



A citizens' evaluation of National Regulatory Authorities



DG Health & Consumer Protection

**Consumer organizations and general
interest functions: for a citizens'
evaluation of
national regulatory authorities**

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INTRODUCTION

I. Background Information and rationale of the Project:

The project's rationale is consistent with the European Unions Commission's consumer policy strategy for 2002-2006, which aims to involve consumer organizations in Community policy-making. In the specific sector of general interest functions, the consumer policy strategy provides for the involvement of consumer organizations in monitoring and assessing the general interest services policy. This involvement cannot overlook an evaluation of NRAs' function in developing binding standards to guarantee consumers the following: transparency (including price), access choice, affordability and high standards of quality and safety. It is thus to be hoped that consumers of general interest services, through their organizations, will become increasingly involved in the evaluation of the outcomes of this policy. This will enable them to develop their ability to give an effective and pertinent evaluation regarding the activities performed by NRAs.

Therefore the project intended to contribute directly to the European consumer policy by:

- a. Strengthening the capacity of consumer organizations in establishing partnership with National Regulation Authorities (NRA), respecting each of their specific roles and responsibilities;

- b. Proposing an incisive adoption of the governance approach with respect to consumer protection policies regarding the public utilities sector through the definition and experimentation of innovative and effective forms to promote relations between public institutions (European and national), regulations authorities and consumer organizations and users (citizens);
- c. Valuing the listening and the data & information collection activities that consumer organizations carry out, in order to use them to provide feedback on regulatory policy and measures that are adopted by the individual regulation authorities.
- d. Promoting a more homogeneous and efficient work method (collection, analysis and handling of information) among the partner consumer organizations, which allows for a more reliable and periodic comparison of the information gathered. Such aspects could also be particularly useful for the European Commission as well, in relation to what is provided by the Amsterdam Treaty and to the Commission's consumers protection strategy for the 2004/2006 period.

II. Objective

The general objective of this project, furthered by Fondaca (Active Citizenship Foundation) in the period February 2006 – February 2008, is to promote the effective integration of consumers' view in the European and national policies regarding the services of general interest, thanks to the evaluation of the functioning of NRA's (in the following areas: Gas, Electricity, Postal Service, Telecommunications, Aviation) based on consumer complaints and the experience of consumer associations.

From the general objective, the following specific objectives can be derived:

- 1. To promote cooperation between 10 organizations in 9 European countries, comparing the operational methodologies of gathering citizens' complaints and working with NRAs;
- 2. To sensitize consumer associations in the need to play an ever more active role in relation to their respective NRAs, thanks to their monitoring and evaluation of NRA activities;
- 3. To promote greater collaboration between NRAs and consumer associations;
- 4. To draw a European picture of NRA activities with respect to consumer protection and general interest services;

5. To involve citizen and consumer organizations in the evaluation of the degree and the possible benefits (for users) of competition in services of general interest;
6. To improve the services of general interest, in particular with regard to accessibility, quality and security, as well as the dispute resolution methods, thanks to the evaluation of consumers on their efficiency

III. Participating Organizations

The following organizations have participated in the project (in alphabetical order):

- ② Cyprus Consumer Association, www.cyprusconsumers.org.cy, Cyprus
- ② Consumers Defence Association of the Czech Republic (SOS), www.consumers.cz , Czech Republic
- ② Cittadinanzattiva, www.cittadinanzattiva.it , Italy
- ② Ghaqda-tal-Konsumaturi, Malta
- ② Association of Polish Consumers (APC), www.skp.pl , Poland
- ② The National Association for Consumers' Protection and for Promotion of Products and Services (N.A.C.P.P.S), Romania
- ② Association of Slovak Consumers, Slovakia
- ② Confederacion de Consumidores y Usuarios (CECU), www.cec.eu.es , Spain
- ② Rutland Citizens Advice Bureau, UK

IV. The Cyprus Consumers Association

The Cyprus Consumers Association was founded in 1973 and joined the Consumers' International as a full member in 1980 and BEUC in 2002. It is an independent, non-political, non-governmental Consumers' Organization

Since its inception the Association has been very active promoting and advocating consumer interests in public life. In this context its representatives sit on the Cyprus Standards Committees, on the Government Council for Consumer Affairs, and on numerous Parliamentary committees when dealing with Consumers' matters. It also participates in some 30 advisory Committees on various issues connected with the consumer protection and consumer education. In the context of promoting consumer's rights, the Association is working to advance and affect pro-consumer policy on these issues by working with public officials and governmental agencies to promote and improve such

beneficial policies and oppose harmful policies and disseminating information on consumer issues to the public and the media, as well as to policy makers and other public interest advocates. The Association is actively participating in the working of the European Association for the Co-ordination of Consumer Representation in Standardization (ANEC) including the Policy and Technical Committees, while its President Mr. Petros Markou is a member of the ANEC 's Steering Committee and the European Consumer Consultative Group (ECCG).

More importantly, the Association's Consumer Handling Unit's is providing expert, accurate and timely advice on practical problems faced by consumers on general product safety and when appropriate, passes consumer complaints and problems for further examination to the Competition and Consumer Protection Service of the Ministry of Commerce, Industry and Tourism. In parallel, the Association Programmes and Campaigns Unit publishes and distributes thousands of informative brochures and fact sheets on key consumer issues in its quarterly magazine "The Consumer" any penalties and or other measures taken against companies and or professionals by the competent authorities relating to faulty general product safety.

