



# A citizens' evaluation of National Regulatory Authorities



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DG Health & Consumer Protection

## **“Consumer Associations and Services of General Interest:**

### **An Evaluation of the functions of the National Regulatory Authorities”**

#### **1. INTRODUCTION**

The project is based on an investigation of the situation of the public services at a national level through the claims and complaints registered by consumers and through the Associations’ own experiences; the project is focussed on quality, access and security, as well as the application and use of problem solving mechanisms, within each sector.

Seven EU Consumer Associations take part in this project: Cyprus, Czech Republic, Poland, Romania, Slovakia, United Kingdom and Spain, (CECU - The Confederation of Consumers & Users).

Project period: from the 1<sup>st</sup>. of February, 2006 to the 31<sup>st</sup>. of January, 2008.

The Project is co-financed by the EU, through the Directory General for Health & Consumer Protection (EU-DG SANCO).

The Primary Objectives of the Project are:

- a. To make the consumer associations aware of the necessity of playing a more active role in relation to the collection methodologies available for claims and information from users and to be able to work more directly with the national regulatory authorities as far as follow-up and evaluation of their activities is concerned.
- b. To promote a greater collaboration between national regulatory authorities and the different consumer associations.
- c. To be able to describe the general situation relating to these regulating bodies with respect to the protection of the consumer, and the services available of general interest.
- d. To involve these consumer organisations to a greater degree in the competent activities relating to those services of general interest and benefits.
- e. To improve these services of general interest, especially those that are related to access, thanks to an evaluation of their efficiency carried out by the different consumer associations.



## **1.2. JUSTIFICATION**

The liberalization of public services has radically changed the market situation, especially in that related to consumers; in some sectors these changes have had more direct consequences than in others, especially in those related to prices, availability, quality, quantity, information and access.

The media have registered many of the problems that are mentioned in this project and through it; we hope to present a different aspect to the present situation, relating to the resolution – or lack of it - of the daily problems that consumers face from the point of view of the associations that represent them.

Also through this project, we will describe how the different problem solving mechanisms work in the different sectors analysed; as well as indicating the importance of the situations relating to the claims received.

It should be taken into account that only those claims directly related to the problems specifically studied in the context of this project, have been considered, meaning that many other claims, while appearing to be important, where not within the objectives of the project.

The organisms that generally are created to promote fair conditions for competition within each market situation and to act as arbiters in any conflict are the national regulatory authorities, on which more will be mentioned later.

## **2. THE MARKET SITUATION**

During the year 2006, the National Institute for Consumer Protection has collected data from the different Consumer Organisations: 14,341 from the Electricity Sector, 18,671 from the Gas Sector, 1,703 from the Postal & Messenger Services Sector and 158,156 from the Telecommunications Sector, it has not been possible to separate the three areas analysed: Fixed telephony, Mobile telephony and Internet. Neither has it been possible to extract specific claims In the Aviation Sector, as these are included in the Transport sector, which has received a total of 37,729 claims.

From the beginning of the project, in 2006, the CECU has carried out an investigation into the five public services sectors, has collected more information from the media and also claims and complaints from consumers in various Autonomous Communities: Andalucía, Aragón, Madrid, Castilla La Mancha, Cataluña and Valencia. This information has been registered onto a database, especially designed for this project and through which it has been able to obtain quite an exact description of these services, within the country.

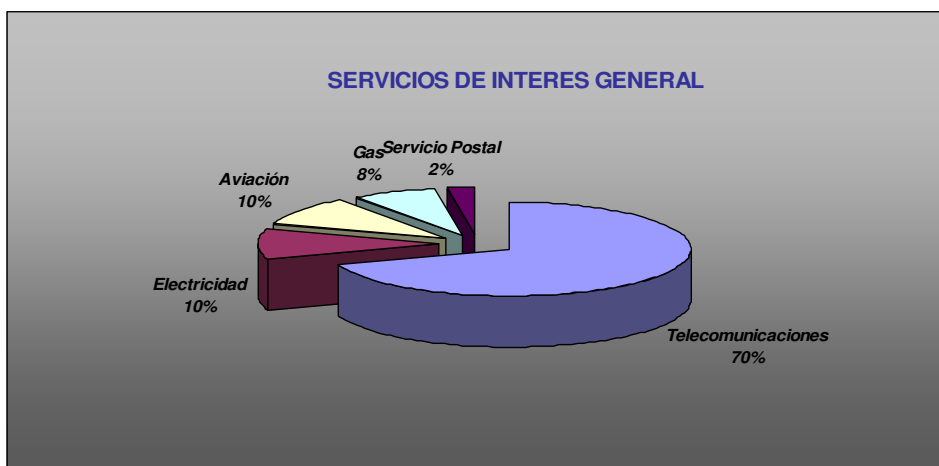
The information so collected has been separated into three areas for each of these sectors, except for aviation & airports where it has been divided into two

areas for each, excluding all of those claims not directly related to these specific subjects.

In some sectors a larger number of claims have been noticed and also some new areas within the sector appeared to be affected.

**SERVICES OF GENERAL INTEREST**

SERVICES OF GENERAL INTEREST	Number	% Cases
<b>Telecommunications</b>	<b>486</b>	<b>70%</b>
<b>Electricity</b>	<b>72</b>	<b>10%</b>
<b>Aviation</b>	<b>70</b>	<b>10%</b>
<b>Gas</b>	<b>53</b>	<b>8%</b>
<b>Postal Service</b>	<b>17</b>	<b>2%</b>
<b>Total</b>	<b>698</b>	<b>100%</b>



The new Law (Ley de Mejora de la protección de los consumidores y usuarios, [Law 44/2006](#), de 29 de diciembre) seeks to increase consumer protection in different areas, where experience has shown that there are certain deficits of protection.

