



**CNC**

COMISIÓN NACIONAL DE LA COMPETENCIA

# State Aid and the CNC

Antonio Maudes

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Workshop on the Evaluation of State Aid

Brussels, April 23rd 2013





**CNC AND PUBLIC AID: COMPETITION EFFECTS?**

- PUBLIC AID is a kind of public intervention that may harm competition and hinder economic efficiency.
- **Statically:**
  - Competitive advantage to certain economic agents (i.e. production costs subsidy).
  - Affects competition if:
    - Increases market power.
    - Does not transfer efficiencies to final consumers
- **Dynamically:**
  - Rent seeking.
  - Less innovation in the long term.
  - Less product quality.



**CNC PHILOSOPHY IN PUBLIC AID**

- The CNC looks for actions that **promote competition**, with optimal impact and added value.
- Takes into account that the EC is the **sole responsible** of declaring the possible illegality of state aid.
- Underlines **non-obvious competition implications** of public aid.

**CNC'S EX-POST ACTIVITY IN PUBLIC AID**

"The CNC shall analyze the criteria used to grant Public Aid in relation to its possible effects on the markets' competitive situation", Art. 11 - Spanish Competition Act (LDC)

<p><b>CNC MAY:</b></p> <ul style="list-style-type: none"> <li>• Produce <b>reports</b> on Public Aid frameworks and individual aid</li> <li>• Address <b>proposals</b> to public administration to foster competition</li> <li>• <b>Challenge by-laws and administrative acts</b> that will impede effective competition</li> </ul>	<p><b>CNC MUST:</b></p> <ul style="list-style-type: none"> <li>• Publish an <b>annual report</b> on Public Aid granted in Spain</li> <li>• <b>Create a Public Aid search-engine</b> on our website that includes all Public Aid that has been announced in official bulletins in Spain</li> </ul>
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# State Aid and the CNC

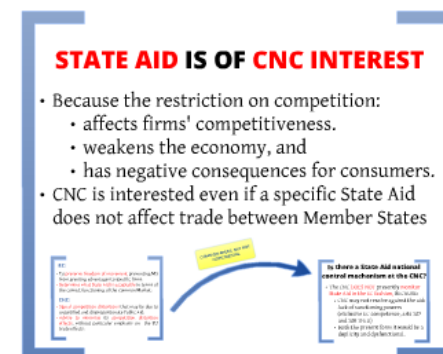
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# STATE AID IS OF CNC INTEREST

- Because the restriction on competition:
  - affects firms' competitiveness.
  - weakens the economy, and
  - has negative consequences for consumers.
- CNC is interested even if a specific State Aid does not affect trade between Member States

## EC:

- To **preserve freedom of movement** preventing MS from granting advantages to specific firms.
- **Determine what State Aid is acceptable** in terms of the correct functioning of the Common Market.

## CNC:

- **Signal competition distortions** that may be due to unjustified and disproportionate Public Aid.
- **Advise to minimize its competition distortion effects**, without particular emphasis on the EU trade effects.

COMMON AREAS, BUT NOT  
COINCIDENTAL

## Is there a State Aid national control mechanism at the CNC?

- The CNC **DOES NOT** presently **monitor State Aid in the EC fashion**, BECAUSE:
  - CNC may not resolve against the aid: lack of sanctioning powers (exclusive EC competence, arts 107 and 108 TFEU)
  - With the present form it would be a duplicity and dysfunctional.

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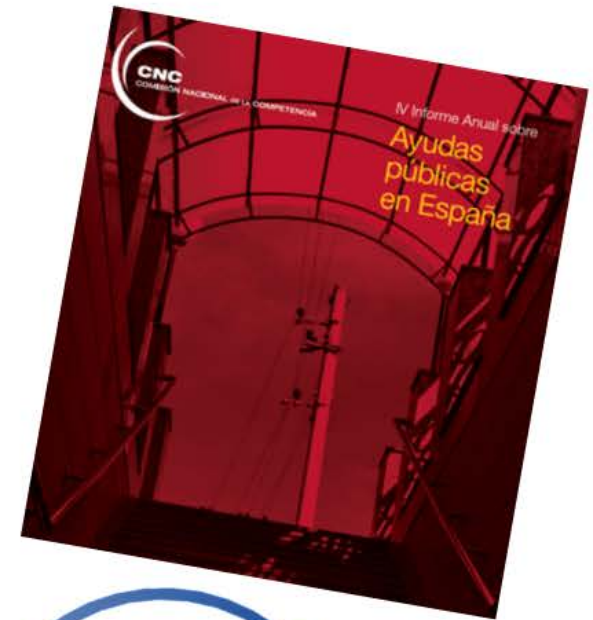