Specifically, our Association is actively involved in

- ② Monitoring the effective implementation of the legislation and regulations regarding consumer protection and consumer rights
- ② Providing information on Cyprus law regarding consumer protection in accordance with the *acquis communautaire*
- ② Providing information on consumers rights and responsibilities
- ② Promote consumer education through its Adults Consumers Education Programme
- ② Handling complaints by consumers on faulty, damaged or unsatisfactory quality of products and services
- ② Maintaining a website, www.cyprusconsumers.org.cy for the dissemination of information
- ② Providing a reading library on consumer publications such as *WHICH* (UK), *Consumer Reports* (USA), *Consumer Choice* (Ireland)

- ② Issuing publications, such as “*O Katanalotis*”, the association’s quarterly magazine, which is sent to its members free of charge, and other informative brochures
- ② Providing Consumer-related services, seminars, lectures etc
- ② Conducting projects, comparative market and price surveys aimed at providing vital information and insight to the consumers

The market context and the framework of National Regulatory Authorities

Ever since the accession of Cyprus in the European Union on May 1, 2004, the general interest services sector has underwent significant changes. Proponents of liberalization are arguing of the pressing need to speed up the process of liberalization as a way to make the general interest sector more innovative, efficient, economic/competitive and flexible. On the other side, are those who favor a more slow and controlled process of getting rid of the monopolistic legacy of the general service sector, arguing that public utilities need more and more to remain a public service and to be useful to work in the economic, industrial and financial field, in order to be competitive.

I. Electricity sector

With the cooperation of all competent authorities and bodies, the Legal Framework (primary and secondary legislation) has been prepared and the necessary infrastructure was established for the liberalization of the Electricity Market, according to the provisions of Directives 96/92/EC and 2003/54/EC concerning common rules for the internal market in electricity.

As a result of liberalization, 35% of the electricity market has been opened to competition, as from the date of accession (1.5.2004), thus terminating the monopoly status that the previous law was providing to the Electricity Authority of Cyprus.

For the proper regulation of the electricity market and with the aim of securing competition and for the protection of all consumers, the following infrastructures were established:

- ② Following a decision by the Council of Ministers, the Cyprus Energy Regulatory Authority (CERA), an independent authority responsible for the regulation of the electricity and gas market with exclusive rights to issue licenses for all activities relating to electricity and gas, to approve tariffs, to dissolve disputes, to protect consumers and to secure a reliable electricity system.
- ② Following a decision by the Council of Ministers, the Director of the Transmission System Operator was appointed, with exclusive duties to operate, synchronize and control the transmission system with objective, non discriminatory criteria, to secure the proper maintenance and development of the electricity network and to arrange for the trading of electricity on a daily basis.

Regarding the requirement of Directive 2003/54/EK for further opening of the electricity market the government, through the Ministry of Commerce, Industry & Tourism, submitted to the European Commission in June 2004, an application for derogations on the basis of article 26(1) of the Directive, as following:

(a) Delay the opening up of the market for all non-domestic consumers, until 31.12.2008

(b) Delay the complete opening up of the market, until 31.12.2013

II. Gas sector

Cyprus has to diversify, to a great extent, to cleaner and safer forms of energy in order to meet the environmental criteria, set out by the European Union. As a result, the introduction of natural gas (mainly for electricity generation) is considered essential to the energy sector and beneficial for the Cyprus economy.

A Ministers committee, formed by a decision of the Council of Ministers (No.20/2001), formulated the terms of reference for the preparation of a study regarding the transportation and use of Natural Gas in Cyprus. The study was assigned to a consultancy company through a tender announced by the Ministry of Commerce, Industry and Tourism. The study, which was completed in November 2002, showed that the most economic and safe manner for the supply and transport of Natural Gas to Cyprus is in the form of Liquefied Natural Gas (LNG) and using vessels. The study also showed, that in the absence of a centralised distribution network, Natural Gas in Cyprus may at present be used for electricity

generation by EAC and possibly at a later stage by other large consumers

In the framework of introducing Natural Gas in the energy system of Cyprus, the Government has set the following main objectives:

- 1) The construction of an Energy Centre at Vassilikos¹ area for import and storage of Natural Gas in LNG form.
- 2) The effective implementation of the relative legislation, which is in line with the requirements Directive 98/30/EC, regarding the control and monitoring of the Natural Gas market.

III. Postal services sector

The Department of Postal Services (DPS) is responsible for the organization, operation and provision of postal services as well as for the secure and prompt distribution and delivery of postal items both in urban and rural areas of the Republic of Cyprus.

¹ In order to meet its obligations to the EU for the maintenance of oil stocks (60 days up to the end the 2007 and 90 days from the 01.01.2008 the Government of Cyprus has decided to create an integrated Energy Centre at the Vassilikos area to accommodate a petroleum products storage terminal for security and operational stocks, including Liquefied Natural Gas (LNG), and a LNG receiving/regasification terminal. The Centre shall be situated in the southern part of Cyprus between Larnaca and Limassol next to Vassilikos power station in an area occupied today by an old fertilizer industrial plant, which is under demolition.

The Energy Centre will satisfy the present and future demand of Cyprus in Natural Gas and oil products. The Natural Gas will mainly be used for electricity generation by EAC. The determination of Natural Gas quantities will be based on the forecasting demands of EAC for national electricity consumption. The proposed quantities of petroleum products that will be stored at the Energy Centre as functional stocks are 130.000 MT of white products, 15.000 MT of LPG and as strategic oil stocks 15.000 MT of bitumen and 700.000 MT of white products. These quantities will be revised when need arises, according to the real needs of the country.

As part of a wider Government plan for the improvement of the postal services – but also for the creation of such conditions that will allow DPS to function competitively, the Ministry of Communications and Works favours and promotes the transformation of the Department into an independent organization with administrative and economic autonomy.

IV. Telecommunications sector

The period January-December 2003 has been particularly significant to the development of a competitive environment in the telecommunications sector given that decisive steps were taken towards the liberalization of the market and the entry of new companies providing telecommunications networks and services.