In an effort to increase the protection of consumers and maintain fair competition within the market and relating to contracts with consumers, different

changes have been introduced to regulate essential aspects related to these private legal contracts with consumers.

In these contracts for specific services or for goods supplied on a specific date or over a period of time, certain anomalies have been observed to the disadvantage of the consumer, which has been dealt with. To avoid this, changes have been introduced to make clear, in the initial information phase as well as in the signing of the contract of purchase, the procedure by which the consumers should be able to exercise their rights and make sure that they are able to exercise them in the same manner that were able to formalise the contract, without sanctions or penalties.

On the other hand, the need of furnishing the obligatory pre-contractual information free of charge and without any additional costs is established. This provision is intended to avoid harmful situations to the consumer, caused by bad business practices, the abiding of the required legal obligations on the part of the businesses would imply extra costs for the consumer and financial gains for them through the use of the new technologies; on the other hand, these new technologies allow to give out the minimum legally required information free of charge, as it is already done in some economic activities.

Also, the customer information offices that the companies make available to their clients, must make sure that these have proof of their claims and complaints. If these services work through telephone or electronic communications, they should also guarantee direct personal attention above of the possibility of using other available technical means as a complement.

Despite all of these modifications that have been introduced following the introduction of the Law ([Ley de Mejora](#)) the consumer associations still feel the need for a Royal Decree to achieve a better development.

### **3. THE REGULATORY ENTITIES**

These bodies are those organisms that, in general, ensure the fulfilment of the conditions of fair competition within each market sector and also act as arbiters when there are any conflicts in the above sectors. They are the National Commission for Value Markets (stock exchanges), the National Commission on Energy (CNE) and the Commission for the Telecommunications Market.

#### **3.1. ELECTRICITY AND GAS**

The dependence on energy (oil, gas) from abroad is increasing above the average for the level of the EU. At the end of 2006 it was situated at 8.51%, and Consumption had grown to 2.1, to 139.5m. barrels, equivalent to 3.2t. per capita. However, the national energy production level is still very limited and has decreased in all areas. Energy from oil decreased by 9%, while that from

natural gas by 5.8%, from coal by 5.7% and that from nuclear power by 1.3%. It is for this reason that Spain is importing more and so is becoming one of the countries that is most dependent on outside energy within the EU.

The liberalization of this sector has been achieved by following the legal framework and recommendations from the EU. The National Commission for Energy, (CNE), is the Organism, which independently regulates this sector. It was created by the (Law 34/1998, the 7<sup>th</sup>.Oct. for the hydrocarbon sector. The CNE is the entity responsible for overseeing fair competition in the energy markets, as well as being as objective and transparent as possible, in benefit to all the companies operating within the sector, with special emphasis on the consumers.

The Administrative Council, composed of a President who is the legal representative, a vice-president and seven councillors and a secretary who can voice an opinion, but not vote, rules the National Commission for Energy (CNE). The President, Vice-President and councillors are appointed from professionals of a recognised technical competence and through a Royal Decree, having been proposed by the Minister for Economy and after a presentation in Parliament with the necessary procedures.

The Minister for Economy (now responsible to the Ministry of Industry, Tourism & Commerce), the Secretary of State for the Economy, the one for Energy and also for the Small & Medium Companies as well as any high representative from the Ministry can attend the meetings of the Council, being able to voice an opinion, but not vote, according to the issues mentioned and their order of importance.

The formation of the Council is determined by their appointment as Civil Servants belonging to the Administration through official Royal Decrees.

The president and the councillors will be appointed from people of renowned technical and professional competence, by Royal Decree proposed by the Minister of Industry and Energy subject to the appearance of the former and to debate in the appropriate Commission in Parliament, to verify the compliance of the candidates to the conditions indicated in this section.

The President and Councillors of the CNE are subject to the rules regulating incompatibilities established for important posts within the General Administration of the State. On leaving the post and for a period of two years, they are not allowed to exercise any professional activity related to the energy sector. They will be remunerated for this according to the related regulations.

The President and Councillors are appointed for a period of six years, which can be renewed for another period if deemed necessary.

The Government, on the proposal of the Ministry of Industry & Energy, will appoint a Vice-president from among the Councillors, who will exercise his responsibilities according to related rules and regulations, already established.

Although the Commission renews its members partially every three years, this renovation affects only four or five of its members according to seniority. (This is stated in The Eleventh Additional Disposition of the (Law) [Ley 34/1998](#) for hydrocarbons, [Royal Decree RD1339/1999](#), 31<sup>st</sup>.July, through which the CNE is regulated).

The President and Councillors will leave their posts for the following causes: a) the end of their term of six years, continuing in the post until a new member is appointed, b) a resignation accepted by the Government, c) a permanent incapacity to fulfil responsibilities, such as could arise after any appointment, any criminal proceedings having been reviewed previously by the Ministry, or any grave misdemeanour relating to his/her obligations resulting in forced resignation by the Government, previously proposed by the Ministry.

For the fulfilment of these aforementioned objectives, the CNE, has been given sufficient authority to act when necessary and also to be a consultative organism for any energy issues pertaining to its jurisdiction for the General Administration of the State as well as the various Autonomous Communities. These responsibilities can be presented thus, according to the (Law) [Ley 34/1998](#) citing the hydrocarbon sector and are as follows:

## REGULATIONS

- To formulate instructions for the development and application of the norms contained in the Royal Decree and Orders from the Ministry for Economy, that dictate the application of the regulations related to the sector, only when these instructions are to be applied expressly in specific situations. These instructions are to be published in the Official Bulletin of the State (BOE) "Boletín Oficial del Estado".

