

COMPETITION LAW PRIVATE LITIGATION IN THE SPANISH COURTS (1999-2012)*

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Abstract

This paper provides an empirical study of private enforcement of competition law in Spain from 1999 to 2012. So far, the literature on competition law private litigation has not discussed all cases in depth.

Therefore, by broadening the scope of the inquiry, this paper aims to contribute to the policy discussion on the effectiveness of private enforcement of competition law in Spain. It gives a clearer picture of how private competition litigation is evolving. Any legal intervention or other policy decisions in this area should be based on an investigation of what is going on, what is working and what is not working in private litigation.

Evidence produced in this paper challenges the traditional view that private litigation in Spain is underdeveloped. The number of cases reported here suggests otherwise: there are many more private claims than previously thought, making our experience comparable to that of other EU Member States.

Keywords: competition law, antitrust Law, private enforcement, Spain, judges, caselaw, Litigation,

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Which meant that civil courts rejected any cases on this matter, see judgment of Supreme Court of 18th May.

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Introduction

This paper analyses competition law private litigation in Spain. A database of all caselaw from 1999 to 2012 is constructed (see *Annexes I and II*). It provides an explanation of the legal context in which the database set out can be better understood and also assesses the picture that can be drawn by looking at the case-law within the indicated legal context.

After a brief review of the legal framework and institutional settings within which private claims for anti-competitive behaviour take place (*infra* §1), the scope and breadth of the database of cases and methodology followed in its construction are described (*infra* §2). Then the paper provides an explanation of the trends and evolution that can be ascertained from the case law, as well as a detailed analysis of the taxonomy of cases found and industries covered (*infra* §3). After a general background to the case-law outcomes, several controversial legal issues raised by the Spanish experience on private enforcement of competition law are considered in the final section of the paper (*infra* §4).

1. Competition Law and enforcement in Spain

1.1. The beginnings of competition enforcement in Spain: the 1963 Act.

Although Spain had adopted competition legislation already in 1963¹, in reality there was no enforcement action while it was in force.

The 1963 Act on Repression of Anticompetitive Practices created a specialized jurisdiction for the enforcement of its rules², making provision also for strong government intervention in any potential enforcement action (fines). Victims of anticompetitive violations could only bring a claim in court when a decision by the Competition Defence Tribunal (CDT) was considered to be definitive (“*Those harmed by the restrictive practices declared prohibited by the DCT may bring a damage claim before the civil jurisdiction in the year following the final decision by the DCT*”)³. However, as no relevant public enforcement took place while the

¹ In Spanish *Ley 110/63 de Represión de Prácticas Restrictivas de la Competencia*, of 20th July 1963.

² Which meant that civil courts rejected any cases on this matter, see judgment of Supreme Court of 18th May 1985 (*Aiscondel S.A. v. Montoro, Empresa para la Industria Química*, RJ\1985\2397) and especially cases mentioned *infra* in notes 15 and 17.

³ Article 6 of 1963 Act. It could easily take fifteen years for the private plaintiff to obtain a final judgment awarding damages compensating the harm inflicted by an antitrust violation, see judgment of the Spanish Supreme Court of 6th May 1985, civil chamber (sect. 1), *D. Antonio Q. J. v. Cristalería Industrial et al.* RJ\1985\2260 (deciding over the harm inflicted onto the plaintiff by a price fixing agreement among glass manufacturers in Santander made in August 1970, which forced the plaintiff

1963 Act was in force⁴, accordingly there were no private claims filed before the civil courts⁵.

1.2. The modernization of Spanish Competition Law by the 1989 Act: first enforcement actions

Competition Law enforcement only started when Spain entered the European Economic Community (EEC) in 1985 and the EEC Treaty rules on competition became directly applicable in Spain and a new Competition Act was adopted (1989 Defence Competition Act⁶). Like in many other European countries at that time, administrative authorities were in charge of enforcing the EEC Treaty and the domestic competition prohibitions [either the European Commission or the Spanish Competition Defence Tribunal (CDT)].

Public enforcement of the competition rules was the predominant enforcement tool while the 1989 Act was in force, and it was then that the very first fines were imposed by the CDT for anti-competitive behaviour by companies, although many decisions were later reviewed by courts in relation to the amount of the fine established⁷.

Until 2007, private enforcement of domestic competition law was only possible as a follow-on action once the CDT decision was final and definitive (*“Compensation for damages, based on the illegal nature of the acts prohibited by this Act, may be requested by the injured parties, once there is a final administrative decision and as necessary, jurisdictional ruling. The substantive and procedural regime applicable to the compensation for damages shall be as foreseen in the civil legislation”*), several years after it was adopted⁸. According to this

to close his business in 1971, where the final decision of the DCT was given on June 1977), published in *La Ley*, 1985-4, 251-258, and commented on by MANUEL AREÁN LALÍN, “La Indemnización de daños y perjuicios por violación del derecho antitrust”, *La Ley*, 1985-4, 251-260.

Indeed, even the declaration of nullity of anticompetitive agreements and decisions (established in article 1.1) was reserved to the DCT (which presumably was considered a pseudo-judicial organ), see JOSÉ LUIS FERNÁNDEZ RUIZ, “La acción de resarcimiento de daños y perjuicios en la Ley de Represión de las Prácticas Restrictivas de la Competencia”, in *Estudios Jurídicos en Homenaje a Joaquín Garrigues*, vol. 2, 1971, pages 257-258 and JOAQUÍN GARRIGUES, *La defensa de la competencia mercantil*, 1964, page 98.

⁴ See JOAN-RAMÓN BORRELL, “Spanish competition policy: a case of government’s response to domestically perceived problems”, *Antitrust Bulletin* 43 (1998) pages 445-465 (for an explanation of how the 1963 Act was a foreign transplant and a legislative tool without domestic precedent that became completely ineffective).

⁵ There had been, however, a case in which the Courts declared null and void the joint storage and distribution agreement by wholesale mineral oil and petrol CAMPESA’s agents in Vizcaya, see judgment of the Spanish Supreme Court of 31st September 1979, *Pilar U.C. et al v. Julio R.V. y G.*, RJ\1979\4499 (legal grounds 3rd & 4th), but apparently there were prior decisions by the DCT on that issue.

⁶ *Ley 16/89 de Defensa de la Competencia*, of July 17th 1989 (Official Journal n° 170, of 18th July 1989).

⁷ See FRANCISCO MARCOS, “The enforcement of Spanish antitrust Law: A critical assessment of the fines setting policy and of the legal framework for private enforcement actions”, in SATYANARAYANA PRASAD (ed.), *Antitrust Law- Emerging Trends*, 2007, pages 155-156.

⁸ Article 13.2 of 1989 Defence Competition Act. Moreover, the requirement of a DCT final decision before a civil action for damages to be brought was somehow incoherent with the power that the DCA recognizes lies with the judicial courts in asserting the nullity of those agreements or actions violating its rules. Indeed, if the judicial courts were capable of deciding

rule, stand-alone actions for damages based on domestic competition rules were not feasible. This rule introduced a significant obstacle and delay in any claim for damages by private parties injured by an agreement or decision in breach of the competition prohibitions⁹. For that reason, the number of private cases brought based on domestic competition rules (all follow-on actions) remained minimal¹⁰.

Indeed, some of the first few successful competition damages claims based on Spanish Law reported were based on the 1991 Unfair Competition Act, which condemns as an unfair act business conduct in breach of market legal rules (i.e., those rules being the competition prohibitions)¹¹. Unfair competition claims were used as a channel to claim damages for anti-competitive business behaviour, either as a sole legal basis or supplementary to a claim based on a competition law violation which would allow for cease and desist orders¹².

on this issue why are they not capable of taking decisions about the potential damages to be awarded to compensate harm that the anti-competitive act may have provoked?

⁹ See *OECD, Regulatory Reform in Spain. The Role of Competition Policy in Regulatory Reform*, Paris 2001, page 18; ANTONIO CREUS, “La privatización del Derecho de la Competencia”, *Gaceta Jurídica de la Competencia* n° 200 (1999) pages 55-56 and ALFONSO GUTIÉRREZ & ANTONIO MARTÍNEZ, “Nuevas perspectivas en la aplicación de las normas de defensa de la competencia por la jurisdicción civil”, *Actualidad Jurídica Uría & Menéndez*, n° 1/2002, page 53. It was argued, nonetheless, that the nullity and voidness of anticompetitive contracts could be -incidentally- affirmed by courts without any prior administrative decision, see JULIO COSTAS COMESAÑA, “En torno al sistema español de aplicación compartida del derecho de defensa de la competencia (Comentario a la STS de 2 de junio de 2000)”, *ADI*, vol. 21 (2000) page 237 and 243-244; GUTIÉRREZ & MARTÍNEZ, *Actualidad Jurídica Uría & Menéndez* n° 1/2002, page 48; SABINIANO MEDRANO IRAZOLA, “El problema de la jurisdicción civil y la defensa de la competencia: reconsideración del debate y contribución a la búsqueda de soluciones”, *Gaceta Jurídica de la competencia* n° 210 (2000) 210, pages 18-19 and 20-23; IRENE MORENO-TAPIA, ELENA LÓPEZ AYUSO & CANI FERNÁNDEZ, “La eficiencia real del Derecho de la Competencia: La indemnización de los daños causados”, in S. MARTÍNEZ & A. PETITBÓ (dirs.), *La Modernización del Derecho de la Competencia en España y en la UE*, 2005, pages 174-179 and SALOMÉ SANTOS LORENZO & PETER TURNER-KERR, “¿En estado de total subdesarrollo? La aplicación privada de las normas de defensa de la competencia en España”, *Gaceta Jurídica de la Competencia* n° 245 (2006) page 43.

¹⁰ Excluding Court opinions in which reference to competition law was considered tangential, private enforcement of domestic competition law at that time registered less than half a dozen Supreme Court cases and two follow-on Courts of Appeals cases. See “Spain: National Report”, in *Study on the conditions of claims for damages in case of infringement of EC competition rules. Comparative Report* (prepared by DENNIS WAELBROECK, DONALD SLATER & GIL EVEN-SHOSHAN), 2004, pages 35-40.

¹¹ Article 15.2. of the Unfair Competition Act 3/1991, of 10th January 1991 (Official Gazette n° 10, of 11 January 1991, pages 959-962). For early commentaries on this alternative, see JUAN MANUEL FERNÁNDEZ LÓPEZ, “Aplicación jurisdiccional de los artículos 85 y 86 TCE y de las normas internas de Competencia”, *Anuario de la Competencia 1997*, pages 227-228 and JUAN MANUEL FERNÁNDEZ LÓPEZ, “La aplicación jurisdiccional de la legislación interna y comunitaria sobre competencia en la jurisprudencia de la Sala Primera del Tribunal Supremo. Situación actual y perspectivas de future”, *Anuario de la Competencia 2000*, page 131 and 142-143.

The most prominent example being the Judgment of the Provincial Court of Burgos (Sect. 2) of 26th July 2002 (*Rafael L.E. v. Ascensores Rycam, S.L., Thyssen Boetticher S.A., Orona S. Coop., Schindler. S.A., Zardoya Otis S.A. & Ascensores Cenía, S.A.*, JUR/2002/233703 (which paradoxically was a follow-on action to a previous firm resolution of the Spanish Court of Defense Competition in 1991), commented by FERNANDO DIEZ ESTELLA, “Recovery of Damages in Antitrust Enforcement: The next important topic? Analysis of Recent Case Law”, in VELASCO SAN PEDRO et al. (dirs.), *Private enforcement of competition law*, 2011, page 220 and *supra* note 83 and accompanying text.

Although on appeal, also the Judgment of Provincial Court of Girona of 16th April 2002 *Eléctrica Curós v. Hidroeléctrica de L'Emporda* (JUR2002/165978) decided (confirming) based on the domestic equivalent to article 102 of TFEU, the claim and the first instance judgment referred as well to unfair competition. See *supra* note 61 and 62.

¹² The interplay of competition law and unfair competition law is also evidenced in a recent case in the Commercial Court of Barcelona, number 2 judgment n° 56/2010 of 24th February 2010 (*Sedifa, S.L. y Grufarma, S.L. v. Novartis Farmacéutica, S.A., Astrazeneca Farmacéutica Spain, S.A.; Boheringer Ingelhem España, S.A., Sanofi-Aventis, S.A. & Janssen-Cilag, S.A.*, ROJ SJM 142/2010, Appeal n° 170/2008), the case follows an unsuccessful claim before the NCC (rejected on 25th

At the same time, although private enforcement of the EEC Treaty competition prohibitions should have been available because of their direct effect¹³, a half-hearted decision by the Spanish Supreme Court in 1993 (CAMPSA case)¹⁴ kept private suits based on European competition rules out of the Courts. This jurisdictional bar against claims based on competition grounds was later confirmed by other Supreme Court judgments¹⁵, but in a 2000 ruling the Supreme Court unquestionably affirmed civil jurisdiction in these cases (DISA Case)¹⁶.

september 2008, S/0030/2007, *Laboratorios Farmacéuticos*) and uses among the grounds for the damages claim the violation of competition law (both articles 1 and 2 of the Spanish 2007 Act) by the pharmaceutical companies, a claim which was rejected by the judge.

¹³ 16 of ECJ Judgment of 30th January 1974, *Belgische Radio en Televisie v. SV SABAM* (Case 127/73) [1974] E.C.R. 51 and 39 of ECJ Judgment of 18th March 1997, *Guérin Automobiles v. Commission* (C-282/95P) [1997] ECR I-1503.

¹⁴ Supreme Court Judgment of 30th December 1993, *Isidoro R.S.A. et al. v. CAMPSA*, RJ\1993\9902 (abuse of dominant position by the main Spanish oil retailer who allegedly overcharged fishing firms, and the Supreme Court rejected the claim arguing that it was not empowered to apply the EEC Treaty competition prohibitions nor the 1963 Spanish Act of Repression of Anticompetitive Practices). On this case, see FERNÁNDEZ LÓPEZ, *Anuario de la Competencia 1997*, pages 233-236 and *Anuario de la Competencia 2000*, pages 134-136; AMADEO PETITBÓ & LUIS BERENGUER, “La aplicación del Derecho de la competencia por órganos jurisdiccionales y administrativos”, *Anuario de la Competencia 1998*, pages 41-45 and IRENE MORENO-TAPIA & CANI FERNÁNDEZ, “La judicialización del Derecho comunitario de la Competencia”, *Anuario de la Competencia 2001*, pages 193-195.

¹⁵ See Supreme Court Judgment (Civil Ch.) of 4th November 1999, *United International Pictures y Cia. v. Salsas Hermanos*, RJ\1999\8001 (annulling the Barcelona Provincial Court of October 19, 1994 which had declared null and void the contract between UNITED INTERNATIONAL PICTURES and SALSAS HERMANOS, which had successfully used the domestic equivalent to 101 TFEU as a shield in the contract and damages claim filed by UIP) and 30th November 1999 (*Catalonia Motor v. Nissan Motor Ibérica*, RJ1999\8439).

For a critical comment on the UIP case judgment, see JUAN MANUEL FERNÁNDEZ LÓPEZ, “Órganos encargados de la aplicación del Derecho interno sobre la competencia (Comentario a la STS 908/1999, de 4 de noviembre de 1999)”, *Gaceta Jurídica de la Competencia* n° 211 (2001) pages 42-47 [by the same author, *Anuario de la Competencia 2000*, pages 137-141]. The Provincial Court of Salamanca Judgment of 28th January 2002, *ASVP v. Distribuidora Rivas, S.A.* (JUR\2002\74539), rejected on jurisdictional grounds a claim of abuse of dominant position (considering only the DCT could decide on it). The Provincial Court of Las Palmas (Sect. 4), (JUR\2001\207815) also rejected an anticompetitive claim (based on article 101.1 TFEU) raised by the defendant, arguing a prior decision by the DCT was required (6th Legal Ground, *in fine*). On similar terms, judgment of the Provincial Court of Madrid (sect. 11), *SGAE v. z° Ogún Espectáculos, S.L.* (LA LEY186030/2002); Judgment of the Provincial Court of Madrid (Sec. 9), *EGEDA v. Hotel Villamagna, S.A.* (LA LEY143280/2000); Judgment of Provincial Court of Madrid (sect. 3) of 27th February 2002, *E., C., & A. v. Hotel T, S.A.* (EDJ 2002/19449); Decree of Provincial Court of Madrid (Sect. 25) of 14th March 2005, *Area de Servicio Campo, S.A. v. GALP* (EDJ 2006/57380); Judgment of Provincial Court of Valencia (Sect. 11) of 6th November 2002, *SGAE v. J, S.A.*, *EDJ 2002/69842*

¹⁶ See Supreme Court Judgment of 2nd June 2000, *José Carlos C.C. v. DISA & Prodalca* (RJ2000\5092). See also Supreme Court Judgments of 2nd March 2001, *Autolugo v. Mercedes Benz* (RJ 2001\2616) and of 15th March 2001, *Gabai v. Petronor* (RJ2001\5980). For a reflection on these cases, see HELMUT BROKELMANN, “Enforcement of articles 81 and 82 EC under Regulation 1/2003. The case of Spain and Portugal”, *World Competition* 29/4 (2006) page 545; COSTAS, *ADI*, vol. 21 (2000) pages 231-239 and 246-248; FERNÁNDEZ LÓPEZ, *Anuario de la Competencia 2000*, pages 144-148; JAIME FOLGUERA CRESPO & BORJA MARTÍNEZ CORRAL, “Spain: The Judicial Application of European Competition Law”, in GIL CARLOS RODRÍGUEZ IGLESIAS & LUIS ORTÍZ BLANCO (eds.), *The judicial application of Competition Law. Proceedings of the FIDE XXIV Congress*, 2010, vol I-2, page 392; ALFONSO GUTIERREZ, “La sentencia del Tribunal Supremo de 2 de junio de 2000 y sus implicaciones para los contratos de suministro de carburantes entre compañías petroleras y estaciones de servicio”, *Diario La Ley*, 23rd March 2001, n° 5274; GUTIÉRREZ & MARTÍNEZ, *Actualidad Jurídica Uría & Menéndez* n° 1/2002, pages 42-43; MORENO-TAPIA & FERNÁNDEZ, *Anuario de la Competencia 2001*, page 196; Ingrid S. ORTIZ BAQUERO, *La aplicación privada del Derecho de la competencia. Los efectos civiles derivados de la infracción de las normas de libre competencia*, 2011, pages 92-98; CARLES PRAT, “El Tribunal Supremo y «el efecto directo» del Derecho de la Competencia (Comentario a la Sentencia «DISA» del Tribunal Supremo de 2 de junio de 2000)”, *Anuario de la Competencia 2000* pages 283-295 and IGNACIO SANCHO GARGALLO, “Ejercicio privado de las acciones basadas en el Derecho comunitario y nacional de la competencia”, *Indret* 1/2009, page 6.

After EU Regulation 1/2003¹⁷, national courts “shall have the power to apply Articles 101 and 102 of the Treaty” (article 6) and a copy of any such judgments should be sent by Member States to the European Commission (article 15.2).

1.3. The (current) 2007 Defence Competition Act: the upsurge of private claims

In 2004 the new Insolvency Act of 9th July 2003 introduced the creation of new commercial courts¹⁸, with powers to decide on the enforcement of articles 101 and 102 of the Treaty¹⁹.

Moreover, on the domestic competition law front, the requirement for a previous decision by the CDT for the courts to be able to rule on damages claims was dropped in the 2007 Competition Act. Indeed, the new rules included an express acknowledgment of the courts’ jurisdiction over cases in which violation of the competition rules were claimed by the parties²⁰.

2. Purposes and Aims of this paper

This paper seeks to provide a comprehensive analysis of all competition litigation in the

Among the lower courts that followed the Supreme Court doctrine, see Judgment of the Provincial Court of Vizcaya, *Asociación de Expendedores de Prensa y Revistas de Vizcaya v. Guinea Simó, S.L.* (RJ 2003\6060) and Decree of Madrid Provincial Court (Sect. 9) of 15th September 2003, *D^a. Rita & Compañía de Herederos Bernardo Ferrer Muñoz, SRC. v. CEPSA Estaciones de Servicio, S.A.* and also Judgment of Provincial Court of Valencia (Sect. 11) of 11th November 2002, *SGAE v. J, S.A.* (EDJ 2002/64842)

¹⁷ Council Regulation (EC) n° 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, pages 1–25).

¹⁸ On the circumstances surrounding their creation (and especially referring to their powers in enforcing EU Regulation 1/2003), see JUAN M. FERNÁNDEZ LÓPEZ, “Los juzgados de lo mercantil ante el Derecho Comunitario de la Competencia”, *Anuario de la Competencia 2003*, pages 172-180

¹⁹ Article 86ter.2.f) of the Organic Law on Judicial Power. See Official Journal n° 164, 10 July 2003, pages 26901-26905. However, only the jurisdiction to decide EU cases was given to commercial courts, whilst domestic competition law cases were still to be decided by ordinary civil courts, as noted by the *Study on the conditions of claims for damages in case of infringement of EC competition rules. Comparative Report* (Waelbroeck, Slater & Even-Shoshan), 2004, page 33 and also M^a JESÚS GONZÁLEZ LÓPEZ, “La aplicación privada de las normas de competencia en España y su regulación en la Ley 15/2007”, *ADI*, vol. 28 (2008) pages 270-272. For that reason, see Provincial Court of Madrid (Sect. 28) Decree of 5th June 2009, *Spain Rail v. ADIF, Renfe-Operadora & Transportes Carrasco* (EDJ 2009/2622254) and Provincial Court of Barcelona (Sect. 17) Judgment of 19th March 2010, *Necchi Blu System v: Necchi Modulare Música España* (EDJ 2010/154105). On that issue —but noting the beneficial effects of assigning private damages claims based on competition violations to these newly created judges- see DIEGO CASTRO-VILLACAÑAS PÉREZ, “La aplicación privada del Derecho de competencia y los nuevos juzgados de lo mercantil”, *Boletín Económico del ICE* n° 2818 (2004) pages 8-10.

²⁰ First additional provision one of the Organic Law 13/2007 of 19 November (Official Journal n° 278, 20 nov. 2007, pages 47334-47335 (First final provision, one) added among the powers of the commercial courts to decide all competition claims - either based on domestic or EU rules-. See FRANCISCO J. SORIANO GUZMÁN, “La defensa de la competencia ante la jurisdicción mercantil”, *Diario de Jurisprudencia El Derecho*, n° 2512 (EDB 2008/496) page 2 and PETER TURNER-KERR, “The Spanish commercial Courts on the verge of being granted full competence to hear damages (March 2006 Draft Law)”, *e-Competitions*, n° 42735.

Spanish Civil courts²¹, involving claims by parties conferred either by EU or/and Spanish domestic Law until may 2012²².

2.1. Methodology followed in gathering the cases: cases covered

In order to identify all competition law private claims in Spanish civil courts, the Public Official judicial database²³, THOMSON REUTERS-WESTLAW (ARANZADI)²⁴, LA LEY DIGITAL (GRUPO WOLTERS KLUWER)²⁵ and EL DERECHO (GRUPO FRANCIS LEFEVRE)²⁶ databases were used²⁷.

Furthermore, the list of cases provided by the European Commission in accordance with article 15.2 of Regulation 1/2003 was also reviewed²⁸. Overall, the use of these three sources, in addition to checking all the relevant doctrinal literature on the topic, should provide an exhaustive view of all the private enforcement cases in Spain²⁹.

²¹ It goes without saying, that rulings from the EU Court of Justice of the General Court of the EU are excluded, though they may be occasionally mentioned if related to the Spanish caselae reported or if contain relevant holdings in any of the issues herein discussed.

²² Before this paper there have only been some limited studies that recounted (not exhaustively) some of the private enforcement claims based on competition law enforcements, see SANTOS LORENZO & TURNER-KERR, *Gaceta Jurídica de la Competencia*, nº 245 (Sept.-Oct. 2006) page 42-56 and ELENA RUÍZ, ROSA BAYO & JULIO COSTAS, “National Examples of Private Enforcement of Competition Law: Spain” in VELASCO SAN PEDRO et al. (dirs.), *Private Enforcement of Competition Law*, 2011, pages 137-147.

²³ Available at <http://www.poderjudicial.es/search/indexAN.jsp>.

²⁴ Available at <http://www.westlaw.es>.

²⁵ Available at <http://laleydigital.laley.es>.

²⁶ Available at <http://ww.elderecho.com>.

²⁷ Several searches were undertaken in them using different terms or expressions –in Spanish- to ensure comprehensiveness of the results (“competition”; “antitrust”, “defence competition”, “cartel”, “anticompetitive action”, “anticompetitive agreement”, “anticompetitive practice”, “dominant position”). All higher court judgments are reported and, therefore, the exhaustiveness of the results at the level of Supreme Court can be assumed, the situation is different at the appeals level and at the first instance level (especially for older cases that could not have been reported in any of the databases available due to poor record collection and maintenance). Concerning the later, It may be even the case that the final rejection of the appeal of the competition claim before the Supreme Court could be traced, but not the prior Provincial Court judgment (see, for example, Decree of Supreme Court of 28 April 2009, *Teleureka, S.L. v. France Telecom España, S.A.*, EDJ 2009/84240).

²⁸ Available at http://ec.europa.eu/competition/elojade/antitrust/nationalcourts/?ms_code=esp.

²⁹ However, there may be unreported cases that despite their potential interest are not, naturally, included in the sample. For example, two are reported by the judge ALBERTO ARRIBAS, “¿Es eficaz la aplicación privada del Derecho de la Competencia en España? El papel de los jueces de lo mercantil”, in G. A. BENACCHIO & M. CARPAGNANO (dirs.) *Il Private Enforcement del Diritto Comunitario della Concorrenza: Ruolo e Competenze dei Giudici Nazionali*, 2012, page 188. One of them had to do with the claim by Atlético de Madrid against FIFA based on TFEU articles 101 and 102 for the damage caused by the injury to the soccer player Maxi in a match between the national teams of Argentina and Spain in La Condomina (Murcia); the player who was ceded by Atlético following the request by the Argentina national team complying with the mandatory cession rule established by FIFA rules. Atlético claimed that national soccer federations and FIFA had substituted free competition in cessions by a mandatory cession system in breach of both TFEU articles 101 and 102. Later on, Atlético dropped its claim.

Cases from 1st may 1999 to 1st may 2012 are reported in the annexed database (see *infra* ANNEX I)³⁰, although references to cases both decided before and after that period may be made in this paper when it is considered relevant for illustrating the position concerning private damages claims in Spain.

Of course, as usual in this type of study, no reference is made to cases closed through settlement or where the damages claim was subject to arbitration, as there is no public evidence of them in practice³¹.

2.2. Database construction

Following the general indications established in the guidelines for the AHRC project, a case was identified as such for the construction of the database whenever there was a competition law claim made before a court in a private action (be it declaratory, compensatory, interim measures or mere defence). Where the same dispute was resolved by different levels of the court hierarchy within the period covered by the project, only the decision of the highest court to consider the case is counted and considered in the analysis.

Furthermore, only cases in which competition law served as a legal basis for a claim posed before a judge are considered and, therefore, the database excluded many cases in which competition law (either EU or domestic) is mentioned collaterally or as an accessory—sometimes without apparent purpose (or merely illustrative)—but not used in the legal argumentation³². In the same vein, cases solved according to secondary EU competition legislation (mainly different block exemption regulations) but without referring directly to the TFEU competition prohibitions, are not included³³.

The other case had to do with a TFEU claim based on article 102 by a TV channel producer against the pay TV platform SOGECABLE for the non-renewal of the contract by which the later lodged in its pay—TV platform INTERECONOMÍA channel, but apparently INTERECONOMÍA also desisted on its claim (probably because it could air its channel through terrestrial digital TV (TDT)). I'd like to thank judge Arribas for his explanation of these two cases.

³⁰ Before 1999 there were only nine cases reported where a private claim was made.

³¹ See, however, PEDRO CALLOL, "Spain", in A.A. FOER & J. W. CUNEO, *The International Handbook on Private Enforcement of Competition Law*, 2010, page 393 (referring to a settlement between TELEFÓNICA DE ESPAÑA and JAZZTEL, and another one concerning the ENDESA claim against IBERDROLA cited in note 77 & 78 *infra*). Nevertheless, in other jurisdictions, settlement activity has been studied, see BARRY J. RODGER, "Private Enforcement of Competition Law, the Hidden Story: Competition Litigation Settlements in the UK 2000-2005", *ECLR* 29/2 (2008) pages 96-116.

³² See, for example, judgment of Provincial Court of Baleares of 27th June 1994, Appeal n° 10/1993 (AC 1994/1135) that in a trademark and unfair competition dispute mentions on passing (and unrelated to the dispute at stake) the direct effect of articles 101 and 102 of TFEU.

³³ See Supreme Court Judgments of 2nd March 2002, *Autolugo v. Mercedes Benz* (RJ 2001/2616); 11th December 2002, *Angulo Saiz v. Repsol* (RJ 2002/10737); of 7th November 2003, *Shell v. E.S. La Guancha* (ROJ STS 696/2003); 26th March 2004, *REPSOL v. Iruñaín*; 17th October 2005, *BP c. Cerdeña*; 5th November 2005, *Saenz de Miera v. REPSOL & Petronor*; 16th October 2006, *Promaviso v. CEPSA*; 20th December 2007, *Calaf v. CEPSA*. See also Provincial Court of Madrid (Sect.

Later, cases were classified according to the competition law ground used (domestic and/or EU, unilateral and/or multilateral conduct), the type of claims that were made and remedies sought, their level of success, whether they were stand-alone claims or follow-on actions (raised after an infringement decision by the competition authority), and the level of court reached (see *infra* ANNEX II)³⁴.

