**PROJECT CO-FUNDED BY EUROPEAN REGIONAL DEVELOPMENT FUNDS (ERDF)**

**Lead Researcher:** Dr. Jose María Beneyto Pérez

**Reference**: DER2015-66359-P

**Title**: ‘Challenges in the fight against cartels: more efficiency, best international practices and new trends’ (Retos en la lucha contra los carteles: más eficacia, mejores prácticas internacionales y nuevas tendencias).

**Financing Entity:** Spanish Ministry of Economy, Industry and Competitivity (Ministerio de Industria, Economía y Competitividad), European Regional Development Fund (ERDF) and Spanish State Research Agency (Agencia Estatal de Investigación).

**Total amount**: 11. 858 €

**Start date**: 01/01/2016

**End date**: 31/12/2018

**Summary:**

The fight against cartels is one of the main priorities of the competent authorities. It is essential to have efficient mechanisms to prevent them, detect them and impose effective and dissuasive sanctions. Nevertheless, in the Spanish context, this fight against cartels faces important limitations. To fill these gaps, the 2007 Law (Ley de Defensa de la Competencia, LDC) includes improvements and new instruments that were the subject of study in the R&D&I project DER2011-27249 developed by this team with the collaboration of the Spanish National Markets and Competition Commission (Comisión Nacional de los Mercados y la Competencia, CNMC). This proposal is a deepening of previously researched topics and an analysis and search for answers to the new challenges.

We believe in the importance to maintain this line of research because: the fight against cartels continues to be the top priority of the competition authorities; the application of the new system is still very recent and many decisions are in the process of judicial review; the impact of the new institutional environment (with the new CNMC) must be assessed; it is necessary to extend research to new areas, enhancing its internationalisation and interdisciplinarity, as well as promoting greater transfer of results; and we intend to consolidate the research group and decisively promote the international networks initiated.

We will continue to consider the administrative route as the main instrument. Priority attention will be given to the implementation and improvement of the leniency programme and the impact it may have on its interaction with the criminal and damages actions. In addition, there will be an in-depth look at sanctions and evidence on which the Spanish Supreme Court (SC) has just handed down key rulings in 2015. Finally, much importance will be given to settlements and prevention techniques, especially via relations between the competition authority and public administrations.

In addition to the administrative route, complementary routes will also be addressed, in particular claims for damages (and "private enforcement" in more general terms) and criminalisation.

As regards the first one, although in Spain the SC has already established the principles, the results of the previous project reveal the major limitations and the significant obstacles that still exist. The new regulatory package promoted by the European Commission, consisting of a recommendation on collective actions, a practical guide for the quantification of damages and, above all, the new Directive on actions for damages arising from antitrust infringements, will undoubtedly be the subject of an in-depth analysis, paying special attention to its future transposition in Spain.

As regards criminalisation, which is still a highly controversial issue, the research carried out has been limited to analysing the possibility of including some cartels in existing criminal offences. It is now necessary to study its effective application in other jurisdictions, especially in the UK and the US, in order to understand the advantages and risks of criminalisation compared to other options, as well as the interactions with other avenues.

The fight against cartels is essential to improve the competitiveness of our economy. With this project we intend to make an important contribution, with undoubtedly practical results, which will help the authorities and judges to make better decisions in this area and improve business and industrial competitiveness within Spain and in a European and international context.