la máxima responsable de la AVC hizo referencia a los informes previos que la autoridad realizó para las administraciones públicas sobre proyectos o anteproyectos de normas. "En la corte viva de la AVC -indicó Canedo- se ha acreditado el positivo efecto preventivo que tiene esta forma de promoción de la competencia, dado que algunos proyectos normativos especialmente nocivos para los mercados, como la regulación de taxis, por ejemplo, se han visto frenados gracias a la intervención previa de la AVC."

En cuanto a su política de comunicación, la presidenta de la AVC destacó los resultados alcanzados con la combinación de elementos clásicos de difusión "empleando los medios de comunicación, folletos y páginas web, con elementos más vinculados a la formación de la sociedad, desde la más básica para formar a consumidores conscientes, hasta la más avanzada de investigación de excelencia, pasando por la difusión a los propios profesionales".

La AVC lleva a cabo una labor de fomento de la cultura de competencia a diversos niveles que incluye charlas en centros de enseñanza, contactos con colectivos profesionales y administraciones, organización de actividades y campañas de promoción. Todas estas actuaciones y sus resultados fueron expuestos en Ginebra como ejemplo de una exitosa estrategia de comunicación y divulgación.
La Autoridad de la Competencia asesorará a los vascos para evitar fraudes al reformar sus casas

Una multa de hasta el 10% del volumen de negocio de la empresa infractora

JAVIER MUÑOZ

El Correo, 16 July 2014

La Autoridad de la Competencia (AEC) asesorará a los vascos para evitar fraudes al reformar sus casas. Un equipo de expertos la ayuda a los ayuntamientos de la Comunidad Autónoma para evitar estafas y engaños. El problema, según la AEC, es que las empresas que se dedican a la reforma de viviendas no siempre cumplen con las obligaciones que tienen hacia el propietario.

La AEC recomienda que los ayuntamientos soliciten a las empresas que participen en los proyectos de reforma de casas que sean auditanles por una empresa externa y que las empresas que se dedican a la reforma de viviendas sean sometidas a controles regulares.

La AEC también recomienda que los ayuntamientos soliciten a las empresas que participen en los proyectos de reforma de casas que sean auditanles por una empresa externa y que las empresas que se dedican a la reforma de viviendas sean sometidas a controles regulares.

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La AEC también recomenda
Administration, Human Resources and operational indicators within the ambit of the Basque Competition Authority
1. Budget and budgetary implementation.


The budget assigned to the AVC amounted to 1,089,000 euros.

<table>
<thead>
<tr>
<th>BUDGETARY ITEM</th>
<th>UPDATED BUDGET</th>
<th>APPLICATION OF EXPENDITURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER I.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel expenses</td>
<td>833,758 €</td>
<td>833,758 €</td>
</tr>
<tr>
<td>CHAPTER II.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operational expenses</td>
<td>257,295 €</td>
<td>246,165 €</td>
</tr>
<tr>
<td>CHAPTER VIII.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase in financial assets</td>
<td>1,666 €</td>
<td></td>
</tr>
</tbody>
</table>

The visual representation of this budget is as follows, comparing the budget, acknowledged obligations and payments.

Meanwhile, the distribution of the budget by section reveals the following:

2. Human resources.

The experience of the two years of operations of the AVC emphasizes that the great value of this institution lies in its human capital. The legal and economic training of the technical staff working for the AVC has proved to be the decisive element allowing it to fulfill the objectives established for the institution by law. As a result, the AVC dedicates a part of its energies to activities which contribute in the short term to the improvement of procedures, and in the long term to the skills development of its technical staff.

Within this strand of action, the AVC has implemented a programme for the definition and prioritisation of projects, with the ultimate aim of improving the working conditions of technical staff, with a view to transparency and increased efficiency. In order to achieve this objective, proceedings began during the year to bring about a far-reaching modification of job profiles and so help increase the effectiveness of proceedings and the motivation of members.