2.3. Description of the sample

All in all, 323 cases were identified³⁵. Most of the cases were independently initiated cases (i.e., stand-alone actions constituted 94% of the cases), whereas only 18 of them were follow-on cases³⁶, after a previous public enforcement decision was adopted by the competition authority naming the defendants (two of the claims cartel related³⁷). Almost symmetrically,

14) Judgment of 16th December 2004, *CEPSA v. D. Antonio* (EDJ2004/2231523), Provincial Court of Madrid (Sect. 11) Judgment of 26th March 2004, *GEDER, S.L. v. Petrogal España, S.A.* (EDJ 2004/114916); Provincial Court of Madrid (Sect. 19) Judgment of 4th June 1999, *H., S.A. v. S., S.A. & Vehículos S, S.A.* (EDJ1999/16792); Provincial Court of Madrid (Sect. 10) Judgment of 22nd June 2002, *REPSOL v. Comercial ISCA 02, S.L.* (LALEY 118371/2002); Provincial Court of Madrid (Sect. 21) judgment of 5th July 2005, *Rutamur v. Repsol*; Provincial Court of Madrid (Sect 9) of 30th January 2005, *Melón & Zarza, v. REPSOL*; Provincial Court of Lleida (Sect. 2) Judgment of 15th february 2001, *Talleres Sisco Balague, S.L. v. Distribuciones del Motor & Opel* (AC 2001\454) and Provincial Court of Navarra of 29th July 2002, *Garages Orhy, S.L. v. Jesús Unsain, S.A.* (JUR\2002\253920).

³⁴ As indicated above, cases were identified and labeled as such for the purposes of this paper considering the latest court stage reached and, therefore, one case may entail several judicial decisions (three at the most, and in many cases, when the dispute reached the Supreme Court) although only one competition case/claim existed for our purposes –that being the last one- (cfr. the different approach –“one case per judgment” followed by ROSA BAYO & JULIO COSTAS, “National Examples of Private Enforcement of Competition Law: Spain” in VELASCO SAN PEDRO et al. (dirs.), *Private Enforcement of Competition Law*, 2011, page 138).

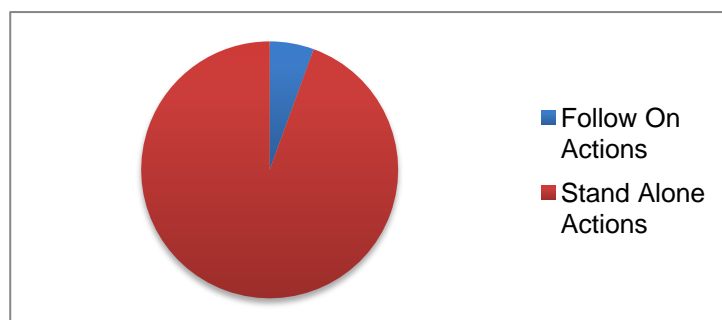
³⁵ As it widely known, conclusions should not be extracted for this mere figure as it only reveals a part of total disputes (litigated disputes), see GEORGE L. PRIEST & BENJAMIN KLEIN, “The Selection of Disputes for Litigation”, *Journal of Legal Studies* 13(1984) pages 1-3 and 6.

³⁶ Follow on claims are those started against parties named in infringement decisions by relevant administrative authorities in charge of (public) enforcement of competition law (either the DCT, NCC or the European Commission). For example, the Judgment of Provincial Court of Madrid (Sect. 9) of 9th December 2009, *Mazda Motor España v. Mazda Motor Logistics Europe* (EDJ 2009//340244) is not strictly a follow-on case but the previous DCT Resolution in the case (of 9th June 2003, 546/02) was used as a support of a claim of nullity and damages against MAZDA EUROPE (fined with €300,000, in the administrative proceedings) but the private claim was thereafter quashed once the defendant brought into court the judicial decision of the National Court [(Sec.6) of 3rd February 2006] and the Supreme Court (of 18th of November 2008) annulling prior DCT decision.

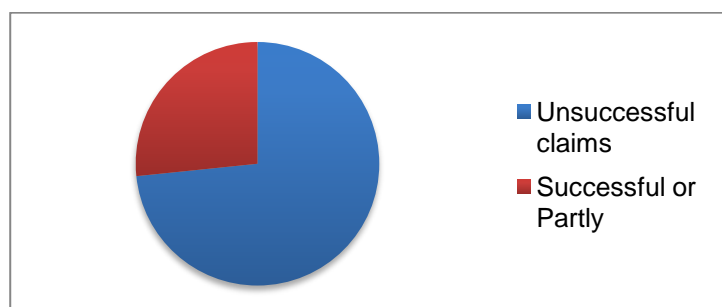
A similar finding of a majority of independent initiated litigation, see see SEBASTIAN PEYER, “Private Antitrust Litigation in Germany from 2005 to 2007: Empirical Evidence”, *Journal of Competition Law & Economics* 8/2 (2012) pages 343-343 (concluding “[t]he high proportion of stand-alone litigation supports the view of private antitrust enforcement as a complement to public action. Private enforcers appear to be willing to take up potential anticompetitive behavior that is not investigated by a competition authority”, footnote omitted).

³⁷ See *infra* notes 137 to 142 and text referred to. Another one was filed following the NCC resolution of 12 November 2009 (S/0037/08 *Compañías de Seguro Decenal*) in the Decennial Insurance Cartel by the direct insurance company MUSSAT, which was prevented by a boycott of cartel members from offering cheaper insurance contracts in the market (the claim amounts to €23.324.364 and is being heard before the commercial court n° 12 of Madrid). The fact that the NCC resolution has been recently annulled (on various and contradictory grounds) by the National court introduces further uncertainty in relation to the future of MUSSAT’s claim.

follow-on actions were either based on multilateral anti-competitive restraints (8) or single-firm conduct (9). Naturally, the majority of follow-on actions were successful (66, 7%).



In general terms, the chance of success for private competition claims is rather modest, as they fail in 74% of the cases³⁸.

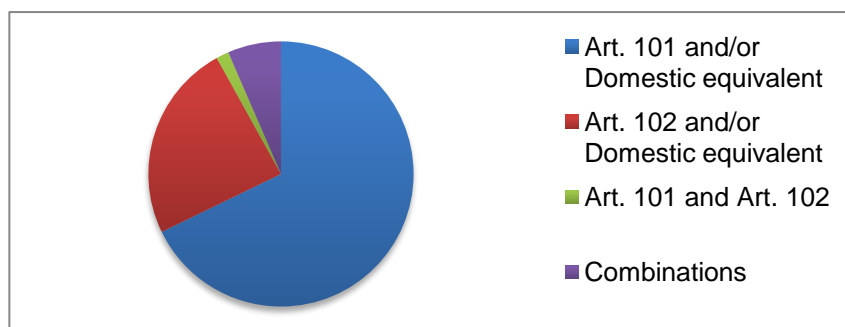


Most of the cases (around 68%) concern multilateral restraints (based on TFEU article 101 or article 1 of the Spanish Defense Competition Act, private claims concerning dominant position abuses constituting 24% and the rest including a combination of both (7%) or cases in which both TFEU articles 101 & 102 were used (2%)³⁹. As may have been expected,

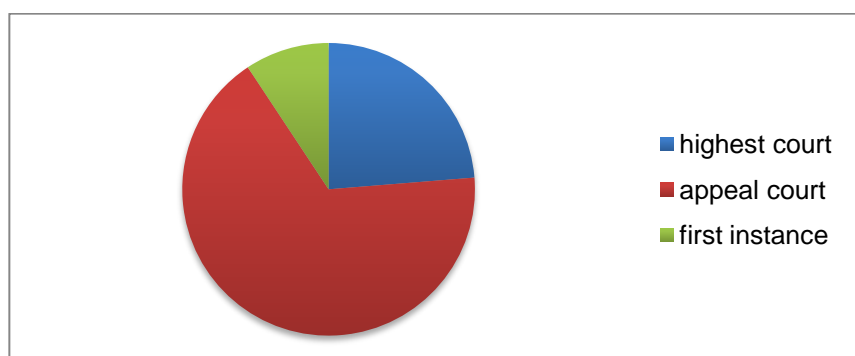
³⁸ According to PEYER, *Journal of Competition Law & Economics*, 8/2 (2012) page 32, success rate is higher in Germany (37,2%).

³⁹ The caselaw reported in the database excludes non-sense mentions of competition law provisions on cases unrelated to competition or market related complaints (which were raised by the parties and plainly rejected by the Court): see Provincial Court of Madrid (Sect. 14) Judgment of 29th June 2009, *D^a Lidia v. D. Roberto* (EDJ 2009/29582), involving a real estate and neighbor rights complaint in which the *de minimis* rule of article 5 of 2007 Spanish Competition Act was used as a defense. Another non-plausible reference to *de minimis* rule in competition law was made by the parties but rejected (Legal Ground 14th) by the Provincial Court of Madrid (Sect. 18) Judgment of 28th June 2007, *Univermoble, S.A. v. Avant-Haus, S.L., Arte Inmobiliario Ceres Hispania, S.L. & Leon Design, S.L.* (EDJ 2007/218870). A reference to the *de minimis* rule was also included in the unfair competition case *Codorniu v. Castellblanch* in the judgment of the Provincial Court of Barcelona (Sect. 15) of 26th January 2000 (EDJ 2000/4948).

success rates are higher for abuse of dominance claims (37, 2%), than for multilateral restraints (24, 2%) or the rest of the cases (14%).

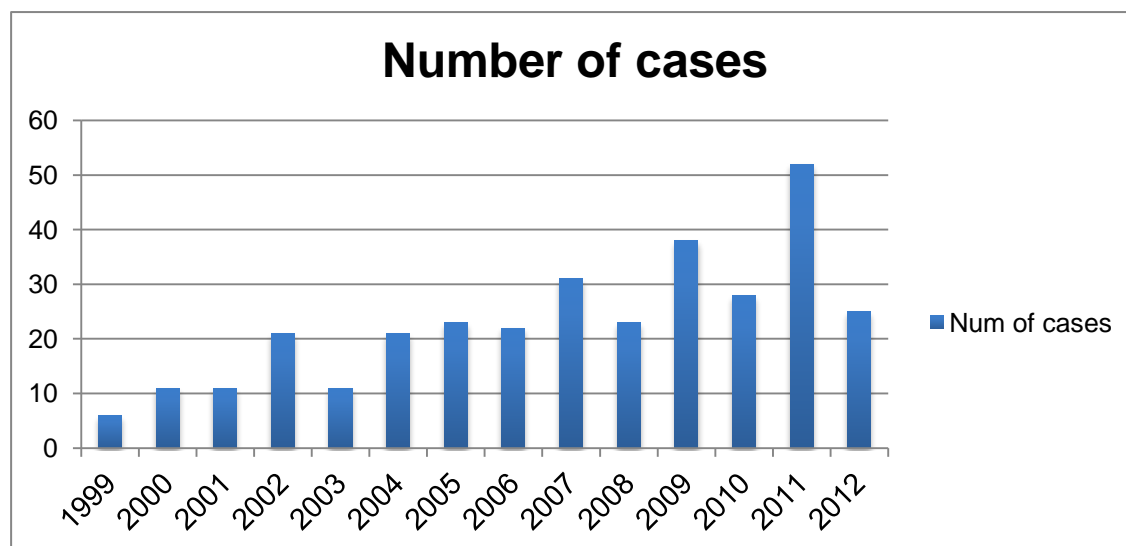


On the other hand, 66,25% of the competition private claims have been decided by the Provincial Court of appeals; some of them may still be pending a final decision by the highest court (the Supreme Court), which so far has decided in 24,5% of the cases.



Surprisingly even article 7 of the 1989 Spanish Competition Act (currently article 3 of 2007 Act) has occasionally been raised in civil complaints, being outright rejected by court (as the provision reserves powers of action and knowledge grounded on it to administrative competition authorities): see Provincial Court of Asturias (Sect. 1) Judgment of 9th October 2001, *Almirall Prodesfarma, S.A. v. Cooperativa Farmacéutica Asturiana* (LA LEY 178896/2001). See also Supreme Court (Chamber 1) Judgment of 14th March 2007, *Resopal, S.A. v. Mactac Europe, S.A., Legol-Plas, S.L., Vicman, S.L., Takerplas, S.L., Plastiastur, S.L. and D. Jesús, D. Bernardo & D. José Ignacio* (EDJ 2007/16951), a case in which the DCT had previously rejected a complaint (resolution of 31st March 1997, r189/1996, *Resopal*) and the rejection had been later confirmed by National Court (Sect. 6) Judgment of 3rd November 2011.

More than half of all the cases in the study period have been decided in the last 4 years, the majority in 2011 (52 cases)⁴⁰.

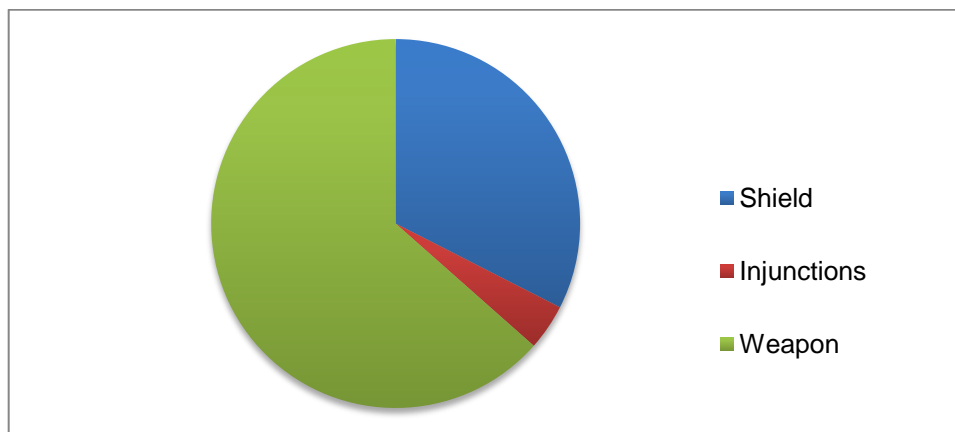


In 105 cases the competition rules were used as a shield, the defendant arguing that the plaintiff's claim was based on a null and void relationship, or on the abuse of its dominant position⁴¹. 13 cases concerned interim measures (of which five were successful) claimed on the basis of competition law⁴².

⁴⁰ However, after April 2012, and not included in the database, there have been 16 other decisions by the Supreme Court and 13 by the Provincial Courts (although 12 of those 29 cases would be referring to cases reported in lower court-levels in the database).

⁴¹ Council Regulation EC n° 1/2003 has clearly increased the potential shielding uses of TFUE article 101, see WOUTER P. J. WILS, *Principles of Antitrust Enforcement*, 2005, page 10.

⁴² On interim measures in private competition litigation see ANTONIO CREUS, "The Importance of Interim Measures in Civil Procedure Regarding Competition Law Matters", VELASCO SAN PEDRO et al. (dirs.), *Private Enforcement of Competition Law*, 2011, pages 181-203.



As mentioned above, only 26% of the private claims were successful or partially successful. However, the chances of success were higher in defence cases (34, 1%) than in cases where competition law was used as a weapon (24,1%).

Finally, out of the 323 cases, only one was a consumer initiated and aggregated case (*Ausbanc v. Telefónica*) and it remains in the initial stages of the proceedings (see *infra* §4.2).

3. Assessment of case Law

Almost all of the claims reported in the database concern business to business claims (B2B), and there is only one consumer to business claim (C2B).

Most of the claims refer to contractual disputes in vertical relationships in which competition law is raised (either by the plaintiff or defendant) as a ground for nullity and/or damages compensation.

On the other hand, and especially in the early years when this type of claim was possible, the reported cases reveal a constant and puzzling confusion between competition law and unfair competition law⁴³. Sometimes the confusion also concerns the regulation of standard terms of contract (boilerplate contracts)⁴⁴, with some cases reflecting a worrying (mis-)use of terminology by both judges and lawyers.

⁴³ See, for an early example, Supreme Court Judgment of 27th July 2003, *Asociación de Expendedores de Prensa y Revistas de Vizcaya v. Guinea Simó* (RJ 2003\6060). See also Provincial Court of Madrid (Sect. 18) of 1st March 2003, *Language Line, S.L. & Asociación de Centros de Enseñanza de Idiomas de Madrid v. The British Council España, I.E.S. Profesor Máximo Trueba & Ayuntamiento de Boadilla del Monte* (EDJ 2006/68677), in which the 1989 Defence Competition Act and the 1991 Unfair Competition Act are confounded and mistakenly mentioned interchangeably by the court (first legal ground).

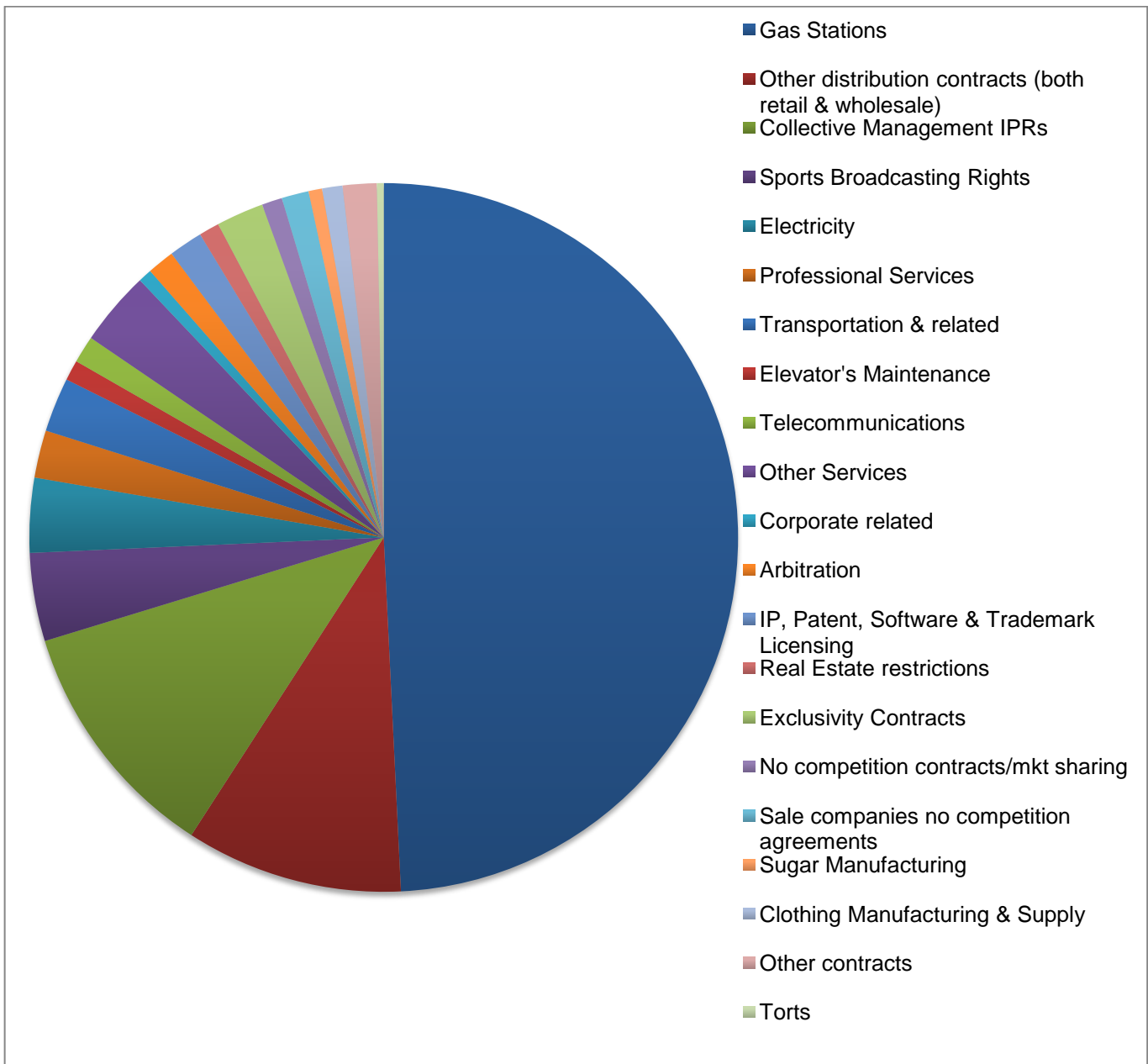
⁴⁴ See, for example, Legal ground 7th of Supreme Court (Civil Ch.) Judgment of 23rd March 2009, *E.S. Pozonuevo, S.L. v. Repsol Compañía de Productos Petrolíferos, S.A.* (STS 1250/2009), the preeminent position by petrol suppliers leading to retailers arguing that Consumers Protection Act should be applicable.

Classifying the cases into different categories is not an easy task as several criteria may be used for constructing a taxonomy of the case-law. Apart from the industry areas in which litigation took place, we will look also at the type of provision which led to the suit if that was the most striking feature of the case (this means that there may be some sort of misclassification when an individual case may fit in different categories, although naturally that should not question the exhaustiveness of the database/paper).

3.1. Industry sectors or market areas concerned

Vertical relations involve almost two-thirds of the private disputes so far. Most of the cases concern litigation between petrol station retailers and their providers (49%)⁴⁵. Distribution contracts in other sectors, amount to 10% of the cases, with claims (generally defence, 92%) against IP collective management societies counting for 11%.

⁴⁵ Indeed some commentators talk about the “petrol stations saga” DAVID ORDÓÑEZ SOLÍS, “*La reclamación ante los tribunales españoles de los daños sufridos en la violación del Derecho europeo de la competencia*”, *Gaceta Jurídica de la Competencia* 19 (2011) pages 22-24 (however carefully analyzing the case law it looks more like an “epidemy”).



3.1.1. Petrol station cases

The cases are typically brought by petrol stations (retailers) against the major brands supplying those stations (suppliers) claiming, on competition grounds, that their contractual relationships are null and unenforceable.

These cases have raised different complex legal issues, which indeed has led Spanish Courts to request several preliminary rulings to the Court of Justice of the EU [concerning the scope of application of TFUE article 101.1 to agency contracts, the scope and requirements of the Vertical restraints Block Exemption Regulation (EU regulations 1984/83 and 2790/1999) and the “de minimis” rule]⁴⁶.

Looking at competition litigation by petrol stations merits an individual study in itself (which is beyond the scope of this paper)⁴⁷, but it suffices to say that all the cases are stand-alone claims, brought by the petrol station (though not only as a shield but occasionally also as a weapon and rarely as an injunction) and which have been defeated in 80% of the cases. Complete success by the petrol stations is rare (only 13 out of the 33 cases which were to some extent won by them), and generally, if damages are conceded, the judgment does not set the amount of compensation as it is left to be established in the execution of judgment (mainly due to difficulties related to the existence of several cross-relationships between the petrol station and the supplier that make calculation complex)⁴⁸.

The specificities of competition litigation by petrol stations in Spain seem to be related mainly to the existence of some divergence in the assessment of distribution contracts in this industry by the competition authorities and by the courts (when a private claim was brought). Additionally, when deciding on those private claims at the highest level, in the past the Supreme Court delivered some contradictory judgments that increased legal uncertainty in relation to these claims⁴⁹.

The persistence of petrol retailers in their claims contrasts with their low rate of success and with the derogatory terms with which judges plainly quash their petitions, occasionally criticizing their poor lawyering skills and low quality of their pleadings⁵⁰.

⁴⁶ See Judgments of the Court of Justice of the EU of 11th September 2008 (CEPSA E.S. v. Tobar, C-279/06) ECR [2008] I-6681 and of 2nd April of 2009 (*Pedro IV Servicios*, C-260/07) ECR [2009] I-2437. In the Order of 3rd September 2009 (Lubricarga, C-507/2007) ECR [2009] I-134, the Court referred mainly to the other two decisions of the Court previously mentioned. Lately, on April 24th 2013, the Supreme Court requested a preliminary ruling of the Court of Justice of the EU (*E.S. Pozuelo 4, S.L. v. GALP*) on the requirement that the anticompetitive agreement (not covered by EC Regulation 2790/1999) significantly affected trade between the member States and the *de minimis* exception.

On the coverage of agency contracts by article 101 there was also a preliminary ruling requested by the Spanish Supreme Court (deciding on appeal against a resolution by the DCT of 1st April 1998), r280/97, *CEPSA*, see Judgment of the EU Court of Justice of 14th of December 2006 (*C.E.E.E.S.*, C-217/05) Re p. I-11987.

⁴⁷ I plan to finish soon some other work on the topic, “Filling the pump of antitrust private enforcement in Spain: why are there so many petrol station claims?”, *WP IE Law School* (forthcoming).

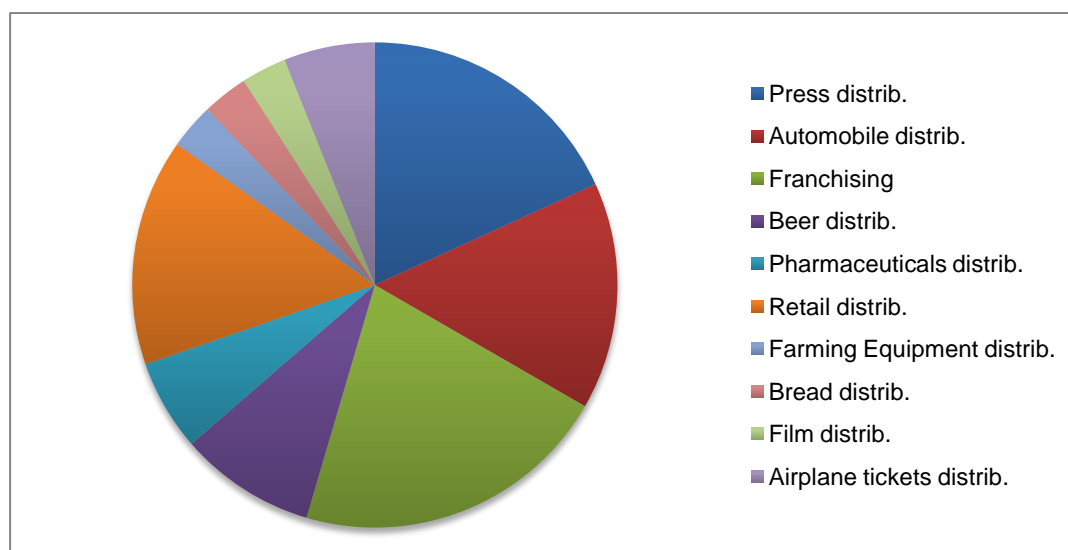
⁴⁸ Occasionally it does, see judgment of Provincial Court of Baleares (Sect. 35) of 1st September 2010, *E.S. Fontanet v. REPSOL* (218.958€).

⁴⁹ See RUÍZ, ROSA BAYO & JULIO COSTAS, “National Examples of Private Enforcement of Competition Law: Spain”, in VELASCO SAN PEDRO et al. (dirs.), *Private Enforcement of Competition Law*, 2011, page 140.

⁵⁰ For a sample of recent cases where the rejection of retailers claims is coupled with strong criticism for their inconsistent legal arguments or for the poor legal technique evidenced in their appeals; see Supreme Court Judgments (Civil Ch.) of 21st May 2012, *Carburantes Costa de La Luz, S.L. v Repsol Compañía de Productos Petrolíferos, S.A.* (STS 3076/2012); 31st March 2011, *Companye Administradora de Gasolineras, S.A. v. Petrogal España, S.A.* (STS 1819/2011); 28th September 2011, *D. José Enrique v. Compañía Logística de Hidrocarburos, S.A. & Repsol Compañía de Productos Petrolíferos, S.A.*

3.1.2. Other distribution contracts cases

Apart from petrol distribution, but on a much smaller scale, there have been several competition disputes concerning distribution contracts in other industries or concerning other products or services. There has been litigation regarding distribution of basic staples (bread, beer), automobiles, journals/press⁵¹, pharmaceuticals, farming equipment, and also franchising contracts. These cases amount to 10% of all in the period covered by the research.



In a related category, claims concerning exclusivity agreements based on competition law were brought in seven cases (four as a defence)⁵², but were never successful.

(STS 6086/2011); 15th of January 2010, *Repsol Compañía de Productos Petrolíferos, S.A. v. D. Rafael* (STS445/2010) [*“el recurso adolece de patentes defectos técnicos que, en no pocos pasajes de los respectivos alegatos de sus motivos, se traducen en falta de consistencia o base real”*]; 13th July 2009, *D. Constantino v. CEPESA Estaciones de Servicio, S.A.* (STS 5934/2009); 30th June 2009, *Juan Valencia S.L. v. Repsol Compañía de Productos Petrolíferos, S.A.* (11th Legal ground); 23rd March 2009, *E.S. Pozonuevo, S.L. v. Repsol Compañía de Productos Petrolíferos, S.A.* (STS 1250/2009).

⁵¹ There is also some litigation concerning press distribution and in which competition law is collaterally mentioned (BTW not included in database): see judgments of Provincial Court of Madrid (Sect. 12) of 5th June 2004, *Asociación de Vendedores de Prensa Zona Norte de Madrid & Asociación de Vendedores de Prensa de la Sierra de Madrid v. Comercial de Prensa Siglo XXI* (EDJ 2007/20120); 30th December 2005, *Asociación de Vendedores Profesionales de Prensa de la Zona Noroeste de Madrid v. Distribuidora J. Mora, S.L.* (EDJ 2005/268409); judgment of Provincial Court of Barcelona (Sect. 11) of 7th November 2006, *D. Pedro Miguel v. Marina Press Distribuciones, S.A.*, (EDJ 2006/413543) and Judgment of Provincial Court of Zaragoza (Sect. 4) of 28th February 2007, *D. M^a Milagros v. Distribuidora de Aragón, S.A.* (EDJ 2007/118015).

