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[REDACTED] 25 November 2014

**RE: Information related to the unlawful State Aid to be provided by the Government of the Island of Gran Canaria to Club Baloncesto Gran Canaria - Claret SAD**

Dear Sirs,

We hereby bring to the Commission's attention some very relevant information related to the unlawful State aid that has been provided and continues to be provided by the Government of the Island of Gran Canaria (*Cabildo de Gran Canaria*, the "Cabildo") to Club Baloncesto Gran Canaria – Claret SAD<sup>1</sup> (the "Club") through:

1. The purchase of the Club's shares by the Cabildo, that is the Club's only shareholder<sup>2</sup>;
2. The outright funding provided to the Club by the Cabildo that, only considering the 2011/2015 period, has provided more than €16.7 million in direct subsidies to the Club<sup>3</sup>, as admitted and described in the Club's webpage:
  - 2010/1 Season: €3.752.067,57
  - 2011/2 Season: €3.500.805,53
  - 2012/3 Season: €3.172.213,05
  - 2013/4 Season: €3.000.000,00

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<sup>1</sup> Club Baloncesto Gran Canaria – Claret SAD, also known as Herbalife Gran Canaria, is a Spanish professional basketball club that participates in the Spanish basketball professional league and the Eurocup (second European basketball competition).

<sup>2</sup> Some press reports refer to the Cabildo being the only shareholder (<http://piratasdelbasket.net/el-cabildo-de-gran-canaria-se-desespera-si-no-hubieramos-inventado-el-mundial-del-2014/>) and this has been admitted by the Cabildo (<http://www.solobasket.com/liga-endesa/finaliza-el-ciclo-de-pedro-martinez-en-gran-canaria-el-mas-exitoso-del-club-amarillo>) but other press reports refer to the Cabildo being just the majority shareholder.

<sup>3</sup> See attached information published on 22 July 2014 at the Club's and Spanish basketball league's official webpages (<http://www.acb.com/redaccion.php?id=105309>, <http://www.cbgrancanaria.net/noticias/liga-endesa/item/2042-presupuesto-temporada-2014-15>) in which it is confirmed that the Cabildo provided outright subsidies to the Club during the 2011/2015 period.

The fact that detailed information about the provision of unlawful State aid is published online by the recipients shows the very worrying state of affairs in the Spanish football and basketball professional markets that seem to think that are beyond reach for EU State aid law. It is of course highly likely that further unlawful State aid has been provided to the Club prior to 2010 and this State aid should also be recovered.

- 2014/5 Season: €3.300.000,00; and

3. The construction of a new basketball arena (the Gran Canaria Arena) at a cost of €67 million for the Spanish and European taxpayer that was fully funded in equal shares by the Cabildo, the central government and the regional government<sup>4</sup> and that seems to be used rent-free by the Club.

We do believe that the purchase and ownership of the majority of the shares of a professional basketball club by a public institution such as the Cabildo, the outright provision of annual subsidies in excess of €3 million (which is half of the company's annual budget) to a professional basketball club and the construction of a new arena by using €67 million of public money to be used rent-free by the company, all constitute clear and undisputable examples of unlawful State aid and we are confident that the Commission will investigate this issue and recover any unlawful State aid that has been provided to the Club during the last decade. It is of course also possible that the Commission decides that these issues do not constitute unlawful State aid in which case these three powerful State aid tools should at the very least be available to the other Member States to ensure that there is a levelled playing field.

Since the case is quite straightforward (particularly the issue of the outright payments by the Cabildo that have been described by the Club in its own webpage, we sincerely doubt that there have been many cases in which information about the provision unlawful State aid had been published online by the recipient) we do not think that a more detailed analysis of the issue is required. Should the Commission nevertheless require further information, we would be of course very happy to clarify any aspect to the commission or to submit a formal complaint if the Commission considers it necessary.

It is important to remind the Commission that these amounts of money, although modest when compared to those involved in other professional sports such as football, do create a huge distortion to the Spanish and European basketball competitions since we are talking about a national basketball competition (Liga ACB) in which the average annual budget<sup>5</sup> (excluding Real Madrid and FC Barcelona who, as the Commission is fully aware of, enjoy the special right to participate in both the football and basketball professional competitions and are involved in predatory pricing by running losses of approximately €20 million annually in their basketball activities) is around €4.9 million and as many as eight of the 18 clubs have annual budgets below the more than €3 million that are being provided by the Cabildo to the Club as a subsidy on an annual basis.

The unlawful State aid provided to the Club is indeed having a very distortive effect not just at a national level but also in the European basketball competitions since the Club participates very successfully in the Eurocup (basketball's second most important European competition) and has been the only club that has been able to win the first six games of the Eurocup's Regular Season<sup>6</sup> by beating Dijon, Lyon, Ostend, Quakenbrueck and Cantu. It is of course highly unfair for these French, Belgian, German and Italian clubs to be beaten by a basketball club that has received such a significant amount of unlawful State aid during the last years and that continues to have half of its annual budget funded by the taxpayer. This of course results in an increase in the player wages and ticket prices elsewhere in the EU since any European club willing to compete with any chance of

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<sup>4</sup> See article published in La Provincia of 22 October 2013:  
<http://www.laprovincia.es/deportes/2013/10/22/coste-gran-canaria-arena-sube/566107.html>

<sup>5</sup> See information published by Diario Gol on 4 October 2014:  
<http://www.diariogol.com/es/notices/2014/10/todos-los-presupuestos-de-la-liga-acb-2014-15-44443.php>

<sup>6</sup> Stand following the competition's Round 6 that took place on 18/9 November 2014:  
<http://www.eurocupbasketball.com/eurocup/games/standings?phasetypecode=RS+++++++&gamenumber=6>

success against state-funded Gran Canaria will have to pay higher wages to its players and increase its ticket prices to their members (who will be, like in our case, directly affected by this).

On the other side, it is important to note that the Club's and the Cabildo's behaviour is also the result of the very anomalous nature of the Spanish professional basketball market that has been described in great detail in our writings related to State aid case SA29769, a market in which two clubs enjoy an unlawful special right provided by the Seventh Additional Disposition of the 1990 Spanish Sports Law to participate in both the basketball and football professional markets (something that is otherwise prohibited for their competitors by article 19.4 of the Spanish Sports Law) and abuse this special right by incurring into €20m annual losses (against revenues of approx. just €8m, losses that in addition to annihilating any competition significantly reduce the corporation tax bill of the two clubs with special rights that have the special right to offset the profits made in their football activities against the losses made in their basketball activities) in one of the clearest examples of predatory pricing in the history of the EU that has been ignored by the previous Commission despite being fully aware of this situation since 2009. This anomalous situation contradicts the "live within your means" principle that the Commission has supported in the football market and forces the other Spanish professional basketball clubs to live beyond their means just to survive giving a strong incentive for local governments such as the Cabildo to resolve this issue by providing unlawful State aid. This of course does not justify the provision of unlawful State aid but may help to explain why there is an increasing number of cases related to Spanish professional basketball in which "support measures" are needed to the detriment of the EU taxpayer.

We look forward to cooperate with the new Commission in this and any other relevant State aid and competition cases and remain, as always, fully at the Commission's disposal for any clarification or assistance that it may need. We would be very grateful if the Commission could, as soon as it has had the opportunity to review this information, inform us as to whether it will be taking any steps based on this information.

Yours faithfully,

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