As with regard to the legislative framework, Cyprus as a result of the initiatives taken by the OCTPR during 2003, completed the liberalization process in the telecommunications sector and the harmonization with the *acquis communautaire*. The Regulations and the Orders which were enacted during 2003 were based on the European legislative framework of 1998 in the Telecommunications sector which was in force during that period. The publication of six Regulations regarding the matters of licensing and administrative fees, interconnection, quality of services and public hearings, on 31 December 2002 which theoretically abolished the monopoly regime in the telecommunications sector was instrumental in providing OCTPR with the legal basis to proceed and take concrete practical regulatory measures for the attainment of the target of the liberalisation of the telecommunications market.

National Regulatory Authorities (NRA)

I. Office of the Commissioner of Electronic Communications and Postal Regulation

The post of Commissioner and the post of Deputy Commissioner of the Authority are decided by the Council of Ministers, and are for a period of 6 years. Their clear responsibility is to implement the policies of the Cyprus Government in the Electronic Communications and Postal sector for the interest of consumers.

The responsibility for the recruitment and promotion, as well as disciplinary control of the staff rests with the Selection and Promotions Board which was set up under article 16 of Law 112(I) 2002 and consists of the Commissioner (Chairman), the deputy Commissioner and the Chairman of the Advisory Committee (Members).

The staff of the Commissioner's office apart from the Director and two Senior Officers consists of 16 Officers (6 Engineers, 6 Economists, 1 Chartered Accountant, 4 Lawyers), 1 Secretarial Officer, 1 Accounts Officer and 9 secretarial staff.

The Office maintains a good working relationship with other relevant international organizations including:

- ② Communications Committee
- ② CoCom Expert Group on Standardization (CoCom EG Standardization)
- ② Telecommunication Assessment and Monitoring Committee (TCAM)
- ② Committee for Administrative Cooperation for the Directive 99/5/EC (TCAM ADCO)
- ② European Regulators Group
- ② Independent Regulators Group
- ② European Conference of Postal And Telecommunications Administration (CEPT)
- ② Electronic Communications Committee (ECC)
- ② CEPT/NNA Working Group on Numbering, Naming and Addressing (WG NNA) of the European Committee of Postal and Telecom Administration (CEPT)
- ② CERP The European Committee for Postal Regulation
- ② ENISA The European Network and Information Security Agency
- ② ICANN/GAC/IIG The Internet Corporation for Assigned Names and Numbers

Activities

a) Legislative Activity: Harmonization of National law with the Acquis

Law 112(I)/2004, which has been in force since it was published in the Official Gazette on 30th of April 2004 and by which the Law on the Telecommunications and Postal Services Regulation N.19(I)/2002 was abolished, has provisions which call for the drafting and publication of the secondary legislation such as

Orders and Decisions. During 2006, the relevant procedures regarding the drafting of the secondary legislation within the framework of organizing public consultations with all the interested parts were concluded. Some other examples include legislative arrangements on Electronic Communications, Audiotex Services, Universal Service, End Users Contracts provided by Operators, Telecommunications Terminal Equipment

- b) **Consumer's Protection:** During 2007, OCECPR dealt with subscribers' complaints which mainly considered issues of provided service charges, non-mentioning of tariffs in leaflets of audiotex services as well as cases of receiving annoying calls from pre-paid mobile telephony subscribers. It is pointed out that during 2007 there has been a decrease of submitted complaints from consumers, a fact which proves that many queries and problems were solved.
- c) **Market Surveillance:** OCECPR officers, being in charge of the market surveillance in Cyprus for Telecommunications Terminal Equipment (fixed and mobile telephones, answering devices, modems, call centers etc) continue to conduct regular spot controls all over Cyprus (according to the Regulations of 2003 for Telecommunications Terminal Equipment).

For a more effective implementation of Market Surveillance, 3 levels of compliance were set and every equipment that was inspected was categorized according to its level of compliance. The actions that are taken, vary from the obligation imposed on the manufacturer/importer/licensed representative/retailer to supply the OCECPR, the necessary documents (e.g. Declaration of Conformity, Technical File) up to the obligation of the manufacturer/importer/licensed representative/retailer, to temporarily remove the suspicious equipment from their shops/premises until, full compliance of the equipment is verified. From January until December 2006, 70 inspections to premises/shops took place and 430 products were inspected by OCECPR officers, who have been thoroughly authorized to perform inspections and collect information. These inspections covered a wide range of TTE categories and were focused on high risk products such as fixed telephony sets (wired and wireless).

- d) **Information to the public, Publications and Training:** Within the framework of informing the public about the new facts

in the field of electronic communications access and postal services, OCECPR proceeded to the publication of a “Telecommunications and Postal Services Information Guide”. The guide in question was distributed with all Cyprus papers on Sunday the 26 of March 2006.

Telecommunications and postal services information guide includes consumers’ rights and possibilities to choose services from different operators

Within the framework of informing and training the public as well as the manufacturers, importers and sellers of Telecommunication Terminal Equipment, OCECPR published announcements, articles and biannual statistics for the results and findings of the Market Surveillance of Telecommunications Terminal Equipment in a wide spread handouts and/ or other mediums, such as daily press, information leaflets of ETEK (Cyprus Scientific and Technical Chamber), KEBE, OEB (Cyprus Employers and Industrialists Federation), in the magazine of the Consumers Association and in its website.

Postal Services

OCECPR has the responsibility of the quality control of the postal services, which are provided within the Universal Service by the Cyprus Post. According to the relevant legislation, the percentage of delivery of inland correspondence, A´ priority, to the addressee should be 90% after the first working day and 97% after the third working day from the working day of posting.