⁵² See Provincial Court of Baleares (Sect. 5) Judgment of 1st December 1999, *Aguas M, S.A. v. C, S.A.* (EDJ 1999/54709); Provincial Court of Barcelona (Sect. 15) judgments of 9th January 2004, *Transportes San Feliú, S.L. v. D. Bernardo* (EDJ 2004/4250) and 5th December 2008, *MEC Europe N.V. v. Omnicrom Circuits, S.L.* (EDJ 2008/341833); Provincial Court of Barcelona (Sect. 11) Judgment of 27th February 2006, *Inverter Electrónica, S.L. v. Network Total Protection, S.L.* (AC\2006\1649); Provincial Court of Pontevedra (Sect. 1) Judgment of 24th April 2008, *Teko Decoletaje y Mecanizados, S.L. v. GKN Indugasa, S.A.* (EDJ 2008/182854); Provincial Court of Barcelona (Sect. 17) Judgment of 19th March 2010, *Necchi Blue System, S.p.a v. Necchi Modulare Música España, S.L. (Inout Seguridad, S.L.)* (EDJ 2010/154105) and

3.1.3. Collective management of copyright and IP rights

Several cases relate to IP collective rights collective management issues (11%). Allegedly, like in other countries, in Spain collective management societies hold a dominant position in the market. Various cases by the Spanish competition authorities (and, at the EU level, also by the European Commission) have punished them for anti-competitive behaviour⁵³.

Unsurprisingly, some of those cases have led to private claims by their customers challenging in court their behaviour as constituting an abuse of a dominant position (mainly exploitative excessive pricing or discriminatory pricing). Almost every competition claim in this area is brought as a defence by the copyright or IP rights user against the claim of a collective management society (91% of cases)⁵⁴. However, only a handful of those actions have been successful (34% and in the first few years, only until 2008)⁵⁵.

Generally, the competition law argument was rejected by the courts when used in very broad and general terms (occasionally referring to decisions of the DCT⁵⁶), as a reinforcing claim (by the defendant) in the user denial to pay fees charged by collective management societies of copyright and other IP rights⁵⁷. However in other cases reported in the database, the

Provincial Court of Asturias (Sect 5) Judgment of 17th February 2011, *Cafes El Globo, S.L. v. D. Florentino* (SAP O 247/2011).

⁵³ The Spanish NCC decisions on this matter are reported on its December 2009 *Report on the Collective Management of Intellectual Property Rights*, page 6 (available at www.cncompetencia.es). The European Commission's Decision of 16th July 2008 in case COMP/C-2/38.698 (CISAC) is a good sample (later confirmed partially by General Court Judgment of 12th April 2013, T-442/08).

⁵⁴ Indeed, it may even be higher as one of the cases reported as a (successful) declaration of anticompetitive conduct (102 TFEU and domestic equivalent) by a collective IP rights management societies (CEDRO & VEGAP) concerned a collateral *dicta* in an unfair competition case; the court considering that the award of an exemption of payments of private copy remuneration to some company (a IP rights user) by CEDRO & VEGAP would amount to an abuse of dominant position for discriminatory treatment (4th legal ground *in fine* of Provincial Court of Madrid, Sect. 28, Judgment of 17th July 2008, *CEDRO & VEGAP v. Lexmark S.R.C.*, EDJ 2008/176598).

⁵⁵ Reported by ARRIBAS, in BENACCHIO & M. CARPAGNANO, *Il Private Enforcement del Diritto Comunitario della Concorrenza: Ruolo e Competenze dei Giudici Nazionali*, page 188. Starting with judgment of Provincial Court of Guipuzcoa of 4th September 2001, *Entidad de Gestión de Derechos de los Productores Audiovisuales (EGEDA) v. Urbanizaciones, Construcciones y Negocios, S.A.*, SAP SS 1436/2001 (in which the court stopped proceedings initiated by the audiovisual producers society –EGEDA– against a non-paying customer until the DCT decided on the case against EGEDA for abuse of its dominant position).

⁵⁶ Many cases contain generic references to either competition law or even DCT but claims (*rectius defences*, normally about the prices charged) were not properly grounded on competition law, so they are not included in database. See, for example, decree of Provincial Court of Cantabria (Sect. 2) of 4th February 2005, *EGEDA, AISGE & AIE v. SECA, S.A.* (EDJ 2005/28697); judgment of Provincial Court of Málaga (Sect. 6) of 25th January 2005, *EGEDA v. Procono, S.A.* (EDJ 2005/81164); judgment of provincial Court of Barcelona (Sect. 1) 27th July 2006, *SGAE v. Vale Music Spain, S.L.* (EDJ 2006/376282); judgment of provincial court of Barcelona (Sect. 15) of 13th Jan. 2009, *AGEDI & AIE v. Banquetes Reunidos, S.L.* (EDJ 2009/34634) and Judgment of provincial court of Barcelona (Sect. 15) of 13th March 2009, *AGEDI & AIE v. Remasca 2002, S.L.* (EDJ 2009/34632)

⁵⁷ See Provincial Court of Vizcaya (Sect. 4) Judgment of 23rd February 2006, *SGAE v. Café Teatro Ami, S.L.* (LALEY 47862/2006); Provincial Court of Navarra (Sect. 3) Judgment of 22nd April 2004, *EGEDA, AISGE & AIE v. Baños de Fitro, S.A* (LALEY 94429/2004); Provincial Court of Ourense of 9th September 2002, *SGAE v. A., S.L.* (EDJ 2002/59424); Provincial Court of Barcelona (Sect. 15) Judgment of 13 January 2009, *AGEDI & AIE v. Banquetes Reunidos, S.L.* (EDJ 2009/34634); Provincial Court of Barcelona (Sect. 15) Judgment of 13th January 2009, *AGEDI & AIE v. Remasca, S.L.* (EDJ

opposite has happened, and the courts have considered in the damages calculation the abusive character of the schedules adopted by EGEDA and AISGE⁵⁸, giving therefore some scope to the abuse of dominant position claim⁵⁹.

3.1.4. Cases concerning sports' broadcasting rights (mainly soccer)

Another trend of cases worth noting are damages claims concerning anti-competitive contracts in the sale of sports' broadcasting rights (4% of all)⁶⁰. All the cases refer to soccer broadcasting rights but one that concerned bowling broadcasting rights (injunction)⁶¹.

The first case of this type was in the nineties, as a follow-on claim against the Spanish Soccer League (LNFP) in 2005. The LNFP which was punished by the Spanish DCT in 1993 with a €86,492.85 fine for anti-competitive exclusivity introduced in the sale of broadcasting soccer rights for seasons 1989-1996, in breach of both national and EU competition law⁶². Although the lower civil court partially admitted the €34 million claim by ANTENA 3, awarding €2.5 million for the damages inflicted in terms of profits lost in advertising income⁶³, the claim

2009/34632); Provincial Court of Málaga (Sect. 6) Judgment of 25th January 2011, *EGEDA v. Procono, S.A.* (EDJ 2005/811164) and Provincial Court of Castellón (Sect. 3) Judgment of 2nd December 2011, *SGAE v. Ayuntamiento de Nules* (EDJ 2011/344338).

⁵⁸ As set by DCT resolution of 27th July 2000, 465/99, *Propiedad Intelectual Audiovisual* (later confirmed by Supreme Court Judgment of 18th October 2006), condemning EGEDA, AISGE & AIE to fines of around €360.000.

⁵⁹ See Provincial Court of Burgos (Sect. 2) Judgment of 3rd July 2001, *EGEDA, AISGE and AIE v. Landa Palace, S.A.* (LA LEY 135004/2001); Judgment of 10th July 2008, *EGEDA v. Hotel C., S.A.* (EDJ 2008/124059) and Judgment of Court of Appeals of Barcelona (sec. 15) Judgments of 1st March 2002, *EGEDA v. Promoción Hotelera Layetana, S.A.* (Hotel Claris) LA LEY 36560/2002; of 3rd December 2002, *VEGAP v. TISA* (EDJ 2002/108293) and of 30th June 2006, *VEGAP v. La Vanguardia Ediciones, S.L. & La Vanguardia Digital, S.L.* (EDJ 2005/335295); Judgments of Court of Appeals of Vizcaya (Sect. 4) of 26th September 2001, *EGEDA, AISGE & AIE v. Hotel G, S.A.* (EDJ 2001/54348) and of 9th January 2002, *EGEDA, AISGE & AIE v. Hotel E, S.A.* (EDJ 2002/44338); Judgment of Provincial Court of Cantabria (Sect. 2) of 4th February 2005, *EGEDA, AISGE & AIE v. SECA, S.A.* (EDJ 2005/28697). Finally, the issue was raised by the defendant - though the Court did not need to use it to quash the management society claim- in Judgment of Provincial Court of Barcelona (Sect. 15) of 26th September 2007, *EGEDA v. INEXTUR* (EDJ 2007/373439).

⁶⁰ Referring to these cases from the perspective of TFEU article 102 (as refusals to deal or unilateral unjustified breach of contract) ALBERTO ARRIBAS, “¿Es eficaz la aplicación privada del Derecho de la Competencia en España? El papel de los jueces de lo mercantil”, en G. A. BENACCHIO y M. CARPAGNANO (dirs.) *Il Private Enforcement del Diritto Comunitario della Concorrenza: Ruolo e Competenze dei Giudici Nazionali*, page 187.

⁶¹ See Judgment of provincial Court of Cantabria (Sect. 1) of 13th February 2004, *Radio TV Canal 8 DM, S.L. v. Audiovisual Cantabria* (EDJ 2004/39382).

⁶² See DCT Resolution of 10th June 1993 (319/1992, *Fútbol por TV*), confirmed by the National Court (Judgment of 17th July 1998) and Supreme Court (Judgment of 9th June 2003, ROJ STS 3945/2003).

⁶³ See Judgment of Court of First Instance of Madrid (n° 4) of 7th June 2005 (AC\2006\172). The promptness and size of the award, together with the *Conduit* case, led some commentators to consider that “antitrust private enforcement seems to be on the move in Spain”, see AITOR MONTESA & ÁNGEL GIVAJA, “A Spanish Court rules on private actions for damages derived from antitrust law infringements in the subscriber directory inquiries market (*Conduit* / Telefónica - Antena 3 / Spanish Football League)”, *e-Competition*, n° 469 (nov. 2005), page 3. The (lower court) case is also reported by LUIS BERENGUER FUSTER, “A vueltas sobre el recurrente tema de la aplicación judicial del Derecho de la competencia (valoración de las experiencias)”, *Anuario de Derecho de la Competencia 2005*, pages 42-45 and HELMUT BROKELMANN, “La indemnización de daños y perjuicios”, in S. MARTÍNEZ & A. PETITBÓ, *El Derecho de la Competencia y Los jueces*, 2007, pages 54-55; GEORGE

was later rejected by the Madrid Appeals Court for lack of proof of the alleged harm (considering ANTENA3'S calculation of the *lucrum cesans* as "dream profits")⁶⁴.

The use of the competition argument in these cases have been successful or partially successful in most of these cases (8/13), mainly as an injunctive claim⁶⁵, but also as a declaratory⁶⁶, defensive or damages claim⁶⁷.

3.1.5. Cases concerning electricity production/distribution

Three per cent of cases in the sample concern competition claims in the production or distribution of electricity. Their chances of success in this industry are relatively high (64%). Some of these actions are stand-alone claims based on the alleged nullity of contractual arrangements in breach of competition law (5 cases), but most of the cases are follow-on claims after a decision by the competition authorities has been issued (6).

In 2002, *Eléctrica Curós v. Hidroeléctrica de l'Empordá* was the first follow-on case, in which the defendant was ordered to pay damages for abusing its dominant position in the market for retail electricity in San Pau (Gerona)⁶⁸, after a fine of 66.000€ was imposed on them by the DCT⁶⁹.

On the other hand, in 2005 *Electra Avellana v. ENHER*, a follow-on claim presented by ELECTRA AVELLANA was not successful⁷⁰, despite ENHER (HIDROELÉCTRICA RIBAGORZANA S.A.) having been fined 120.000€ by the DCT for abusing its dominant position in the market

SIOTIS & ENRIQUE CAÑIZARES, *El estándar de prueba en las acciones de daños*, in 1989-2007 Una reflexión sobre la política de defensa de la competencia, 2008, pages 386-388.

⁶⁴ See Judgment of Provincial Court of Madrid (sect. 25) of 18th December 2006 (JUR\2008\246795).

⁶⁵ See Decree of Provincial Court of Barcelona of 16th February 2012, *Televisión Autonómica Valenciana v. Mediaproducción, S.L.*

⁶⁶ See recent Judgment of Commercial Court n° 7 of Barcelona of 2nd February, 2012, *Real Zaragoza v. Mediaproducción*, in a follow-on claim to CNC Resolution of 14th March 2010, that considered as contrary to TFEU article 101 (and the domestic equivalent) soccer broadcasting rights licenses of more than three years and declared R. Zaragoza to be free from the contract from the 2012-2013 season.

⁶⁷ See Judgment of Commercial Court n° 7 of Madrid of 4th March 2010, *Cableuropa, S.A.U. v. SOGECABLE, S.A. & Audiovisual Sport, S.L.*

⁶⁸ See Judgment of Provincial Court of Girona of 16th April 2002 (JUR2002/165978)

⁶⁹ The abuse consisted on giving presents and prizes (valuable consumer electrical appliances) to those ELECTRICA CURÓS' clients that switched to its services, see DCT resolution of 5th May 1999 (431/98, *Eléctrica Curós*), confirmed by National Court (Sect. 6) Judgment of 9th October 2002.

⁷⁰ See Judgment of Supreme Court of 26th October 2005 (STS 6533/2005), which considered that there was no proof of harm to be compensated.

for wholesale electricity distribution in Gerona⁷¹. In a similar claim filed by ELECTRA CALDENSE, S.A. concerning the abuse in the electricity supply market of Caldas de Mont Bui, ENHER was ordered to pay more than €3.1 million in compensation⁷².

In 2009 ENDESA was also ordered to pay €1 million in damages, including lost profits, for an abuse of dominance through the unjustified denial of the application to connect its distribution network to the owner of a photo-voltaic plant in Jerez de los Caballeros (Badajoz)⁷³.

Recently there have been four follow on claims after administrative decisions where adopted by the NCC. Indeed, five decisions adopted by the NCC on April 2009 concerning anti-competitive behaviour by the main energy companies in the retail electricity market⁷⁴ prompted some damage claims by a retailer -CENTRICA ENERGÍA, S.L.U (now ENÉRGYA-VM)- that was prevented from entering the market by the retailers that were vertically integrated upstream with the above-mentioned energy groups. Currently, some of these cases are still pending on appeal, but so far the damages claims have been rejected on the basis of the statute of limitations⁷⁵.

Finally, another notable case in the electricity industry concerned the injunction adopted by the commercial court of Madrid in 2006 at the request of ENDESA and against GAS NATURAL (which had launched a hostile takeover to acquire the former⁷⁶) effectively suspending the acquisition process for several months and influencing the fight for the control of ENDESA⁷⁷.

⁷¹ HIDROELÉCTRICA RIBAGORZANA S.A. had denied an application to increase the power level by ELECTRA AVELLANEDA and later on, imposed excessive conditions and prices to grant it, see DCT resolution of 7th July 1999 (441/98, *Electra Avellaneda*), confirmed by National Court Judgment of 2nd October 2010.

⁷² Judgment of the Provincial Court of Barcelona (sect. 15) of 1st December 2011 (EDJ 2011/386915), after the DCT had punished ENHER and HIDROELÉCTRICA DE CATALUÑA-I S.A., with a fine of 186.000€ [DCT resolution of 19th February 1999, 473/98, *Electra Caldense*, confirmed by National Court (Sect. 6) Judgment of 29th April 2002].

⁷³ See Judgment of Provincial Court of Badajoz (Sect. 2) of 22nd December 2009 (AC\2010\392), confirmed by Supreme Court (Civil Ch.) Judgment of 12th November 2012 (LA LEY 185311/2012).

⁷⁴ NCC Resolutions of 2nd April of 2009 (641/2008, Céntrica/Endesa; 642/2008, Céntrica/Unión Fenosa; 643/2008, Céntrica/Eléctrica de Viesgo; 644/2008, Céntrica/Iberdrola) and 22nd April of 2009 (645/2008, Céntrica/Hidrocantábrico) all confirmed by National Court Judgments of 26th May 2011 (Endesa), 21st November of 2012 (Unión Fenosa), 11th May of 2010 (Eléctrica de Viesgo); 5th June of 2012 (Iberdrola) and 29th March 2011 (Hidrocantábrico). See the explanation of the underlying claims (by plaintiff's lawyers) at ALFONSO OIS & JUAN JIMÉNEZ-LAIGLESIA, "Cuestiones recientes de competencia y regulación alrededor de la actividad de comercialización de electricidad", in *2009 Anuario Mercantil para Abogados. Los casos más relevantes en 2008 de los grandes despachos*, 2009, pages 299-327.

⁷⁵ See Judgments of Commercial Court of Barcelona (n° 2) of 20th January 2011, *Centrica v. Endesa Distribución*; of Provincial Court of Vizcaya (Sect. 4), 8th July 2011, *Centrica v. Iberdrola Distribución*; and of Commercial Court of Madrid (n° 4bis) of 2nd January 2012, *Energia VM Gestión v. Unión Fenosa*. For a critical comment on these cases by the plaintiff lawyers, see JORGE MASÍA & JUAN JIMÉNEZ-LAIGLESIA, "Examen de cuestiones de naturaleza práctica relativas a la aplicación privada del Derecho de la Competencia en España", *Gaceta Jurídica de la Competencia*, n°30, nov.-dic 2012, pages 33-36, see also *infra* §4.2.

⁷⁶ The case is analyzed by FRANCISCO MARCOS, "When Competition Is the Last Concern: The Battle for the Control of ENDESA", in RODGER, BARRY (ed.), *Landmark cases in Competition Law. Around the World in Fourteen Stories*, 2013, pages 287-318.

⁷⁷ Further reported in ARRIBAS, in BENACCHIO & M. CARPAGNANO, *Il Private Enforcement del Diritto Comunitario della Concorrenza: Ruolo e Competenze dei Giudici Nazionali*, page 187; BERENGUER, *Anuario de Derecho de la Competencia*

3.1.6. Cases on professional services

Fee schedules recommended by professional associations have led to several claims concerning their anti-competitive character (2%). Anti-competitive behaviour in the professional services industry had been a hot topic in Spain for many years, with several public enforcement processes taken by the DCT and the NCC against professional associations, and with major regulatory reforms introduced to remove any vestiges of anti-competitive conduct from professional rules⁷⁸.

In most of the private cases the competition argument was raised as a defence against their claim of their services to be paid (57%), and generally the claim was grounded on TFEU article 101 or article 1 of the Spanish Competition Act and it had been unsuccessful⁷⁹; the majority of caselaw concerns fixed compensation for solicitors' services (*procuradores*)⁸⁰. This issue is also considered as a contiguous issue, though not a decisive argument, in many other cases of such type⁸¹. In another case concerning an unfair competition claim against a law firm based on advertising restrictions in the market for legal services (which could be considered to be in violation domestic competition law) was used by the Court as a supporting argument to quash the claim⁸².

Finally, several other cases have tangentially considered that lawyer's associations minimum fees schedules violate the (domestic) prohibition of multilateral anti-competitive conduct and, therefore, those schedules cannot be considered in the award and calculation of professional

2005, pages 45-47; CHRISTOPHER J. COOK, "Private Enforcement of EU Competition law in Member State Courts: Experience to Date and the Path Ahead", *Competition Policy International* 4/2, 2008, page 62 and RUIZ, ROSA BAYO & JULIO COSTAS, "National Examples of Private Enforcement of Competition Law: Spain" in VELASCO SAN PEDRO et al. (dirs.), *Private Enforcement of Competition Law*, 2011, page 143.

⁷⁸ See FRANCISCO MARCOS, "La lucha contra las restricciones a la competencia en el mercado de servicios profesionales", *Gaceta Jurídica de la Competencia*, 219 (mayo-junio 2002) pages 22-35. Subsisting specific regulation of public notaries providing grounds for rejecting the claim against of anti-competitive character against the compensation sharing agreement entered into by some commercial notaries ("corredores de comercio") in Granada, see Supreme Court (Civil Ch.) Judgment of 21st May 2009 (STS 3068/2009), *D. Narciso v. D Rubén et al.*

⁷⁹ A preliminary ruling before the Court of Justice of the EU on the compatibility of solicitors' services with EU Law was sought by the Provincial Court of Barcelona (sect. 15) by decree of 1st March 2012 (*Corp. Uniland*, AAP B 971/2012).

⁸⁰ Similar claims were quashed by Provincial Court of Madrid (Sect.5) Decree of 5th March 2009 (EDJ 2009/85231, LA LEY 60611/2009); Provincial Court of Valladolid (Sect.3) Decree of 12th March 1998 (EDJ 1998/10072); Provincial Court of Murcia (Sect. 2) Judgment of 4th February 2004 (EDJ 2004/48403), Provincial Court of Alicante (Sect. 7) of 12th November 2003 (EDJ 2003/256706); Provincial Court of Madrid (Sect. 11) Decree of 6th November 2007 (EDJ 2007/256998), Provincial Court of Alicante (Sect. 7) of 12th November 2003 (EDJ 2003/256706). See also Supreme Court Judgment of 1st June 2012 (1st Chamber), *Acciona Energía, S.A. v. D. Segundo* (EDJ 2012/116919). In general, on this topic, see FERNANDO J. ALCANTARILLA, "Los aranceles de derechos de los procuradores de los Tribunales y el principio de libre competencia", *Diario de Jurisprudencia el Derecho*, n° 1902 (1st December 2003, EDB 2003/230865) and FRANCISCO MARCOS, "Sobre la ilegalidad del arancel de los procuradores", *Diario La Ley*, n° 5731, 4th March 2003, page 14.

⁸¹ See Provincial Court of Navarra (Sect. 3) Judgment of 31st March 2009 (EDJ 2009/124485) and Provincial Court of Madrid (Sect. 11) of 6th November 2007 (EDJ 2007/256998).

⁸² See Supreme Court (Civil Ch.) of 29th May 2008, *Colegio de Abogados de Castellón v. Lex et Iure et al.* (RJ\2008\4164), which followed and expressly mentioned public enforcement actions by the DCT against bar associations for this and related.

fees decided by the courts⁸³. On the side, a similar issue has been raised of fees' claims when it was argued that they violated the associations' ban on contingency fees⁸⁴.

3.1.7. Cases on transportation services

A few cases concern anti-competitive conduct in the transportation industry (2%), including both maritime, railway and air transportation related services.

It is relevant to note that one of the cases was a claim against RENFE, the SOE that monopolized railway transportation in Spain. The private claim relating to abuses on the intermodal transport market by charging abusive prices was based on the 1991 Spanish Unfair Competition Act and it has been partially successful⁸⁵(in contrast to the public enforcement decision by NCC, which refused to initiate a case against RENFE based on TFEU article 102 and article 2 of the Spanish Competition Act)⁸⁶.

Three other claims relate to the complaint by RYANAIR against the SOE that operates Spanish public airports, AENA, for abuse of dominance consisting of forcing air companies to use jet-bridges for plane boarding in Alicante's new airport. All RYANAIR claims on this count (both requesting interim measures and a final substantive decision on the merits) have been unsuccessful⁸⁷.

Two claims, grounded on article 2 of Spanish Competition Act, have concerned taxi services. One of them was successful and a company was found to be unlawfully privileged in the market for the pick-up of clients in Palma de Mallorca's airport (based again on unfair competition law), though damages were not awarded⁸⁸, and the other was found meritless⁸⁹.

⁸³ See Provincial Court of Ciudad Real (Sect. 1) Judgments of 31st December of 1997 (EDJ 1997/18840); 19th January of 1998 (EDJ 1998/8747); 4th March of 1998 (EDJ 1998/18567); 23rd March of 1998 (EDJ 1998/18486); 7th September of 1999 (EDJ 1999/49872); Provincial Court of Valencia (Sect. 11) Decree of 9th June of 2009 (EDJ 2009/189269); Provincial Court of A Coruña (Sect. 3) Judgments of 5th February 2010 (EDJ 2010/86436); of 30th July 2008 (EDJ 2008/205981) of 18th November 2005 (EDJ 2005/331459); Provincial Court of A Coruña (Sect. 4) Judgment of 15th October 2012 (EDJ 2012/250929); Provincial Court of A Coruña (Sect. 5) Judgment of 24th November 2008 (EDJ 2008/371497) and Provincial Court of Burgos Judgment of 12th March 1999 (EDJ 1999/8467).

⁸⁴ Provincial Court of Vizcaya (Sect. 3) judgment of 12th January 2005 (EDJ 2005/15255); Provincial Court of Asturias (Sect. 1) judgment of 2nd March 2006 and Provincial Court of Segovia (Sect. 1) of 28th December 2012 (EDJ 2012/329830)

⁸⁵ See Judgment of Commercial Court of Madrid of 24th March 2010, *ASTIC v. Renfe Operadora* (AC\2010\435).

⁸⁶ See NCC Resolution of 29th July 2012 (2763/07, *Renfe Operadora*).

⁸⁷ See Decrees of Provincial Court of Alicante (sect. 8) of 21st December, 2011 and of 19th January 2012, *Ryanair Ltd. v. AENA, Aeropuerto de Alicante* (AAP A 395/2011 and AAP A 1/2012) and Judgment of Commercial Court (n° 3) of Alicante of 26th March 2012 (LA LEY 104042/2012). The NCC reports having acted has amicus curiae in these cases in its 2011-2012 Annual Report, page 72 (available at www.cncompetencia.es.)

⁸⁸ Judgment of Provincial Court of Islas Baleares (sect. 4) of 13th February 2006, *D. Santiago et al. v. AENA & Taxis Palma Radio* (JUR/2006/161324).

Likewise, an abuse of dominance claim concerning the boat docking services in the Cala Millor pier in Majorca was unsuccessful⁹⁰. Finally, the outcome was also negative for an abuse of dominance claim concerning towing services within the market for road assistance services against SOCIEDAD MUNDIAL DE ASISTENCIA, S.A. (SMASA)⁹¹.

3.1.8. Cases on elevator maintenance services

Starting with one of the first follow-on private claims in 2002⁹², at least two other cases have dealt with anti-competitive conduct in the elevator maintenance services market, with partial success. Spanish regulation of this market may serve as the basis for anti-competitive outcomes, as it forces building operators to have a signed maintenance contract once the building is opened⁹³. Anti-competitive behaviour is not foreign to this market, with sizeable sanctions already imposed by the European Commission in the market for installation, maintenance and renewal of elevators and escalators⁹⁴.

Several judgments given by Spanish civil and commercial courts have considered the network effects of similar contractual covenants in negatively assessing the legality of long duration and penalty clauses in elevator maintenance contracts⁹⁵.

⁸⁹ See Judgment of Provincial Court of La Rioja of 30th September 2005, *D. Luis et al. v. Unión de Taxistas de la Rioja, S.L.* (2nd legal ground).

⁹⁰ See Judgment of the Provincial Court of Baleares (sect. 5) Judgment of 7th May 2002, *Cruceros Collado, S.L. & Creuers Bannasar, S.L. v. Creuers Barceló, S.A.* (JUR 2002/186984), appeal before Supreme Court (Civil Ch.) rejected by 9th September 2006 (EDJ 2006/267781).

⁹¹ See Judgment of the Supreme Court (Civil Ch., Sect. 1) of 19th February 2010, *D. Samuel v. SMASA* (EDJ 2010/12419).

⁹² See DCT resolution of 18th May 1992 (ASEMABYL), confirmed by Supreme Court Judgment of 6th March 2000 (Administrative Ch., RJ 2000\7048).

⁹³ See NCC, *Report on the Spanish Lifts Maintenance Market*, 7th Sept. 2011 (available at www.cncompetencia.es)

⁹⁴ See Decision of 21st February 2007 relating to a proceeding under Article 81 of the Treaty establishing the EC (Case COMP/E-1/38.823, *Elevators and Escalators*), summary published in OJEU C75, 26th March 2008, pages 19-24. See Judgment of the EU Court of Justice (Grand Chamber) of 6th November 2012 *Europese Gemeenschap (European Community) v Otis N.V., Kone Belgium N.V., Schindler N.V., ThyssenKrupp Liften Ascenseurs N.V., General Technic-Otis Sàrl, Kone Luxembourg Sàrl, Schindler Sàrl & ThyssenKrupp Ascenseurs Luxembourg Sàrl* (C-199/11), on a preliminary ruling concerning an action for damages filed by the European Community against manufacturers of elevators and escalators in respect of loss sustained as a result of an infringement by those companies of TFEU article 101.

⁹⁵ See Provincial Court of Asturias (Sect. 5) Judgments of 4th December 1998 (EDJ 1998/36129); 28th April 2005 (LA LEY 95393/2005, EDJ 2005/53398); of 12th December 2005 (LA LEY239229/2005, EDJ 2005/222858); of 17th January 2006 (EDJ 2006/2251); of 26th January 2006 (LA LEY9642/2006, EDJ 2006/4974) and of 28th March 2006, EDJ 2006/51137 (literally in all of them, “*Constituye, sin duda un mecanismo favorecedor de prácticas monopolísticas –por el que fueron sancionadas en vía administrativa otras empresas del ramo-, ya que impide o dificulta gravemente la libre concurrencia durante períodos de tiempo excesivamente prolongados, con infracción de la Ley 16/1989, de Defensa de la Competencia*”). Distinguishing the pathological cases where an anticompetitive conduct was present from the rest, see Legal Ground 4th of Provincial Court of Albacete Judgment (Sect.1) of 17th December 2004 (EDJ 2004/219585).

See also Judgment of Provincial Court of Madrid of 24th June 1999 (EDJ 1999/25813) rejected the claim based on the abusive character of the duration clause [especially mentioning that the resolution of DCT of 23th October 1991, 267/1990

3.1.9. Telecommunications services

Almost all the cases involving private claims in telecommunications are follow-on actions alleging abuse of dominant position (3/4), after a prior decision was delivered by the competent authority (either the European Commission or the Spanish DCT/NCC).

After the DCT imposed a €24 million fine on TELEFÓNICA DE ESPAÑA for abuse of a dominant position in a telecommunications value added market (payphone services)⁹⁶, one of the victims of the abusive conduct filed a damages claim before the ordinary civil courts. 3C TELECOMMUNICATIONS SERVICES alleged that the denial/delay of the supply of phone lines by TELEFÓNICA had caused it harm that should be compensated, and the Provincial Court of Madrid awarded damages, to be calculated in executing the judgment⁹⁷.