## PROPOSALS AND REPORTS

The Law authorises the CNE to formulate proposals for the following processes:

- The formulation of general recommendations that would affect the energy markets and especially regulated development and application of the [Ley de Hidrocarburos \(Law on Hydrocarbons\)](#).
- The official planning of an Energy Infrastructure.
- The formulation and presentation of projects related to tariffs, tolls and payments for energy-related activities.

In these processes, the reports from the CNE will have an advisory capacity to enable the CNE to act as a consultative organism on the following issues:

- To produce advisory reports on the issuing of official permits for the building of energy installations, when they are under the jurisdiction of the General Administration of the State.
- To present reports when required for the different autonomous communities, in relation to their capacities in the energy sector.
- To produce advisory reports on the operations of energy companies or the taking over of different companies involved in this sector and that have to be subjected to any decisions by the Central Government, according to related legislation in this area.
- To report on any of the sanction measures taken by any of the Public Administration Departments.

#### **EXCECUTIVE ACTIONS** - In the electricity sector:

- To carry out the payment of costs of transport and distribution of electrical energy, including the permanent costs of infrastructure and any extra costs, which should be established for this system, and for its payment, when expressly recommended.
- To determine those companies whose action has generated deficiencies of supply to consumers, proposing correct measures to adopt.
- To coordinate those sanction measures necessary and to carry out the application of the same, when these are under the jurisdiction of The General Administration of the State.
- To authorize the participation of those companies with activities that are under related regulations with business in this sector.
- To carry out the organization and internal functioning within the organism also related to contracting and selecting of personnel, fulfilling those requirements established in the rules and regulations governing The General Administration of the State.

#### **FAIR COMPETITION AND SOLVING CONFLICTS**

- The Organism oversees the market, so that companies operating there carry out their activities respecting the principles of fair competition.
- It also tries to solve conflicts relating to contracts and establishes regulatory terms within those contracts.
- It acts as an arbitrary organism in the conflicts that arise between companies that operate in the electrical and hydrocarbon sector and also with professional workers within the sector and the same companies.

In the electricity sector:

- It resolves those conflicts presented in relation to the financial and technical management within the sector as well as related transport.

In the gas sector:

- It also resolves those conflicts related to the management of the infrastructure.

## INSPECTIONS

On requirement by the A.G.E., or from the different autonomies, the C.N.E inspects:

- The technical conditions of any energy installation.
- The fulfilment of the legal requisites established by the permits.
- The correct and effective use of local coal in the power stations with the right to charge for this.
- The economic conditions and the activities of these companies are inspected as far as the correct application of tariffs is concerned as well as forming the correct criteria for remuneration of any energy related activities.
- The effective availability of these stations as regards to the related regulations.
- Correct billing and selling of products by the distributing companies to the professionals and consumers within the sector.
- The continuity of supply of electrical energy.
- Service quality.
- The separation of different activities within the sector.

Also the CNE can carry out any inspections that it may seem necessary, to be able to confirm agreement with the prevailing rules and regulations there in. From the 1<sup>st</sup>. Jan. 2002, the financing of the CNE has been carried out through the taxes applicable to those services and activities realized in relation to all liquid hydrocarbons as well as those in gas form and in the electricity sector.

The CNE apart from its activity as a regulating agency is also consultative for these sectors for the central Government as well as for the autonomies. The Council for Consumer and Users (CCU) receives information about the rules and regulations from the National Institute for Consumer Protection, which is dependent on the Ministry for Health, so that it is able to propose recommendations for any necessary changes.

To report on any of its activities, it has been allotted two agencies for any necessary assessment, the Advisory Council for Electricity & Hydrocarbons, where the different administrations from the Autonomies are represented, as are the different companies within the sector as well as the Institutions that coordinate the functioning of the different markets. Also the organizations for the defense of the environment and of the different consumer groups.

For all of these, within the Advisory Council for Electricity, there are represented

- The bigger companies using High-Tension lines
- Those companies in the services sector for the above
- The small to medium sized companies using this energy
- Domestic users as well as those in a residential situation

Those users from a domestic or residential context are represented by members designated by the Council but also on the consultative organisms in the autonomies.

## CONTACT DETAILS

For the representation and defence of the interests of the consumers and users, there exist different Associations, where the consumers can receive advice, but they are first recommended to contact their suppliers of electricity and gas or to contact the regulatory organism at the web page: [www.cne.es](http://www.cne.es)

### NATIONAL ENERGY COMMISSION

Alcalá, 47 - Madrid 28014 - España Telf.: 91 432 96 00 - Fax: 91 577 62 18

They can also contact different services for Industry & Energy in each Community.

### 3.1.2. ELECTRICITY

Among the claims received in each of the sectors, **72** have been registered that referred specifically to these three areas that have been studied:

Meter reading:	<b>18</b>
High pricing:	<b>11</b>
Claim solving:	<b>43</b>

In this sector, other problems have been reflected, which are as follows:

- Interruption of services
- Inadequate client service
- Difficulty in changing provider



- Voltage increase damage
- Access to client service
- Tariff increases
- Lack of transparency in billing.

The most conflictive area in this sector has been claim solving, because the operators in many cases only receive limited formation relating to services and the products offered by the company, but not in relation to consumer problems or related legislation.

There have also been problems relating to the fact that some electrical companies have offered “green energy”, without being able to guarantee that the energy used in a home or company was served from renewable sources. There are some companies that have access to nuclear power, which has created problems for environmentalists and has also produced many claims from the associations and environmental groups related to deceptive publicity.

As from January, 2003, consumers in Spain are able to change suppliers, but the infrastructures and the domestic installations have not been changed. The electrical system, the production and transport, continue to be subject to rules and regulations and the sector is prey to any monopolies as it is not viable for any companies to install their own infrastructure, lines, communications, etc. to be able to supply any of their own clients.