Furthermore, the percentage of delivery of foreign correspondence, A´ priority, to the addressee should be 85% after the third working day and 97% after the fifth working day from the (working) day of posting.

The aim of OCECPR is the continuing quality measurement of the provider of Universal Postal Service from an independent carrier together with the Cyprus Post.

With reference to the said matter, the Decision to penalize the Cyprus Post for the Infringement of the quality Standards for Universal Postal Service is relevant.

The Commissioner in order to ensure quality provision, proceeded with a quality audit of the provider of universal postal service. The Commissioner, after an

investigation and the hearing procedure of penalty, decided that the Cyprus Post did not provide the foreseen quality levels regarding the delivery time of mail (2005) and proceeded to impose a penalty of CYP 50,000 on the Cyprus Post.

II. The Cyprus Energy Regulatory Authority

The Cyprus Energy Regulatory Authority (CERA) was established by virtue of the Law of 2003 On regulating the Electricity Market, L.122(I)/2003, which was enacted by the House of Representatives on the 25th of July 2003. The Members of CERA were appointed on the 21st of January 2004 and assumed their duties on the 4th of February 2004 after giving the prescribed affirmation for the faithful execution of their duties to the President of the Republic of Cyprus.

Since 2006, particular emphasis was given to the sector of Renewable Energy Sources and to the examination of the relevant applications, at all times having in mind the contractual obligation undertaken by Cyprus towards the European Union by which 6% of the total electrical energy consumed should be derived from RES by the year 2010.

In April 2006, the European Union indicated to the Cyprus Government that granting Licences for Construction and Operation of generation from RES should be promoted, facilitated and the procedures simplified. CERA, respecting the European Unions suggestions, simplified as far as possible CERA's individual procedures for granting its Licences.

During 2006 CERA granted eighteen (18) Licences for the Construction of Electricity Generating Stations by Renewable Energy Sources (Wind Farms) of an Installed capacity 362,8MW with the prospect of maximum expansion by a further 411.85MW depending on market conditions.

From its establishment in 2004 up until now CERA has issued twenty-two (22) Licences for the construction of Wind Farms, while in the year under review three (3) applications, which did not conform to the criteria set, were rejected.

It is important to note that the 6% target / obligation towards the European Union will be discharged / attained by the Licenced projects. Moreover, the provisions of the Kyoto Protocol for a cleaner environment are being promoted. The approval of these projects by the other Bodies involved is awaited in order for the projects to materialize as soon as possible.

The wide use of the photovoltaic systems is expected to promote further the use of Renewable Energy Sources. CERA in cooperation with Cyprus University carried out a specialised study on the subject, soon to be submitted to the Government for adoption.

Another issue of importance to which CERA has given the proper attention is the issue of the arrival and use of natural gas, which is generally considered to be an economical and environmentally friendly primary fuel source.

CERA's efforts, which commenced in 2005, continued with intense activity in 2007 and were targeted at completing the legal framework for the natural gas market. The basic legislation has now been completed. CERA, in cooperation with the Ministry of Commerce, Industry & Tourism follows this subject closely because the arrival and use of natural gas will be the major factor affecting the cost of electrical energy supply in the next decades with the corresponding impact on the economy of the country. The detailed examination of Applications for Electrical Energy generation continued during 2006 and resulted in the issue of twenty-five (25) licenses for a total capacity of 1054,25MW (by Conventional Generating Units, RES including Biomass).

Particular importance and attention were also given to other major issues such as, the Declaration of the Regulating Practice and Methodology for electricity prices, made by CERA by means of its Regulating Decision Number 1/06, on the basis of which prices for electricity will be formed in future.

The philosophy of the electricity pricing is to reflect the real costs in a transparent manner, along with a reasonable profit for the Producers/Suppliers of electrical energy for the services they provide whilst, at the same time, to offer protection to the consumer and to the competition.

All of CERA's activities aim towards securing healthy competition in the Energy Market, whilst protecting consumer interests and the environment. At the same time, however, top priority is given by CERA to securing the quality, reliability, and the adequacy of electricity.

For the best possible attainment of its goals, as those were set at the time of its formation, CERA cooperates closely with the relevant Government and other Bodies.

In any case, our compliance with EU Directives and our cooperation with its departments is absolute our main concern being the strict adherence to the European legal framework, which governs the Energy Sector and its related branches.

More specifically the basic mission of CERA as it concerns electricity and natural gas is:

- ② To secure essential and healthy competition in the Electricity and Natural Gas Market, avoiding discrimination both between the Licensees and the applicants for Licenses
- ② To protect the interests of Consumers of Electricity and Natural Gas.
- ② To promote the development of an economically viable and efficient Electricity and Natural Gas Market
- ② To ensure the Security, Continuation, Quality and Reliability of Electricity and of Natural Gas Supply
- ② To take into serious consideration the Protection of the Environment
- ② To take into consideration the needs of the consumers of agricultural areas, of the consumers who are in a disadvantageous position and of the elderly
- ② To encourage the efficient generation and use of Electricity
- ② To promote the use of Renewable Energy Sources (RES)
- ② To encourage research and development of production, transmission, distribution and the use of Electricity and Natural Gas

Energy market: Powers, competences and duties of CERA

The Cyprus Energy Regulatory Authority is an Independent Authority of the Republic of Cyprus and by virtue of the relevant Laws, has the following executive powers, competences and duties in the Energy Field

