



The Spanish Competition Authority encourages more competition in the medical devices market

Report IPN/CNMC/025/18 issued by the Spanish Competition Authority on the draft of Royal Decree of reimbursement and prices of medical devices

Introduction

When the Ministry of Health started working on this Royal Degree, it agreed to request the Spanish Competition Authority to issue a report about it. The Spanish Competition Authority is usually grateful about this sort of requests, because they allow its participation aiming both to improve the functioning of the markets concerned and to reasonably maintain effective competition in such markets. The Spanish Competition Authority understands that this regulation may have a significant impact on competition and issues some recommendations.

Main proposals

The analysis of the Spanish Competition Authority departs from the idea that the market of medical devices is rather complex due to concentration of supply (the first 5 main companies have more than 50% of medical devices reimbursed by the NHS). Also, the medical devices sector is well-known by the Spanish Competition Authority, due to the several cases analysed in the past years, sanctioning many companies for illegal activities.

The Spanish Competition Authority makes, among, others, following recommendations:

- 1) To review the system for fixing prices and specially margins, pointing out that the system applicable to medicines does not necessarily have to apply to medical devices.
- 2) To treat in equal terms both reimbursed medical devices and new ones. This may

result in a price review of reimbursed medical devices aiming to avoid harming companies who wish to access the market.

- 3) To reconsider the roll of retail pharmacies when dispensing reimbursed medical devices, opening the door to dispensation at home and in NHS centres.
- 4) To apply the system of homogeneous groups to reinforce competitive tension. Under this system (applicable to medicines), the pharmacist dispenses the product having the lowest price within its group.
- 5) To introduce demand and rational use policies. The Spanish Competition Authority supports generic prescription and substitution of products by the pharmacist, but it also encourages providing more information to patients.
- 6) To improve the reasoning behind decisions. The Spanish Competition Authority has insisted on this matter several times and no steps forward have been taken so far.

Final comment

The recommendations of the Spanish Competition Authority usually come after a strict analysis of the concerned market. However, this report lacks some delicacy. Having excessive competitive tension in a market where the purchaser has so much power, can lead some companies to exit such market. This would result in patients not being able to access some valuable products. This is a delicate matter and it must be handled with prudence.