

2023 ICN UCWG WORKSHOP TOKYO

March 8th

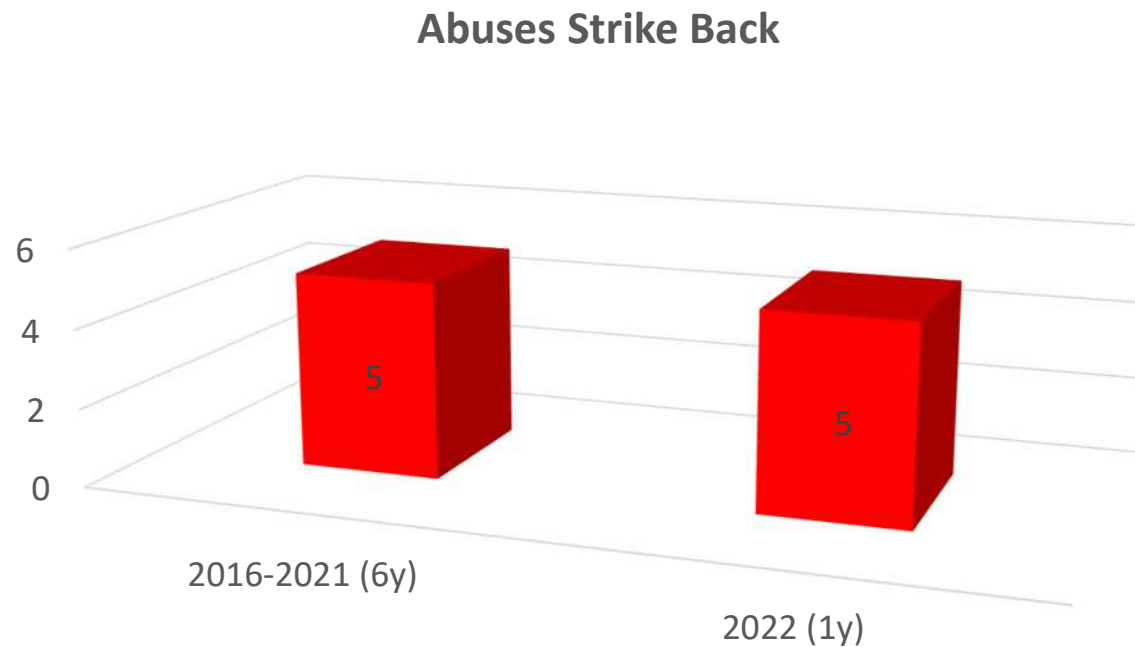
The need for swift intervention in tools and existing unilateral conduct cases: procedural challenges for competition agencies

Marisa Tierno Centella

Director-General for Competition



CNMC unilateral conduct decisions



- **Increasing enforcing activity:** Same number of cases in the last year than in the last 6 years.
- **Type of abuse:**
 - 80% exclusionary
 - 20% exploitative