Electrical energy

- ② Issues, controls, enforces, amends and revokes Licenses, or grants exemption from the obligation of securing a License
- ② Advises the Minister of Commerce, Industry & Tourism on all issues relating to electricity
- ② Ensures that the “Electricity Transmission and Distribution Rules” and the “Electricity Market Rules” are prepared and approved in accordance with the Law
- ② Safeguards adequacy in electrical energy to the satisfaction of all reasonable needs and demands for electricity
- ② Regulates the tariffs, charges and other conditions and prerequisites which are implemented by the Licensees for any services offered in accordance with the conditions of their Licenses
- ② Determines, publishes and enforces quality standards with which the Licensees will comply
- ② Determines the rules or the procedures according to which complaints are examined which relate to services offered by the Licensees including, when it considers it appropriate, the carrying out of investigations and the taking of decisions for such complaints

- ② Encourages and secures competition with the ultimate target to reduce prices
- ② Protects the interests of the Consumers
- ② Ensures the Continuation, Quality, Reliability and Security of Electricity Supply
- ② Protects the Environment
- ② Encourages the use of Renewable Energy Sources (RES)
- ② Encourages Research and Development in the field

Natural gas

- ② Issues, controls, amends, suspends and revokes Licenses, or grants exemption from the obligation to secure a License
- ② Approves the conditions and prerequisites for the connection and access to the network, including the transmission and distribution tariffs as well as the conditions, prerequisites and tariffs for access to the installations of liquefied natural gas
- ② Determines the rules for the management and the distribution potential of interconnection, in consultation with the appropriate authority or authorities of the Member States with which there is interconnection
- ② Sets up or approves mechanisms to face congestion in the natural gas network. Protects the natural gas Consumers
- ② Regulates the tariff rates, charges and other conditions and prerequisites imposed by the Licensees for any offered service based on the conditions of their Licenses
- ② Enacts, publishes and enforces Regulations for quality standards with which the Licensees must comply.
- ② Takes appropriate and effective measures for control and transparency, so as to avoid possible misuse of dominant positions, and in particular of those misuses to the detriment of consumers
- ② Creates, keeps and maintain a License Register

Obligations of CERA

The obligations of CERA in the Electrical energy sector is to:

- ② Safeguard essential competition in the Electricity Market avoiding discrimination both between the Holders of Licenses and the applicants for Licenses
- ② Protect the interests of the Consumers
- ② Ensure that all the reasonable demands and needs relating to electricity are satisfied
- ② Ensure that the Licensees operate efficiently and have the ability to finance their business activities for which they are licensed

- ② Promote the development of an economically viable and efficient electricity market
- ② Secure the safety, continuation, quality and reliability of Electricity supply
- ② Take into consideration the Protection of the Environment
- ② Encourage the efficient use and generation of Electricity
- ② Take into consideration the needs of the consumers of rural areas, the consumers who are in a disadvantageous position and the elderly
- ② Encourage the research and development of Generation – Transmission – Distribution and the Use of Electricity
- ② Promote the use of Renewable Energy Sources (RES).

The obligations of CERA in the Natural Gas sector include the:

- ② Safeguarding observance to the competition rules in the field of import, storage, transmission, distribution and supply of natural gas
- ② Protecting the interests of Consumers of natural gas
- ② Safeguarding satisfaction of demand for natural gas
- ② Ensuring that the Licensees are able to finance the business for which a License is obtained
- ② Promoting the development of an economically strong and effective natural gas market
- ② Safeguarding the safety, continuity, quality and effectiveness in the supply of natural gas
- ② Caring for the protection of the environment
- ② Encouraging research and development regarding the transmission, supply, storage and use of natural gas

It is also the duty of CERA to:

- ② Safeguard and publish measures which may be put into effect in case of unforeseeable crisis in the energy field, or when the safety of people, works, installations or the integrity of the networks, are threatened, and
- ② Follow up the issue of the security of supply, and especially the balance of supply and demand in the market, the level of the expected future demand and the availability of Supply, as well as the level of competition in the market.

It is very important to note that during the performance of its duties, CERA takes all necessary measures for the adherence of all parties involved to the Obligations of Public Service. CERA's ultimate aim is to protect the interests of the Consumers of Electricity and Natural Gas in the best possible way, as well as to protect the Public Interest.

Furthermore during the execution of its duties, CERA may:

- ② Take Decisions by which, inter alia, determine the regulation of the Electricity and Natural Gas Market is regulated
- ② Take Decisions in accordance with the provisions of the relevant Laws and Regulations.
- ② Carry out investigations, either following the submission of a complaint or initiated by CERA ex officio
- ② Impose administrative fines, in the event of a breach of the terms of the License, or a breach of Regulated Decision

III. The Commission for the Protection of Competition

The Commission for the Protection of Competition (“the CPC”) was set up in 1990 with the enactment of the law on the Protection of Competition, Law 207/89, in accordance with the letter and the spirit of the Treaty Establishing the European Economic Community. Since then, the said law has been amended three times and substantial changes have come into being as a result of these amendments, with the most important being the strengthening of the role of the Commission as an independent administrative authority.

The CPC constitutes an institutional body to which the legislator has assigned the exclusive competence for the restoration, conservation and strengthening of the conditions for healthy, free and undistorted competition in all sectors of the Cyprus economy. In particular, the law on the Protection of Competition, Law 207/89, in conjunction with the law on the Control of Concentrations between Undertakings, Law 22(I)/99, as amended hitherto, create the framework of rules and principles which aim at securing effective competition within the Cyprus market and endow upon the Commission the obligation to fulfill this goal, which will offer to the consumer goods and services at better prices, better quality and service.

The competition policy however, apart from protecting the interests of the consumer by improving the quality and the price of goods and services, obliges undertakings to pursue competitiveness and economic efficiency and nurtures the conditions for the creation of an environment which favors inventiveness and technological progress, that will have positive results for the undertakings and the economy in general.