The other major relevant damages claim in the telecommunications market concerned an abuse of dominant position by TELEFÓNICA in the telephone directory enquiry services market. Regulation had opened the market for competition in 2003 but TELEFÓNICA did not comply with its obligations to furnish subscriber data (as confirmed by the National Telecommunications' Commission). CONDUIT EUROPE built a damages case based on TELEFÓNICA's violation of antitrust rules that entailed an unfair competition act and thus (this was not a pure/direct breach of competition law action). The Provincial Court of Madrid accepted the calculation of the direct losses inflicted by TELEFÓNICA's actions (€639.003), but rejected the calculation of the damages for lost profits⁹⁸.

concerned another case and market and, thus, was irrelevant for this case]. On similar terms, but sometimes confusing consumer protection and competition rules, see Provincial Court of Albacete (Sect. 1) Judgment of 14th September 2007 (EDJ 2007/27519); Provincial Court of Asturias (Sect. 5) Judgement of 30th September 2005 (EDJ 2005/320606); Provincial Court of Burgos (Sect. 3) Judgment of 25th October 2011 (EDJ 2011/257495); Provincial Court of Burgos (Sect. 2) Judgment of 26th March 2012 (EDJ 2012/146647); Provincial Court of Granada (Sect. 3) Judgments of 3rd June 2011 (EDJ 2011/204421); 24th October 2011 (EDJ 2011/380747); 2nd December 2011 (EDJ 2011/380351 and EDJ 2011/380343) and Provincial Court of Jaén (Sect. 2) Judgments of 14th October 2001 (EDJ 2001/75660) and 2nd April 2002 (EDJ 2002/22174); Provincial Court of La Rioja (Sect. 1) Judgments of 7th November 2012 (EDJ 2012/282344) and 17th November 2011 (EDJ 2011/257807) and Provincial Court of Vizcaya (Sect. 5) Judgment of 29th November 2000 (EDJ 2000/120071)

⁹⁶ See DCT of 1st February 1995 (350/94, *Teléfonos en Aeropuertos*), affirmed by National Court (Sect. 6) Judgment of 24th September 1997 (RJCA 1997\1873) and Supreme Court Judgment of 6th March 2003 (RJ 2003\3021).

⁹⁷ See Provincial Court of Madrid (Sect. 25) of 8th May 2007, *3C Telecommunications v. Telefónica* (JUR\2007\210668). The appeal before the Supreme Court was rejected by Order of 14th July 2009.

⁹⁸ See Judgment of Provincial Court of Madrid (Sect. 28) 25th May 2006, *Conduit Europe, S.A. v. Telefónica* (confirming prior judgment of the commercial court of Madrid (n° 5) of 11th November 2005), the Supreme Court rejected appeal against the later by Order of 16th December 2008. The background and other relevant features of the case are described by one of the plaintiff's lawyers in Paul HITCHINGS, "The conduit case", in L. ORTÍZ & J. ENTRENA (eds.), *Derecho de la Competencia Europeo y Español. Curso de iniciación*, vol. 7, 2007, pages 157-176 (see especially, pages 166-167 describing how the case was also filed as a direct damages claim but rejected on jurisdictional grounds). For other commentary of the case see ARRIBAS, in BENACCHIO & M. CARPAGNANO, *Il Private Enforcement del Diritto Comunitario della Concorrenza: Ruolo e Competenze dei Giudici Nazionali*, page 188-189 and SALOME SANTOS & JUAN DE LA HERA, "A Spanish Commercial Court orders an undertaking to compensate a competitor for damages resulting from abuse of dominant position - without any previous final decision from the NCA - concerning access to telecommunications databases (Conduit/Telefonica)", *e-*

In 2009 there was also a follow-on claim after a DCT decision that TELEFÓNICA abused a dominant position in relation to a rival's attempt to enter the mobile phone business⁹⁹; apparently, the parties have settled the case out of court.

TELEFÓNICA was also the target of the only consumer collective action claiming damages as a result of a violation of competition law. After the European Commission imposed a fine of €151,875,000 on TELEFÓNICA for its abuse of dominance in relation to access to the Spanish retail broadband market¹⁰⁰, the consumer association Ausbanc started an opt-in action against it¹⁰¹.

Finally, competition law was also involved, as an argument by the defendant, in the (arbitration) damages claim for breach of contract by FRANCE TELECOM ESPAÑA, S.A. against EUSKALTEL, S.A. The arbitrators ruled in favour of FRANCE TELECOM, awarding it more than €178 million for lost profits. EUSKALTEL sought the nullity of the arbitration award for failure to consider the possible illegality of the non-competition agreement signed by the parties. In execution of the arbitration award, the relevant court rejected that argument and ruled against EUSKALTEL, though there was a dissenting opinion¹⁰².

3.1.10. Other services

Ten other cases involved claims concerning various services, including insurance¹⁰³, financial services¹⁰⁴, funeral services¹⁰⁵, alarm services¹⁰⁶, slaughtering services¹⁰⁷, postal services¹⁰⁸ and hospital data grouping and assessment software services¹⁰⁹.

Competitions, November 2005, n° 398; GIVAJA & MONTESA, *e-Competitions*, March 2006, n° 469 and SIOTIS & CAÑIZARES, in *1989-2007 Una reflexión sobre la política de defensa de la competencia*, 2008, pages 389-394.

⁹⁹ See DCT Resolution of 26th february 1999 (413/97, *Airtel/Telefónica*) confirmed by the Supreme Court Judgment of 30th June 2005 regarding the amount of the fine imposed on TELEFÓNICA MÓVILES (3.666.173,83€) but annulled the 901.518,15 € fine imposed on TELEFÓNICA ESPAÑA. In April 2009, VODAFONE filed a €670 million damages claim against TELEFÓNICA in accordance with article 13.2 of the 1989 Act and article 1902 of the Spanish Civil Code.

¹⁰⁰ See Decision of the European Commission of 4 July 2007 (COMP/38.784-*Wanadoo España v. Telefónica*, Official Journal C-83/2008, of 06.04.2008, pages 6-11), confirmed by General Court Judgment of 29th March 2012 (T-398/07), but appealed before the EU Court of Justice by TELEFÓNICA.

¹⁰¹ The case is also reported by COOK, *Competition Policy International*, vol. 4/2 (2008) page 14; ALFONSO MUÑIZ, JAVIER ARANA & CANI FERNÁNDEZ, "Diez años de la aplicación del Derecho Comunitario de la Competencia en España", *Gaceta Jurídica de la Competencia* n° 29 (2012) pages 14 and 21; RUÍZ, ROSA BAYO & JULIO COSTAS, in VELASCO SAN PEDRO et al. (dirs.), *Private Enforcement of Competition Law*, pages 139-140.

¹⁰² Decree of Superior Court of the Vasque Country of 19th April 2012, *France Telecom España, S.A. et al. Euskaltel, S.A.* (EDJ 2012/63626).

¹⁰³ Two of the insurance cases have to do with health services and involve anti-competitive features (exclusivity pacts) in agreements with medical service providers, see Judgment of Supreme Court (Civil Ch.) of 9th July 1999, *D. Ricardo & D. Ramón v. Seguro Q, S.A., D. Luis, D. Juan, D. Vicente, D. Jesús, D. José, D. Justiniano, D. Antonio, D. Jaime, D. Ceferino & D. Genaro* (EDJ 199/19919) and Judgment of Provincial Court of Vizcaya (Sect. 5) of 12th June 2000, *D. Jose M^a Y.A., D.*

3.1.11. IP, Patent, Software & Trademark licensing cases

There have been four cases concerning IP licensing agreements and competition law, analysed in the context of vertical restraints or abuses of dominance, of which only one of them was partially successful¹¹⁰.

It is true, however, that some of the other cases in the database reported under the heading of distribution may occasionally include relevant findings on IP features of the agreements¹¹¹.

Andrés Y.A.; D. Juan Manuel S.C., D. Andoni A.E., D. Javier U., D. Sergio Luis M.E. & D. Mariano M.E. v. Igualmequisa (AC\2000\3351). In the later case, an application for interim measures by several doctors against the medical insurance provider IGUALMEQUISA, grounded on unfair competition law but related to competition law, was rejected by Provincial Court of Vizcaya [despite a partially similar claim being accepted by DCT resolution of 27th June 1998, MC 27/98, *Igualatorio Médico Vizcaya*, with fines of €260,000, being imposed by DCT resolution of 6th June 2000, 464/99, *Aseguradoras Médicas Vizcaya*, confirmed by National Court (sec. 6) Judgment of 11th September 2003, Appeal n° 828/2000].

The other case, which has had also similar development in the public enforcement side (see judgment of Superior Court of Vasque Country, Administrative Ch., of 23rd November 2011, annulling resolution of the Vasque Country Competition Tribunal of 11th February 2011, *Cazadores*, 9/2011), concerning the imposition of mandatory insurance to members of a hunting society, see Provincial Court of Navarra (Sect. 2) judgment of 19th September 2011, *D. Luis Carlos & D. Balbino v. Sociedad Cazadores Deportivos Malkaiz* (EDJ 2011/348025).

¹⁰⁴ See Provincial Court of Barcelona (Sect. 15) decree of 11th June 2007 and judgment of 28th November 2008, *Maccorp Exact Change, S.A. v. Banco de Sabadell, S.A.* (JUR\2008\140173 and JUR\2009\144646) and 12th April 2011, *Maccorp Exact Change, S.A. v. La Caixa* (EDJ 2011/138509).

¹⁰⁵ See Provincial Court of Girona (Sect. 2) judgment of 10th February 2005, *OCASO S.A. Compañía de Seguros y Reaseguros v. Funeraria Poch, S.A.* (EDJ 2005/37996), which included an express acknowledgment of the power of civil courts to apply the domestic prohibition of abuse of dominant position (article 6 of 1989 Act) though the claim was rejected in that case (Legal ground 4th *in fine*).

¹⁰⁶ See Provincial Court of A Coruña (Sect. 5) of 10th November 2010, *Nordes Prosegur Tecnología, S.L. v. Bosch Seguridad y Control, S.L., D. Donato y D^a M^a Purificación* (JUR20114\7106).

¹⁰⁷ See Provincial Court of Huelva (Sect.1) 26th October 2004, *Deriber v. Matadero Industrial El Mayorazgo* (EDJ 2004/239880)

¹⁰⁸ See Provincial Court of Madrid (Sect. 11) 29th June 2007, *Editur v. Sociedad Estatal de Correos y Telégrafos* (EDJ 2007/192910), which declared an abuse of dominant position in the market for postal services of periodic publications, basing its holding on a similar case decided by DCT resolution of 16th June 2005 (584/04, *Prensa Correos*), imposing a €900,000 fine for excessive pricing.

¹⁰⁹ After the DCT punished 3M for abuse of a dominant position, the court awarded 194.089€(plus interests) in damages to IASIST, S.A. See Judgment of First Instance Court of Madrid n° 71 of 1st June 2007, *Iasist, S.A. v. 3MEspaña, S.A.*, judgment n° 811/2007, (although the claim was for €2.819.782) in a follow-on claim to CDT resolution of 5th April 2002 (517/2001, *Iasist/3M*), confirmed by National Court Judgment of 14th June 2005 (appeal n° 375/2002), the civil case was later closed through a settlement agreement which was approved by the Madrid Provincial Court (sect. 9) Decree of 11th June 2008 (n° 148/2008).

¹¹⁰ See Provincial Court of Zaragoza (sect. 4) Decree of 10th September 2002, *Koninklijke Philips Electronics, N.V. v. Condor CD, S.L.* (JUR\2002\230116); Provincial Court of Valencia (Sect. 9) judgment of 14th October 2005, *Hasbro Iberia v. Juguetes Falomir, S.A.* (EDJ 2005/204597); Provincial Court of Madrid (Sect. 28) Decree of 18th January 2008, *Duplico 2000, S.L. v. Koninklijke Philips Electronics, N.V. & Philips Intellectual Property Standard* (EDJ 2008/146525). Finally, the Supreme Court (Civil Ch.) judgment of 28 September 2007, *Panini Spa v. Edic. Cromosol S.L. & E.C.S. Inmosol, S.A.* (STS 8124/2007) decided a unsupported defense based on both articles 1 and 6 of 1989 Act concerning the unauthorized use by the defendant of France Worldcup 1998 soccer players' image.

¹¹¹ See, for example, Supreme Court Judgment of 31st July 2007, *Comercial Ibérica Exclusivas Deportivas S. A. (CIDESPORT), Viso Andrade S.L., D. Luis Antonio, D. Javier, D. Abelardo, D. Rosendo, D. Darío, D. Luis Carlos, D. José, D. Armando, D. José Antonio, D. Guillermo y Don Ángel Jesús v. Nike Inc, Nike International Ltd. & American Nike S.A* (EDJ 2007/152374), which was a case on retail distribution but involving also trademark validity and licensing issues.

Indeed, it should be noted that even MICROSOFT was unsuccessfully sued for damages for allegedly abusing its dominant position in selling licenses for software training¹¹².

3.1.12. Real estate commercial restrictions

Several civil court cases have tried, unsuccessfully, to challenge, on competition law grounds, restrictions on the use of real estate by homeowners associations, mainly for commercial uses¹¹³. In the past, the issue has also been brought before the DCT, which in several decisions has rejected all the complaints¹¹⁴.

3.1.13. Arbitration claims

Several cases in the sample assess the validity of arbitration clauses when competition law violations were raised by one of the parties¹¹⁵. The cases are unanimous in affirming the validity of arbitration clauses despite one party to the contract claiming it was null on competition grounds¹¹⁶. A similar solution has been found in other judgments in execution of

¹¹² See Judgment of provincial Court of Barcelona (Sect. 15) of 29th May 2008, *Mediagora, S.L. v. Microsoft Ibérica. SRL & Microsoft Ireland Operations Limited* (EDJ 2009/226798), confirmed by Supreme Court Judgment of 26th July 2012 (EDJ 2009/226798).

¹¹³ See judgments of the Supreme Court of 8th May 2002, *Comunidad de Propietarios del Centro Comercial Zoco de Pozuelo v. Establecimientos A, S.A.* (EDJ 2002/14834) and 24th June 2002, *Centros Comerciales R., S.A. v. Hipermarcados P., S.A.* (EDJ202/23873) and Judgment of Provincial Court of Balears (Sect. 4) of 11th March 2000, *Comunidad de Propietarios del Edificio LLevant v. M., S.A.* (EDJ2000/27082). On similar terms also, but with a generic reference to the Defence Competition and Unfair Competition Acts, see judgments of the Provincial Court of Madrid of 4th December 1995, *D^a Amparo v. Tintorerías L, S.A.L., P.A., S.L. & Comunidad de Propietarios de la Galería Comercial de Alameda de Osuma* (EDJ 1995/10830) and of 21st October 1998, *Comunidad de Propietarios comerciales "Z" v. D. Francisco, D. José Luis & Bazar A, S.L.* (EDJ 1998/27245).

¹¹⁴ See DCT resolutions of 29th March 1996 (367/95, *Playas de Binicundrel*) and 30th May 1989 and 27th December 1991 (247/89 and A14/91, *Cooperativa Rosa Luxemburgo*). See also ANTONIO FRESNILLO IGLESIAS, "Los pactos de exclusive en el arrendamiento de locales en centros comerciales. Doctrina reciente del Tribunal Supremo", *Boletín de Arrendamientos Urbanos El Derecho*, 23th October 2002, page 3.

¹¹⁵ See Judgment of the EU Court of Justice of 1st June 1999, *Eco Swiss China Time Ltd. v. Benetton International NV*, ECR 1999-I 4955. See also ANTONIO CREUS & JOSEP M^a JULIÀ INSENSER, "Arbitraje y Defensa de la competencia", *IUEE-USP Documento de Trabajo* 27/2008 (available at <http://www.idee.ceu.es/Portals/0/Publicaciones/Arbitraje-y-Defensa-de-la-Competencia.pdf>, visited on 26.06.2013).

¹¹⁶ See Judgments of the Provincial Court of Barcelona (Sect. 15) of 26th January 2006, *Jeréz Petróleos, S.L. v. Oilinvest España, S.A.* (JUR/2006/232558) and of 16th March 2011, *Win Petrol, S.L. & Olympic Park, S.L. v. Total España, S.A.* (EDJ 2011/88769) and Decrees of the Provincial Court of Madrid (Sect. 17) of 27th May 2004, *Combustibles del Cantábrico v. Total* (JUR\2004\227176) and Provincial Court of Madrid (Sect. 28) of 17th Sept. 2012, *D. Simón, D. Alonso, D. Eusebio, D. Alvaro, D. Alvaro & D. Matías v. Cobra* (EDJ 2012/222989) and of 4th May 2012, *D. Angel & D^a Esperanza v. CEPSA* (EDJ 2012/2227217). For a similar finding if the nullity of the contract is claimed on unfair competition law grounds, see Decree of Provincial Court of Tarragona (Sect. 1) of 3 October 2005, *Gasolinera Mades, S.L. v. REPSOL* (EDJ 2005/255749). Additionally, Provincial Court of Madrid (Sect. 14) Judgments of 16th June 2006, *Real Racing Club de Santander S.A.D. v.*

arbitration awards in which the anti-competitive features of some aspect of the legal relations subject to arbitration was raised (generally by the losing party) when the execution of the award in court was sought¹¹⁷.

However, the court can consider whether the execution of the award entails giving effect to an anti-competitive agreement, and for that reason the Judgment of the Provincial Court of Barcelona (Sect. 15) of 7th June 2000 annulled an arbitration award which violated public order (competition law) by ratifying an anti-competitive agreement¹¹⁸.

3.1.14. Corporate related cases

Occasionally the competition argument is merely complementary to a legal claim based on other grounds. That is what has happened in those very few cases in which corporate law and competition law have been bound together in the same claim.

In both instances the case concerned multilateral restraints of trade (TFEU article 101 or article 1 of the Spanish Competition Act) and in both the argument was made, unsuccessfully, that certain corporate decisions would be in breach of that provision. In the *Tataka* case¹¹⁹, TFEU article 101 was used to strengthen the argument that a significant shareholder right to access information should be rejected on the basis that it might have entailed information-sharing leading to anti-competitive co-ordination prohibited by EU Law (which the court did not accept, although it rejected the shareholder's right of access based on other grounds)

U.D. Salamanca, S.A.D. et al (EDJ 2006/3422260) and of 16th of February 2010, *Real Murcia C.F., S.A.D. v. U.D. Salamanca, S.A.D. et al* (EDJ 2010/41321) upheld arbitration awards on Soccer Broadcasting Rights despite it was claimed they violated article 1 of the Spanish Competition Act.

¹¹⁷ See Judgment of Provincial Court of Girona (Sect. 1) of 2nd May 2002, *E.S. Regencós v. Totalfina España, S.A.* (JUR\2002\191638) (5th Legal ground: accepting the arbitration submission/exception by the defendant and considering that it is through arbitration that the potential violation of duration limits set by Vertical BER should be ascertained) and Provincial Court of Madrid (Sect. 9) Judgment of 15th September 2003, *Ondupack, S.A. v. Asociación Española de Cartón Ondulado, AFCO* (JUR\2004\86644)

¹¹⁸ *D. Juan Buira v. Hardi Internacional A/S* (EDJ 2000/31393), which was suspended until the DCT delivered its resolution on 27th March 2000 (475/99, *Hardi Internacional*), which -by the way- did not consider that there was an agreement in breach of article 101 (and its domestic equivalent). However, the opposite solution was adopted in by the Decree of 19th April 2012, *France Telecom, S.A.; Orange, S.A.; Atlas Services Nederland B.V. & France Telecom España, S.A. v. Euskaltel* (EDJ 2012/63626) - commented *supra* § 3.1.9- and in the Provincial Court of Valencia (Sect. 9) Judgment of 14th October 2005, *Hasbro Iberia v. Juguetes Falomir, S.A.* (EDJ 2005/204597)

¹¹⁹ See Provincial Court of Madrid (Sect. 28) Judgment of 25th November 2011, *Takata Petri, AG. v. Dalphi Metal España, S.A.; Dalphi Metal Internacional, S.A.; Dalphi Metal Seguridad, S.A.* (ROJ SAPM 14866/2011).

In the Ebro case¹²⁰, it was argued that the appointment of some member of the Board of directors would breach TFEU article 101 as the candidate rejected was representing a direct rival and that connection could lead to anti-competitive outcomes.

A recent case in 2012 has also considered whether a non-competition agreement included in the bylaws of a cooperative (MULTIÓPTICAS in the retail trade of glasses), forbidding its members to render services to/in rival retail distribution chains, was anticompetitive¹²¹.

3.1.15. Cases on non-competition covenants in sales of companies

Non-competition clauses are frequently accessory provisions included in agreements for the sale of companies, though their validity depends on the scope and conditions of the obligation not to compete¹²². When the covenants in question were within the limits established the claims (generally defensive) were unsuccessful¹²³. However, when the territorial or temporal scope of the non-compete clauses was too broad, defence claims based on a violation of competition law were successful¹²⁴.

3.1.16. Market-sharing cases (non-competition agreements)

A competition law argument may be used as a defence against enforcement claims for the breach of the (most blatant market sharing) contracts and non-competition agreements in which rival firms directly allocated the markets where they operated among themselves¹²⁵. In this context, TFEU article 101 (or article 1 of the Spanish Competition Act) is utilized as a

¹²⁰ See Provincial Court of Barcelona (Sect. 15) Judgment of 30th September 2008, *D^a Rosa T.F. v. Ebro Agrícolas Compañía de Alimentación, S.A.* (AC\2001\31).

¹²¹ The Provincial Court of Madrid (Sect. 28) Judgment of 23rd November 2012, *D. Obdulio y Óptica Espinosa, S.A. v. Multiópticas Sociedad Cooperativa* (ROJ SAP M18897/2012) considered that agreement should not be considered forbidden by article 1 of 2007 Act, but was illegal itself according to the 1999 General Cooperatives Act.

¹²² See European Commission, *Notice on restrictions directly related and necessary to concentrations*, OJ C188, of 4th July 2001, pages 5-11.

¹²³ See Provincial Court of Madrid (Sect.18) Judgment of 9th May 2008, *Idaglas & Distriplac v. D.Octavio et al.* (EDJ 2008/169173); Provincial Court of Granada (Sect. 4) of 8th June 2009, *ASV Funeser v. D^a Antonia* (EDJ 2009/221998). See also Supreme Court Judgment (Civil Ch.) of 18th May 2012, *D. Luciano & D^a Ofelia v. Cauchos Puntas, S.L.* (RJ/2012/6360), though this was a plaintiff's action based on article 1 of the 1989 Spanish Competition Act.

¹²⁴ See Provincial Court of Asturias (Sect. 4) of 21st June 2005, *D. Leonor & D. Pedro v. Hanson España* (EDJ 2005/133470) and Provincial Court of Barcelona (Sect. 15) Judgment of 27th June 2008, *D Iñigo v. D. Nazario & D^a Manuela* (EDJ 2008/146525).

¹²⁵ See Provincial Court of Badajoz (Sect. 1) Judgment of 28th September 1999, *D. Antonio B.E. v. Discotecas y Recreativos Azuaga, S.L.* (AC 1999\1887).

“shield”, when the other party of the agreement is claiming a breach of contract, and it has been successful in every single case¹²⁶.

3.1.17. Other contract cases

Five other cases had analyzed competition claims -mostly concerning unsubstantiated abuses of dominance- in a supply contract¹²⁷, a credit and lease agreement¹²⁸, an agency contract¹²⁹, and two commercial sales contracts¹³⁰.

3.1.18. Other cases

Among the remainder of the cases, it is worth noting an unsuccessful damages claim filed by a company included in the bad debtors list of companies operating in Valencia’s maritime port. The damages claim was started following a prior decision by the DCT¹³¹, but according to the court the plaintiff did not provide sufficient evidence that that was the cause of the company’s poor financial situation and ultimately for it going out of business¹³².

¹²⁶ See also Provincial Court of Girona of Girona (Sect.2) 14th February 2003, *Agri Energía Eléctrica, S.A. v. Bassols Energía, S.A.* (AC\1003\328) concerned a contract dated 14th March 1913 with a non-competition clause that in fact was a market allocation agreement [the DCT delivered a similar opinion though did not punish parties in the agreement in resolution of 25th October 1999, Exp. 448/99, *Bassols/Agri* confirmed by National Court (Sect. 6) Judgment of 20th January 2002] and Provincial Court of Granada (Sect. 3) Judgment 24th February 2001, *Distribuciones García Padilla, S.L., Distribuidora Almeriense de Publicaciones, S.L. & Distribuidora Jienense de Publicaciones, S.L. v. Distribuciones Ricardo Rodríguez, S.L.* (JUR\2001\126842).

¹²⁷ See Provincial Court of Álava (Sect. 1) Judgment of 28th December 2007, *Dream Star Sport, S.L. v. Kappa España Equipamientos Deportivos, S.A.* (EDJ 2007/333556), which rejected the unfair competition and competition law petitions grounded on abuse of dominance in the rejection to supply sports equipment to the official shop of R.Betis Balompie, S.A.D.

¹²⁸ See Provincial Court of Madrid (Sect. 28), Decree of 29th June 2009, *Spain Rail, S.L. v. Administración de Infraestructuras Ferroviarias (ADIF), Renfe Operadoras and Transportes Carrasoc, S.A.* (EDJ 2009/262254)

¹²⁹ See Supreme Court (Civil Ch.) Decree of 10 January 2012, *Promarsa Marketing & asociados v. D. Teodosio & Unidic* (ATS 71/2012), summarily rejecting the appeal on competition grounds concerning the anti-competitive character of a non-competition covenant.

¹³⁰ See Provincial Court of Tarragona (Sect.1) Judgment of 3rd November 2000, *Elring Klinger, S.A. v. Aparicio C. e Hijos, S.L.* (JUR\2001\76419), summarily rejecting that the contract was in breach of article 1 of Spanish Competition Act because of lack of jurisdiction (in the same vein as caselaw mentioned *supra* note 15).

See also Provincial Court of Madrid (Sect. 28) Decree of 2nd July 2009, *Global Fashion Service Support, S.L.; Duran Consulting, S.L.; Maneo Informática Avanzada, S.L. v. El Corte Inglés, S.A.; Investrónica Sistemas, S.A.; Industrias y Confecciones, S.A. and Lectra Sistemas, España, S.A.* (EDJ 2009/262251), rejecting an abuse of dominance claim alleged to strengthen a contractual nullity & voidness petition.

¹³¹ See DCT resolution of 18th March 1994 (331/93 *Asociación Judgment Valenciana*), confirmed by National Court (Sect. 6) Judgment of 26th January 1998.

¹³² See Provincial Court of Valencia (Sect. 11) of 10th February 2003, *Miguel Linares S.L. v. Asociación Naviera Valenciana* (SAP V 801/2003).

Additionally, three other cases concern competition claims somehow related to the clothing industry (either clothing manufacturing or retailing)¹³³. In the *Diesel* case (2006), a firm that had been condemned for unfair competition and infringement of IP rights held by Italian brand DIESEL, SPA over its clothes¹³⁴, unsuccessfully utilised a defense which was based on an absurd accusation of anti-competitive behaviour and abuse of a dominant position¹³⁵.

3.1.19. Follow-on claims to cartel decisions

There have been two follow-on actions after the 1999 DCT's decision on the sugar production cartel¹³⁶. In the first, on the 8th June 2012, the Supreme Court confirmed the Provincial Court of Valladolid Judgment on a damages claim (for a total of 1,101,053.35€¹³⁷) against the cooperative ACOR, SOCIEDAD COOPERATIVA GENERAL AGROPECUARIA¹³⁸. The second follow-on claim was rejected by the Madrid Provincial Court's judgment of 9th October 2009 (considering that the overcharge had been passed on to consumers, and therefore no damage was caused to the producers)¹³⁹, although a final decision by the Supreme Court is pending.

Finally, no other curious follow-on action was decided in 2012 when one of the firms part of the cotton cartel claimed in court the reimbursement of payments made in accordance to the

¹³³ See Provincial Court of Barcelona (Sect. 15) of 26th September 2005, *D. Pedro Enrique v. Levi Strauss de España, S.A., Levi Strauss International and Levi Strauss & Co.*, EDJ 2005/258590 (summary rejection on jurisdictional grounds) and Provincial Court of Madrid (Sect. 9), Judgment of 11th November 2005, *UCO ES S.L. v. Warnaco Íntimo, S.A.*, EDJ 2006/385774 (lack of substantiation or evidence of dominant position claim).

¹³⁴ See Supreme Court (Administrative Ch.) Judgment of 26th November 2003, *Diesel v. Turbo Diésel* (RJ2003/8782)

¹³⁵ See Supreme Court (Civil Ch.) Judgment of 22th June 2006, *Diesel Spa & Distribution Italian Fashion v. Mapache, S.L.* (RJ/2006/4712).

¹³⁶ The DCT resolution of 15th April 1999 (426/1998) was confirmed in several judgments both by the National Court and by the Supreme Court.

¹³⁷ Divided as follows: GALLETAS GULLÓN, SA: 193.044,95€ MAZAPANES DONAIRE, SL: 5.658,53 € NESTLÉ ESPAÑA, SA: 508.291,47€ ZAHOR, SA: 200788,47€ GALLETAS CORAL, SA: 61.104,24€ PRODUCTOS ALIMENTICIOS LA BELLA EASO, SA: 72.661,87€ LACASA, SA: 37.566,90€ CHOCOLATES DEL NORTE, SA: 16.823,52€ BOMBONERA VALLISOLETANA, SA: 5.113,18€

¹³⁸ Supreme Court Judgment of 8th June 2012 (ROJ: STS 5462/2012). See the comment by PATRICIA PÉREZ FERNÁNDEZ & TILL SCHREIBER, "Case Comment: Judgment of the Spanish Supreme Court in Acor (344/2012) June 8, 2012", *Global Competition Litigation Review* 1/2013, pages 37-41.

