



## Spain

Wednesday, 4 December 2013 (1 month ago)

### GCR Analysis

Despite the economic challenges, Spain's competition practices are going strong. Anglo-American and Spanish firms vie for work, and national firms are increasingly branching into EU work for international clients.

### Elite

Freshfields Bruckhaus Deringer's Spanish competition practice continues to flourish despite the challenging economic climate. The antitrust practice counts two full equity partners; practice head [Francisco Cantos](#) and partner [Alvaro Iza](#), both nominees to *The International Who's Who of Competition Lawyers & Economists*, work alongside two senior associates and six associates spread across the Madrid and Barcelona offices.

One of the first international law firms to gain a foothold in the Spanish market, Freshfields counts a mixture of national and international companies as clients, this year adding Swiss pharmaceutical company Novartis and Spanish airport infrastructure company Aena to its books, advising the latter on its proposed purchase of London Luton airport.

The team has been involved in some of the most complex behavioural matters in Spain this year, including an impressive number of abuse of dominance defences. Cantos is advising Hewlett-Packard in its abuse complaint against Oracle, an international case spanning multiple jurisdictions, while Iza defended media group Mediapro in several interrelated broadcasting rights challenges. The team is also defending telecoms company Abertis against margin squeeze accusations, and E.ON energy in two abuse of dominance cases.

On the cartel side, Cantos is appearing for packaging company LINPAC in court proceedings at the Audiencia Nacional, the first instance appeals court, to protect a leniency application used to secure immunity from a €8.5 million fine. The team is also acting for L'Oréal in its appeal against the CNC's €23 million fine of a cosmetics cartel, and advised ferry company Balearia in two cartel investigations in the maritime transportation market.

In deal work, the team advised media company Imagina in its acquisition of control of TV channel La Sexta, and its merger with rival broadcaster Antena 3. It is also acting for Holcim in its tie-up with Cemex, a deal which the CNC referred to the European Commission in October.

All three competition partners at Garrigues Abogados y Asesores Tributarios' Madrid office are nominated to *Who's Who Legal*. Marcos Araujo leads the practice, supported by partners Susana Cabrera Zaragoza, who spends part of her time in New York, and Luis Ortiz Blanco, who is partly Brussels-based.

They work with Barcelona partner Lluís Cases and with Brussels head José Luis Buendía, a state aid specialist. The firm says it has at least one lawyer with competition law expertise in each of its 27 Spanish local offices, ready to provide quick advice on short notice – for example, during dawn raids conducted by the CNC's regional offices.

The firm takes on an impressive amount of work at an EU level, and says it has broken the glass ceiling that limits most continental firms to work related to their nationality. Garrigues regularly represents the European Commission in court, while Ortiz is also a non-governmental adviser to the authority at the International Competition Network. The firm is advising on the Bank of Spain's Fund for Orderly Bank Restructuring in relation to the €10 billion bailout of the Spanish financial sector. It also coordinated Cisco Systems' court challenge of DG Comp's approval of Microsoft's acquisition of Skype before the EU General Court.

At a national level, Garrigues is involved in a large proportion of cartel cases before the CNC and appellate courts, where it is currently coordinating appeals for companies in the shipping, road construction, engineering and packaging industries, among others. In January Araujo helped secure an important victory for insurance company Mapfre, when the appellate court dismissed its share of a record €120 million penalty imposed on six insurance companies. Araujo is also acting for car rental company Goldcar in connection with the CNC's €35 million fine and its subsequent appeal.

In transactions, Cabrera was counsel to Spain's major radio broadcasters ABC Punto Radio and Cope in a joint venture that was approved by the CNC with conditions.

Boutique firm Martínez Lage Allendesalazar & Brokelmann is home to one of Spain's oldest competition practices. Between 2008 and 2011, the firm became the Spanish arm of Howrey under the name of Howrey Martínez Lage, but it returned to independence after the US firm's collapse. The three named partners – Santiago Martínez Lage, Rafael Allendesalazar and Helmut Brokelmann – all appear in *Who's Who Legal*. They are supported by five associates. Practice head Martínez is now less active in cases and devotes more time to advice and arbitration.