The CPC plays an important role in the restoration, securing and protection of a healthy competitive framework in all sectors of the Cyprus economy. As is evident from the plethora of the CPC decisions the Commission has exercised its powers over a wide range of markets, such as the markets of telecommunications, energy, air transport, retail banking, petroleum products

and sub-products, television rights, distribution of printed press, animal foodstuffs, agricultural goods, travel agencies, concrete, cigarettes, bricks, services for delivering packages and car repair services.

Within the first year following the entry of Cyprus in the European Union, the CPC concluded that in certain crucial markets, such as telecommunications and energy, competition was still in its early stages. For this reason the precautionary and preventive intervention of the CPC becomes even more necessary, as is the provision of information and education of all the involved parties.

The Commission is made up of five members: the Chairman and four Members, who are appointed by virtue of a decision of the Council of Ministers, following a proposition of the Minister of Commerce, Industry and Tourism.

The Chairman of the Commission is a lawyer and is appointed on a full-time basis, in contrast with the Members of the Commission who are not appointed on a full-time basis. The Members of the Commission are persons with specialist knowledge and experience in law, economics, commerce or the industry and are capable of contributing to the fulfillment of the goals of the Law. At least two of its Members who are appointed come from the private sector. The Chairman and the Members are appointed for a period of five years and their appointment may be renewed for only one period.

The Commission, in the carrying out of its mission is supported by the Service, which has the competency, following instructions from the Commission, to carry out due preliminary investigations for the ascertainment of infringements of the law, to carry out investigations of undertakings, to examine notifications of undertakings in relation to concentrations and practices which are submitted to the Commission, to monitor the enforcement of the Commission decisions and to draw up relevant proposals to the Commission.

The Service is comprised of the Secretary, the Officers and the Secretarial Staff.

The Secretary, in accordance with the provisions of the law on the Protection of Competition, is responsible for the Service, is present in the meetings of the CPC and keeps minutes of the meetings. The Service of the CPC is made up of lawyers and of economists who are chiefly responsible for supporting the CPC in the application of the provisions of the laws on the Protection of Competition (Law 207/89) and on the Control of Concentrations between Undertakings (Law 22(I)/99), as amended.

Currently, the Service has 17 officers and staff.

Powers and competences of the CPC

The main competences of the CPC are the following:

- ② Control of restrictive practices and practices of undertakings
- ② Control of the abuse of a dominant position held by one or more undertakings
- ② Control of concentrations between undertakings

In the course of exercising its competences, the CPC has wide powers which relate to the carrying out of investigations, the carrying out of unannounced on-the-spot investigations, the issuance of relevant decisions, the imposition of sanctions, the issuance of orders for interim measures, the granting of negative certification or individual exemption and the issuance of relevant discharge orders from charges.

The Law on the Protection of Competition, Law 207 /89

In particular, according to the law on the Protection of Competition, Law 207/89, the following powers of the CPC are provided:

In case the Commission, in the course of examining a case before it, ascertains that there is an infringement of the provisions of articles 4 and/ or 6 of the Law, it has the power:

- ② To order or recommend to the interested undertaking or association of undertakings to, within a set time limit, end the infringement and refrain from repeating same in the future, or in case where the infringement was brought to an end prior to the issuance of the decision of the Commission, to condemn the infringement with a declaratory judgment
- ② To rule that, in case the infringement persists, a fine up to five thousand CYP will be owed for every day that the infringement persists
- ② To impose a fine, depending on the gravity and the duration of the infringement, of up to ten per cent (10%) of the turnover of the undertaking or of the association of undertakings, during the year in which the infringement was committed or during the year prior to the year that the infringement was committed.

Furthermore, the Commission may, provided the provisions of the Law are fulfilled,

- ② impose interim measures

- ② grant individual negative certification following an application
- ② impose a fine from 100 CYP up to 2.000 CYP in case where inaccurate or misleading information is provided, either intentionally or negligently, in relation to an application for the grant of individual negative certification
- ② grant individual exemption following an application and provided that the conditions of the Law are fulfilled
- ② impose a fine from 100 CYP up to 2.000 CYP in case where inaccurate or misleading information is provided, either intentionally or negligently, in relation to an application for the grant of individual exemption
- ② call upon an undertaking which, in its judgment, possesses either by itself or in conjunction with other undertakings, a dominant position in the market of a product, to provide information in relation to its activities and in relation to any arrangements it has with other undertakings.

Submission of a complaint to the Commission for the Protection of Competition

The Commission is exclusively competent to investigate infringements of articles 4 and/ or 6 of Law 207/89, either ex officio or following complaints submitted to it by the Service or by third parties. In particular, the Commission receives complaints from natural persons, companies, public/state organizations, associations, etc.

In order for a person to have the right to lodge a complaint, she/he/it must have a legitimate interest. The relevant Law stipulates that one has a legitimate interest to file a complaint if one can prove that she/he has suffered or there is a serious or potential danger that one will suffer substantial financial damage or that one will be placed in a disadvantageous position in competition, as a direct result of the infringement.

The complaint is lodged in writing and is signed personally by the complainant. A relevant complaint form may be secured either via the CPC website or from the CPC offices. It is imperative that in the complaint, apart from stating the nature of the legitimate interest, the real circumstances and the reasons which allegedly constitute the infringement are mentioned.

In order to ascertain whether there is a prima facie case, the Commission, upon receiving a complaint, gives instructions to the Service to conduct a due preliminary investigation. In the course of these instructions and following authorization by the CPC, the Service may, amongst others, carry out a number of actions, such as:

- ② On-the-spot visits
- ② Dispatch of questionnaires to those directly involved, but also to agents of the market
- ② On-the-spot unannounced investigations in accordance with the conditions set by the Law
- ② Examination of books and other business documents
- ② Collection of copies or extracts of books or business documents
- ② Entry into offices and transportation means of undertakings
- ② Upon the completion of the investigation by the Service, a relevant report is drawn up which is submitted to the Commission, which is the competent body to determine whether a prima facie case is proved as regards an alleged infringement.