On the sugar cartel follow-on claims, see the reflections by M^a PILAR BELLO MARTÍN CRESPO, "Una explicación sobre la posibilidad de alegar responsabilidad contractual en acciones de daños derivados de infracciones de la LDC: A Propósito del caso «Acor»", in J.A. GÓMEZ SEGADE & A. GARCÍA VIDAL (coords.), *El derecho mercantil en el umbral del siglo XXII libro homenaje al Prof. Dr. Carlos Fernández-Novoa con motivo de su octogésimo cumpleaños*, M. Pons, Madrid 2010, pages 265-270; DIEZ ESTELLA, in VELASCO SAN PEDRO et al. (dirs.), *Private enforcement of competition law*, 2011, pages 221-224 and OLATZ RETORTILLO, "Primeros Pasos de los Tribunales Españoles en la Aplicación Privada del Derecho de la Competencia. Especial referencia a la reclamación de daños en los casos de cárteles", *Revista de Competencia y Distribución* 8 (2011) pages 230-232.

¹³⁹ On this issue see CRISTINA TUDOR, "La admisión de la defensa passing-on en el cartel del azúcar", *Revista de Derecho de la Competencia y Distribución* 11 (2012) pages 277-291.

anti-competitive agreement which had been declared null by DCT¹⁴⁰, naturally, the claim was rejected by the court¹⁴¹.

4. Controversial legal issues in the Case Law

The cases reported raise several relevant legal problems. Indeed, the trends of competition litigation in each industry may well be explained by specific factors (distinct strategic and legal reasons). However, there are some common features that can be found in all cases and which are worth noting.

First of all, the data shows that competition law is widely used by lawyers as an additional tool in their litigation arsenal. The long-time concern over the under-development and lack of significance of competition law private litigation in Spain should now be disregarded: since 2004 more than twenty cases per year decide claims based on competition law, and that number has been more than doubled in 2011 and 2012¹⁴². It is true, however, that court opinions sometimes reflect a lack of understanding and sophistication in the allegation and proof of competition law pleas (it happens very often with abuse of dominance claims), which are summarily or briefly rejected by judges on the basis of lack of substantiation or evidentiary support.

Nevertheless, overall the caselaw reported shows that, despite the limits imposed by the straightjacket of our civil procedure formalities, judges and courts have generally dealt well, with capability and knowledge, with competition law claims¹⁴³, detecting (and rejecting when inappropriate) strategic or unsubstantiated claims by litigants¹⁴⁴.

¹⁴⁰ See DCT resolution of 10 June 1997 (370/96, *Desmotadoras de Algodón*), confirmed by the Supreme Court, imposing several million euro fines to nineteen cotton producers.

¹⁴¹ See Provincial Court of Sevilla (Sect. 8) Judgment of 25 July 2012, *Nueva Desmotadora Sevillana, S.A. (DEVISA) v. Mediterraneo Algodón, S.A.* (EDJ 2012/217432)

¹⁴² See GUTIERREZ & PEINADO, "Spain-Chapter 21", in KNABLE GOTTS (ed.), *The Private Competition Enforcement Review*, 2012, pages 358-359 tempering the optimism concerning the expectancy follow-on claims sprouting in the near future with the caveat that, at the end, everything depends on the development of a competition culture and public awareness of the harm caused by anticompetitive actions.

¹⁴³ Empirical studies elsewhere point in a somehow similar direction (i.e. good quality in antitrust judicial opinions) see JOSHUA D. WRIGHT & ANGELA M. DIVELEY, "Do expert agencies outperform generalist judges? Some preliminary evidence from the Federal Trade Commission" *Journal of Antitrust Enforcement* 1/1 (2013) pages 82-103.

¹⁴⁴ See HERBERT HOVENKAMP, *The Antitrust Enterprise. Principle and Execution*, 2005, page 57 (among the most-cited risks and dangers of private antitrust enforcement are the unjustified lawsuits by rivals,) See supra note 51 (in the petrol retail industry) and also Supreme Court (Civil Ch.) Judgment of 22th June 2006, *Diesel Spa & Distribution Italian Fashion v. Mapache, S.L.*(RJ/2006/4712), repeatedly rejecting (and considering inconsistent) the competition law arguments of the defendants.

Indeed, given that the competition law claim is frequently just complementary or secondary to other legal arguments (mainly based on contract law), both when used as a “sword” and as a “shield” by litigants, there is a lot of strategic use (or misuse) of competition law arguments. Facing that situation, in general, courts have dealt with claims adequately and with considerable pragmatism¹⁴⁵, rejecting lawyers’ attempts to construct artificial claims based on competition law¹⁴⁶.

Overcoming the fact that the claimant in most of the reported cases was party to the contract now declared to be in breach of competition law, Spanish courts have not questioned the legal standing or legitimacy of the competition law claim¹⁴⁷, but have tempered that right with the general principles of the law of good faith or unreasonable exercise of rights. That has influenced not only the solution to the essence of the competition law conflicts before the courts (in terms of the substantive or material rules)¹⁴⁸, but also the outcome in terms of remedies¹⁴⁹.

Indeed on the side of remedies, despite compensation being sought by claimants in many cases, in the few successful cases there have rarely been damages’ awards; courts more frequently deliver a declaratory judgment (either of the anti-competitive action or of the nullity of a contract). Additionally, as happened in the past¹⁵⁰, unfair competition law is still

¹⁴⁵ Although referring to the US, see RICHARD A. POSNER, *How Judges Think*, 2008, pages 376-377, “[t]he evolution of antitrust law is a triumph of pragmatism”.

¹⁴⁶ For different opinions (but without any supporting evidence) see IRENE MORENO-TAPIA, ELENA LÓPEZ AYUSO & CANI FERNÁNDEZ, “La eficiencia real del Derecho de la Competencia: La indemnización de los daños causados”, in S. MARTÍNEZ & A. PETITBÓ (dirs.), *La Modernización del Derecho de la Competencia en España y en la UE*, 2005, page 172 (“la jurisprudencia española existente pone de manifiesto que los jueces españoles son excesivamente formalistas a la hora de aplicar el Derecho de la competencia, absteniéndose de realizar los análisis adecuados”) and DIEZ ESTELLA, in VELASCO SAN PEDRO et al. (dirs.), *Private enforcement of competition law*, 2011, page 227 (“there is an insurmountable barrier and that is the mentality of certain judges to reject complex economic reasoning”).

¹⁴⁷ Something supported by the caselaw of the EU Court of Justice, see ¶¶24,28, 31 & 32 of Judgment of 20th September 2001 (C-453/99 *Courage Ltd. & Bernard Crehan*) [2001] ECR I-6297, holding it cannot be considered that the claimant is profiting from its unlawful action, as depending on the context and its (weak) position in the contractual relationship, there might not be an alternative.

¹⁴⁸ See, for example, Supreme Court (Civil Ch.) Judgment of 29th May 2009 (5th Legal ground *in fine*); Provincial Court of Madrid (Sect. 28) Judgment of 18th February 2011, *E.S. Villafría, S.A. v. Repsol Comercial de Productos Petrolíferos, S.A.* (SAPM12919/2011), “Consideramos, [...] inadmisibles, porque entrañaría una actuación de abuso de derecho y de contravención de la regla de la buena fe que debe guiar el ejercicio de los derechos (artículo 7 del C Civil) el actuar del modo en el que lo ha hecho la parte actora, cuestionando como colusorio el acuerdo en el que ha sido parte durante más de veinte años, de modo pacífico y provechoso, como una mera estrategia para tratar de solventar la situación que se ha creado justo al final de la relación contractual, como consecuencia de avatares administrativos por completo ajenos al juego de la libre competencia” (2nd legal ground).

¹⁴⁹ See 1st Legal ground *in fine* of Provincial Court of Vizcaya (Sect. 4) Judgment of 22nd July 2009, *Zesena S.L. & Bide Barri S.L. v. Repsol Comercial de Productos Petrolíferos S.A.* (revoking the lower court decision): “La solución establecida por la Sentencia recurrida, decretando la nulidad del contrato y acordando que la estación de servicio revierta en su integridad a favor de la parte demandante sin indemnización alguna a la demandada entraña un grave perjuicio económico para la demandada la cuál se encuentra con que una parte considerable de su importante inversión no resulta amortizada, a la par que el demandante se lucra de la nulidad de un negocio reduciendo el plazo de duración del usufructo por él constituido a favor de Repsol sin hacer desembolso alguno”.

¹⁵⁰ See “Spain: National Report”, in *Study on the conditions of claims for damages in case of infringement of EC competition rules. Comparative Report* (Waelbroeck, Slater & Even-Shoshan), 2004, pages 3-4 and 28.

widely used as a substantive legal basis for many private claims (through the channel of article 15 of the 1991 Unfair Competition Act) which also provides an *ad hoc* procedural venue for the actions in court (non-existent in direct competition law claims).

Apart from those general and broad themes, three other major issues arise from the cases reported here: the interplay with public enforcement proceedings (especially in case of follow-on or parallel private claims, but not only) (*infra* §4.1); the statute of limitations of private claims (*infra* §4.2); and the dearth of consumer collective claims (*infra* §4.3). Finally, in the few cases where compensation is awarded (*infra* § 4.4), the reported caselaw raises typical problems regarding the proof of damages and necessary causal link (*infra* §4.4.1) and the use of economic evidence by judges (*infra* § 4.4.2).

4.1. Relationship of damages claim with administrative proceedings: Binding effect of Spanish NCC Decisions?

Unlike other jurisdictions (for example, *the Competition Appeals Tribunal* in the UK), in Spain there is not a specialized court for competition private claims: no matter whether they are stand-alone or follow-on actions, they are filed before ordinary commercial courts (appeals against their judgments also follow the standard appeal process before Provincial Courts and, ultimately, before the Supreme Court). Thus, there may occasionally be a lack of legal co-ordination between the assessment in public enforcement decisions applying the competition rules and private enforcement damages claims.

The infringement findings and decisions of relevant competition authorities can be used by parties in building their damages claim for breach of competition law¹⁵¹, but those decisions are not binding on civil or commercial courts¹⁵².

Although courts generally follow and respect prior decisions by the Spanish NCC, giving them a strong evidentiary weight (sometimes citing its holdings approvingly and in support),

¹⁵¹ On the same issue on the UK, see BARRY J. RODGER, “Why not court? A study of follow-on actions in the UK”, *Journal of Antitrust Enforcement* 1/1 (2013) page 13.

¹⁵² Early on, see Provincial Court of Madrid (Sect. 13) Judgment of 17th february 1999, *Z, S.A. v. Comunidad de Propietarios de Bilbao*, EDJ 1999/22084 (“*todo ello sin perjuicio de las decisiones que se afirma han sido adoptadas por el Tribuna de Defensa de la Competencia al no constar su firmeza una vez agotada, en su caso, la vía jurisdiccional contencioso-administrativa, y que por tanto no vinculan en forma alguna a la jurisdicción civil en materia de interpretación de contratos exclusivamente civiles*”). See, more recently, among others, 5th Legal ground of Provincial Court of Madrid (Sect. 28) Judgment of 11th April 2011, *Iborgas, S.L. v. BP Oil España, S.A.*

legally they are not bound by decisions of the Spanish NCC¹⁵³, as only decisions on competition matters by the European Commission bind Spanish Courts (applying EU Law)¹⁵⁴.

4.2. Statute of Limitations

One of the issues to be decided in some cases has been whether the damages claim was based on contract law or on tort law. The choice of one or other alternative is relevant not only for substantive legal reasons, but also procedurally (as different limitations provisions apply in each case)¹⁵⁵.

Several cases reported in the database rule on this issue. Although some of the initial (and lower court) follow-on court decisions in the sugar cartel considered that the claim was grounded on contractual liability¹⁵⁶, the Supreme court has considered that the damages claims based on anti-competitive violations are tort claims to which the statute of limitations for tort actions applies¹⁵⁷.

In Spanish Law, damage claims based on tortious conduct lapse in one year, to be counted since the victim became aware of the harm (article 1968.2º of the Spanish Civil Code) or since they could have been exercised (article 1969 of the Spanish Civil Code)¹⁵⁸.

¹⁵³ See BROKELMANN, “La indemnización de daños y perjuicios”, in MARTÍNEZ & PETITBÓ, *El Derecho de la Competencia y Los jueces*, 2007, page 65; FOLGUERA CRESPO & BORJA MARTÍNEZ CORRAL, in G.C. RODRÍGUEZ IGLESIAS & L. ORTÍZ BLANCO (eds.), *The judicial application of Competition Law*, 2010, vol I-2, pág. 402.

¹⁵⁴ See article 16 of EU Regulation 1/2003 and, before that, already Court of Justice of the European Union judgments of 14th December 2000, *Masterfoods Ltd. V. HB Ice Cream, Ltd.*, C-344/98, [2000] ECR I-11369 (¶¶51 and 56-57) and of 28th February 1991, C-234/89, *Delimitis v. Henninger Braeu*, [1991] ECR-935 (¶47). See JUAN PÁSSAS & JAIME PÉREZ, “Reclamaciones de daños y perjuicios derivados de la infracción de la normativa sobre competencia”, in A. CREUS (coord.), *La Ley 15/2007, de Defensa de la Competencia. Jornada de estudio de la AEDC*, 2008, page 276, advocate for the same solution at the domestic level (although extending the EU solution to domestic settings can be problematic, as they adventure at footnote 356). The June 2013 Proposal of Directive goes in the same direction (see article 9).

¹⁵⁵ Again, on the same issue in the UK, see RODGER, *Journal of Antitrust Enforcement* 1/1 (2013) pages 11-12. See also EUROPEAN COMMISSION, *White paper on damages actions for breach of the EC antitrust rules*, 2nd April 2008, COM 2008/0165 final, pages 9-10 and *Staff working paper accompanying the White paper on damages actions for breach of the EC antitrust rules*, 2nd April 2008, pages 70-73.

¹⁵⁶ See the discussion concerning the first instance opinion by the Valladolid Court of First Instance (nº 11) of 20th June 2009 (JUR 2009/465113), by BELLO MARTÍN CRESPO, “Una explicación sobre la posibilidad de alegar responsabilidad contractual en acciones de daños derivados de infracciones de la LDC: A Propósito del caso «Acor»”, pages 265-268.

¹⁵⁷ See Legal Ground 12th Supreme Court Judgment 8th June 2012 (“a los efectos de identificar el régimen de prescripción extintiva de la acción, ante la dualidad de responsabilidades, la contractual y la extracontractual - a las que los anglosajones se refieren como “the law of contract” y “the law of torts” -, hay que entender con la recurrente que nos hallamos en el ámbito de la segunda”).

¹⁵⁸ Setting the *dies ad quem* can be more problematic, see OIS & JIMÉNEZ-LAIGLESIA, in *2009 Anuario Mercantil para Abogados. Los casos más relevantes en 2008 de los grandes despachos*, pages 269-270 (and whether the start of public enforcement proceedings stop the lapsing of limitations period). Article 10.5 of the Proposal of Directive would provide a clear answer to these doubts.

4.3. Dearth of consumer claims: possible explanations

Only one of the 323 cases reported in the database involves a consumer collective claim (a follow-on action against TELEFÓNICA). The consumer association AUSBANC started a collective action on behalf of all holders of ADSL lines in Spain for €458 million in damages against TELEFÓNICA DE ESPAÑA, S.A.U, for price squeezing in the retail broadband services market, which was sanctioned by the European Commission¹⁵⁹. However, to date TELEFÓNICA has successfully managed to suspend the litigation on several occasions¹⁶⁰.

Since 2000, Spanish Civil Procedure rules provide several avenues through which collective or group litigation can be started in any case where several victims are involved (claim consolidation and group actions)¹⁶¹, but not many cases based on competition law have been filed using any of them¹⁶².

Aside from the joinder or consolidation of individual claims, litigation by the representation of diffuse and collective interests is allowed in Spanish Law: associations and groups of those affected or that have been legally entrusted with the defense of collective interest have legal standing in court¹⁶³. The law distinguishes those situations in which multi-party litigation is started by those directly affected by the harm and who can easily be traced, from that in which the victims cannot be easily identified.

In the first case, when victims can be easily identified, there can be claims by groups of victims themselves or claims by authorized and legally recognized consumer associations¹⁶⁴. In the second case, when victims cannot be easily determined or traced, only claims by

¹⁵⁹ See *supra* note 100-101 and accompanying text.

¹⁶⁰ The proceedings were held before Commercial Court n° 4 of Madrid, which ordered interim suspension until the General Court decided on the appeal against the European Commission decision before the General Court. This suspension was revoked by Order of the Madrid Provincial Court (Section 28) n° 144/09 of 21st July of 2009. Subsequently, the last available public information in April 2011 concerns a further suspension to allow consumers to join the collective claim (Order of the Commercial Court n°4, 12th April 2011).

¹⁶¹ In general, see FERNANDO GÓMEZ & MARIAN GILI, "Evaluation of the effectiveness and efficiency of collective redress mechanisms in the European Union. Country report Spain", in EUROPEAN COMMISSION – DG SANCO, *Evaluation of the effectiveness and efficiency of collective redress mechanisms in the European Union, Final Report* 2008 (studying also the collective and group claims created by consumer protection, unfair competition law, rules on standard terms of contract and products liability regulation).

¹⁶² See "Spain: National Report", in *Study on the conditions of claims for damages in case of infringement of EC competition rules. Comparative Report* (WÄELBROECK, SLATER & EVEN-SHOSHAN), 2004, pages 6-7; CALLOL, "Spain", in FOER & CUNEO, *The International Handbook on Private Enforcement of Competition Law*, 2010, pages 386-387; FOLGUERA CRESPO & MARTÍNEZ CORRAL, in RODRÍGUEZ IGLESIAS & ORTÍZ BLANCO (eds.), *The judicial application of Competition Law*, 2010, vol I-2, page 411.

¹⁶³ Article 7.3 of Spanish Judicial Power Act 6/1985.

¹⁶⁴ Articles 6.7 and 11.2 of Spanish Civil Procedure Act 1/2000 (in this case for litigation to be started the group needs to gather the majority of those affected).

representative and legally authorized and recognized consumer associations are possible¹⁶⁵. In both cases, the law provides an opt-in procedure to allow victims to join the collective claim¹⁶⁶.

Despite the existing general framework, which had proved effective in raising the number of collective claims in other areas (abusive standard terms of contract)¹⁶⁷, competition actions remain an unexplored land¹⁶⁸.

Although –at least theoretically- collective actions by representative associations based in competition law remain a plausible alternative (the association being the powerforce behind the claim)¹⁶⁹, the scarcity of consumer collective claims is probably related to the low value of claims, individual harm being scattered at the consumer level, with victims suffering only small losses and sometimes too remote to the actual infringement. It may well be that consumer ignorance and lack of awareness of the availability of this type of claim is also at play¹⁷⁰. Finally, the costs involved in managing group litigation can make collective actions unfeasible¹⁷¹.

4.4. Scant number of cases in which compensation is awarded

Although claimants have asked for damages as compensation in some of the claims reported, damages awards have been rare so far. The most frequent outcome reached in successful claims is a declaration of a violation and nullity/voidness of anti-competitive clauses in contracts¹⁷². Of course, in the few noted cases where the pecuniary claims were considered by courts, the typical problems and issues raised are similar to those faced in other jurisdictions

¹⁶⁵ Article 11.3 of Spanish Civil Procedure Act 1/2000.

¹⁶⁶ See Article 15 of Spanish Civil Procedure Act 1/2000. The Court will facilitate the initial group of claimants in the identification of additional potential claimants (article 256.1) See GÓMEZ & GILI, in EUROPEAN COMMISSION – DG SANCO, *Evaluation of the effectiveness and efficiency of collective redress mechanisms in the European Union, Final Report* 2008, page 12 and PABLO GUTIÉRREZ DE CABIEDES HIDALGO, *Group Litigation in Spain-National Report*, 2007, pages 9-12 and 14-15.

¹⁶⁷ See GÓMEZ & GILI, in EUROPEAN COMMISSION – DG SANCO, *Evaluation of the effectiveness and efficiency of collective redress mechanisms in the European Union, Final Report* 2008, pages 12-28.

¹⁶⁸ Although some commentators described the Spanish legal mechanisms for collective redress as “one of the most advances worldwide”, see PÁSSAS & PÉRE, in CREUS (coord.), *La Ley 15/2007, de Defensa de la Competencia. Jornada de estudio de la AEDC*, 2008, pages 266 and 268 (adding some wishful thinking concerning their use and success in the future).

¹⁶⁹ See PURIFICACIÓN MARTORELL, “Indemnización de daños y perjuicios por infracción de las normas de defensa de la competencia”, in JUAN I. RUIZ PERIS (dir.), *La nueva Ley de Defensa de la Competencia*, 2008, page 104.

¹⁷⁰ See MARCOS, in BENACCHIO & CARPAGNANO (eds.), *I Rimedi Civilistici agli illeciti anticoncorrenziali. Private Enforcement of Competition Law*, 2012, pages 158-160.

¹⁷¹ See GUTIÉRREZ DE CABIEDES HIDALGO, *Group Litigation in Spain-National Report*, 2007, pages 18-19.

¹⁷² For a similar finding in Germany, see PEYER, *Journal of Competition Law & Economics*, 8/2 (2012) pages 348-351.

and dealt with by the European Commission in its several reports on private enforcement of competition law¹⁷³.

4.4.1. Damages proof and the causal link: Passing on

The right of victims to claim compensation for both actual loss suffered and also of any gain of which they have been deprived has been a controversial issue in some cases, raising problems regarding harm effectiveness and damage calculation, particularly lost profits (*lucrum cessans*)¹⁷⁴.

Harm suffered is key for a damages/compensation action to proceed. When actual loss caused by competition law infringement was passed on -totally or partially- to purchasers or suppliers of the injured party' allocating and measuring harm distribution in the supply chain (upstream or downstream) is not an easy task¹⁷⁵.

In the few cases reported here that have awarded damages to the claiming party, courts have generally dealt plausibly with these issues. Courts have correctly not awarded compensation when there was no proof that the eventual harm was linked to the anti-competitive action¹⁷⁶. The calculation of lost profits has also been considered in some other cases¹⁷⁷, as well as the effectiveness of the harm when there was some evidence that it has passed on to consumers downstream¹⁷⁸.

¹⁷³ See EUROPEAN COMMISSION, *White paper on damages actions for breach of the EC antitrust rules*, 2008, page 8 and EUROPEAN COMMISSION, *Staff working paper accompanying the White paper on damages actions for breach of the EC antitrust rules*, 2008, pages 55-69.

¹⁷⁴ See ¶95 of EU Court Judgment of 20th February 2001 *Manfredi*, joined cases C-295/04 to 298/04 [2006] ECR I-6619.

¹⁷⁵ If the Proposal of Directive is approved it would allow the passing-on defense but it would also allow indirect purchasers claims when overcharge existed but claimants are not able (legal impossibility) to claim or prove them (article 12).

¹⁷⁶ See *supra* notes 132-133 and referring text, Provincial Court of Valencia (Sect. 11) Judgment of 10th February 2003, *Miguel Linares S.L. v. Asociación Naviera Valenciana* (SAP V 801/2003), considering there was not proof of link/causation of the anti-competitive action with the company going out of business.

¹⁷⁷ See Supreme Court (Civil Ch.) Judgment of 12th November 2012 (LA LEY 185311/2012) and *supra* note 74 (ENDESA); Judgment of Provincial Court of Madrid (sect. 25) of 18th December 2006 (JUR\2008\246795) *supra* notes 64 & 65 (ANTENA 3); Judgment of Provincial Court of Madrid (Sect. 28) 25th May 2006 and *supra* note 99 and *infra* 182 (CONDUIT).

¹⁷⁸ General rules on tort liability are applicable, and for that reason the claim was rejected Provincial Court of Madrid (Sect. 8) Judgment of 3rd October 2011, *Ebro Puleva, S.A.* (JUR\2011\386351).

4.4.2. Use of economic evidence and economic analysis by courts

The measurement and calculation of damages in claims based on breach of the competition rules may require the use of economic analysis. Economic analysis can be helpful in calculating and providing evidence of the harm caused. Courts could ask for the assistance of the competition authorities in this task¹⁷⁹.

In a few of the private claims reported in the database economic analysis has been relevant in building the claim for damages. The follow-on actions to the 1999 CDT fines imposed upon sugar manufacturers implicated in the sugar cartel involved economic estimation of damages¹⁸⁰.

A curious case of damages calculation was faced in the Conduit case, in which CONDUIT was claiming profits lost due to the abusive conduct by TELEFÓNICA. Although the Court accepted CONDUIT's argument concerning the negative impact on the quality of its service arising from the abusive conduct, it did not accept that all the amount claimed as profits lost by CONDUIT was due to the abusive conduct (the lower court even explicitly considering the expert report as being "*incomprehensible*"), noting that other relevant factors could be present and accordingly it did not award any damages for any such loss¹⁸¹.

5. Conclusion: the role of private competition litigation in Spain

The empirical evidence on the use of private enforcement of competition law (both EU and domestic) in Spain in the last decade shows an evolution which parallels, with a slight delay, the increase in public enforcement activity.

From the cases collected in this report it is clear that private competition claims have been added to the toolkit of mechanisms for legal redress available, especially in contractual

¹⁷⁹ See article 15bis of Spanish Civil Procedure Act (introduced by Additional Provision Second of Competition Act) and article 25.c) Spanish Competition Act and Article 15.1 of EU Regulation 1/2003. Reportedly these mechanisms have been used occasionally and they are favourably considered by judges, see for example PURIFICACIÓN MARTORELL, "Indemnización de daños y perjuicios por infracción de las normas de defensa de la competencia", in JUAN I. RUIZ PERIS (dir.), *La nueva Ley de Defensa de la Competencia*, Tirant lo blanch, Valencia 2008, page 102.

¹⁸⁰ See JUAN DELGADO & EDUARDO PÉREZ-ASENJO, "Economic evidence in private-enforcement competition law in Spain", *European Competition Law Review*, vol. 32/10 (2011) page 509 ("damages were calculated as the share of the increase in price which did not correspond to an increase in the costs of the cartelists").

¹⁸¹ See, HITCHINGS, "The conduit case", in ORTÍZ & ENTRENA *Derecho de la Competencia Europeo y Español. Curso de iniciación*, pages 171-175. For a complete and detailed explanation of how the profits lost were calculated (by the plaintiff's economic experts in the case). See MAITE MARTÍNEZ-GRANADO & GEORGE SIOTIS, "Sabotaging Entry: An Estimation of Damages in Directory Enquiry service Market", *Review of Law & Economics* 6/1 (2010) pages 1-57.

settings. However, although the use of private competition claims has clearly multiplied, the level of success remains minimal.

Moreover, the most frequent outcome in successful cases is not damages but other declaratory remedies (of anticompetitiveness and nullity of contractual covenants). Indeed, only a few claims have managed to collect several thousand euros in economic compensation for violations of the competition rules.

Finally consumers and group litigation in competition law remains an unexplored land, with only one action reported in the database. Despite provision in the Spanish legal framework of different possibilities for multi-party pleas in this setting, consumers' lack of awareness and burdensome procedural requirements complicate collective claims.