The firm is defending companies in several investigations by DG Comp – including Riberebro in a cartel investigation in the mushroom production sector; PRISA TV in its appeal before the EU General Court against state aid awarded to a rival; and envelope manufacturer Tompla in investigations by DG Comp and the Spanish authority. It also acted for an association of business travel agencies in a defence of RENFE's ticket distribution system before DG Comp.

In national cartel cases, the firm advised Procter & Gamble's subsidiary Wella in a successful appeal against a €12 million fine by the CNC. Allendesalazar is acting for car rental company Record-Go in both cartel proceedings and a case relating to alleged information exchange with the airport regulator. The team is also representing Praxair in an investigation of the sale and distribution of carbon dioxide for beer manufacturing, and France Telecom

España in a CNC investigation regarding an alleged abuse of a collective dominant position.

Merger work includes representing Coca-Cola and its Spanish bottlers in merger proceedings that involve the consolidation of seven Spanish bottlers into a single entity, and acting for Disa and Shell in a joint venture concerning the sale of aviation fuels, which was cleared by the CNC with commitments.

Firm	Head(s) of competition	Size	Clients
<b>Elite</b>			
Freshfields	<u>Francisco</u>	2 partners	Abertis, Amadeus, Campofrío, General
Bruckhaus Deringer	<u>Cantos</u>	2 senior associates 6 associates	Motors, Hewlett-Packard, EADS, E.ON, L'Oréal, Holcim, ThyssenKrupp, Bayer
Garrigues Abogados y Asesores Tributarios	Marcos Araujo	4 partners 3 senior associates 5 associates	Cisco Systems, Bank of Spain, Amadeus, 3M, Banco Santander, Cementos Portland Valderriva, Orona, Unesa, Samsung, Vocento
Martínez Lage, Allendesalazar & Brokelmann	Santiago Martínez Lage	3 partners 5 associates	Cobega, Coca-Cola Spain, Disa, France Telecom España, Grupo Riberebro, Ifema, Olympus, Praxair, Prisa TV, Record Go, Region of Galicia, Tompla, Wella
Uriá Menéndez	Jaime Folguera	3 partners 2 counsel  1 senior associate 5 associates	Microsoft, Servired, Roca, DIA, Banco Santander, Europcar, Cepsa, Otis, Danone
<b>Highly recommended</b>			
Clifford Chance	Miguel Odrozola	2 partners 2 associates	Iberia, Alliance One, Swiss Re, Carrefour, ACS, Endesa, Telemadrid, Telefonica, Abertis
CMS Albiñana & Suárez de Lezo	Diego Crespo	2 partners 3 associates	DE Master Blenders, Arruti, Siecsa, Adveo, Lactalis, Telefónica, Iberdrola, Heineken
Cuatrecasas Gonçalves Pereira	Cani Fernández Vicién	2 partners 3 associates	Mediaset España, Zurich, Mapfre, Cepsa, GDF Suez, Banco Popular, Ferrovial, Aena, CMA CGM, Unicaja, Group, Sany Heavy Industries, Suzuki, Mutua Madrileña
DLA Piper	Juan Jiménez- Laiglesia	2 partners 1 counsel 9 associates	ArcelorMittal, Boeing, BP, Burger King, Carlyle, Correos, France Telecom, General Electric, Pfizer, Renault, Repsol, Banco Santander, Vodafone, Larfarse
Gómez-Acebo & Pombo	Iñigo Igartua Arregui	3 partners 2 counsel  7 associates	Continental Automotive, Panasonic, Schindler, Mercadona, Makro, Sara Lee, Flexipol, Ecoembes
Linklaters	Jaime Perez- Bustamante	1 partner 1 consultant 2 senior associates 4 associates	Banco Santander, Iberdrola, Repsol and Abertis, El Corte Inglés, Hertz, Hyundai, ACS, BP, Correos, Maxam
Pérez-Llorca	Oriol Armengol	1 partner 3 associates	Prosegur, AEDE, Camper, Cepsa, Deutsche Bahn, Discovery Channel, E.ON,