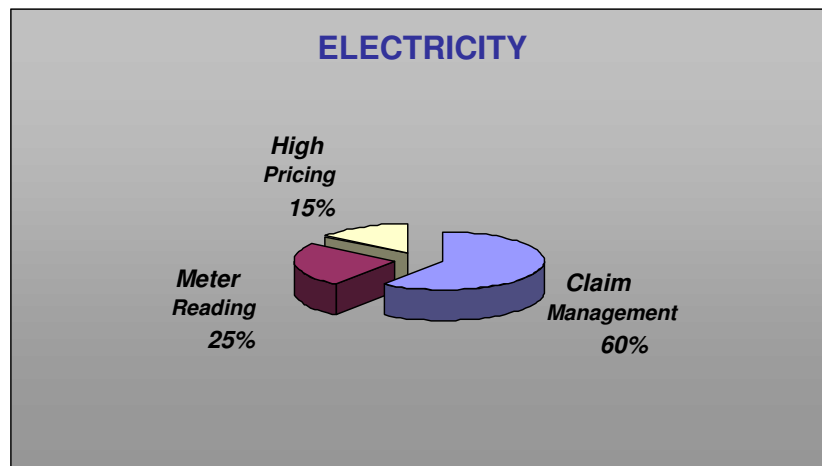
This means that the liberalization of the sector has not meant that any consumer is able to change his/her supplier, because they are not able to find another in the same area and this is the reason why this sector does not enjoy real competition and as a consequence, many consumers do not feel they are benefiting from the liberalization of the market.

This is the general feeling among consumers, as on the other hand, prices that began to decrease at the beginning of the process, have now started to rise as from 1999, and it is supposed that this situation will continue until 2010. On one hand, as far as quality increase is concerned, there is not sufficient information available to be able to give a balanced opinion. The same is true about the quality of service. There have not been any reliable surveys carried out to know the opinion of the consumers, only those related to certain interruptions in the services offered, but nothing about the quality of the same.

For these reasons, an adequate supervision is required within the market, to be able to guarantee quality attention in the interests of all the consumers involved.

**ELECTRICITY**

Problems	Number	Cases %
Claim management	43	60%
Meter reading	18	25%
High pricing	11	15%
<b>Total</b>	<b>72</b>	<b>100%</b>



**3.1.3. GAS**

As well as in the electricity sector, the CNE, is the public Organism charged with overseeing fair competition within the energy sector, and to insure that there is objectivity and transparency in all the operations carried out, in benefit of all the companies involved as well as the consumers. It participates in the formulation of pertinent regulations regarding problem solving and also as an arbitrary body, in situations where both parties have acted voluntarily. The [Royal Decree RD1339/1999](#), of the 31<sup>st</sup>. July, confirms the regulations of the CNE, whose norms had been modified by the [Royal Decrees RD3487/2000](#), of the 29 December and, [1204/2006](#), of the 20 October. On the other hand, the [Royal Decree-\(Law\) Ley 4/2006](#), 24<sup>th</sup>. Feb. modifies the working of the CNE.

Those consumers supplied in a regulated market or through a fixed tariff rate are those that have agreed on a supply contract (fixed rate), with a distributing company, whom they pay on a regular basis.

Those consumers, who are supplied in a liberalized market, are those who are supplied directly by the producer, having previously been granted access to a means of transport/distribution for the gas supply up to its place of use, or they could have contracted a supply from one of the many commercial companies.

As from the 1<sup>st</sup>. Jan. 2003, all Spanish consumers are qualified to be able to participate in the market system by tariff or contract for gas supply with the commercial supplying agent that they wish.

The price of gas on the market has been deregulated and the consumer can compare prices offered by the different distributors and can choose the one which is the more accessible and most convenient.

When there is a conflict between a consumer and a supplier in the area of gas supply, the consumer should contact first the distributor with whom they have a contract.

In issues related to the right of access to transport systems and distribution or transport, any consumer or company with a conflict can resort to arbitration by the CNE. This body should resolve any conflict within a time limit of three months, prior to audience with all the affected parties. In the same manner the professional consumers within the sector can apply for this arbitration through the CNE in those issues considered pertinent

In the issues related to the building of any gas installations on a domestic site or for commercial use, consumers and users should first contact the company doing the installation.

For issues related to the functioning of any installation, i.e. .boilers, heaters, stoves, consumers or users should first contact the technicians working for those specialising in the manufacture and installation of these apparatus. In case the consumer considers that his/her problems have not been solved satisfactorily, they should contact their local Consumer Association or Autonomy or the CNE.

Of all the claims received, only **53** were directly related to the three concepts that have been studied in detail in this Project. They are as follows

Billing	<b>36</b>
Meter reading	<b>12</b>
High pricing	<b>5</b>

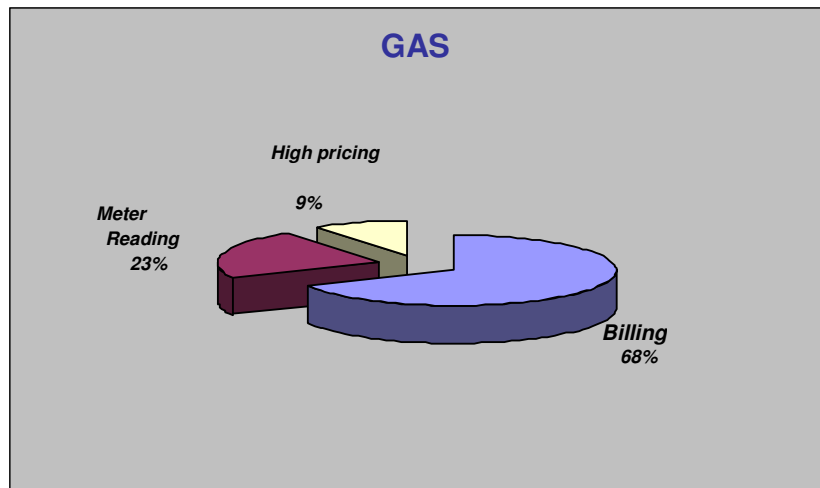
Other issues that have been reflected by claims within this sector are:

- Changes in Billing
- Meter Defects

- Changes in Contract Conditions
- Price Increases in Meter Checks
- Unsolicited Meter Checks
- Meter Checks by Unauthorised Personnel

**GAS**

Problems	Numbers	Cases %
<b>Billing</b>	<b>36</b>	<b>68%</b>
<b>Meter reading</b>	<b>12</b>	<b>23%</b>
<b>High pricing</b>	<b>5</b>	<b>9%</b>
<b>Total</b>	<b>53</b>	<b>100%</b>



**3.2. TELECOMMUNICATIONS**

The Eurobarometer for 2007, on Telecommunications, shows that:

- Nearly 20% of Europeans acquire two or more products related to telecommunications from just one producer, which is the most common case for fixed telephony and Internet access.
- It is becoming more frequent for users to change from fixed to mobile phones, although the percentage of homes with at least one mobile remains at 81%, while in the EU, the proportion of homes with just mobile phones is 22%, an increase of 4% and homes with a fixed line are decreasing, now at 72% (-5%).



- Broad-band is growing in popularity in the EU (28% of homes, up 6%), while the fixed line is losing out at 12% (down 3%); most homes now have Internet access through broad band, 53% (up 4%) and 34% of these are cordless phones.
- 17% of those with Internet connection say they use it for calling and this number is duplicated in the new member states.
- The number of homes connected to Internet is growing at 42% (up4%), and more people are saying that it is not for economic reasons, simply lack of interest as the reason for not getting connected.

In Spain the liberalization of the telephone services available has advanced a lot since 1998, now offering the consumer, in theory the possibility of freely choosing their supplier in fixed phones as well as for mobiles. Although this is true on paper, in practice the consumer still faces problems that have still not been solved, for example when one wishes to change a supplier, when there is an application for cancellation of server, or a contract, as well as the increases in prices that have happened recently.

In Spain the Regulating Body in this sector is the Commission on Telecommunications Market, the CMT, which has an Administrative Council composed of a President, the legal representative, a Vice-President and seven members of the Council who are appointed by the Government through a Royal Decree, recommended by proposals from the Ministers for Economy and Industry, after the required debate in the Lower House. The Secretary is appointed by the Council and can voice an opinion, but not vote.

Based on the regulations relating to incompatibilities, these persons cannot take up any subsequent post related to the sector, until at least two years have passed, for which they receive due compensation. These posts are held for six years, after which they can be renewed for another six. The President, Vice-President and Councillors will leave their posts by resignation, accepted by the Government, expiry of the term of service, voluntary resignation agreed on with the Government, after previous recommendation from the Ministry of Science & Technology, through any permanent incapacity, through any misdemeanours or accusation or criminal procedures.

Financing for this Body is realized through the General State Budget and also by taxes charged to the operators in this sector for different obligations, such as the assignation of blocks of telephone numbers, registering of certificates, reports and technical inspections.

The CMT, apart from its capacity as regulator, as an Advisory Organism for the Telecommunications sector, for the Government, for the different Autonomies. It has to elaborate the framework for the relative rules and regulations, produce reports and sanctioning processes, also resolving those cases related to the areas under its jurisdiction, as well as supervising a free market in this sector.

This Organism has to intervene, to resolve conflicts between operators, regulations applicable to the sector, telephone directories, general services and shared use of infrastructures. It also assigns the numeration of operators and controls the correct use of the public numbering system, administers the operators Register and retains the right to inspect these documents and so ensure that all these requirements are acknowledged and that quality continuity in service is enforced. The financing for these activities comes from the Ministry of Promotion & Development, which in turn depends on the General State Budget.

The relationship between this Organism and the aforementioned Associations is the Council of Consumers & Users (CCU), which receives information on the legal framework necessary for this sector, from the Ministry of Health & Consumer Protection, in order to propose recommendations. The CMT has also created a consulting Organism, the Advisory Council for Telecommunications and also the Society for Information (for this Sector), in which the CCU is represented. Its structure and regulations are established in the [Royal Decree RD1029/2002](#), 4<sup>th</sup>.Oct.

## CONTACT INFORMATION

### THE MINISTRY FOR INDUSTRY

Paseo de la Castellana, 160  
Madrid 28060 Tel.: 902 44 60 06

Consumer rights in the Telecommunications Sector: 901 33 66 99

### COMMISSION FOR THE TELECOMMUNICATIONS MARKET

Carrer de la Marina, 16-18  
Barcelona 08005 Teléfono: 93 603 62 00

By Internet you can get practical information and documentation:

[www.cmt.es](http://www.cmt.es)

Within the telecommunication sector (Internet, fixed & mobile phones) **486** claims have been registered, relating directly to the three areas previously mentioned.