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ANNEX I. TABLE OF CASES REPORTED

Case Name	Citation	Court	Date
1999			
D. Ricardo & D. Ramón v. Seguro Q, S.A., D. Luis, D. Juan, D. Vicente, D. Jesús, D. José, D. Justiniano, D. Antonio, D. Jaime, D. Ceferino & D. Genaro	Appeal nº 3461/1994 Res. 620/1999	Supreme Court (Civil Ch, Sect. 1)	July 9, 1999
United International Pictures y Cia. SRC v. Salsas Hermanos, S.A.	Res. 908/1999 Appeal nº 589/95	Supreme Court (Civil Ch., Sect.1)	November 4, 1999
Catalonia Motor, S.A. v. Nissan Motor Ibérica, S.A.	Res. 1011/1999 Appeal nº 865/95	Supreme Court (Civil Ch., Sect.1)	November 30, 1999
Zardoya-Otis, S.A. v. Comunidad de Propietarios de la calle S. de Durango (Vizcaya)	Appeal nº 821/96	Provincial Court of Madrid (Sect. 20)	June 24, 1999
D. Antonio B.E. v. Discotecas y Recreativos Azuaga, S.L.	Res. 344/1999	Provincial Court of Badajoz (Sect. 1)	September 28, 1999
Aguas M, S.A. v. C., S.A.	Res. 755/1999 Appeal nº 696/98	Provincial Court of Baleares (Sect. 5)	December 1, 1999
2000			
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José Carlos C.C. v. DISA & Prodalca	Res. 540/2000 Appeal nº 2355/95	Supreme Court (Civil Ch., Sect.1)	June 2, 2000
Societat Catalana de Petrolis, S.A. (Petrocat) v. CB José C.D. y Jordi C.R., Jose C.D. y Jordi C.R.	Res. 11/2000 Appeal nº 656/98	Provincial Court of Girona (Sect. 14)	January 14, 2000
Comunidad de Propietarios del Edificio LLevant v. M., S.A.	Res. 251/2000 Appeal nº 152/99	Provincial Court of Baleares (Sect. 4)	March 3, 2000
Oil B, S.A. v. Estación de Servicio V, S.A.	Res. 153/2000 Appeal nº 532/98	Provincial Court of Granada (Sect. 1)	March 27, 2000

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D. Juan Buirra v. Hardi International A/S	Appeal n° 1408/96	Provincial Court of Barcelona (Sect. 15)	June 7, 2000
D. Jose Mª Y.A., D. Andrés Y.A.; D. Juan Manuel S.C., D. Andoni A.E., D. Javier U., D. Sergio Luis M.E. & D. Mariano M.E. v. IGUALMEQUISA	Res. 144/2000 Appeal n° 356/98	Provincial Court of Vizcaya (Sect. 5)	June 12, 2000
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2001			
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D. Josefa D.C. v. Petróleos del Norte, S.A. & REPSOL Commercial de Productos Petroliferos, S.A.	Appeal n° 1122/96 Res. 615/2001	Supreme Court (Civil Ch., Sect.1)	June 20, 2001
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D. Juan José A. M. & Petroalmaq, S.L. v. Total España, S.A.	Res. 261/2001 Appeal n° 1017/00	Provincial Court of Valencia (Sect. 9)	April 7, 2001
Compañía Española de Petróleos, S.A. (CEPSA) & CEPSA Estaciones de Servicio, S.A. v. E.S. La Invencible, S.L.	Appeal n° 140/00 Res. 127/2001	Provincial Court of Cuenca	May 17, 2001
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EGEDA, AISGE and AIE v. Landa Palace, S.A.	Appeal n° 260/01 Res. 402/2001	Provincial Court of Burgos (Sect. 2)	July 3, 2001

Entidad de Gestión de Derechos de los Productores Audiovisuales (EGEDA) v. Urbanizaciones, Construcciones y Negocios, S.A.	Appeal n° 2405/1998	Provincial Court of Guipúzcoa	September 4, 2001
EGEDA, AISGE & AIE v. Hotel G, S.A.	Appeal n° 88/01 Res. 855/2001	Provincial Court of Vizcaya (sect. 4)	September 26, 2001
SGAE v. D. Félix P.S.	Appeal n° 196/01 Res. 265/2001	Provincial Court of Badajoz (Sect. 2)	October 31, 2001
2002			
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EGEDA, AISGE & AIE v. Hotel E, S.A.	Appeal n° 423/01 Res. 26/2002	Provincial Court of Vizcaya (Sect. 4)	January 1, 2002
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Asociación Profesional Salmantina de Vendedores de Publicaciones Periódicas (ASVP) v. Distribuidora Rivas, S.A.	Appeal n° 642/2001 Res. 43/2002	Provincial Court of Salamanca	January 28, 2002
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SGAE v. J, S.A.	Res. 498/2002 Appeal n° 523/02	Provincial Court of Valencia (Sect. 11)	November 6, 2002
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2003			
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CEPSA Estaciones de Servicio, S.A. v. Dermosa Constructores, S.L. & D. César	Appeal n° 544/02 Res. 193/2003	Provincial Court of Málaga (Sect. 4)	April 1, 2003
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D. Agustín & D. José Ignacio v. D ^a Lorenza	Res.460/2004 Appeal n° 661/02	Provincial Court of Madrid (Sect. 12)	March 24, 2004
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AISGE & AIE v. Cine Bosque, S.A.	Appeal n° 70/2002	Provincial Court of Barcelona (Sect. 15)	April 6, 2004

Distribuidora Industrial, S.A. v. D ^a Carla, D ^a Rosa, D ^a Daniela, D. Abelardo, D. Jon & D ^a Maria, D. Rogelio & D. Jesús Miguel	Appeal n ^o 946/03 Res. 309/2004	Provincial Court of Las Palmas (Sect. 4)	April 28, 2004
EGEDA, AISGE & AIE v. Hotel Monte Igueldo, S.A.	Appeal n ^o 2018/03 Res. 2138/2004	Provincial Court of Guipuzcoa (Sect. 1)	April 27, 2004
Total Spain, S.A. v. Combustibles del Cantábrico, S.L.	Appeal n ^o 99/04 Res. 324/2004	Provincial Court of Madrid (Sect. 14)	May 27, 2004
Clau, S.A.v. CEPSA Estaciones de Servicio, S.A.	Res. 188/2004 Appeal n ^o 266/02	Provincial Court of Girona (Sect.1)	June 10, 2004
Franchising Ibérico Tecnocasa, S.A. & Instituto de Franquicia Inmobiliaria Centro Levante, S.A. v. Tempo Hispania, S.L., Casabe Gestión Inmobiliaria, S.L., Estudio Marina 97, S.L., Estudio Conveni, S.L., Estudio Carmel, S.L, Estudio Sants, .Sl. y Estudio Primado Regi II, S.L.	314/2004 Appeal n ^o 115/02	Provincial Court of Barcelona (Sect. 15)	June 14, 2004
REPSOL Comercial de Productos Petroliferos, S.A. v. Centro Filatélico, S.A.	Res. 542/2004 Appeal n ^o 360/03	Provincial Court of Madrid (Sect. 13)	July 12, 2004
Distribuciones Peñafiel, S.L. v. Mahou, S.A.	Appeal n ^o 134/03	Provincial Court of Madrid (Sect. 20-ter)	September 18, 2004
E.S. Castell de Xivert, S.L. v. REPSOL Comercial de Productos Petroliferos, S.A.	Res. 294/2004 Appeal n ^o 105/03	Provincial Court of Castellón (Sect. 1)	September 23, 2004
Forriol, S.L. v. Total España, S.A.	Res. 595/2004 Appeal n ^o 413/03	Provincial Court of Madrid (Sect. 13)	September 29, 2004
Hermela, S.A. v. REPSOL Comercial de Productos Petroliferos, S.A.	Res. 680/2004 Appeal n ^o 297/03	Provincial Court of Madrid (Sect. 14)	September 30, 2004
Estación de Servicio Torremirona de Salt, S.L. v. Total Fina España, S.A.U.	Res. 356/2004 Appeal 765/02	Provincial Court of Madrid (Sect. 21)	October 5, 2004
Auna Telecomunicaciones, S.A.; Euskaltel, S.A.; R. Cable y Comunicaciones Galicia, S.A.; R. Cable y Comunicaciones Coruña, S.A.; Tenaria, S.A., Telecable de Asturias, S.A. & Supercable Sevilla, S.A. v. Audiovisual Sport, S.L. & Canal Satélite Digital, S.L.	Res. 670/2004 Appeal n ^o 693/03	Provincial Court of Madrid (Sect. 18)	October 13, 2004

Deriber, S.A. v. Matadero Industrial El Mayorazgo, S.A.	Res. 182/2004 Appeal nº 246/04	Provincial Court of Huelva (Sect. 1)	October 26, 2004
Automoción y Servicios La Safor, S.L. v. Compañía Logística de Hidrocarburos, S.A. & REPSOL Commercial de Productos Petroliferos, S.A.	Proc. 965/2002	First Instance Court of Madrid nº 44	June 10, 2004
2005			
Compañía Española de Petróleos, S.A. (CEPSA) & CEPSA Estaciones de Servicio, S.A. v. Los Montes, S. Cooperativa Andaluza	Appeal nº 46/99 Res.712/2005	Supreme Court (Civil Ch., Sect.1)	October 11, 2005
Electra Avellana, S.L. v. Empresa Nacional Hidroeléctrica del Ribagorzana, S.A. (ENHER)	Appeal nº 1388/99 Res. 846/2005	Supreme Court (Civil Ch., Sect.1)	October 26, 2005
Nacher i Mompo, S.L. y Aceites y Combustibles del Mediterraneo S.L. v. Total Spain S.A	Res. 29/2009 Appeal nº 817/04	Provincial Court of Valencia (Sect. 9)	January 25, 2005
OCASO S.A. Compañía de Seguros y Reaseguros v. Funeraria Poch, S.A.	Res. 60/2005 Appeal nº 547/04	Provincial Court of Girona (Sect 2)	February 10, 2005
D. Jose Mª v. D. Lucas	Res. 65/2005 Appeal nº 80/2005	Provincial Court of Cáceres (Secti. 1)	March 1, 2005
Catbelar, S.L. v. Edic. Primera Plana, S.A.; Edecasa, S.A.; Grupo Zeta, Talleres Imprenta, S.A.; Gelesa, S.A.; Diario El País, S.A.; Asoc. Vendedores de Prensa de Barcelona y Provincia	Res. 204/2005 Appeal nº 527/05	Provincial Court of Barcelona (Sect. 15)	May 3, 2005
Opel España de Automóviles, S.L. & Masternou, S.A. v. Autos Monte Iris, S.L.	Res. 202/2005 Appeal nº 142/05	Provincial Court of Baleares (Sect. 5)	May 12. 2005
Valcerce Tarjeta de Transportes,S.A. v. Cristalgalss Trans, S.A.	Res. 139/2005 Appeal nº 356/04	Provincial Court of León (Sect. 1)	May 30, 2005
Dª Leonor & D. Pedro v. Hanson Hispania, S.A.	Res. 242/2005 Appeal nº 153/05	Provincial Court of Asturias (Sect. 4)	June 21, 2005
VEGAP v. La Vanguardia Ediciones, S.L. & La Vanguardia Digital, S.L.	Appeal nº 219/03	Provincial Court of Barcelona (Sect. 15)	June 30, 2005
Devega, S.A. v. Dirección 000 de Albacete	Appeal nº 398/04 Res. 174/2005	Provincial Court of Albacete (Sect. 1)	June 30, 2005

D. Roberto v. D. Bruno	Res. 308/2005 Appeal nº 672/04	Provincial Court of Zaragoza (Sect. 4)	July 11, 2005
Pedro Enrique v. Levi Strauss de España, S.A., Levi Strauss International & Levi Strauss & Co.	Appeal nº 494/05 Res. 220/2005	Provincial Court of Bacerlona (Sect. 15)	September 26, 2005
E. S. La Herradura, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal 16/05 Res. 28/2005	Provincial Court of Madrid (Sect. 21)	September 28, 2005
D. Luis, D. Ernesto, D. Adolfo, D. Carlos Francisco y D. Ramón v. Unión de Taxistas de la Rioja, S.L.	Res. 250/2005 Appeal nº 147/05	Provincial Court of La Rioja (Sect. 1)	September 30, 2005
D. Abelardo v. CEPSA Estaciones de Servicio, S.A.	Res. 191/2005 Appeal nº 1/04	Provincial Court of Albacete (Sect. 2)	October 3, 2005
I.D. Infraestructuras y Desarrollo, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A	Appeal nº 421/04	Provincial Court of Madrid (Sect. 8)	October 7, 2005
Sercom, S.L. v. Grupo Cervezas Alhambra, S.L.	Appeal nº 352/05 Res. 379/2005	Provincial Court of Córdoba (Sect. 1)	October 10, 2005
Hasbro Iberia, S.L.U. v. Juguetes Falomir, S.A.	Res. 504/2005 Appeal nº 504/05	Provincial Court of Valencia (Sect. 9)	October 14, 2005
DISA v. D ^a Marcelina	Appeal nº 870/04 Res. 552/2005	Provincial Court of Las Palmas (Sect.5)	November 11, 2005
Planning & Scheduling, S.L. v. Ogasá Consultores, S.L.	Appeal nº 505/05 Res. 279/05	Provincial Court of Madrid (Sect. 14)	November 29, 2005
DISA v. D ^a Araceli	Appeal nº 795/04 Res. 537/2005	Provincial Court of Las Palmas (Sect. 4)	December 4, 2005
E.S. El Coto, S.L. v. Shell España, S.A. y Shell Peninsular, S.L.	Proc. 85/2004	Commercial Court of Madrid nº 4	May 31, 2005
2006			
E.S. Costablanca, S.A.v. CEPSA Estaciones de Servicio, S.A.	Res. 221/06 Appeal nº 1936/99	Supreme Court (Civil Ch., Sect.1)	March 15, 2006
Diesel Spa & Distribution Italian Fashion, S.A. v. Mapache, S.L.	Appeal nº 3492/99 Res. 631/2006	Supreme Court (Civil Ch., Sect.1)	June 22, 2006

Creuers B. Barceló v. Cruceros Collado, S.L. & Creuers Bannasar, S.L.	Appeal n° 1977/02	Supreme Court (Civil Ch., Sect.1)	September 9, 2006
Giardino Cargas, S.L. v. Frigoríficos Oya, S.A.	Res. 26/2006 Appeal n° 3014/05	Provincial Court of Pontevedra (Sect. 1)	January 23, 2006
Jeréz Petróleos, S.L. v. Oilinvest España, S.A.	Res. 19/2006 Appeal n° 604/04	Provincial Court of Barcelona (Sect. 15)	January 26, 2006
D. Santiago, D. Jon & D. Esteban v. Aeropuertos Españoles y Navegación Aérea (AENA) & Taxis Palma Radio S.C.L.	Res. 46/2006 Appeal n° 119/05	Provincial Court of Balears Islands (Sect. 4)	February 13, 2006
Inverter Electrónica, S. L. v. Network Total Protection, S.L.	Res. 138/2006 Appeal n° 814/05	Provincial Court of Barcelona (Sect. 11)	February 27, 2006
Area de Servicio Campos, S.A. v. GALP Energía España, S.A.U.	Res. 62/2006 Appeal n° 366/05	Provincial Court of Madrid (Sect. 25)	March 14, 2006
E.S. El Ronquillo, S. L. v. BP Oil España, S.A	SAP SE 1090/2006 Appeal n° 1031/06	Provincial Court of Seville (Sect. 5)	March 14, 2006
Area de Servicio Santa Ana, S.L. v. Shell España, S.A.	Appeal n° 4084/05	Provincial Court of Seville (Sect. 8)	March 31, 2006
REPSOL Comercial de Productos Petrolíferos, S.A. c. Estaciones 2000, S.L.	Res. 289/2006 Appeal n° 806/05	Provincial Court of Madrid (Sect. 9)	April 25, 2006
CEDRO v. D. Juan Ramón	Res. 122/2006 Appeal n° 156/06	Provincial Court of Lugo (Sect. 2)	May 11, 2006
Westfalia Surge Ibérica, S.A. v. Técnicas Ganaderas del Sur, S.L.	Res. 276/2006 Appeal n° 10/05	Provincial Court of Barcelona (Sect. 15)	June 1, 2006
Real Racing Club de Santander v. Union Deportiva Salamanca S.A.D.; Málaga Club de Fútbol; R.C. Celta de Vigo, S.A.D.; Sociedad Deportiva Eibar, S.A.D.; Club Deportivo Leganés, S.A.D.; Rayo Vallecano, Lavante Unión Deportiva, S.A.D.; Unión Deportiva Las Palmas, S.A.D.; Club Deportivo Numancia de Soria, S.A.D.; Albacete Balompie, S.A.D; Córdoba Club de	Res.438/2006 Appeal n° 4/05	Provincial Court of Madrid (Sect. 14)	June 16, 2006

Fútbo, S.A.D.; Getafe, CD S.A.D.; R.C.Deportivo Mallorca, S.A.D.; Elche Club de Fútbol, S.A.D.; Xérez Club de Fútbol, S.A.D.; Terrasa Club de Fútbol, S.A.D.; Club Deportivo Ejido, S.A.D.; Club de Fútbol Ciudad de Murcia & Real Valladolid, S.A.D.			
Brenes Estación de Servicio, S.L. & Inmobiliareyes, S.L. v. CEPSA	Res. 324/2006 Appeal nº 800/05	Provincial Court of Madrid (Sect. 11)	July 30, 2006
Asociación de Gestión de Derechos Individuales (AGEDI) v. Gestevisión Telecinco, S.A.	Res. 411/2006 Appeal nº 638/04	Provincial Court of Madrid (Sect. 21)	October 10, 2006
D ^a Celestina v. Denvesa	Res. 501/2006 Appeal nº 375/06	Provincial Court of Zaragoza (Sect. 2)	October 24, 2006
Petrouxo, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 162/2006 Appeal nº 212/06	Provincial Court of Madrid (Sect. 28)	October 27, 2006
UCO ES S.L. v. Warnaco Íntimo, S.A.	Res. 163/2006 Appeal nº 416/05	Provincial Court of Madrid (Sect. 9)	November 11, 2006
Tramadi, S.A. & La Povedilla, S.L v. Shell España, S.A. & DISA Peninsular, S.L.U.	Res. 174/2006 Appeal nº 338/06	Provincial Court of Madrid (Sect. 28)	November 16, 2006
Antena 3 de Televisión, S.A. v. Liga Nacional de Fútbol Profesional	Appeal nº 1438/04 Res. 130/2006	Provincial Court of Madrid (Sect. 15)	December 18, 2006
2007			
D. Roberto v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. nº 25/05	Commercial Court of Madrid nº 1	October 30, 2006
2007			
E.S. Vivar del Cid, S.A. v. Repsol Petróleo S.A. y Repsol Comercial de Productos Petrolíferos, S.A.	Res. 10/2007 Appeal nº. 204/00	Supreme Court (Civil Ch., Sect.1)	January 30, 2007
REPSOL Comercial de Productos Petrolíferos, S.A. v. D. Diego	Res. 343/2007 Appeal nº 2104/00	Supreme Court (Civil Ch., Sect.1)	March, 29, 2007
REPSOL Comercial de Productos Petrolíferos, S.A. v. E.S. Baeza, S.L	Appeal 1490/03	Supreme Court (Civil Ch., Sect.1)	June 26, 2007
Comercial Ibérica Exclusivas Deportivas S. A. (CIDESPORT), Viso Andrade S.L., D. Luis Antonio , D. Javier , D. Abelardo	Appeal nº 3235/00 Res. 899/2007	Supreme Court (Civil Ch., Sect.1)	July 31, 2007

, D. Rosendo , D. Darío , D. Luis Carlos , D. José, D. Armando , D. José Antonio , D. Guillermo y Don Ángel Jesús v. Nike Inc, Nike International Ltd. & American Nike S.A.			
CEPSA Estaciones de Servicio, S.A. v. E.S. Polígono Baeza, S.L.	Res. 989/2007 Appeal nº 3962/00	Supreme Court (Civil Ch., Sect.1)	October 3, 2007
E.S. San Benito, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A. & Compañía Logistica de Hidrocarburos CLH, S.A.	Res. 1165/2007 Appeal nº 4820/00	Supreme Court (Civil Ch., Sect.1)	October 25, 2007
Panini S.p.a. v. D. Pedro Antonio (E.C.S. INMOSOL S.A.), D ^a Estúbaliz & CROMOSOL S.L.	Res. 1212/2007 Appeal nº 4718/00	Supreme Court (Civil Ch., Sect.1)	November 28, 2007
ENDESA S.A. v. Gas Natural SDG, S.A. & Iberdrola, S.A.	Appeal nº 501/06 Proc. nº 523/05	Provincial Court of Madrid (Sect. 28)	January 7, 2007
REPSOL Comercial de Productos Petrolíferos, S.A. v. D. Juan Francisco	Appeal nº 342/2006 Res. 61/2007	Provincial Court of Madrid (Sect. 14)	January 19, 2007
AGEDI v. Antena 3 de Televisión, S.A.	Appeal nº 653 Res. 42/2007	Provincial Court of Madrid (Sect. 21)	January 29, 2007
Sociedad General de Autores y Editores (SGAE) v. Canal Satélite Digital (CSD) & DTS Distribuidora de Televisión Digital	Appeal nº 396/06 Res. 89/2007	Provincial Court of Madrid (Sect. 28)	April 13, 2007
3C Communications España, S.A. v. Telefonica Sociedad Operadora de Servicios de Telecomunicaciones en España S.A	Res. 235/2007 Appeal nº 696/06	Provincial Court of Madrid (Sect. 28)	May 8, 2007
Associacio de Venedors de Premsa de L'Hospitalet de Llobregat v. Distribarna, S.A.	Res. 269/2007 Appeal nº 689/05	Provincial Court of Barcelona (Sect. 15)	May 14, 2007
Maccorp Exact Change, S.A. v. Banco de Sabadell, S.A.	Res. 179/2007 Appeal nº 176/07	Provincial Court of Barcelona (Sect. 15)	June 11, 2007
CEDRO v. Copy Camelias, S.L.	Res. 325/2007 Appeal nº 374/07	Provincial Court of Pontevedra (Sect. 1)	June 13, 2007
Petropuerto, S.L. & Petrogrado, S.L. v. Shell España, S.A. & Disa Península S.L.U.	Res. 132/2007 Appeal nº 627/06	Provincial Court of Madrid (Sect. 28)	June 14, 2007

E.S. Las Cuartillas v. CEPSA	Res. 134/07 Appeal nº 1125/2007	Provincial Court of Sevilla (Sect. 5)	June 18, 2007
Ediciones Turísticas, S.A. (EDITUR) v. Sociedad Estatal de Correos y Telégrafos, S.A.	Appeal nº 893/05 Res. 391/2007	Provincial Court of Madrid (Sect. 11)	June 29, 2007
Canal Satélite Digital (CSD) & DTS Distribuidora de Televisión Digital v. SGAE	Appeal nº 667/06 Res. 153/2007	Provincial Court of Madrid (Sect. 28)	July 16, 2007
EGEDA, AISGE, AIE v. Promociones Eurobuilding, S.A.	Appeal nº 146/03 Res. 441/2007	Provincial Court of Barcelona (Sect. 15)	September 26, 2007
Tenaria, S.L. v. Sogecable, S.A. & Audiovisual Sport, S.L.	Appeal nº 120/07 Res. 197/2007	Provincial Court of Madrid (Sect. 28)	September 27, 2007
Auna Telecomunicaciones, S.L. v. Sogecable, S.A. & Audiovisual Sport, S.L.	Appeal nº 137/07 Res. 203/2007	Provincial Court of Madrid (Sect. 28)	October 4, 2007
Sociedad General de Autores y Editores, S.A. v. D. Miguel	Res. 446/2007 Appeal nº 495/2007	Provincial Court of Cáceres (Sect. 1)	October 25, 2007
Euskaltel, S.A. v. Sogecable, S.A. & Audiovisual Sport, S.L.	Appeal nº 329/07 Res. 240/2007	Provincial Court of Madrid (Sect. 28)	November 7, 2007
W.Dauphin España, S.A. v. Burositzmobelfabrik Friedirch- W.Dauphin GMBH & CO.	Res. 585/2007 Appeal nº 653/07	Provincial Court of Madrid (Sect. 19)	November 7, 2007
D. Gustavo v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 226/2007 Appeal nº 76/07	Provincial Court of Madrid (Sect. 28)	December 13, 2007
D. Javier (ES 31167 Salsadella) v. CEPSA Estaciones de Servicio, S.A.	Res. 618/2007 Appeal nº 394/05	Provincial Court of Madrid (Sect. 28)	December 17, 2007
Dream Star Sport, S.L. v. Kappa España Equipamientos Deportivos, S.A. (R.Betis Balompíe S.A.D)	Res. 391/2007 Appeal nº 383/07	Provincial Court of Álava (Sect. 1)	December 28, 2007
SGAE v. Cinebank Berriozar	Res. 14/2007 Proc. 321/06	Commercial Court of Pamplona nº 1	January 19, 2007
IASIST, S.A. v. 3M España, S.A.	Res. 811/07 Proc. Nº 1121/06	First Instance Court of Madrid nº 71	June 1, 2007
E.S. Esla, S.L. v. GALP Energía, S.A.	Res. 104/2007 Proc. nº 64/06	Commercial Court of Madrid nº 2	September 3, 2007

2008			
Colegio de Abogados de Castellón v. Sociedad de Servicios Jurídicos Lex et Iure S.L., D ^a Bárbara, D. Ernesto, D. Rodrigo & Solares, Edificios y Promociones Alca, S.L.	Res. 446/2008 Appeal n° 2693/01	Supreme Court (Civil Ch., Sect. 1)	May 29, 2008
D ^a Remedios v. Ebro Puleva, S.A.	Res. 523/2008 Appeal n° 1136/01	Supreme Court (Civil Ch., Sect. 1)	June 12, 2008
EGEDA v. Hotel C., S.A.	Res. 695/2008 Appeal n° 654/2004	Supreme Court (Civil Ch., Sect. 1)	July 10, 2008
Esso Española, S.L. v. Jet Oil, S.A.	Appeal n° 127/06	Supreme Court (Civil Ch., Sect. 1)	November 11, 2008
GEOT, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal n° 2396/03 Res. 1066/2008	Supreme Court (Civil Ch., Sect.1)	November 20, 2008
SGAE v. Vale Music Spain, S.L.	Appeal n° 2951/02 Res. 832/2008	Supreme Court (Civil Ch., Sect.1)	December 22, 2008
Duplico 2000, S.L. v. Koninklijke Philips Electronic S.V. (Philips) & Philips Intellectual Property Standard	Res. 10/2008 Appeal n° 192/07	Provincial Court of Madrid (sect. 28)	January 18, 2008
SGAE v. Ayuntamiento de Viver	Res. 54/2008 Appeal n° 395/07	Provincial Court of Castellón (Sect. 3)	February 4, 2008
CEDRO v. Reprografía del Noroeste, S.L.	Res. 88/2008 Appeal n° 651/07	Provincial Court of Coruña	February 18, 2008
Vale Music Spain, S.L. v. SGAE	Appeal n° 786/07 Res. 104/2008	Provincial Court of Barcelona (Sect. 15)	March 25, 2008
Paper I Tinta San Cugat,, S.L. v. Logística de Medios Catalunya, S.L., Gestión de Logística Territorial S.A. & Marina Press Distribuciones, S.L.	Res. 72/2008 Appeal n° 371/07	Provincial Court of Barcelona (Sect. 17)	April 4, 2008
Vodafone España, S.A. v. Telefónica de España, S.A.U,	Appeal 169/08 Res. 83/2008	Provincial Court of Madrid (Sect. 18)	April 10, 2008
Teko Decoletaje y Mecanizados, S.L. v. GKN Indugasa, S.A.	Appeal n° 248/08 Res. 269/2008	Provincial Court of Pontevedra (Sect. 1)	April 24, 2008

IDAGLAS, S.L. & DISTRIPLAC, S.L. v. D. Octavio, D. Angel Jesús, D. Aurelio, D. Eusebio, D ^a Montserrt, ALPIMA 2 HOLDING, S.L, DIMACONSA, S.L. & ISODIS, S.L.	Appeal 189/07 Res. 164/2008	Provincial Court of Madrid (sect. 18)	May 9, 2008
Mediagora, S.L. v. Microsoft Ibérica. SRL & Microsoft Ireland Operations Limited	Appeal n ^o 228/07	Provincial Court of Barcelona (Sect. 15)	May 29, 2008
D. Iñigo v. D. Nazario & D ^a Manuela	Appeal n ^o 699/07 Res. 246/2008	Provincial Court of Barcelona (Sect. 15)	June 27, 2008
CEDRO & VEGAP v. Lexmark S.R.C.	Appeal n ^o 458/07 Res. 200/2008	Provincial Court of Madrid (Sect. 28)	July 17, 2008
REPSOL Comercial de Productos Petrolíferos, S.A. v. D. Carlos Daniel	Appeal 269/08 Res. 215/2008	Provincial Court of Jaén (Sect. 3)	September 4, 2008
DISA Red de Servicios Petrolíferos, S.A. v. D. Juan Francisco	Res. 792/2008 Appeal n ^o 698/03	Provincial Court of Las Palmas (Sect. 3)	October 27, 2008
Maccorp Exact Change, S.A. v. Banco de Sabadell, S.A.	Appeal n ^o 396/06 Res. 435/2008	Provincial Court of Barcelona (Sect. 15)	November 28, 2008
MEC Europe N.V. v. Omnicrom Circuits, S.L.	Appeal 532/08 Res. 465/2008	Provincial Court of Barcelona (Sect. 15)	December 5, 2008
2008			
Gul Internacional, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal n ^o 35/05	Commercial Court of Madrid n ^o 3	October 17, 2008
Servicios del Guadaira S.L. v. Su Eminencia S.A.& CEPSA, S.A.	Res.189/08 Appeal n ^o 181/06	Commercial Court of Sevilla n ^o 1	December 12, 2008
2009			
D. Adolfo & D ^a . Purificación v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal n ^o 1661/05	Supreme Court (Civil Ch., Sect. 1)	January 13, 2009
EGEDA v. T, S.A.	Res. 36/2009 Appeal n ^o 2367/04	Supreme Court (Civil Ch., Sect.1)	January 26, 2009
Shell España, S.A. v. Automoviles d'Ara S.L.	Appeal n ^o 192/04 Res. 109/2010	Supreme Court (Civil Ch., Sect.1)	February 26, 2009
REPSOL Comercial de Productos Petrolíferos, S.A. v. E.S. Pozonuevo, S.L.	Appeal n ^o 899/03 Res. 189/2009	Supreme Court (Civil Ch., Sect.1)	March 23, 2009

ESSO Española, S.L. v. Vergelgas, S.L.	Res. 249/2009 Appeal nº 1016/04	Supreme Court (Civil Ch., Sect.1)	April 15, 2009
D. Narciso v. D. Rubén, D. Silvio, D. Valentín, D. Jose Enrique & D. Jose Manuel (Convenio Corredores)	Appeal nº 1178/04 Res. 336/2009	Supreme Court (Civil Ch., Sect.1)	May 21, 2009
Melón, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 1904/04 Res. 484/2009	Supreme Court (Civil Ch., Sect.1)	June 23, 2009
Multipetróleos, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 1048/04 Res. 475/2009	Supreme Court (Civil Ch., Sect.1)	June 29, 2009
Canoven, S.L. & Rentan Vencan, S.L. v. Shell España, S.A.	Res. 460/2009 Appeal nº 315/04	Supreme Court (Civil Ch., Sect.1)	June 30, 2009
Juan Valencia, S.L. v. REPSOL Comercial de Productos Petrolíferos S.A.	Res. 533/2009 Appeal nº 369/05	Supreme Court (Civil Ch., Sect.1)	June 30, 2009
D. Constantino v. CEPSA Estaciones de Servicio, S.A.	Res. 500/2009 Appeal nº 972/03	Supreme Court (Civil Ch., Sect.1)	July 13, 2009
Sveyn, S.A. & Svenson Internacional, S.A. v. National Hair Center S.L.	Appeal nº 72/05 Res. 567/2009	Supreme Court (Civil Ch., Sect.1)	July 30, 2009
E.S. Romero e Hijos, S.L. v. Shell España, S.A.	Res. 828/2009 Appeal nº 1097/04	Supreme Court (Civil Ch., Sect.1)	December 23, 2009
Comillas 2 S.A. & E.S. Santillana II S.L. v. GALP Energía España, S.A.	Appeal nº 63/08 Res. 11/2009	Provincial Court of Madrid (Sect. 28)	January 3, 2009
Comillas2, S.A. & E.S. El Sardinero, S.L. v. GALP Energía, S.A.	Appeal nº 97/08 Res. 12/2009	Provincial Court of Madrid (Sect. 28)	January 23, 2009
CEPSA v. Tobar	Appeal nº 119/06 Res. 7/2009	Provincial Court of Madrid (Sect. 28)	January 25, 2009
D. Epifanio v. D. Tomas y D. Juana	Appeal nº 360/07 Res. 63/2009	Provincial Court of Madrid (Sect. 11)	March 5, 2009
D. Teodulfo v. V.D. Sistem, S.A.	Aooeal nº 136/08 Res. 131/2009	Provincial Court of Madrid (Sect. 28)	May 18, 2009
Spain Rail S.L. v. Administración de Infraestructuras Ferroviarias (ADIF), Renfe-Operadora & Transportes Carrasco, S.A.	Appeal nº 282/08 Res. 102/2009	Provincial Court of Madrid (Sect. 28)	June 29, 2009