The Law on the Control of Concentrations between undertakings, as amended hitherto

According to the law on the Control of Concentrations between Undertakings, Law 22(I)/99, the Commission for the Protection of Competition has the following powers in matters of controlling concentrations:

- ② To decide that the notified concentration does not fall within the ambit of the Law
- ② To decide that the notified concentration, even if it falls within the ambit of the Law, does not raise any concerns as regards its compatibility with the competitive market and to proclaim the concentration compatible with the competitive market.
- ② To decide that the notified concentration falls within the ambit of the Law and that it causes serious doubts as to its compatibility with the competitive market and thus decide to set in motion a procedure for full investigation. In this case and after completing this process, it may: (a) proclaim the particular concentration compatible with the requirements of the competitive market, or (b) proclaim the particular concentration compatible with the requirements of the competitive market with the imposition of particular terms and relevant commitments which will be undertaken by the participants to the concentration to keep such terms, or (c) proclaim the concentration incompatible with the requirements of the competitive market, and/ or (d) approve

temporarily, part of or the whole of the concentration, following reasoned representations by one or more of the participants to the concentration or by other persons, that the persons who make the representations may suffer serious damages as a result of further delay in the enforcement of the concentration, provided the Commission is satisfied by such representations.

- ② Recall, with conditions, or amend its decision on the compatibility of a concentration with the competitive market.
- ② Order, with conditions, the partial or whole break-up of the concentration.
- ② Impose the following financial penalties:
 - ↘ Financial penalty up to 50.000 CYP for failure to notify a concentration and a further financial penalty up to 50.000 CYP for every day that this infringement persists.
 - ↘ Financial penalty up to 50.000 CYP for the provision of untrue or misleading information.
 - ↘ Financial penalty up to 30.000 CYP for the omission to provide information.
 - ↘ Financial penalty up to 10% (ten per cent) of the total turnover of the participating undertakings during the year immediately preceding the concentration, in case where the concentration is enforced partially or wholly prior to the issuance of the relevant CPC decision and an additional financial penalty up to 50,000 CYP for every day that the infringement persists.
 - ↘ Financial penalty up to 10% (ten per cent) of the total turnover of the participating undertakings during the financial year immediately preceding the concentration, for failure to comply with the measure ordered by the Commission for the partial or whole break up of the concentration and an additional financial penalty up to 5.000 CYP for every day that the infringement persists.

Relations with other National Institutional Bodies

The CPC, in order to achieve its goals, cooperates with other national institutional bodies such as:

- ② The Service for the Protection of Competition and Protection of Consumers of the Ministry of Trade, Industry and Tourism
- ② The Office of the Regulator of Telecommunications and Postal Services
- ② The Energy Regulatory Authority of Cyprus
- ② The Association for the Protection of Consumers

International Relations

The CPC, as the national competition authority cooperates with the Directorate General of Competition of the European Commission and participates in the European Competition Network (ECN), in the cooperation network of European Competition Authorities (ECA) and in the International Competition Network (ICN).

Within the framework of modernization of the European competition law, the CPC maintains close contacts with all the competition authorities of the Member States of the European Union and the Directorate General of Competition of the European Commission. The CPC, on the basis of the European Regulation 1/2003 is an active member of the European Competition Network. The said network was created in order to facilitate the cooperation between the national authorities and constitutes the mechanism for deliberations and cooperation for the application of competition policy of the European Community. In this context, representatives of the CPC participate both in meetings of the Plenary of the European Competition Network, and in meetings of various working groups, contributing in this way actively in the formation of the European competition policy.

In addition, the CPC is a member of the European Competition Authorities, which constitutes an informal network of cooperation of National Competition Authorities of the Single Economic Area (i.e. of the 27 Member States of the European Union, of the European Commission, of the Member States of the European Free Trade Association and of the EFTA Surveillance Authority), aiming at the exchange of views and the constructive discussion of competition issues. During 2005, the CPC participated in the relevant meetings of the ECA.

Consumer Organizations and their Influence in Competition Cases

A consumer organization with a legitimate interest may lodge a complaint regarding the infringement of Sections 4 and 6 (Section 28(1)). A legitimate interest exists when it has suffered, or there is a serious risk that it will suffer, a substantial financial injury or a competitive disadvantage (Section 28(2)).¹⁰ A complaint can be filed in one of two ways: (i) by filling in a formal complaint form; or (ii) by writing directly to the CPC.¹¹ In any case, a complaint must be signed and in writing and contain information relating to: (a) nature of the legitimate interest claimed in making a complaint; and (b) the facts that constitute the breach.

The Commission publishes a summary of applications for a negative clearance or an exemption from Section 4(1) and third parties, including consumer organizations, can submit their observations within the fixed time limit provided (Sections 16(5) and 18(4)).

Cypriot law allows for the possibility of representative actions in Cyprus; these actions should also be available for breaches of the PCL. However, this procedure is rather limited as the court has to authorize the person or persons that can sue on behalf of other people having the same interest. This authorization can only be given if the people have signed a power of attorney empowering the representative to defend them on their behalf. As of yet there have been no representative actions in the competition law arena.

IV. Cyprus Securities and Exchange Commission

The Cyprus Securities and Exchange Commission was established in accordance with section 5 of the Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Law of 2001 as a public corporate body.

The Cyprus Securities and Exchange Commission is administrated by a five member Board which is composed of the Chairman, the Vice-Chairman that provide their services at complete and exclusive employment. In addition, the Board is composed of three other members. In the Board's meetings a representative of the Governor of the Central Bank is represented, whom has the right to register subjects in the agenda, to participate in the discussions and to express opinions but deprived the right of vote.