## FIXED TELEPHONY

The **42%** of the total number of claims were related to fixed telephony, and **205** claims were registered within these concepts:

Claim management	<b>94</b>
Changes in contracts	<b>69</b>
Client Attention Services	<b>42</b>

Other issues that have been reflected in claims in the sector:

- No answers to questions on information required
- Changes in contract conditions
- Billing for services not contracted
- High pricing
- Difficulties in changing operator
- Problems with cancelling contracts
- Service interruption
- Delays in repairs
- Deceptive publicity
- Refusal by operators to facilitate addresses, fax numbers, e-mails, etc.
- Refusal to give information on services or to connect consumers with them

One of the greatest problems in this sector, has been the lack of effective solutions from the Client Attention Services by phone, as theoretically, they are responsible for solving the claims presented by consumers; companies subcontract personnel that attend calls who are not sufficiently qualified to be able to solve any problems, although they are trained to explain services and to sell the products offered, they know little about the legislation relating to consumers.

Some consumers have complained of the difficulties in placing claims by other means than by phone, as the client attention centres refuse to give any addresses of the companies they represent, not even phone or fax numbers of the departments responsible for receiving claims. Other cases have mentioned the refusal of personnel to identify themselves or transfer calls to another better informed person, who would be able to solve any problems.

For many years Spanish consumers just did not receive any detailed billing for calls made or related costs, some of the problems arose because of the practice by operators to just use a “rounding off” procedure, also the fact that consumers were informed of changes or cancellations, being notified that if there was no response the operators would assume that there was implicit agreement. In this way, bills have been cancelled unknowingly, when claimed the operators have responded affirmatively, but with an added cost.

Also there have been cases of explanations being offered on Internet, where many consumers refuse to have their personal data exposed thus, thereby neither receiving any solution nor getting any satisfaction from disgraceful service.

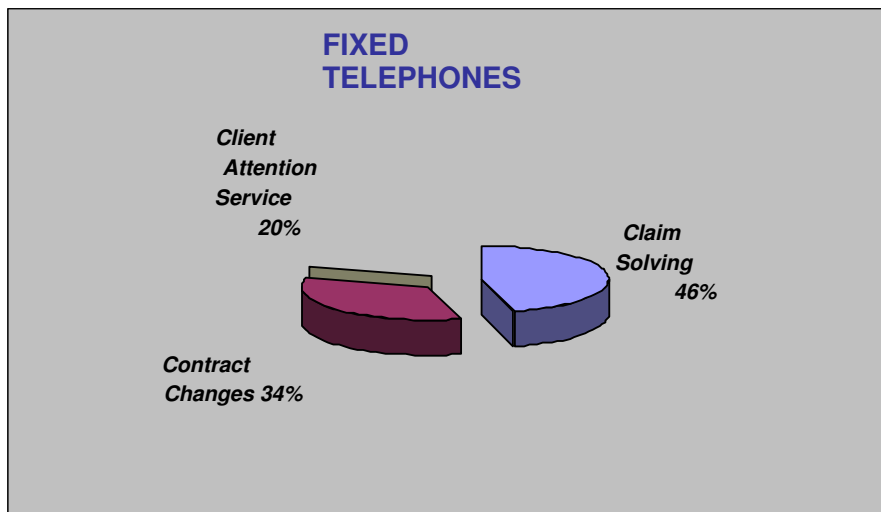


Still other problems have arisen when some operators have installed automatic voice systems, offering options to solve problems that the consumer doesn't even have at that moment. Through these systems it is practically impossible to Contact any physical person and there have even been cases of abrupt interruption of service when the client does not respond in one way or another. These services are not normally free either.

There have been cases where consumers have complained repeatedly about a service cut, the operator has arrived, established connection, only for it to fail again shortly after, even when re-established repeatedly, without any explanation to the consumer, neither are the bills compensated to allow for all these obstructive practices.

### FIXED TELEPHONES

Problems	Number	Cases %
Claim Solving	94	46%
Contract Changes	69	34%
Client Attention Service	42	20%
<b>Total</b>	<b>205</b>	<b>100%</b>



## MOBILE TELEPHONES

This is the area that has seen the greatest and fastest growth as now there are 48.7 m. mobile phone lines which mean a market share of 109% and which has meant revenues of 13.000 m. Euros for the Industry.

In spite of this, the number of claims has not increased at the same rate as this enormous number of subscribers would suppose, as we could say that this market has matured over time. Although there are many claims that consumers try to solve by visiting the Associations, the local Ombudsman or the different Advisory Councils and even the National Commissions for Competence and the Commission on the Telecommunications Market or even the courts of justice.

Consumers also register their complaints directly with the Office of Client Attention for Telecommunications, created in 2005, which is part of the Ministry of Industry, Tourism & Commerce; this office has 40 employees who are dedicated to solving claims, as well as 12 more, who are subcontracted to attend users by telephone and on-line; it is also worth mentioning that calls to this centre are not free (0.042 Euros per call plus 0.033 Euros/min.) This office received over 60,000 calls in 2006 and in the first half of this year (2007), more than 43,000. This represents an increase of 24.5%, while there were 9,578 complaints in 2006, of which 8,246 were resolved.

The cost of this service for mobile phones is excessive compared with other European countries. In the Twelfth European Report on Tariff Application, ten of the more expensive operators with a total of 49 special offers, registered in this study, where two of the aforementioned are major operators here in Spain. The CMT has used statistics that show that the average price of a mobile phone has increased by more than 6% in the second half of this year (0.1894 €/m).

When the new law for the protection of users and consumers came into effect on the 1<sup>st</sup>. March, 2007, called the **Law of Improvement (Ley de Mejora)**, and among other things it stipulated that the charging of tariffs on a per second basis, would prevent the operators from overcharging, by “rounding off” costs per minute. The principal companies operating in the market now; Vodaphone, Orange and Movistar, have all increased prices for what is called “call establishment”, from 0.12 to 0.15 Euro which represents an increase of 25%, when this concept is non-existent in other countries. These increases provoked an investigation by the CNC, which has begun legal proceeding against the said companies leading to possible fines.

A total of **117** claims have been received, representing **24%** of those in this sector, directly related to the issues already mentioned.