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# PUBLIC AID EX-POST ANALYSIS: COMPETITION ADVOCACY INSTRUMENT

NON COERCIVE

SELECTIVE

**Coherence with the  
rest of competition  
advocacy actions:  
reports on draft  
regulations (EX-ANTE)**

Divulgative, preventive and  
exemplary actions based on  
the past

To signal and  
warn against  
competition  
risks

Recommendations on  
the correct design of  
the public measures

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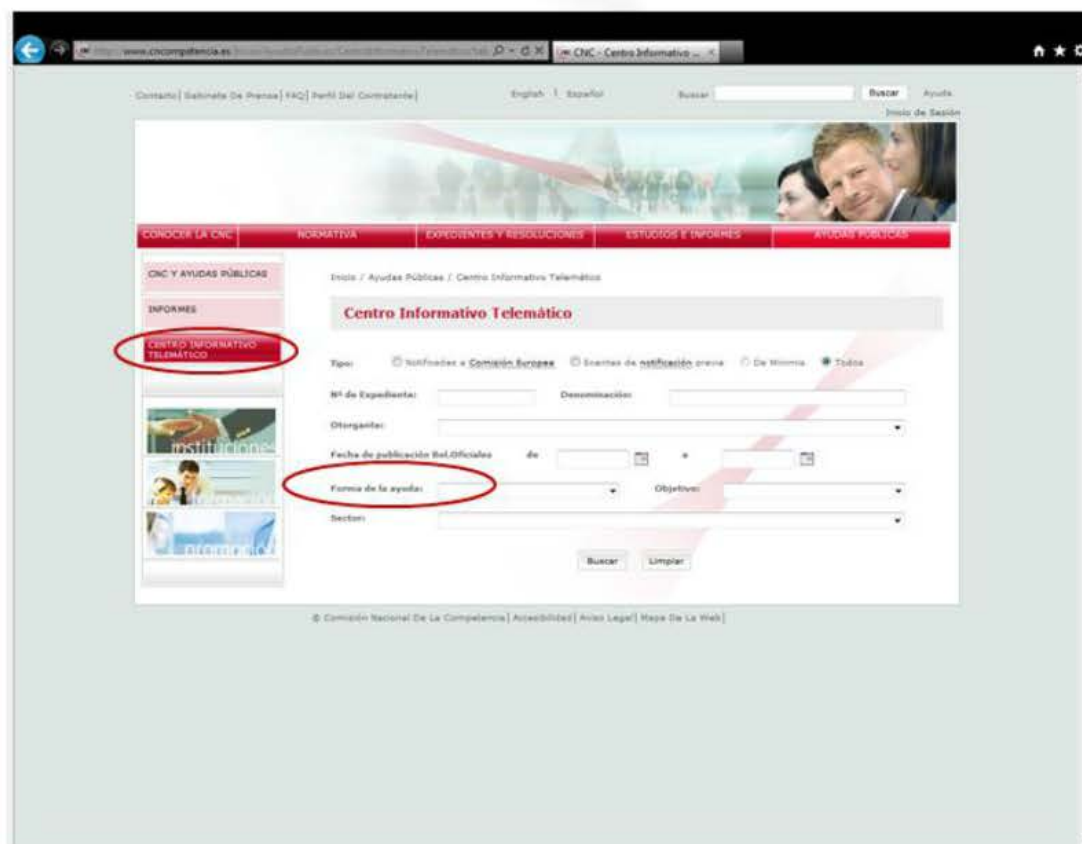