The members of Board are named by the Council of Ministers following a proposal of the Minister of Finance and their service is a five-year term with the exception of the service of the Vice-Chairman and two from the other members that are named for first time, which is four-year and three-year respectively so as to ensure the continuity in the composition of the Commission. The service for all the members is renewable for five additional years.

The Cyprus Securities and Exchange Commission has the following responsibilities:

- ② To supervise and control the operation of the Stock Exchange and the transactions carried out in the Stock Exchange.
- ② To supervise and control the issuers of securities listed on the Stock Exchange, the Licensed Investment Services Companies as well as the Collective Investment Schemes.

- ② To carry out inspections over companies, the securities of which are listed on the Stock Exchange, over brokers and brokerage firms, investment consultants, mutual fund management companies.
- ② To request and collect information necessary for the exercise of its responsibilities, to demand in writing the provision of information from all natural or legal persons or organisations that are considered to be in a position to provide such information.
- ② To grant operation licences to investment firms, including investment consultants, brokerage firms and brokers.
- ② To recall these operation licences for special reasons, as it is more specifically determined in Regulations that are published in accordance with the Law of Establishment of the Cyprus Securities and Exchange Commission.
- ② To impose administrative sanctions and disciplinary penalties to brokers, brokerage firms, investment consultants as well as to in any other legal or natural person whom fall under the provisions of the Stock Market legislation.

Complaints

During the duration of the project's activities the Cyprus Consumers Association recorded 501 complaints concerning services directly associated with the National Regulatory Authorities. More specifically the following complaints were recorded:

ELECTRICITY	<u>High prices</u>	<u>Meter reading</u>	<u>Claims management</u>
Total: 338	144	33	17

GAS	<u>Bill</u>	<u>Meter reading</u>	<u>High prices</u>
Total: 25	0	0	25

TELECOMMUNICATIONS

TELECOMMUNICATIONS	<u>Telephony</u>	<u>Mobile</u>	<u>Internet</u>
Total: 95	31	33	31

Sub tables:

TELEPHONY	<u>Call center</u>	<u>Alteration of contractual conditions</u>	<u>Claims management</u>
Total: 31	10	12	9

MOBILE	<u>Charges</u>	<u>Contract</u>	<u>Claims management</u>
Total: 33	21	10	2

INTERNET	<u>Internet accessibility</u>	<u>Alteration of contractual</u>	<u>Claims management</u>

		<u>conditions</u>	
Total: 31	18	7	6

POSTAL SERVICES

POSTAL SERVICE	<u>Letter mail</u>	<u>Delivery</u>	<u>Post office</u>
Total: 11	2	6	3

Transport

AIRPORT	<u>Baggage handling</u>	<u>Access</u>	<u>Information</u>
Total: 14	10	0	4

OPERATORS	<u>Overboking</u>	<u>Delay</u>	<u>Claims management</u>
Total: 20	5	7	8

An analysis of the complaints recorded shows that more than 2/3 (67.46%) of all the complaints recorded dealt with the Electricity sector and more importantly with high prices: this is partly due to the fact that the sector has not been liberalized as of yet and consumers have been extremely critical of any mistakes and/or omissions that the Electricity Authority of Cyprus commits from time to time. Consumers feel that the Authority does not offer them the services that they are entitled compared with the prices they pay and thus most complaints concern unsubstantiated high bills.

Due to the heavy amount of work currently at the relationship between the NRAs and the national consumer organizations is largely limited to the exchange of information. This is partly because of the financial restraints of consumer organizations that seriously undermine their ability to represent their members effectively and thus act as a pressure point to the relevant NRAs (in this context most consumer organizations are largely preoccupied with Market surveillance activities as well as receiving complaints and forwarding them to the competent authorities for solution). It is also due to the fact that most NRAs are fairly new with most being established with the admission of Cyprus in the European Union in May 2004. As a result most of these Authorities are still preoccupied with establishing their authority in their respective market and thus are not able to creates synergies with consumers organizations to the extend that they would like to.

Conclusions

Consumer issues in Cyprus date as far back as the time of monopoly regimes, when consumers had no voice at all, to the advent of competition, which has given rise to greater concern about consumer welfare. Our research suggests that Cypriot consumers today are increasingly worried and at many times agitated by the fact that they were excluded from the initial decision-making process that led to the sweeping changes in the provision of telecommunication and energy services, including market structure, ownership and tariff regulation. Their concern is further enhanced considering that the electricity and postal services sector has yet to be liberalized. Cypriot consumers believe that their exclusion and or late arrival in the regulatory process provides them with limited opportunity to influence or even overturn critical decisions made at the onset of the sector reform process. Be that as it may, consumer perceptions and opinions about the new marketplace environment and the newly established National Regulatory Authorities are discouraging.

More specifically, consumer organizations pay special emphasis in the ability of the National Regulatory Authorities to acknowledge the absence of consumers in the development of the market following liberalization and thus 'correct' the market so that consumers are not left vulnerable. In this respect, consumers argue that the NRAs must intervene where dominant operators are protected by the government, where regulators lack enforcement power, where there are no quality of service performance requirements or where dominant operators are authorized to set tariffs below cost and therefore drive out competitors. The NRAs should proactively enforce operators to become subject to well-designed incentives to meet consumer needs.

It is also important to note that consumer organizations believe that the National Regulatory Authorities must promote specific educational mass-media campaigns to educate consumers about major changes in the market. Education is a powerful, albeit, long-term action to shape people's attitudes about enforcing their rights as consumers. Activities that regulators should consider in setting up the consumer agenda include: establishing customer services such as call centers, creating mass awareness of consumer rights, enforcing those rights, creating nationwide offices to address consumer issues and offering dispute resolution systems.



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