ASV Funeser, S.L. v. D. Lucas & D ^a Antonia	Appeal n ^o 120/09 Res. 261/2009	Provincial Court of Granada (Sect. 4)	June 8, 2009
Swiss International Airlines Ltd. v. Amadeus IT Group, S.A.	Appeal n ^o 91/09 Res. 121/2009	Provincial Court of Madrid (Sect. 28)	June 29, 2009
Servei Estació Regencós S.A. v. Total España, S.A.	Appeal n ^o 203/08 Res. 220/2009 JUR2009\4186 66	Provincial Court of Barcelona (Sect. 15)	June 30, 2009
Buafi S.L. Estación de Servicio v. GALP Energía España, S.A.	Appeal n ^o 328/08 Res. 180/2009 JUR 2009\472651	Provincial Court of Madrid (Sect. 28)	July 2, 2009
Global Fashion Service Support, S.L.; Duran Consulting, S.L.; Maneo Informática Avanzada, S.L. v. El Corte Inglés, S.A., Investrónica Sistemas, S.A.; Industrias y Confecciones, S.A. & Lectra Sistemas Española, S.A.	Res. 123/2009 Appeal n ^o 183/09	Provincial Court of Madrid (Sect. 28)	July 2, 2009
D. Florentino c. Dres. Millán, José Daniel, Avelino, Felicísimo y Consultorio Dexeus, S.A.	Appeal n ^o 562/08 Res. 238/2009	Provincial Court of Barcelona (Sect. 15)	July 8, 2009
Zesena S.L. & Bide Barri S.L. v. REPSOL Comercial de Productos Petrolíferos S.A.	Appeal n ^o 341/07 Res. 583\2009	Provincial Court of Vizcaya (Sect. 4)	July 22, 2009
Pedro IV Servicios, S.L. v. Total España, S.A.	Appeal n ^o 351/06 Res. 312/2009	Provincial Court of Barcelona (Sect. 15)	September 16, 2009
Lufthansa AG v. Amadeus IT Group, S.A.	Appeal n ^o 240/09 Res. 166/2009	Provincial Court of Madrid (Sect. 28)	October 5, 2009
Galletas Gullón, S.A., Mazapanes Donaire, S.L., Nestlé España, S.A., Zahor, S.A., Galletas Coral, S.A., Productos Alimenticios la Bella Easo, S.A., Lacasa, S.A.U., Chocolates del Norte, S.A. & Bombonera Vallisoletana v. ACOR, Sociedad Cooperativa General Agropecuaria	Res 261/2009 Appeal n ^o 214/09	Provincial Court of Valladolid (Sect. 3)	October 10, 2009
Fitosanitaris i Biolgenética, S.L. & Agrosystem, S.A. v. Dow Agrosiences Ibérica, S.A.	Appeal n ^o 142/08 Res. 561/2009	Provincial Court of Madrid (Sect. 20)	October 15, 2009

E.S. Pozuelo, S.L. v. GALP Energía España, S.A.	Res. 241/2009	Provincial Court of Madrid (Sect. 28)	October 16, 2009
Zorita, S.L. Estación de Servicio v. GALP Energía España, S.A.	Appeal nº 10/09 Res.263/2009	Provincial Court of Madrid (Sect. 28)	October 30, 2009
D. Lázaro, D.Hortensia & Prourbal, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 216/08 Res. 202/2009	Provincial Court of Almería (Sect. 2)	November 20, 2009
Delirium Holding, S.L. v. Sociedad General de Autores y Editores (SGAE)	Res. 576/2009 Appeal nº 400/08	Provincial Court of León (Sect. 1)	November 26, 2009
Mazda Motor España, S.A. v. Mazda Motor Logistics Europe, N.V.	Res. 568/2009 Appeal nº 348/08	Provincial Court of Madrid (Sect. 9)	December 9, 2009
D. Felisa v. ENDESA Distribución Eléctrica, S.L.U	Res. 402/2009 Appeal nº 527/08	Provincial Court of Badajoz	December 22, 2009
REPSOL Comercial de Productos Petrolíferos, S.A. v. Catalana de Carburantes, S.L. & Eslora Meco S.L.	Proc. 401/03	Madrid Court of First Instance nº 59	July 27, 2009
Bright Service, S.A. v. REPSOL Comercial de Productos Petrolíferos S.A.	Appeal nº 359/2008	Commercial Court of Barcelona nº 2	October 27, 2009
2010			
REPSOL Comercial de Productos Petrolíferos S.A. v. D. Rafael	Appeal nº 1182/04 Res. 863/2009	Supreme Court (Civil Ch., Sect.1)	January 15, 2010
D. Samuel v. Sociedad Mundial de Asistencia, S.A. (SMASA)	Res. 47/2010 Appeal nº 2411/05	Supreme Court (Civil Ch., Sect.1)	February 19, 2010
Red Azul, S.A. v. BP Oil España, S.A.	Res. 57/2010 Appeal nº 1110/05	Supreme Court (Civil Ch., Sect.1)	February 24, 2010
Red Azul, S.A. v. REPSOL Comercial de Productos Petrolíferos S.A.	Res. 146/20120 Appeal nº 1293/05	Supreme Court (Civil Ch., Sect.1)	March 22, 2010
D. Bernardino v. CEPSA Estaciones de Servicio, S.A. & Compañía Logística de Hidrocarburos CLH, S.A.	Res. 131/2010 Appeal nº 2562/05	Supreme Court (Civil Ch., Sect.1)	March 24, 2010
D. Adela v. REPSOL Comercial de Productos Petrolíferos S.A.	Appeal nº 117/06 Res. 231/2010	Supreme Court (Civil Ch., Sect.1)	May 5, 2010

Gaseosas Padin, S.L. v. Compañía de Bebidas PEPSICO, S.L. & Disbegal, Sociedad Anónima Distribuidora de Bebidas Gallega	Appeal nº 1616/06 Res. 387/2010	Supreme Court (Civil Ch., Sect.1)	June 23, 2010
Grupo Texas, S.A. v. CEPSA Estaciones de Servicio, S.A.	Appeal nº 766/06 Res. 516/2010	Supreme Court (Civil Ch., Sect.1)	September 3, 2010
Multipetróleos, S.L. v. CEPSA Estaciones de Servicio, S.A.	Res. 507/2010 Appeal nº 484/06	Supreme Court (Civil Ch., Sect.1)	September 6, 2010
GEBE, S.L. v. BP Oil España, S.A.	Res. 566/2010 Appeal nº 1226/06	Supreme Court (Civil Ch., Sect.1)	September 28, 2010
Canals I Fils, S.L. & Zero Set, S.L. v. Societat Catalana de Petrolis, S.A.	Res. 3/2010 Appeal nº 553/08	Provincial Court of Barcelona (Sec. 15)	January 13, 2010
Hermela, S.A. v. REPSOL Comercial de Productos Petrolíferos S.A.	Res. 90/2010 Appeal nº 14/09	Provincial Court of Madrid (Sect. 12)	February 15, 2010
Real Murcia, C.F., S.A.D. v. Union Deportiva Salamanca S.A.D.; Málaga Club de Fútbol; R.C. Celta de Vigo, S.A.D.; Sociedad Deportiva Eibar, S.A.D.; Club Deportivo Leganés, S.A.D.; Rayo Vallecano, Lavante Unión Deportiva, S.A.D.; Unión Deportiva Las Palmas, S.A.D.; Club Deportivo Numancia de Soria, S.A.D.; Albacete Balompié, S.A.D; Córdoba Club de Fútbol, S.A.D.; Club Atlético Osasuna; Getafe, CD S.A.D.; R.C. Deportivo Mallorca, S.A.D.; Cádiz Club de Fútbol, S.A.D.; Elche Club de Fútbol, S.A.D.; Deportivo Alavés, S.A.D.; Xérez Club de Fútbol, S.A.D.; Unión Deportiva Almería, S.A.D.; Club Deportivo Tenerife, S.A.D.; Terrasa Club de Fútbol, S.A.D.; Club Deportivo Ejido, S.A.D.; Real Sporting de Gijón S.A.D.; Real Zaragoza, S.A.U. & Real Valladolid, S.A.D.	Res. 83/2010 Appeal nº 83/10	Provincial Court of Madrid (Sect. 10)	February 16, 2010
Necchi Blu System S.p.A. v. Necchi Modulare Música España S.L. (Inout Seguridad, S.L.)	Res. 163/2010 Appeal nº 430/08	Provincial Court of Barcelona (Sect. 17)	March 19, 2010

PANALM, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 86/2010 Appeal nº 216/09	Provincial Court of Madrid (Sect. 28)	March 30, 2010
E.S. Galindo v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 315/2010 Appeal nº 285/09	Provincial Court of Vizcaya (Sect. 4)	April 23, 2010
E.S. Echevarría v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 197/2010 Appeal nº 190/09	Provincial Court of Madrid (Sect. 28)	July 26, 2010
E. S. Fontanet S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 308/09 Res. 313/2010	Provincial Court of Baleares (Sect. 35)	September 1, 2010
E.S. La Dehesa, E.S. Gasval & E.S. Mislata, E.S. El Saler, S.L., Hijos de Domingo Asensio, S.L. y Dirección 000 Comunidad de Bienes v. BP Oil España, S.A., REPSOL Comercial de Productos Petrolíferos, S.A. y Compañía Logística de Hidrocarburos, S.A.	Res. 217/2010 Appeal nº12/ 10	Provincial Court of Madrid (Sect. 28)	October 4, 2010
Nordes Prosegur Tecnología, S.L. v. Bosch Seguridad y Control, S.L., D. Donato y D ^a M ^a Purificación	Res. 394/2010 Appeal nº 20/10	Provincial Court of Coruña (Sec. 5)	November 10, 2010
Jofra Oil, S.L. v. Shell España, S.A.	Res. 95/2010 Appeal nº 95/10	Provincial Court of Madrid (Sect. 28)	November 26, 2010
Lubricantes y Carburantes Galaicas, S.L. v. Petrolgal Española, S.A. y Ministerio Fiscal	Res. 470/2010 Appeal 71/06	Provincial Court of Coruña (Sect. 1)	December 30, 2010
Sedifa, S.L. & Grufarma 92, S.L. v. Novartis Farmacéutica, S.A., Astrazeneca Farmacéutica Spain, S.A., Boehringer Ingelheim España, S.A., Sanofi-Aventis, S.A. & Jansen-Cilag, S.A.	Proc. 170/2008 Res. 56/2010	Commercial Court nº 2 of Barcelona	February 24, 2010
Cableeuropa, S.A.U. v. SOGECABLE, S.A. & Audiovisual Sport, S.L.	Res. 64/2010 Proc. nº 66/08	Commercial Court nº 7 Madrid	March 4, 2010
Asociación de Transporte Internacional por Carretera v. RENFE Operadora	Proc. nº 139/09	Commercial Court nº 8 Madrid	March 24, 2010
Combustibles Queralt, S.L. v. CEPSA Estaciones de Servicio, S.A.	Res. 87/10 Appeal nº 510/08	Commercial Court nº 7 Tarragona	July 30, 2010
Saenz de Jubera, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. nº 2642/06	Commercial Court nº 1 Madrid	September 20, 2010

Taygrao, S.L. & D. Ricardo v. REPSOL Comercial de Productos Petrolíferos, S.A	Proc. nº 124/09 Res. 125/210	Commercial Court of nº 12 Madrid	December 22, 2010
2011			
E.S. Aloyas, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 21/2011 Appeal nº 1016/07	Supreme Court (Civil Ch., Sect.1)	February 8, 2011
E.S. Paz Bores, S.L. v. DISA Península S.L.	Appeal nº 1044/07 Res.74/2011	Supreme Court (Civil Ch., Sect.1)	February 18, 2011
Casebana, S.L. v. CEPSA Estaciones de Servicio, S.A.	Appeal 1420/07 Res. 61/2011	Supreme Court (Civil Ch., Sect.1)	February 28, 2011
E.S. García Sánchis, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 75/07 Res. 202/2011	Supreme Court (Civil Ch., Sect.1)	March 31, 2011
Companye Administradora de Gasolineres, S.L. v. GALP Energía Española, S.A.	Appeal nº 321/07 Res. 199/2011	Supreme Court (Civil Ch., Sect.1)	March 31, 2011
Inversiones Cobasa, S.L. v. BP Oil España, S.A.	Appeal nº 1043/07 Res. 312/2011	Supreme Court (Civil Ch., Sect.1)	May 5, 2011
GOBERGAS S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 1350/07 Res. 311/2011	Supreme Court (Civil Ch., Sect.1)	May 9, 2011
Las Pedroñeras 3, S.L. v. CEPSA Estaciones de Servicio, S.A.	Appeal nº 1820/07 Res. 308/2011	Supreme Court (Civil Ch., Sect.1)	May 10, 2011
Estaser El Marenny S.L. v. Repsol Comercial de Productos Petrolíferos, S.A.	Res. 310/2011 Appeal nº 1453/07	S Supreme Court (Civil Ch., Sect.1)	May 11, 2011
Extraval gasolineras del mediterraneo S.L. v. Repsol Comercial de Productos Petrolíferos S.A.	Appeal nº 1592/07 Res. 307/2011	Supreme Court (Civil Ch., Sect.1)	May 11, 2011
E.S. Talavera, S.A. v. Shell España, S.A. y DISA Península, S.L.U.	Appeal nº 1771/07 Res. 358/2011	Supreme Court (Civil Ch., Sect.1)	June 6, 2011
E.S. Altabix S.L. v. CEPSA Compañía Española de Petróleos S.A. y CEPSA Estaciones de Servicio S.A.	Appeal nº 2096/07 Res. nº 362/2011	Supreme Court (Civil Ch., Sect.1)	June 7, 2011
E.S. Oreña, S.C. v. CEPSA Estaciones de Servicio S.A.	Appeal nº 2287/07 Res. 368/2011	Supreme Court (Civil Ch., Sect.1)	June 8, 2011
E.S. Monsells, S.L. v. REPSOL	Res. 382/2011	Supreme Court	June 13, 2011

Comercial de Productos Petrolíferos S.A.	Appeal nº 2202/07	(Civil Ch., Sect.1)	
Caminas S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 2275/04 Res. 563/2011	Supreme Court (Civil Ch., Sect.1)	September 1, 2011
D. Cornelio v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 639/2011 Appeal nº 525/08	Supreme Court (Civil Ch., Sect.1)	September 20, 2011
J.Enrique v. REPSOL Comercial de Productos Petrolíferos, S.A. & Compañía Logística de Hidrocarburos, S.A.	Res. 647/2011 Appeal nº 600/08	Supreme Court (Civil Ch., Sect.1)	September 28, 2011
Bagarciva, S.A.L v. REPSOL Comercial de Productos Petrolíferos, S.A. & Compañía Logística de Hidrocarburos, S.A.	Res. 7349/2011 Appeal nº 1650/08	Supreme Court (Civil Ch., Sect.1)	November 2, 2011
Cafes El Globo, S.L. v. D. Florentino	Res. 64/2011 Appeal nº 32/11	Provincial Court of Asturias (Sect. 5)	February 17, 2011
E.S. Camaró, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 44/2011 Appeal nº 256/10	Provincial Court of Madrid (Sect. 28)	February 18, 2011
E.S. Copecelt, S.A. v. CEPSA Estaciones de Servicio S.A.	Res. 50/2011 Appeal nº 264/10	Provincial Court of Madrid (Sect. 28)	February 25, 2011
Win Petrol, S.L. & Olympic Park, S.L. v. Total España, S.A.	Res. 113/2011 Appeal nº 51/10	Provincial Court of Barcelona (Sec. 15)	March 16, 2011
Serparla, S.L. v. BP Oil España, S.A.	Res. 86/2011 Appeal nº 56/10	Provincial Court of Madrid (Sect. 28)	March 18, 2011
Ribera Baixa, S.L. & E.S. Ribera Alta, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 84/2011 Appeal nº 302/10	Provincial Court of Madrid (Sect. 28)	March 18, 2011
Iborgas, S.L. v. BP Oil España, S.A.	Res. 124/2011 Appeal nº 351/10	Provincial Court of Madrid (Sect. 28)	April 11, 2011
Maccorp Exact Change, S.A. v. Caixa D'Estalvis de Barcelona (La Caixa)	Res. 160/2011 Appeal nº 526/10	Provincial Court of Barcelona (Sect. 15)	April 14, 2011
GESTFREE, S.L.U. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 176(2011 Appeal nº 463/10	Provincial Court of Madrid (Sect. 28)	May 27, 2011
E.S. Julite, S.L. v. BP Oil España, S.A.U.	Appeal nº 328/00 Res. 179/2011	Provincial Court of Madrid (Sect. 28)	May 27, 2011

Calvia Supermarket Discount S.L. v. Distribuidora Internacional de Alimentación. S.A. (DIA)	Appeal n° 724/02 Res. 259/2011	Provincial Court of Palma de Mallorca (Sect. 3)	June 14, 2011
Dª Teresa, Dª Begoña & Dª Pura v. Grupo Indes Edades, S.L.	Appeal 266/11 Res. 236/2011	Provincial Court of León (Sect. 2)	June 16, 2011
Centrica Energía, S.L.U. v. Iberdrola Distribución Eléctrica S.A.U	Res. 498/2011 Appeal n° 873/10	Provincial Court of Vizcaya (Sect. 4)	July 8, 2011
Asociación Nacional de Concesionarios FIAT Auto España (ANEFA) v. FIAT Group Automobiles Sapin, S.A.	Res. 103/2011 Appeal n° 84/11	Provincial Court of Madrid (Sect. 28)	July 8, 2011
D. Luis Carlos & D. Balbino v. Sociedad de Cazadores Deportivos Malkaiz	Res. 243/2011 Appeal n° 255/11	Provincial Court of Navarra (Sect. 2)	September 19, 2011
SGAE v. Vértice de Las Provincias Manchegas, S.L.	Res. 256/2011 Appeal n° 226/11	Provincial Court of Ciudad Real (Sect. 2)	September 9, 2011
E.S. Villafraía, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal n° 78/11 Res. 278/2011	Provincial Court of Madrid (Sect. 28)	September 30, 2011
Nestle España. S.A., Productos de Café, S.A., Helados y Postres, S.A., Chocolates Hosta Dulcinea, S.A., Zahor, S.A., Mazapanes Donaire, S.L., LU Biscuit, S.A., Chocolates Torras, S.A., ARLUY, S.L., Chocovic, S.A., Lacasa, S.A.U., Productos, Mauri, S.A., Delaviuda Alimentación, S.A. & Wrigley Co., S.A. v. Ebro Foods, S.A.	Appeal n° 737/07 Res. 370/2011	Provincial Court of Madrid (Sect. 8)	October 3, 2011
Estació de Servei Industria, S.L. v. Total España, S.A.	Res. 389/2011 Appeal n° 642/05	Provincial Court of Barcelona (Sect.15)	October 5, 2011
Takata Petri, AG. v. Dalphi Metal España, S.A.; Dalphi Metal Internacional, S.A.; Dalphi Metal Seguridad, S.A.	Appeal n° 183/11 Res. 345/2011	Provincial Court of Madrid (Sect. 28)	November 25, 2011
Burguillos, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal n° 12/11 Res. 340/2011	Provincial Court of Madrid (Sect. 28)	November 25, 2011
Eléctrica Caldense, S.A. v. ENDESA Distribución Eléctrica, S.L.U.	Appeal n° 310/2011 Res.	Provincial Court of Barcelona (Sect.15)	December 1, 2011
Bide Barri, S.L. y Zesena, S.L. v. Dª María	Appeal n° 683/11 Res. 883/2011	Provincial Court of Vizcaya (Sect. 4)	December 7, 2011

GESDEGAS, S.L. v. CEPSA Estaciones de Servicio, S.A.	Appeal n° 382/11 Res. 172/2011	Provincial Court of Madrid	December 16, 2011
Ryanair Ltd. v. Sociedad Mercantil Estatal AENA Aeropuertos, S.A., Aeropuerto de Alicante	Appeal n° 791/11 Res. 223/2011	Provincial Court of Alicante (Sect. 8)	December 21, 2011
Asociación de Gestión de Derechos Intelectuales (AGEDI) & Artistas Intéropretes o Ejecutantes Sociedad de Gestión de España (AIE) v. Gladys Palmera, S.L.	Res. 515/2011 Appeal n° 396/11	Provincial Court of Barcelona (Sect. 15)	December 22, 2011
D. Aurelia Estela Fulana v. CEPSA Estaciones de Servicio S.A.	Proc. 349/08 Res. 38/2011	Commercial Court of Madrid n° 5	February 21, 2011
Promotores Internacional, S.A. & Pablo Rada Combustibles, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. 817/03 Res. 70/2011	First Instance Court of Madrid n° 74	March 18, 2011
Asociación de Usuarios de Servicios Bancarios (AUSBANC) v. Telefónica de España, S.A.U	Proc. 521/07	Commercial Court of Madrid n° 2	March 23, 2011
Narescar, S.L. v. GALP Energía España, S.A.U.	Proc. 349/09	Commercial Court of Madrid n° 9	April 4, 2011
Gasorba, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. 176/08	Commercial Court of Madrid n° 4bis	July 8, 2011
Servi-Auto Xuquer, S.L. & E.S. Starma, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. 647/08	Commercial Court of Madrid n° 3	November 15, 2011
E.S. Carballal v. GALP Energía España, S.A.	Proc. 344/05	Commercial Court of Madrid n° 4bis	November 25, 2011
D. Felipe F. Fernandez Torres v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. n° 714/10 Res. 293/11	Commercial Court of Madrid n° 5	December 26, 2011
2012			
Promarsa Marketing & Asociados S.L. v. D. Teodosio & Unidic, S.A.	Appeal n° 631/11	Supreme Court (Civil Ch., Sect.1)	January 10, 2012
Properly S.A. v. CEEPSA Estaciones de Servicio, S.A.	Res. 12/2012 Appeal n° 95/09	Supreme Court (Civil Ch., Sect.1)	February 7, 2012
Audiovisual Sport S.L. & Sogecable v. Euskaltel	Res. 35/2012 Appeal n° 213/09	Supreme Court (Civil Ch., Sect.1)	February 14, 2012

E.S. Los Eucaliptos, S.L. et al. v. DISA Penínsular, S.L.U.	Res. 31/2012 Appeal nº 1560/08	Supreme Court (Civil Ch., Sect.1)	February, 15, 2012
Audiovisual Sport S.L. & Sogecable v. Tenaria S.A.	Res. 162/2012 Appeal nº 729/09	Supreme Court (Civil Ch., Sect.1)	March 29, 2012
E.S. Hermanos Baños, S.L. v. REPSOL Comercial de Productos Petrolíferos S.A.	Res. 166/2012 Appeal nº 62/09	Supreme Court (Civil Ch., Sect.1)	April 3, 2012
Área de Servicio La Palmera S.L. v. AGIP España, S.A.	Res. 236/2012 Appeal nº 501/09	Supreme Court (Civil Ch., Sect.1)	April 10, 2012
Hermanos Ros, S.L. v. BP Oil España, S.A.	Res. 186/2012 Appeal nº 465/09	Supreme Court (Civil Ch., Sect.1)	April 10, 2012
Benzinera Tot Santa Eualalia S.L. v. Total España, S.A.U	Res. 214/2012 Appeal nº 436/09	Supreme Court (Civil Ch., Sect.1)	April 16, 2012
Ryanair Ltd. v. Sociedad Mercantil Estatal AENA Aeropuertos, S.A., Aeropuerto de Alicante	Appeal nº 833/11 Res. 7/2012	Provincial Court of Alicante (Sect. 8)	January 19, 2012
Areas Reyes, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 234/11 Res. 31/2012	Provincial Court of Madrid (Sect. 28)	January 27, 2012
OLMA, S.L. & Estacio de Servei Pineda de Mar, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Appeal nº 555/10 Res. 51/2012	Provincial Court of Madrid (Sect. 28)	February 13, 2012
Televisión Autonómica Valenciana v. Mediaproducción, S.L.	Res. 35/2012 Appeal nº 390/11	Provincial Court of Barcelona (Sect. 15)	February 16, 2012
Corporación Uniland, S.A. v. Carlos José, Elisa, Ángel Jesús y Jisega	Appeal nº 455/10	Provincial Court of Barcelona (Sect. 15)	March 1, 2012
Rani, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 103/2012 Appeal nº 340/11	Provincial Court of Madrid (Sect. 28)	March 26, 2012
Carlos José y otros, Sociedad Civil particular v. San Miguel Fábricas de Cerveza y Malta, S.A.	Res. 120/2012 Appeal 636/2011	Provincial Court of Barcelona (Sect. 15)	March 28, 2012
Centrica Energía, S.L.U. v. ENDESA Distribución Eléctrica, S.A.	Res. 153/2012 Appeal nº 42511	Provincial Court of Barcelona (Sect. 15)	April 19, 2012
France Telecom, S.A.; Orange, S.A.; Atlas Services Nederland B.V. & France Telecom España, S.A. v. Euskaltel	Proc. Exequatur 5/11	Superior Court of the Vasque Country (Civil/Criminal Ch.)	April 19, 2012

Energya VM Gestión de Energia S.L.U. v. Unión Fenosa Distribucion, S.A.	Appeal 106/2010	Commercial Court nº 4bis Madrid	January 2, 2012,
Real Zaragoza S.A.D. v. Mediaproducción, S.L.	Proc. nº 470/11 Res. 27/2012	Commercial Court nº 7 of Barcelona	February 2, 2012
Estación de Servicio Artana, S.L. & Dirección 000 CB v. REPSOL Comercial de Productos Petrolíferos, S.A.	Res. 84/2012 Proc. 426/07	Commercial Court nº 5 of Madrid	February 20, 2012
Transportes Evaristo Molina, S.A. v. REPSOL Comercial de Productos Petrolíferos, S.A. & Surtial, S.A.	Proc. nº 467/05 Res. 47/2012	Commercial Court nº 5 of Madrid	March 13, 2012
Ryanair Ltd. V. AENA Aeropuertos, S.A.	Proc. nº 346/11 Res. 41/2012	Commercial Court nº 3 of Alicante	March 26, 2012
Esparga, S.L. v. REPSOL Comercial de Productos Petrolíferos, S.A.	Proc. 459/09 Res. 189/2012	Commercial Court nº 5 of Madrid	April 16, 2012
D ^a Herminia v. BP Oil España, S.A.U.	Appeal nº 500/10 Res. 74/2012	Commercial Court nº 5 of Madrid	April 26, 2012

ANNEX II. CASES DATABASE

<i>Case Name</i>	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>United International Pictures (UIP) v. Salsas Hermanos</i>	1999	highest level court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Catalonia Motor v. Nissan Motor Ibérica</i>	1999	highest level court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>D. Ricardo & D. Ramón v. Seguro Q et al.</i>	1999	highest level court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>Zardoya-Otis v. C. Propietarios calle S. de Durango</i>	1999	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>D. Antonio B.E. v. Discotecas y Recreativos Azuaga</i>	1999	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Aguas M, S.A. v. C., S.A.</i>	1999	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>JADSA & Inmuebles JAD v. IVECO-Pegaso</i>	2000	highest level court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>José Carlos C.C. v. DISA & Prodalca</i>	2000	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Petrocat v. CB José C.D. y Jordi C.R.,</i>	2000	appeal	unsuccessful	Stand-	substantive final	Domestic Art	Defence	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Jose C.D. y Jordi C.R.</i>		court		alone	judgment	101		case
<i>Comunidad de Propietarios del Edificio LLevant v. M., S.A.</i>	2000	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Oil B, S.A. v. Estación de Servicio V, S.A.</i>	2000	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>D. Juan Buira v. Hardi International A/S</i>	2000	appeal court	Successful	Follow-on	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>D. Jose M^a et al. v. IGUALMEQUISA</i>	2000	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Declaration	Non-consumer case
<i>Zardoya Otis v. Comunidad de Propietarios Edificio Norte</i>	2000	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>EGEDA v. Hotel Villa Magna</i>	2000	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>SGAE v. Ayuntamiento de Nuévalos</i>	2000	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>Elring Klinger v. Aparicio C. e Hijo</i>	2000	appeal court	unsuccessful	Stand-alone	summary judgment	Art 101	Defence	Non-consumer case
<i>Gabai v. Petróleos del Norte</i>	2001	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>D. Josefa D.C. v. Petróleos del Norte, S.A. & REPSOL</i>	2001	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Distrib. García Padilla et al v. Distrib. Ricardo Rodríguez</i>	2001	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>D. Juan José A. M. & Petroalmaq v. Total España</i>	2001	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Declaration	Non-consumer case
<i>DISA v. D^a Marina</i>	2001	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>CEPSA v. E.S. La Invencible</i>	2001	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>REPSOL v. GEYGAR</i>	2001	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>EGEDA, AISGE & AIE v. Landa Palace</i>	2001	appeal court	Successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>EGEDA v. Urbanizaciones, Construcciones y Negocios</i>	2001	appeal court	Successful	Stand-alone	interim process	Domestic Art 102	Defence	Non-consumer case
<i>EGEDA, AISGE & AIE v. Hotel G</i>	2001	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>SGAE v. D. Félix P.S.</i>	2001	appeal	unsuccessful	Stand-	substantive final	Art 102	Defence	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		court		alone	judgment			case
<i>Com. Prop. CC Zoco de Pozuelo v. Establecimientos A</i>	2002	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>C. Comerciales R. v. Hipermercados P.</i>	2002	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>EGEDA, AISGE & AIE v. Hotel E</i>	2002	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>SGAE v. D. Angel M. C.</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>ASVP v. Distribuidora Rivas</i>	2002	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Declaration	Non-consumer case
<i>E.S. La Cañada v. CEPSA</i>	2002	appeal court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>EGEDA, AISGE, & AIE. v. Hotel Tryp</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>CEPSA y C, S.A. v. Estaciones de Servicio B</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>EGEDA v. Promoc. Hotelera Layetana (Hotel Claris)</i>	2002	appeal court	Successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Electrica Curos v. Hidroeléctrica de l'Emporda</i>	2002	appeal court	Successful	Follow-on	substantive final judgment	Domestic Art 102	Damages	Non-consumer case
<i>Sucesores de Manuel Leira v. Unión Eléctrica Fenosa</i>	2002	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Total Fina v. Meroil</i>	2002	appeal court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Rafael L.E. v. Ascensores Rycam et al.</i>	2002	appeal court	partially successful	Follow-on	substantive final judgment	Domestic Art 101	Damages	Non-consumer case
<i>Koninklijke Philips Electronics, N.V. v. Condor C.D.</i>	2002	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Elétrica del Llemana v. FECSA-ENHER I</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>E.S. Cañizares v. CEPSA</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Fujifilm España, S.a. v. Safex'80</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>SGAE v. J, S.A.</i>	2002	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Defence	Non-consumer case
<i>SGAE v. Ogún Espectáculo</i>	2002	appeal	unsuccessful	Stand-	substantive final	Domestic Art	Defence	Non-consumer