Unilateral conduct cases: Art. 102 TFEU, Art. 2 LDC and Art. 3 LCD

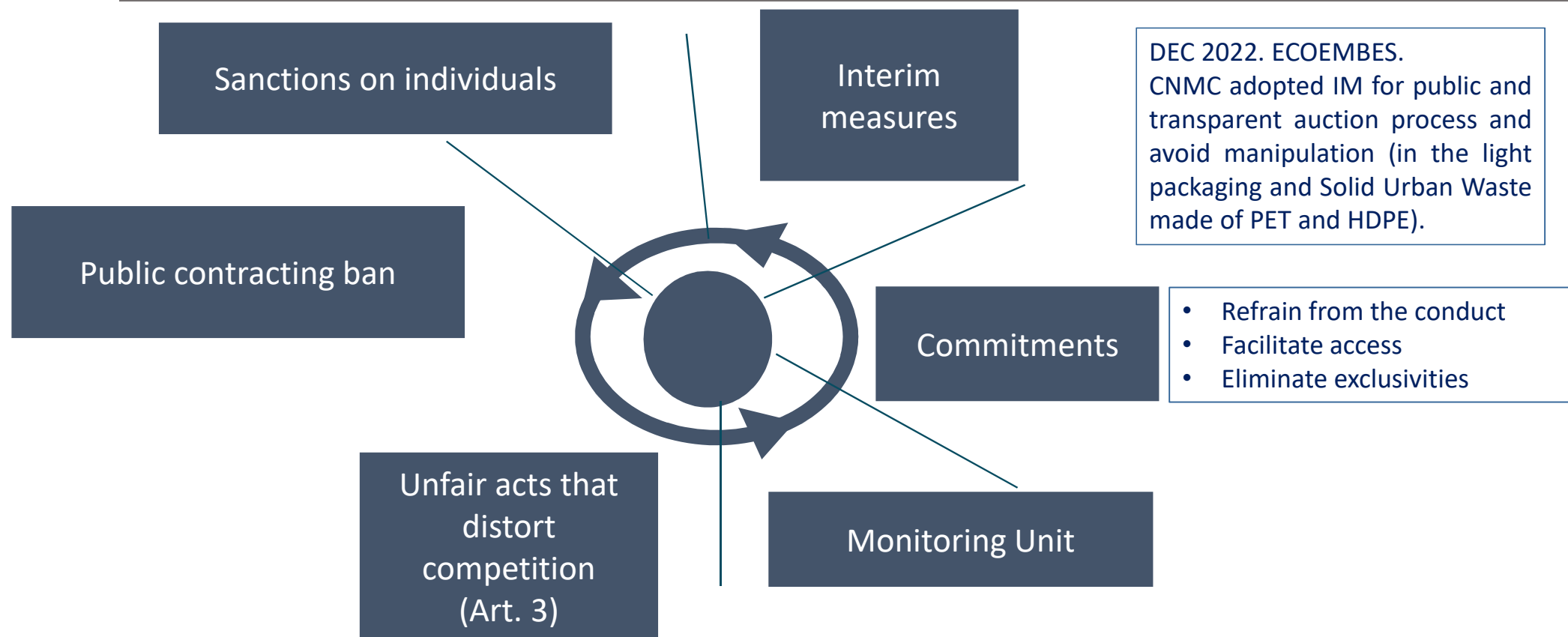
5 decisions Art. 102 TFEU and Art. 2 LDC in 2022:

1. **S/0041/19 CORREOS 3:** The incumbent national post company established a rebate system in the traditional postal services market with exclusionary effects, since they encouraged large business customers' loyalty, preventing the entry of other competitors.
2. **S/0012/19 REAL SOCIEDAD CANINA DE ESPAÑA:** The Royal Canine Society of Spain has abused its dominant position in the issuing of export pedigree certifications internationally recognized, hindering purebred pedigree dogs legally certified by other competing organizations. In addition to this, it restricted judges in its canine competitions from participating in exhibitions of rival associations.
3. **S/0022/20 ENEL GREEN POWER ESPAÑA:** Enel Green abused its position as intermediary for all the companies promoting renewable energy generation who wanted to have access to the power transmission network, prioritizing the processing of the requests from the facilities of which Enel Green itself was the promoter (self-preferencing).
4. **S/0026/19 MERCK SHARP DOME:** The pharmaceutical company abused its dominant position in the market for vaginal contraceptive ring by taking unjustified legal actions (sham litigation) against its competitor invoking its patent rights to delay the market entry of its competitor.
5. **S/0028/20 LEADIANT:** The pharmaceutical company secured exclusive supply of the active ingredient for the drug production, thus preventing the emergence of alternative products and charged excessive prices.

1 decision Art. 3 LDC in 2022:

1. **S/0013/20 AUDAX:** AUDAX group was reported to be deceiving natural gas and electricity consumers to make them change their distributor. They pretended to be their usual electricity or gas provider or gave false information on prices that misled consumers

Competition authority enforcement toolkit for unilateral conducts



Thank you for your attention

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