Claim solving	<b>62</b>
Contract changes	<b>30</b>
High pricing	<b>25</b>

Other issues that have been reflected through these claims are:

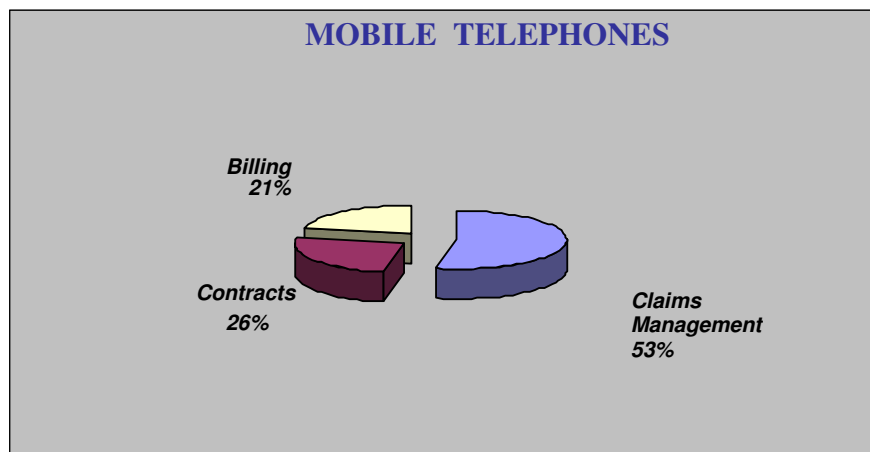
- Difficulties in cancelling contracts
- Inefficient claim management
- Problems with number changes
- Deceptive publicity
- Bad service in coverage
- Billing errors
- Difficulty in operator changes
- Problems in contacting human operators!

In this sector, the same problems have surfaced as were mentioned before in the other areas. However the greatest difficulty, once again, is that the Client Attention Services are not working well relating to claims as there is an obvious lack of professionalism and a refusal to offer any information required by users and also difficulties in being able to speak directly to anybody responsible, who would be able to solve these problems.

Another difficult problem is the changing of the coverage for mobiles, without any communication from the operators and without any previous knowledge of the users. Consumers complain that prices are too high, especially when experiencing problems of coverage. There continue to be problems when any user wishes to cancel a contract after deciding to change to another operator.

**MOBILE TELEPHONES**

Problems	Number	Cases %
<b>Claim Management</b>	<b>62</b>	<b>53%</b>
<b>Contracts</b>	<b>30</b>	<b>26%</b>
<b>Billing</b>	<b>25</b>	<b>21%</b>
<b>Total</b>	<b>117</b>	<b>100%</b>



**INTERNET**

Although it is true that Spain is at the bottom of the list of European countries for numbers of Internet users, the recent increase over the last five years has been even greater than expected and projections for future growth estimate that this rhythm calculated from the years 2000-2003, will increase sufficiently to be able to supply the whole population by the year 2010. Naturally this growth will produce greater client attention needs and better claim solutions.

Because of these greater needs and because there will be a more competitive market with more companies operating. The liberalization of the market and the introduction of the newer technologies has affected the present situation as well as the creation of new connection services, tariffs and contracts and innovations, which will all, demand a more efficient attention for consumers and

users, including transparency and fair behaviour on the part of the operating companies.

Users should also have easier access to more efficient techniques and procedures to enable them to connect or disconnect with different operators, also whenever they wish to resolve problems or other pertinent questions of service.

The Client Attention Services will have to improve as far as information given to the clients is concerned, so that it is necessary for companies to be aware that they need to invest more to be able to offer better quality services, so that the number of claims registered would also decrease.

Article 3 of the [Law \(Ley\) 32/2003](#), on General Telecommunications, includes within its objectives and principles in the section on the defence of user interests, ensuring their right of access to the electronic services available, with adequate conditions of choice, price, quality, preserving the validity of the conditions of the relative rules and regulations, against any discrimination, respect for privacy, honour and the protection of personal data relating to the media, infancy and youth and for the satisfaction of those with special needs. For this reason there have to be guarantees for these services from the operators.

#### Procedures for the Solving of Conflicts

According to [Article 104](#) of the cited ([Law](#)) [Ley 32/2003](#), the operators should have a department or service specialised in client attention whose objective should be to attend and solve any complaints and claims and problems that are related to contracts.

This client attention service, which should be free, should be also be offered in such a way and be registered so that any claim, complaint or request made, would oblige any operator to communicate to the client his/her claim number.

In a recent study among eight operators, only five of them offered a free telephone service for clients, while the others had telephones with special tariffs.

If the client attention service is by telephone, the operator is obliged to inform the consumer about his/her right to request documentary proof of any claim registered, as well as the content of the complaint or claim.

Among the claims received in this sector, **164** or **34%** of the total were related to the three areas mentioned, namely:



Contract changes	66
Claim management	50
Accessibility	48

Other issues that have been reflected through claims registered:

- Difficulty in cancelling contracts
- Changes in contract conditions
- Service access
- Bad service quality
- Lack of information
- Lack of claim attention
- Billing for uncontracted services
- Delays after contracting and paying for services
- Delays in repairs
- High prices

The main problem in this sector is the fact of changing contract conditions relating to accessibility and quality of service contracted. There have been cases where users have not been able to access any services for up to 24 hours and have suffered lack of service or the megas contracted have been lower.

Once more, the client attention service has not worked well in the area of claim management, where operators are not professionals; do not offer necessary information or that required by the user.