Firm	Head(s) of competition	Size	Clients
			Fedicine, Vodafone, Discovery Channel, Prosegur
<b>Recommended</b>			
Allen & Overy	Antonio Martínez	1 partner 4 associates	Abertis, Azucarera Española, Barclays, Bridgepoint, GSK España, Bio-Industries, The Royal Bank of Scotland, Ceopan, RTVE, Mitsubishi Corporation, Telefónica
Ashurst	Rafael Baena	1 partner 1 of counsel 1 senior associate 2 associates	Grupo Planeta, Bertelsmann, Telefonica, Colgate-Palmolive, Imperial Tobacco, NH Hotels, Devir Iberia, Bodegas Barbadillo
Baker & McKenzie	Carles Prat	3 partners 4 associates	Honda, Puig, Ercros, Bayer, Isdin, Arcelormittal Gonvarri Brasil Productos Siderúrgicos, Sedigas, CTT Stronghold
Hogan Lovells	Casto González-Páramo	1 partner 2 associates	AXA, Barclays, ExxonMobil, Enagás, Lloyds, Orangina Schweppes, Pullmantur

The competition team at Uría Menéndez is Spain's largest, as well one of its best. Practice head Jaime Folguera is nominated to *Who's Who Legal*, along with partners Antonio Guerra and Alfonso Gutiérrez, and counsel Patricia Vidal. The Spanish team works closely with the firm's Brussels office, led by competition expert Edurne Navarro, while Barcelona-based partner Juan Antonio Pérez also takes on some competition work.

The firm regularly advises Spain's largest telecoms company, Telefónica, including in the authority's proceedings against three mobile operators for an alleged margin squeeze, and in relation to a €67 million fine imposed by the European Commission for forming a non-compete agreement with Portugal Telecom. In other EU matters, the firm is advising Cemex in an appeal before the General Court that challenges DG Comp's request for information.

The firm says it is involved in around 80 per cent of Spain's current cartel cases. Guerra is acting for elevator company Zardoya Otis in its appeal against a penalty for allegedly conspiring to harm the reputation of its smaller competitors, while Vidal successfully coordinated Munich Re's appeal against a fine imposed for cartel activity in the insurance market, which is currently facing a second appeal before the Supreme Court. The firm is also acting for Envel Europa in the CNC's envelope cartel case, for Scor in the building insurance case and for Europcar in the authority's investigation of information exchange between car rental companies. Elsewhere, Guerra is acting for Danone in an abuse of dominance investigation by the Spanish authority.

Despite the relative inactivity in Spain's merger scene, Uría Menéndez is currently involved in a number of important deals. The firm is representing supermarket chain DIA in its acquisition of Schlecker's Spanish and Portuguese businesses and is advising pharmaceutical company Novo on the acquisition of Xellia. Before DG Comp, the firm is representing Basque telecoms group Euskaltel on its acquisition by two private equity groups.

Highly recommended

At Clifford Chance, Madrid-based partner and *Who's Who Legal* nominee Miguel Odriozola heads the antitrust practice and is assisted by two associates. Partner Miquel Montaña, who also practises IP law, works with him from the Barcelona office.

The Spanish team has a particular strong suit in abuse of dominance cases. It successfully defended Oracle against a complaint by Hewlett-Packard before the CNC, which is now under appeal. It is also handling Telefónica's appeal against the CNC's record €120 million fine levied for collective abuse of dominance.

Clifford Chance is involved in many of the CNC's cartel cases, and won a particularly striking appeal on behalf of Swiss Re – securing the annulment of the CNC's €22.6 million fine for alleged price fixing in the insurance market. The team is also acting for two companies in the road construction proceedings and for Endesa in its Supreme Court appeal against a fine in the electricity sector.