<i>Case Name</i>	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		court		alone	judgment	102		case
<i>VEGAP v. TISA</i>	2002	appeal court	Successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>Herederos Severino López v. REPSOL</i>	2002	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>AEPRV v. Guinea Simó, S.L.</i>	2003	highest level court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Defence	Non-consumer case
<i>CEPSA v. D. Rafael</i>	2003	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Agri Energía Eléctrica. v. Bassols Energía</i>	2003	appeal court	Successful	Stand-alone	summary judgment	Domestic Art 101	Defence	Non-consumer case
<i>Miguel Linares, S.L. v. Asociación Naviera Valenciana</i>	2003	appeal court	unsuccessful	Follow-on	substantive final judgment	Domestic Art 101	Damages	Non-consumer case
<i>CEPSA v. Derosma Constructores & D. César</i>	2003	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>EGEDA, AISGE & AIE v. Hotel Corona Plaza de Tortosa</i>	2003	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Defence	Non-consumer case
<i>Calvia Supermarket Diskount v. DIA</i>	2003	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 101	Damages	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>E.S. Garifer v. REPSOL</i>	2003	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Petrogral v. V.A.J.J. Jurado Fernández</i>	2003	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Ondupack v. AFCO</i>	2003	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>D^a. Rita & Cía. de Herederos Bernardo Ferrer Muñoz v. CEPSA</i>	2003	appeal court	unsuccessful	Stand-alone	summary judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>L'Andana & E.S. L'Andana v. REPSOL</i>	2004	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Transportes San Feliú, S.L. v. D. Bernardo</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>Radio TV Canal 8 DM v. Audiovisual Cantabria</i>	2004	appeal court	unsuccessful	Stand-alone	interim process	A combination	Injunction	Non-consumer case
<i>D. Agustín & D. José Ignacio v. D^a Lorenza</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Gasonul v. REPSOL</i>	2004	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Inmaral & Eumaral v. REPSOL</i>	2004	appeal	unsuccessful	Stand-	substantive final	Art 101	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		court		alone	judgment		other Remedy	case
<i>AISGE & AIE v. Cine Bosque</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>DISA v. D^a Carla et al.</i>	2004	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 101	Defence	Non-consumer case
<i>EGEDA, AISGE & AIE v. Hotel Monte Igueldo</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>Total Spain, S.A. v. Combustibles del Cantábrico, S.L.</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	art 101 and 102	Defence	Non-consumer case
<i>Clau v. CEPSA</i>	2004	appeal court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>Franchising Ibérico Tecnocasa et al. v. Tempo Hispania et al.</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>REPSOL v. Centro Filatélico</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Distribuciones Peñafiel, S.L. v. Mahou, S.A.</i>	2004	appeal court	unsuccessful	Follow-on	substantive final judgment	Domestic Art 101	Damages	Non-consumer case
<i>E.S. Castell de Xivert v. REPSOL</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Forriol, S.L. v. Total España, S.A.</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Hermela, S.A.v REPSOL</i>	2004	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Estación de Servicio Torremirón de Salt v. Total Fina España</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Supercable Sevilla et al. v. AVS & Canal Satélite Digital</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Declaration	Non-consumer case
<i>Deriber v. Matadero Industrial El Mayorazgo</i>	2004	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Automoción y Servicios La Safor v. CLH & REPSOL</i>	2004	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>CEPSA v. Los Montes, S. Cooperativa Andaluza</i>	2005	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Electra Avellana v. ENHER</i>	2005	highest level court	unsuccessful	Follow-on	summary judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Nacher i Mompoet al. v. Total Spain</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>OCASO v. Funeraria Poch</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Declaration	Non-consumer case
<i>D. Jose M^a v. D. Lucas</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Catbelar v. Edic. Primera Plana et al.</i>	2005	appeal court	Successful	Stand-alone	substantive final judgment	A combination	Damages and other Remedy	Non-consumer case
<i>Opel España de Automóviles & Masternou v. Autos Monte Iris</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>Valcerce Tarjeta de Transportes v. Cristalgalss Trans</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>D^a Leonor & D. Pedro v. Hanson Hispania</i>	2005	appeal court	partially successful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>VEGAP v. La Vanguardia Ediciones & La Vanguardia Digital</i>	2005	appeal court	Successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>Devega v. Dirección 000 de Albacete</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Planning & Scheduling v. Ogasa Consultores</i>	2005	appeal court	unsuccessful	Stand-alone	interim process	Art 101	Injunction	Non-consumer case
<i>Pedro Enrique v. Levi Strauss</i>	2005	appeal	unsuccessful	Stand-	interim process	A	Pre-action	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		court		alone		combination	Disclosure	case
<i>E. S. La Herradura, S.A. v. REPSOL</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D. Luis, et al. v. Unión de Taxistas de la Rioja</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Declaration	Non-consumer case
<i>D. Abelardo v. CEPSA</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>I.D. Infraestructuras y Desarrollo v. REPSOL</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>D. Roberto v. D. Bruno</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>Sercom v. Grupo Cervezas Alhambra</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Declaration	Non-consumer case
<i>DISA v. D^a Marcelina</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Hasbro Iberia v. Juguetes Falomir</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>DISA v. D^a Araceli</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>E.S. El Coto v. Shell España & Shell Peninsular</i>	2005	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages	Non-consumer case
<i>E.S. Costablanca .v. CEPSA</i>	2006	highest level court	unsuccessful	Stand-alone	summary judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Creuers B. Barceló v. Cruceros Collado & Creuers Bennasar</i>	2006	highest level court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Declaration	Non-consumer case
<i>Diesel Spa & Distribution Italian Fashion v. Mapache</i>	2006	highest level court	unsuccessful	Stand-alone	substantive final judgment	art 101 and 102	Defence	Non-consumer case
<i>UCO ES v. Warnaco Íntimo</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Declaration	Non-consumer case
<i>Giardino Cargas v. Frigoríficos Oya</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>Jeréz Petróleos, S.L. v. Oilinvest España, S.A.</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>D. Santiago, D. Jon & D. Esteban v. AENA & Taxis Palma Radio</i>	2006	appeal court	partially successful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>Area de Servicio Campo v. GALP</i>	2006	appeal court	unsuccessful	Stand-alone	summary judgment	Art 101 and Domestic	Declaration	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>E.S. El Ronquillo v. BP Oil</i>	2005	appeal court	Successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Area de Servicio Santa Ana v. Shell</i>	2005	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>REPSOL c. Estaciones 2000</i>	2006	appeal court	unsuccessful	Stand-alone	interim process	Art 101	Injunction	Non-consumer case
<i>CEDRO v. D. Juan Ramón</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>Westfalia Surge Ibérica v. TEGASUR</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Real Racing Club de Santander v. U.D. Salamanca S.A.D. Et al.</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Brenes E.S & Inmobiliarias v. CEPSA</i>	2006	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Inverter Electrónica v. Network Total Protection</i>	2006	appeal court	unsuccessful	Stand-alone	summary judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>AGEDI v. Gestevisión Telecinco</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 102	Defence	Non-consumer case
<i>D^a Celestina v. Denvesa</i>	2006	appeal	unsuccessful	Stand-	substantive final	Domestic Art	Declaration	Non-consumer

<i>Case Name</i>	<i>Year</i>	<i>Level of Court</i>	<i>Success</i>	<i>Type of Action</i>	<i>Stage of Litigation</i>	<i>Competition Law</i>	<i>Remedy Sought</i>	<i>Consumer Cases</i>
		court		alone	judgment	102		case
<i>Petrouxo, S.L. v. REPSOL</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Tramadi & La Povedilla v. Shell España & DISA Peninsular</i>	2006	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Antena 3 de Televisión v. LNFP</i>	2006	appeal court	unsuccessful	Follow-on	substantive final judgment	Art 101 and Domestic	Damages	Non-consumer case
<i>D. Roberto v. REPSOL</i>	2006	first instance court	unsuccessful	Stand-alone	substantive final judgment	art 101 and 102	Damages and other Remedy	Non-consumer case
<i>E.S. Vivar del Cid v. REPSOL</i>	2007	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>REPSOL v. E.S. Baeza</i>	2007	highest level court	unsuccessful	Stand-alone	summary judgment	Domestic Art 101	Defence	Non-consumer case
<i>REPSOL v. D. Diego</i>	2007	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>CIDESPORT et al. v. NIKE</i>	2007	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>CEPSA v. E.S. Polígono Baeza</i>	2007	highest	unsuccessful	Stand-	substantive final	Art 101	Defence	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		level court		alone	judgment			case
<i>E.S. San Benito, S.L. v. REPSOL & CLH</i>	2007	highest level court	unsuccessful	Stand-alone	summary judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>Panini v. D. Pedro A., D^a Estibaliz & Cromosol</i>	2007	highest level court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>ENDESA v. Gas Natural & Iberdrola</i>	2007	appeal court	unsuccessful	Stand-alone	interim process	Art 101	Injunction	Non-consumer case
<i>REPSOL v. D. Juan Francisco</i>	2007	appeal court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>AGEDI v. Antena 3 de Televisión</i>	2007	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Defence	Non-consumer case
<i>SGAE v. CSD & DTS Distribuidora de Televisión Digital</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 102	Defence	Non-consumer case
<i>3C Communications España v. Telefonica</i>	2007	appeal court	Successful	Follow-on	substantive final judgment	Art 102 and Domestic	Damages	Non-consumer case
<i>Assoc. Venedor Premsa de L'Hospitalet Llobregat v. Distribarna</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Declaration	Non-consumer case
<i>Maccorp Exact Change, S.A. v. Banco de Sabadell, S.A.</i>	2007	appeal court	Successful	Stand-alone	interim process	Domestic Art 101	Injunction	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>CEDRO v. Copy Camelias</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>E.S. Las Cuartillas v. CEPSA</i>	2007	appeal court	unsuccessful	Stand-alone	summary judgment	Art 101	Declaration	Non-consumer case
<i>EDITUR v. Sociedad Estatal de Correos y Telégrafos</i>	2007	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 102	Declaration	Non-consumer case
<i>Petropuerto & Petrogrado v. Shell España Disa Península</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>CSD & DTS Distribuidora de Televisión Digital v. SGAE</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 102	Declaration	Non-consumer case
<i>EGEDA, AISGE, AIE v. Promociones Eurobuilding</i>	2007	appeal court	Successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>Tenaria v. Sogecable & AVS</i>	2007	appeal court	Successful	Stand-alone	interim process	Art 102	Injunction	Non-consumer case
<i>Auna Telecomunicaciones v. Sogecable & AVS</i>	2007	appeal court	Successful	Stand-alone	interim process	Art 102	Injunction	Non-consumer case
<i>SGAE v. D. Miguel</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>Euskaltel v. Sogecable & AVS</i>	2007	appeal	Successful	Stand-	interim process	Art 102	Injunction	Non-consumer

<i>Case Name</i>	<i>Year</i>	<i>Level of Court</i>	<i>Success</i>	<i>Type of Action</i>	<i>Stage of Litigation</i>	<i>Competition Law</i>	<i>Remedy Sought</i>	<i>Consumer Cases</i>
		court		alone				case
<i>W.Dauphin v. Burositzmobelfabrik Friedrich-W.Dauphin</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>D. Gustavo v. REPSOL</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D. Javier (ES 31167 Salsadella) v. CEPSA</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Dream Star Sport v. Kappa España Equipamientos Deportivos</i>	2007	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>SGAE v. Cinebank Berriozar</i>	2007	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>IASIST v. 3M España</i>	2007	first instance court	Successful	Follow-on	substantive final judgment	Art 102 and Domestic	Damages	Non-consumer case
<i>E.S. Esla v. GALP Energía</i>	2007	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>Colegio de Abogados de Castellón v.</i>	2008	highest	Successful	Stand-	substantive final	Domestic Art	Defence	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Lex et Iure et al.</i>		level court		alone	judgment	101		case
<i>D^a Remedios v. Ebro Puleva</i>	2008	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>Esso Española v. Jet Oil</i>	2008	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>EGEDA v. Hotel C.</i>	2008	highest level court	partially successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>GEOT v. REPSOL</i>	2008	highest level court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>SGAE v. Universal Music Spain</i>	2008	highest level court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>Duplico 2000 v. Philips</i>	2008	appeal court	unsuccessful	Stand-alone	interim process	Art 102 and Domestic	Pre-action Disclosure	Non-consumer case
<i>SGAE v. Ayuntamiento de Viver</i>	2008	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>CEDRO v. Reprografía del Noroeste</i>	2008	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>Vale Music Spain, S.L. v. SGAE</i>	2008	appeal court	Successful	Stand-alone	substantive final judgment	Art 102	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Paper i Tinta San Cugat v. Logística de Medios Catalunya et al.</i>	2008	appeal court	partially successful	Stand-alone	interim process	A combination	Pre-action Disclosure	Non-consumer case
<i>Teko Decoletaje y Mecanizados v. GKN Indugasa</i>	2008	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>IDAGLAS & DISTRIPLAC v. D. Octavio et al.</i>	2008	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Mediagora v. Microsoft</i>	2008	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Damages and other Remedy	Non-consumer case
<i>D. Iñigo v. D. Nazario & D^a Manuela</i>	2008	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>CEDRO & VEGAP v. Lexmark S.R.C.</i>	2008	appeal court	Successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Declaration	Non-consumer case
<i>REPSOL v. D. Carlos Daniel</i>	2008	appeal court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Vodafone España v. Telefónica de España</i>	2008	appeal court	partially successful	Follow-on	interim process	Domestic Art 102	Pre-action Disclosure	Non-consumer case
<i>DISA v. D. Juan Francisco</i>	2008	appeal court	partially successful	Stand-alone	substantive final judgment	Domestic Art 101	Damages and other Remedy	Non-consumer case
<i>Maccorp Exact Change, S.A. v. Banco</i>	2008	appeal	Successful	Stand-	substantive final	Domestic Art	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>de Sabadell, S.A.</i>		court		alone	judgment	101	other Remedy	case
<i>MEC Europe v. Omnicrom Circuits</i>	2008	appeal court	unsuccessful	Stand-alone	substantive final judgment	A combination	Defence	Non-consumer case
<i>Gul Internacional v. REPSOL</i>	2008	first instance court	unsuccessful	Stand-alone	summary judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Servicios del Guadaira v. Su Eminencia & CEPSA</i>	2008	first instance court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>D. Adolfo & D^a. Purificación v. REPSOL</i>	2009	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>EGEDA v. T, S.A.</i>	2009	highest level court	partially successful	Stand-alone	substantive final judgment	Art 102 and Domestic	Defence	Non-consumer case
<i>Shell España v. Automoviles d'Ara</i>	2009	highest level court	partially successful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>REPSOL v. E.S. Pozonuevo</i>	2009	highest level court	unsuccessful	Stand-alone	summary judgment	Art 101	Defence	Non-consumer case
<i>ESSO Española v. Vergelgas</i>	2009	highest level court	partially successful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>D. Narciso v. D. Rubén et al. (Convenio Corredores)</i>	2009	highest level court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Melón v. REPSOL</i>	2009	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Multipetróleos v. REPSOL</i>	2009	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Canoven & Rentan Vencan v. Shell España</i>	2009	highest level court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Juan Valencia v. REPSOL</i>	2009	highest level court	partially successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>D. Constantino v. CEPSA</i>	2009	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Sveyn & Svenson Internacional v. National Hair Center</i>	2009	highest level court	Successful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>E.S. Romero e Hijos v. Shell España</i>	2009	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Comillas 2 & E.S. Santillana II v. GALP</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Comillas2 & E.S. El Sardinero v.</i>	2009	appeal	unsuccessful	Stand-	substantive final	Art 101	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>GALP Energía</i>		court		alone	judgment		other Remedy	case
<i>L.V. Tobar e Hijos v. CEPSA</i>	2009	appeal court	Successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D. Epifanio v. D. Tomas y D. Juana</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>D. Teodulfo v. V.D. Sistem</i>	2009	appeal court	partially successful	Stand-alone	substantive final judgment	Domestic Art 101	Damages and other Remedy	Non-consumer case
<i>Spain Rail v. ADIF, Renfe-Operadora & Transportes Carrasco</i>	2009	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>ASV Funeser v. D. Lucas & D^a Antonia</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Buafi E.S. v. GALP Energía España</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D. Florentino c. Consultorio Dexeus, S.A. et al.</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Swiss International Airlines v. Amadeus IT Group</i>	2009	appeal court	unsuccessful	Stand-alone	interim process	art 101 and 102	Injunction	Non-consumer case
<i>Global Fashion Service Support et al v. EL Corte Ingles</i>	2009	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Zesena & Bide Barri v. REPSOL</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Servei Estació Regencós v. Total España</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Pedro IV Servicios v. Total España</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Lufthansa v. Amadeus IT Group</i>	2009	appeal court	unsuccessful	Stand-alone	interim process	art 101 and 102	Injunction	Non-consumer case
<i>Nestle España et al. v. ACOR S. Cooperativa Gen. Azucarera</i>	2009	appeal court	Successful	Follow-on	substantive final judgment	Art 101 and Domestic	Damages	Non-consumer case
<i>Fitosanitaris i Biolgenética & Agrosystem. v. Dow Agrosiences</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>E.S. Pozuelo v. GALP Energía España</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Zorita E.S. v. GALP Energía España</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D. Juan Ramón, D^a Claudia & Prourbal v. REPSOL</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Delirium Holding v. SGAE</i>	2009	appeal	unsuccessful	Stand-	substantive final	Art 102 and	Defence	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		court		alone	judgment	Domestic		case
<i>Mazda Motor España v. Mazda Motor Logistics Europe</i>	2009	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>D. Felisa v. ENDESA Distribución Eléctrica</i>	2009	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>REPSOL v. Catalana de Carburantes & Eslora Meco</i>	2009	first instance court	partially successful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Bright Service v. REPSOL</i>	2009	first instance court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>REPSOL v. D. Rafael</i>	2010	highest level court	partially successful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>D. Samuel v. SMASA</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Damages and other Remedy	Non-consumer case
<i>Red Azul v. BP Oil España</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Red Azul v. REPSOL</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>D. Bernardino v. CEPSA & CLH</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>D. Adela v. REPSOL</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Gaseosas Padin v. PEPSICO & Disbegal</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Damages and other Remedy	Non-consumer case
<i>Grupo Texas v. CEPSA</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Multipetróleos v. CEPSA</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>GEBE v. BP Oil España</i>	2010	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case

<i>Case Name</i>	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Canals I Fils & Zero Set v. Societat Catalana de Petrolis</i>	2010	appeal court	Successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Hermela v. REPSOL</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Real Murcia CF, S.A.D. v. U.D. Salamanca S.A.D. Et al.</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Declaration	Non-consumer case
<i>Necchi Blu Systemv. Necchi Modulare Música España</i>	2010	appeal court	unsuccessful	Stand-alone	summary judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>PANALM v. REPSOL</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Galindo v. REPSOL</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>E.S. Echevarría v. REPSOL</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>E. S. Fontanet v. REPSOL</i>	2010	appeal court	Successful	Stand-alone	substantive final judgment	A combination	Damages and other Remedy	Non-consumer case
<i>E.S. La Dehesa et al. v. BP Oil España et al.</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Nordes Prosegur Tecnología v. Bosch Seguridad y Control et al.</i>	2010	appeal court	Successful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>Jofra Oil v. Shell España</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Lubricantes y Carburantes Galaicos v. Petrogal</i>	2010	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Sedifa & Grufarma 92 v. Novartis Farmacéutica et al.</i>	2010	first instance court	unsuccessful	Stand-alone	substantive final judgment	A combination	Damages and other Remedy	Non-consumer case
<i>Cableuropa v. SOGECABLE & AVS</i>	2010	first instance court	Successful	Stand-alone	substantive final judgment	Art 102	Damages	Non-consumer case
<i>ASTIC v. RENFE</i>	2010	first instance	partially	Stand-	substantive final	Art 102 and	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
		court	successful	alone	judgment	Domestic	other Remedy	case
<i>Combustibles Queralt v. CEPSA</i>	2010	first instance court	Successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Saenz de Jubera v. REPSOL</i>	2010	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Taygrao & D. Ricardo v. REPSOL</i>	2010	first instance court	Successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Aloya v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Paz Bores v. DISA Península</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Casebana v. CEPSA</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>E.S. García Sánchis v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Comp. Administradora de Gasolineras</i>	2011	highest	unsuccessful	Stand-	substantive final	Art 101	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>v. GALP</i>		level court		alone	judgment		other Remedy	case
<i>Inversiones Cobasa v. BP Oil España</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>GOBERGAS v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Las Pedroñeras 3 v. CEPSA</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Estaser El Mareny v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Extraval gasolineras del mediterraneo v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Talavera v. Shell España & DISA Península</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Altabix v. CEPSA</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>E.S. Oreña v. CEPSA</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Monsells v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Caminas v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>J. Enrique v. REPSOL & CLH</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>D. Cornelio v. REPSOL</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Bagarciva v. REPSOL & CLH</i>	2011	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Cafes El Globo v. D. Florentino</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Defence	Non-consumer case
<i>E.S. Camaró v. REPSOL</i>	2011	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Copecelt v. CEPSA</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Win Petrol & Olimpik Park v. Total</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Serparla v. BP Oil España</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Ribera Baixa & E.S. Ribera Alta v.</i>	2011	appeal	partially	Stand-	substantive final	Art 101	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>REPSOL</i>		court	successful	alone	judgment		other Remedy	case
<i>Iborgas v. BP Oil España</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Maccorp Exact Change v. La Caixa</i>	2011	appeal court	Successful	Stand-alone	substantive final judgment	Domestic Art 101	Damages and other Remedy	Non-consumer case
<i>GESTFREE v. REPSOL</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Julite v. BP Oil España</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Calvia Supermarket Discount v. DIA</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Damages and other Remedy	Non-consumer case
<i>D^a Teresa, D^a Begoña & D^a Pura v. Grupo Indes Edades</i>	2011	appeal court	Successful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Centrica Energía v. Iberdrola</i>	2011	appeal court	unsuccessful	Follow-on	summary judgment	Art 102 and Domestic	Damages	Non-consumer case
<i>Nestle España et al v. Ebro Foods</i>	2011	appeal court	unsuccessful	Follow-on	substantive final judgment	A combination	Damages	Non-consumer case
<i>ANEFA v. FIAT Group Automobiles Sapin</i>	2011	appeal court	unsuccessful	Stand-alone	interim process	A combination	Pre-action Disclosure	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>D. Luis Carlos & D. Balbino v. Soc. Cazadores Deport. Malkaiz</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Declaration	Non-consumer case
<i>SGAE v. Vértice de Las Provincias Manchegas</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>E.S. Villafría v. REPSOL</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>E.S. Industria v. Total España</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Takata Petri v. Dalphi Metal</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Defence	Non-consumer case
<i>Burguillos v. REPSOL</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Eléctrica Caldense v. ENDESA Distribución Eléctrica</i>	2011	appeal court	Successful	Follow-on	substantive final judgment	Domestic Art 102	Damages and other Remedy	Non-consumer case
<i>Bide Barri & Zesena v. D^a María</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>GESDEGAS v. CEPSA</i>	2011	appeal court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Ryanair v. AENA</i>	2011	appeal	unsuccessful	Stand-	interim process	Art 102	Injunction	Non-consumer

<i>Case Name</i>	<i>Year</i>	<i>Level of Court</i>	<i>Success</i>	<i>Type of Action</i>	<i>Stage of Litigation</i>	<i>Competition Law</i>	<i>Remedy Sought</i>	<i>Consumer Cases</i>
		court		alone				case
<i>AGEDI & AIE v. Gladys Palmera</i>	2011	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 102	Defence	Non-consumer case
<i>D. Aurelia Estela Fulana v. CEPSA</i>	2011	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Promotores Internacional & Pablo Rada Combust. v. REPSOL</i>	2011	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>AUSBANC v. Telefónica</i>	2011	first instance court	partially successful	Follow-on	interim process	Art 102	Pre-action Disclosure	Aggregated/Class
<i>Narescar v. GALP Energía España</i>	2011	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Gasorba v. REPSOL</i>	2011	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Servii-Auto Xuquer & E.S. Starma v. REPSOL</i>	2011	first instance	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case

<i>Case Name</i>	<i>Year</i>	<i>Level of Court</i>	<i>Success</i>	<i>Type of Action</i>	<i>Stage of Litigation</i>	<i>Competition Law</i>	<i>Remedy Sought</i>	<i>Consumer Cases</i>
		court						
<i>E.S. Carballal v. GALP Energía España</i>	2011	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D. Felipe F. Fernandez Torres v. REPSOL</i>	2011	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case
<i>Promarsa Marketing & Asociados v. D. Teodosio & Unidic</i>	2012	highest level court	unsuccessful	Stand-alone	summary judgment	A combination	Defence	Non-consumer case
<i>Benzinera Tot Santa Eualalia v. Total España</i>	2012	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101 and Domestic	Damages and other Remedy	Non-consumer case
<i>Properly v. CEPSA</i>	2012	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>AVS & Sogecable v. Euskaltel</i>	2012	highest level court	partially successful	Stand-alone	substantive final judgment	Art 102	Defence	Non-consumer case
<i>E.S. Los Eucaliptos et al. v. DISA Penínsular</i>	2012	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>AVS & Sogecable v. Tenaria</i>	2012	highest level court	partially successful	Stand-alone	substantive final judgment	Art 102	Defence	Non-consumer case

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>E.S. Hermanos Baños v. REPSOL</i>	2012	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Área de Servicio La Palmera v. AGIP España</i>	2012	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Hermanos Ros v. BP Oil España</i>	2012	highest level court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Ryanair v. AENA</i>	2012	appeal court	unsuccessful	Stand-alone	interim process	Art 102	Injunction	Non-consumer case
<i>Areas Reyes v. CEPSA</i>	2012	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>OLMA & E.S. Pineda del Mar v. REPSOL</i>	2012	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Televisión Autonómica Valenciana v. Mediapro</i>	2012	appeal court	Successful	Stand-alone	interim process	Art 101 and Domestic	Injunction	Non-consumer case
<i>Corporación Uniland v. Carlos José et al.</i>	2012	appeal court	partially successful	Stand-alone	interim process	Art 101	Declaration	Non-consumer case
<i>Rani v. REPSOL</i>	2012	appeal court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Carlos José y Otros S.Civil v. San</i>	2012	appeal	unsuccessful	Stand-	substantive final	Domestic Art	Damages and	Non-consumer

Case Name	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Miguel Cervezas</i>		court		alone	judgment	101	other Remedy	case
<i>Centrica Energía v. ENDESA</i>	2012	appeal court	Successful	Follow-on	substantive final judgment	Art 102 and Domestic	Damages	Non-consumer case
<i>France Telecom et al. v. Euskaltel</i>	2012	appeal court	unsuccessful	Stand-alone	substantive final judgment	Domestic Art 101	Defence	Non-consumer case
<i>Energia VM v. Unión Fenosa Distribucion</i>	2012	first instance court	Successful	Follow-on	substantive final judgment	Art 102 and Domestic	Damages	Non-consumer case
<i>Real Zaragoza v. Mediaproducción</i>	2012	first instance court	Successful	Follow-on	substantive final judgment	Art 101 and Domestic	Declaration	Non-consumer case
<i>E.S. Artana & Dirección 000 CB v. REPSOL</i>	2012	first instance court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Transportes Evaristo Molina v. REPSOL & Surtial</i>	2012	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>Ryanair Ltd. V. AENA</i>	2012	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 102 and Domestic	Damages and other Remedy	Non-consumer case

<i>Case Name</i>	Year	Level of Court	Success	Type of Action	Stage of Litigation	Competition Law	Remedy Sought	Consumer Cases
<i>Esparga v. REPSOL</i>	2012	first instance court	partially successful	Stand-alone	substantive final judgment	Art 101	Damages and other Remedy	Non-consumer case
<i>D^a Herminia v. BP Oil España</i>	2012	first instance court	unsuccessful	Stand-alone	substantive final judgment	Art 101	Declaration	Non-consumer case