# PRIORITIES

1. Statistic monitoring
2. General advise on the aid design
3. Aid of (apparent) small importance that could affect competition
4. Aid (of certain importance) not identified or conceived as such

## ➤ State Aid Search Engine (SASE)

- Available at [www.cncompetencia.es](http://www.cncompetencia.es)
- Information on State Aid, **both:**
  - notified to the EU and
  - exempted from notification
- Added value in relation to the information provided by the EC



The screenshot shows the CNC website's State Aid Search Engine (SASE) interface. The page is titled "Centro Informativo Telemático" and features a search form with the following fields:

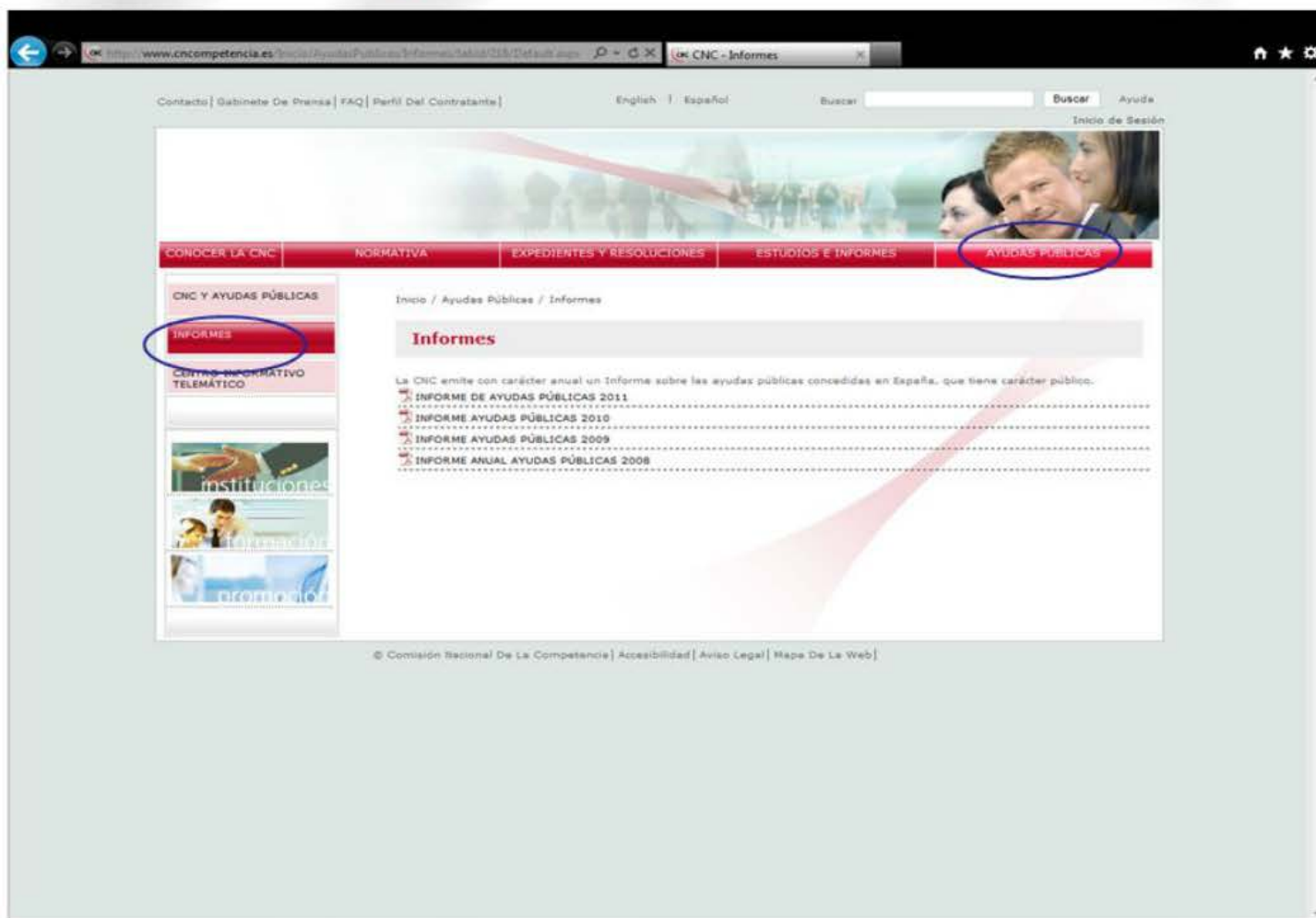
- Tipo:** Radio buttons for "Notificar a Comisión Europea", "Exempted from notification", and "De Minimis".
- Nº de Expediente:** Text input field.
- Denominación:** Text input field.
- Otorgante:** Dropdown menu.
- Fecha de publicación:** Date range selector.
- Forma de la ayuda:** Dropdown menu, circled in red.
- Objetivo:** Dropdown menu.
- Sector:** Dropdown menu.