Odriozola acted for media company Antena 3 before the European Commission and the CNC in its merger with La Sexta, a deal that saw the unusual intervention of the Spanish government to soften conditions. In other deals, the team acted for Telefónica, Banco Santander and Caixabank in their digital wallet services joint venture, which was cleared by the European Commission in August, and is advising French container shipping group CMA CGM on a long-term alliance between the world's three largest shipping companies. Clifford Chance continues to work for airline group IAG on a number of deals, including its transatlantic alliance with American Airlines, its acquisition of UK airline BMI, and other matters.

CMS Albiñana & Suárez de Lezo is a new entrant to GCR's Spanish survey. Despite the departure of partner Jesús Alfaro to a consultant role at Linklaters last year, the firm reports a rise in competition work in recent months. Partner Diego Crespo leads the practice, supported by three associates and Patricia Liñán, who was promoted to the partnership in April.

The firm is active in most of the authority's largest cartel investigations, including coordinating Adveo's leniency applications in investigations of four separate stationery markets. The company was granted immunity in three cases, and is currently appealing against its €2 million fine in the fourth. CMS is also acting for Lactalis in proceedings concerning restrictive practices in the dairy sector, and its challenges of the CNC's conduct during dawn raids. CMS is also one of several firms defending Telefónica against accusations of market sharing by the European Commission. On behalf of energy company Iberdrola, it brought a complaint against Gas Natural for an abuse of dominant position and unfair competition practices that led to a €2 million CNC fine, which was later overturned and remains pending before the Supreme Court.

CMS recently advised long-term client Heineken on three Spanish matters, including defending the company against a claim lodged by the Spanish Cash & Carry association against major brewers for refusal to supply beer in keg

format, a case that was closed by the CNC without an infringement decision. Another case, relating to the supply of carbon dioxide, was also closed after Heineken agreed to certain behavioural commitments.

Both partners at Cuatrecasas Gonçalves Pereira – practice head Cani Fernández Vicién and British national Andrew Ward – feature in *Who's Who Legal*. The pair are supported by three associates, including Carlos Alberto Ruiz García, who this year joined the team in Barcelona from the Catalan competition authority. Staff across 17 regional offices are also able to provide assistance on competition matters, including dawn raids.

Considering the economic climate, Fernández and her team are working on a number of important deals, including advising the Gestamp group – Spain's largest non-listed company by revenue – on global notifications of its joint venture with Mitsui; Caixabank, the largest bank in Spain, on its acquisition of Banco de Valencia; and rail operator SNCF on its acquisition of joint control of Comsa Emte's subsidiary CRT. The competition group also advised Cepsa, Spain's second-largest petrochemicals group, in its acquisition of Chevron España, obtaining a conditional second phase clearance. Fernández is representing Mediaset España, Spain's largest private television network, in court cases stemming from the CNC's €15.6 million fine of the company for failing to comply with commitments offered when it bought free television channel Cuatro.

Finally, Cuatrecasas says it advised a number of clients in "almost all" CNC investigations. The firm is acting for Enterprise Holdings in the authority's car rental investigation and shipping group CMA CGM in the Moroccan Ferries investigation. Fernández is also acting for Manipulados Plana in the authority's sanction of 15 stationery companies for participating in a cartel lasting 33 years.

DLA Piper's Spanish competition practice is family affair, run by Juan Jiménez-Laiglesia with the support of his brother, *Who's Who Legal* nominee Jose María. Juan Jiménez-Laiglesia was recently appointed as DLA Piper's international head of competition. The team also counts one counsel and nine associates, who spend some time working on matters besides competition. Senior associate Joaquín Hervada joined the practice last year from Uría Menéndez.