Mention should lastly made of the fact that the AVC has one employee who this year chose to work remotely, leading to an increase in the performance and quality of work at the institution, reduced expenditure and enhanced quality of life and motivation for the employee choosing this system.


The report accompanying the budgets for 2013 set out 20 objectives to be undertaken by the AVC. These could be divided into administrative objectives (launch of the website, design of dissemination policy, generation of databases, protection of competition (investigations, resolutions, monitoring...), promotion (generation of reports, opinions, dissemination cam-
paiges, courses and seminars) and institutional (relationship with institutions, involvement in networks...).

The actions and indicators accompanying the final budgetary implementation report revealed a truly satisfactory level of success in achieving the objectives.

In this regard, the indicators planned and achieved coincided in 7 elements, while in all others the difference in all cases revealed that the results achieved by the AVC had been increased. Worthy of particular note were the differences achieved in such items as generation of reports (20 planned and 41 achieved) or various forms of dissemination initiatives (with results in excess of a 100% increase, depending on the case in question).

The experience built up over the two years allowed us to define objectives for the year 2014, which are currently at an advanced stage of execution, along with a plan for the 2015 budget, which marks a continuation and stage of execution, along with a plan for the year 2014, which are currently at an advanced

I. Foster a culture of competition in Society.

1. Generation, design and organisation of competition courses, inviting external professionals and teachers.
   A. Number of courses (2)
   B. Number of registered students (100)
   C. Target groups (4)
   D. Public impact (6)
   E. Organisations with partnership arrangements (6).

2. Delivery of courses, conferences and specialist seminars for the dissemination of the culture of competition on the part of AVC members.
   A. Number of actions (6)
   B. Selection of recipients by sector (8)
   C. Number of individuals registered (100)
   D. Public impact (6).

3. Staging of campaigns to encourage competition among younger citizens.
   A. Number of actions at universities (15)
   B. Number of actions at high schools (15)
   C. Number of young people involved in work experience agreements (10).

4. Staging of dissemination campaigns in specific sectors of particular social relevance.
   A. Number of campaigns (2)
   B. Implementation of campaign evaluation systems (1).
   C. Public impact (6).

5. Response to simple queries from individuals regarding competition.
   A. Diversification of incoming query channels (4).
   B. Number of queries resolved (70).
   C. Establishment of channels for systematisation and dissemination of responses (4).

   A. Visits (3600)
   B. Unique users (2400)
   C. Page views (8400)
   D. Sections with updated content (10).
   E. Structural modifications (5).
   F. New content (including specific references to activities, new reports and press archive) (60).
   G. Graphical materials, banners and videos (30).

   A. Direct contact with journalists (50).
   B. Appearances in the media (26).
   C. Press releases (20).
   D. Monitoring of news connected with the AVC in general and specialist media outlets and generation of internal dossier (156).

   A. Increase in records (156).
   B. Creation and maintenance of online dissemination link (1).
   C. Programming of the CMS system (1).

9. Participation in academic research activities in the field of competition.
   A. Participation in research projects (2).
   B. Publication of articles (4).
   C. Coordination of publications (2).
   D. Creation of awards and/or bursaries dealing with competition (2).

10. Generation of sectoral studies in the field of competition.
    A. Number of actions (3).
    B. Public impact (6).

III. Promotion of competition through institutional participation and coordination.

1. Agreement of partnerships with institutions.
   A. Number of partnerships (4).

2. Generation of opinions on regulatory plans or regulations addressing matters of competition protection.
   A. Number of opinions (15).

   A. Number of actions (10).

4. Participation in collaboration and coordination tasks of the Competition Authorities Network.
   A. Number of actions (10).

5. Generation of sectoral studies in the field of competition.
   A. Number of actions (10).
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- Preliminary Draft Law on the Fourth Amendment to the Law of Business Activity. (15 October 2013)
- Recommendation of the AVC regarding the grant from the Bonodenda campaign. (14 April 2014)
- Statutes of the Official Association of Technical Industrial Experts and Engineers of Gipuzkoa (17 July 2014)
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