The left sidebar contains a menu with the following items:

- CNC Y AYUDAS PÚBLICAS
- INFORMES
- CENTRO INFORMATIVO TELEMÁTICO** (circled in red)

At the bottom of the page, there is a footer with the text: "© Comisión Nacional De La Competencia | Accesibilidad | Aviso Legal | Mapa De La Web".

## ➤ Annual reports on State Aid



The screenshot shows the CNC website interface. The main navigation bar includes links for 'CONOCER LA CNC', 'NORMATIVA', 'EXPEDIENTES Y RESOLUCIONES', 'ESTUDIOS E INFORMES', and 'AYUDAS PÚBLICAS'. The 'AYUDAS PÚBLICAS' link is circled in blue. Below this, a sidebar menu lists 'CNC Y AYUDAS PÚBLICAS', 'INFORMES' (circled in blue), and 'CENTRO INFORMATIVO TELEMÁTICO'. The main content area displays the 'Informes' section, which includes a list of annual reports: 'INFORME DE AYUDAS PÚBLICAS 2011', 'INFORME AYUDAS PÚBLICAS 2010', 'INFORME AYUDAS PÚBLICAS 2009', and 'INFORME ANUAL AYUDAS PÚBLICAS 2008'. The footer contains copyright information for the Comisión Regional De La Competencia and links for 'Accesibilidad', 'Aviso Legal', and 'Mapa De La Web'.

- **State Aid annual reports**
  - **Global image** of the State Aid situation in Spain, arising from:
    - Latest statistical information available: be it public expenses or non-received public income.
    - Classified according to several criteria.
    - Information as provided by EC. (Commission's scoreboard)
  - **Data:**
    - Aid volume.
    - Distribution in relation to sectors, goals, anti-crisis aid.
    - Trends
    - Geographical distribution
    - Aid projects presented to the EU
    - Comparison between Spain and other EU member states
  - **Most significant activities** in State Aid
    - Comments on notified cases/resolved cases and jurisprudence.
    - CNC activities on Public Aid
  - **Focus on a Key issue**



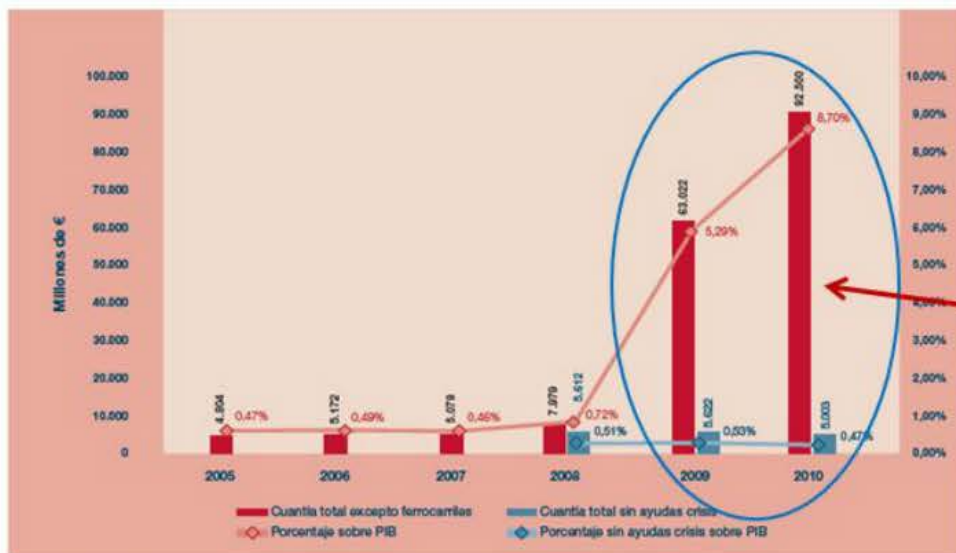
### Examples

Cuadro nº 6

Evolución de las ayudas destinadas a objetivos horizontales (ayudas industria/servicios concedidas España 2005-2010), en M€