The team is particularly active in the energy industry. María is acting for Repsol in the authority's infringement proceedings against six oil companies for alleged price fixing, and the firm also advised a gas association on an investigation of allegedly restrictive practices, which the organisation says are legal petitions to local governments. In the telecoms industry it has defended Vodafone from abuse of dominance proceedings originated from a complaint by British Telecom, advised Astel in its own abuse complaint against Telefónica and acted for Orange in its takeover of Spanish network Simyo, and connected €61,000 fine for gun-jumping. The firm is also counsel to Lafarse in an investigation of the cement industry.

On the mergers front, the firm worked for Hypercom when the company was bought by Verifone. The two are the largest electronic payment companies in

Spain. It also provided merger control advice to Banco Santander, recently advising the bank on its €5 billion acquisition of Kredyt Bank in Poland.

Gómez-Acebo & Pombo's competition practice counts on three partners and nine more lawyers, including one of counsel and one academic counsel. *Who's Who Legal* nominee Íñigo Igartua Arregui is the partner in charge, leading from the Barcelona office. The firm is also has offices in Madrid and Brussels.

While many ongoing matters are confidential, the firm is representing companies involved in cartel probes across several industries, including milk, elastomeric foam and cotton. It also defending Schindler in an investigation of the market for the maintenance and repair of elevators, having successfully defended Schindler in a previous investigation that closed without an infringement finding.

On the merger control side, Igartua's team counselled Brazilian group BTG Pactual on antitrust issues surrounding the creation of a water supply consortium. It also advised e-commerce company Shiseido on the design of its online sale policy.

Practice head Jaime Pérez-Bustamante says 2013 has been the "most successful year ever" for Linklaters' Madrid competition team. Pérez-Bustamante leads a team of six associates. Consultant Jesús Alfaro, a distinguished professor and former head of antitrust at CMS Albiñana & Suárez de Lezo, joined the firm in March 2012.

The firm counts some of Spain's largest companies as its clients, including oil and gas giant Repsol, which the firm represented in the US\$6.65 billion sale of its global liquefied gas business to Shell and Abertis, and in its purchase of a 25 per cent stake in Spanish satellite operator Hispasat from the government. In other mergers, the firm acted for Canadian pension fund PSP Investments entered in its acquisition of a share of Isolux Corsan's concessions business.

In behavioural matters, the firm is representing state-owned postal operator Correos in its contention of the CNC's price-squeeze allegations, is advising Hertz as part of the car rental information exchange cartel investigation and is counselling international private security firm Loomis on an investigation of collective labour agreements. It is also representing Xylem in its appeal against the CNC's decision in the alleged fluid pumps cartel case. Banco Santander also relies on Linklaters for advice on its payment systems and payment card strategies and other confidential matters.

Pérez-Llorca expanded as a firm last year, moving into impressive new offices in April. Oriol Armengol, a *Who's Who Legal* nominee, leads the competition team and is assisted by three associates. The team continues to advise major companies, including Vodafone and Deutsche Bahn, and this year added Discovery Channel and security company Prosegur to its list of clients.

Perez-Llorca is coordinating Vodafone's appeal against a CNC €43.5 million fine levied for abuse of collective dominance, which also targeted Telefónica and Orange. The firm is advising Altadis, the Spanish branch of Imperial

Tobacco, in Spain's longest-running abuse case, obtaining the annulment of some obligations imposed by the CNC. It also advised the National Association of Newspaper Editors in Spain in an abuse of dominance complaint against Google at the EU level. Armengol is currently coordinating the appeal of oil company Cepsa, which is challenging a €83.8 million fine imposed by the European Commission for the company's participation in the Spanish bitumen cartel.

Other cartel work includes filing a leniency application for civil engineering company DYWIDAG-Systems International in a cartel investigation in the market for making pre-stressed structure equipment, and truck supplier MAN Group, in advice on infringement proceedings in a multi-jurisdictional cartel case involving collusion among truck and bus manufacturers.

Pérez-Llorca merger control work includes advising Banco Pastor in the bank's acquisition by Banco Popular, airport service company Swissport in its merger with Flightcare, and pharmaceutical companies Laboratorios Rovi and Laboratorios Ferrer in a joint venture with Novartis.

#### Recommended

Allen & Overy's competition team in Madrid is led by partner [Antonio Martínez](#), a *Who's Who Legal* nominee. The practice has four associates. The team provides regular advice to companies including Altadis, Azucarera Española, Beam Global, CEPESA and GSK España on behavioural matters.

In notable recent matters, Martínez represented stationary company Dohe in the CNC's infringement proceedings against a folder cartel, in which the company received a 50 per cent fine reduction. He also represented sherry producer Bodegas Caballero, securing the dismissal of the CNC's fine against the company before the Audiencia Nacional. On behalf of oil and gas producer Cepsa, he coordinated the defence of an abuse of dominance investigation allegations that were later dropped by the authority.

In state aid matters, the firm is representing Spain's public television and radio broadcaster Radio Televisión Española in an appeal brought by competitors Sogecable and Telefónica before the EU General Court against the European Commission's decision to approve the company's new financing system.

In merger work, the firm advised Saria Bio-Industries and pension funds OPT and PGGM in different EU matters; Barclays and RBS in the sale of a jointly controlled Spanish health-care group; and Bridgepoint, Sigdo Koppers and Gilde Equity Partners in CNC merger reviews.

Rafael Baena heads the competition practice at Ashurst, a new entry to our Spanish survey. Baena, who was appointed as head in 2010, works alongside of counsel Julio Pascual, a former judge at the Audiencia Nacional, and three associates.

Among ongoing matters, the firm is acting for Colgate-Palmolive in appeals stemming from its €2 million fine for operating a cartel in the bath and shower gel markets, and for Bodegas Barbadillo in an investigation of the wine sector.



It also represented Imperial Tobacco and board game manufacturer Devir in separate CNC investigations that were both closed without infringement decisions.

In transaction work, the firm acted for Grupo Planeta, Bertelsmann Group and Telefónica on the notification of a joint venture in the e-books market, and for National Express on its takeover of coach company Alsa. Baena also represented stakeholders in a merger between two hospital groups that required notification before the European Commission.

Other clients that regularly turn to the firm for antitrust advice include NH Hotels and the Spanish National Football League.

Baker & McKenzie's Spanish competition team is split between Madrid and Barcelona. Partner Carles Prat heads the practice in Barcelona while partner Alberto Escudero leads in Madrid, having departed a position of senior associate in Garrigues in November. He replaces José Antonio de la Calle, who departed the firm at the end of 2012 to set up his own antitrust boutique. In Barcelona, Prat specialises in behavioural matters, particularly involving the interface between IP and antitrust, while fellow Barcelona-based partner Vanessa Enrich takes on mostly merger matters and vertical restraints work.

The firm takes on regular work for motorcycle manufacturer Montesa-Honda, including in relation to an information exchange probe by the CNMC; and a successful appeal against a €2.1 million fine for cartel activity, which the Audiencia Nacional annulled after agreeing that the information gathered by the authority exceeded the scope of its search warrant.

Litigation work includes challenging a CNC market-sharing decision against civil engineering companies CTT-Stronghold and VSL SPAM. The firm advised gift box company Smart & Coin in the acquisition of its main competitor, La Vida Es Bella, and acted for Stirling in relation to the acquisition of the business of CartonPlast Group. The team also advised fertiliser producers Térvalis and Roullier on the competition aspects of a merger in over 30 jurisdictions.

Hogan Lovells' Madrid antitrust practice is led by Casto González-Páramo, who was promoted into the firm's partnership in January. He is supported by two associates. This year, González-Páramo acted for Antalis Envelopes, securing the company a 40 per cent fine reduction for its role as the leniency applicant in both a paper and an export envelope cartel. He was also counsel to reinsurer Scor in its successful appeal against the CNC's €120 million fine of six insurance companies before the Audiencia Nacional, and he is advising Fiat Group in the CNC's ongoing investigation of the motor vehicle industry.