	2005	2006	2007	2008	2009	2010
Promoción de la exportación	293,4	351,8	101,3	95,8	60,1	16,3
Cultura	72,2	77,2	83,7	114,6	121,7	116,6
Empleo	48,9	46,4	50,6	25,1	57,5	46,3
Medio ambiente y ahorro energía	187,9	196,7	205,3	523,3	831,4	747,4
Desarrollo regional	1.262,7	1.343,7	1.412,2	1.773,6	1.087,7	1.079,4
I+D+i	354,2	454,9	735,5	896,6	1.359,4	1.146,7
PYMES	348,6	387,1	171,4	182,0	185,3	130,1
Formación	57,0	84,6	53,5	68,3	123,0	65,7
Otros	0,1	0,0	2,6	15,7	5,3	1,6
<b>Total objetivos horizontales</b>	<b>2.624,9</b>	<b>2.932,4</b>	<b>2.816,0</b>	<b>3.695,0</b>	<b>3.831,5</b>	<b>3.350,0</b>
<b>Total industria/servicios</b>	<b>3.978,4</b>	<b>3.998,0</b>	<b>4.013,0</b>	<b>4.628,4</b>	<b>4.826,6</b>	<b>4.326,5</b>

Gráfico nº 1: Evolución temporal ayudas concedidas 2005-2010



Fuente: Datos suministrados por España a la CE para la elaboración del Marcador de ayudas de Estado de otoño 2011; Marcador de ayudas de Estado otoño 2011 de la CE.

Enables to determine trends, distributions....

*“Cash for clunkers program”*

*II Annual Report on State Aid*

- **2000 E Plan** to foster car purchases
  - Goal: reduce pollution
  - Instrument:
    - Subsidy to final consumer. (Legal vs. Economic impact)
    - Aid available for the purchase of certain cars
  - Co-financed by State and Regions
  - Not notifiable to EC
  - In order to opt for the regional tranche, the car must be purchased from a dealer established in the region.

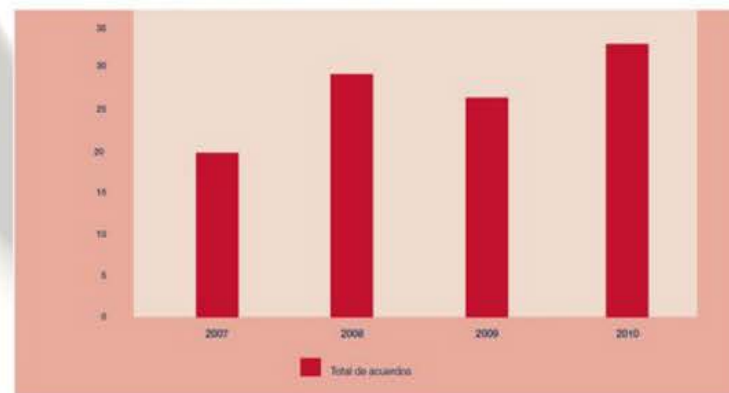


**“Covenants** between regional/local public bodies and airlines to **promote tourist destinations”**

*III Annual Report on State Aid*

- Agreements for the implementation of marketing and advertising services
  - Advertising space in airplanes , banners in webpages
  - Explicit or implicit obligation to have routes to and from airports in the relevant geographical area
- € 250 million; 125 covenants between 2007/2011
- It may not be State Aid as such, but similar effects

Gráfico nº 1  
Evolución temporal de los acuerdos firmados con aerolíneas 2007-2010



Fuente: elaboración propia a partir de los datos suministrados por los operadores y entes públicos.