Another important problem is the difficulty of cancelling contracts, once users have decided to change provider. When the user cancels a contract with a company in this sector, very often they continue to receive bills and on demanding an explanation from Client Attention, they are told that the Billing Dept. is independent and although the client has communicated his/her wish, they will continue to receive bills, so they are recommended to pay and later claim. So that any solution to these problems takes time and patience and consumers are only told that they can contact providers through Internet or by telephone when what they should do is write directly by letter to the address given on the contract note and to send any correspondence by certified mail.

In the case of an operator not wanting to submit to any Arbitrary Systems for Consumers to resolve conflicts that arise with users, these can contact the Dept. of the Secretary of State for Telecommunications in the three month period from receiving an answer from the operator or from when the normal time limit expires.

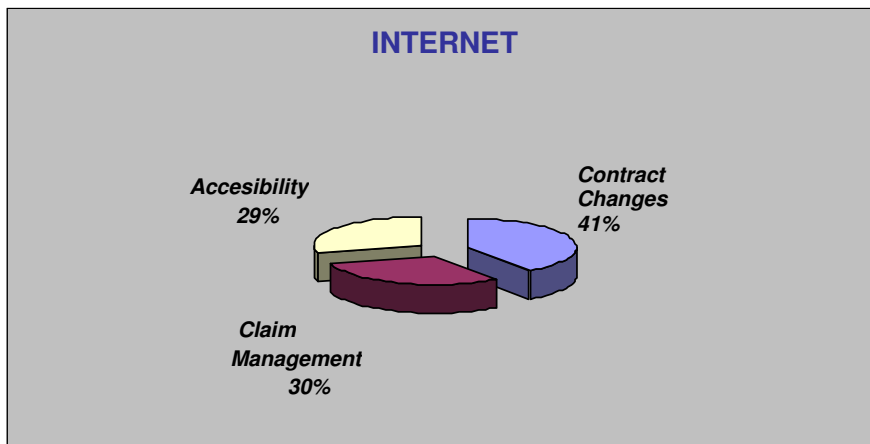
The Department will dictate a resolution on the issue, but can only give an opinion, supporting the rights of the consumer as a person and end user.

The time limit for resolving and notifying a solution is of six months. The conclusion that the SETSI dictates will be allowed to expire through the administrative channels and against this decision the operator can appeal.

Even though before the [Royal Decree RD424/2005](#), was promulgated, the SETSI was only able to transact and resolve those claims related to the specific rights of users in this sector, as from the 30<sup>th</sup>. April, that year, access to Internet was also included.

As has already been indicated, the liberalization of the market and the development of new technologies have resulted in the recent creation and offer of new connection services, tariffing and contracting as well as other innovations that demand efficient transaction methods, which should also be transparent in all these processes relating to the consumers. These should also be able to access to these more effective procedures when contracting or cancelling the services offered, solving issues and other related questions at the time, when wishing to take advantage of all these aspects included in any contract. These requirements are all included in the above-mentioned Royal Decree [RD 424/2005](#) and also Included in the (Law) [Ley 32/2003](#) on General Telecommunications, but whose full implications have yet to be fulfilled by those providers within this sector.

<b>INTERNET</b>		
<b>Problems</b>	<b>Number</b>	<b>Cases</b>
<b>Contract changes</b>	<b>66</b>	<b>40%</b>
<b>Claim management</b>	<b>50</b>	<b>31%</b>
<b>Accessibility</b>	<b>48</b>	<b>29%</b>
<b>Total</b>	<b>164</b>	<b>100%</b>



### 3.4. POSTAL SERVICES

The EU considers it fundamental, to guarantee, for all the Community, a general postal service and to establish common norms for those using these services, so determining these criteria which describe the same and which form an integral part of this sector and reserving the providers with the right to set the relative conditions affecting them directly. Also to be able to define the principles governing the setting of tariffs and for a transparent accounting system, as well as the quality norms necessary for offering these same services and to install a system that would guarantee the fulfilment of the same.

The EU [Directives 97/67/CE](#) of the European Parliament and Council, of the 15<sup>th</sup>.Dec.1997, relative to the common norms for the development of a common market for postal services within the Community and for improving the quality of the same service as set out in the [Directive 2002/39/CE](#), establishes these basic norms for the development of this market for postal services within a scenario for progressive competition in the sector.

As a result of the meeting of the European Council in Lisbon, in March, 2002, that called for a faster liberalization of all the different markets within the EU, the [Directive 2002/39/CE](#), thus modifying that of [Directive 97/67/CE](#), is destined to resolve the different additional problems related to efficient working of the market with respect to postal services, also establishing that wherever possible, to maintain an efficient general postal service within each of the member states, it would be necessary to reserve, for the provider/s the right to organise the collection, sorting, transport and delivery of internal correspondence, as well as that of incoming mail from abroad, whether it be classified as urgent or not.

In this way, each member state should oversee the application of this general service that should meet the following requisites:

- Be able to offer a service that guarantees the fulfilling of those essential needs.
- Offer to consumers a postal service comparable to any of the other states.
- To be able to apply the service fairly, without any type of discrimination, related to political, religious or ideological tendencies.
- This service should be carried out without any unnecessary interruptions, as efficiently and effectively as materially possible.
- That all the areas of the service should be able to incorporate the latest technological advances, those related to the economic and social needs of all users: ([Article5](#))

In the same way the member states should make sure that the providers of any general service should give the necessary information which should also be periodical, precise and up to date, on these general services available to all the users ([Article 6](#)), as well as when certain procedures are installed, which should also be transparent and simple to operate for all consumers ([Article19](#)), they should also ensure that the tariffs for each one of these services which form part of this general service should obey the following principles:

- Reasonable prices that enable all users easy access to the same.
- Fixed prices, bearing in mind the calculated costs of the said services.
- Any special tariff should be applied, without causing problems or affecting the rights of the provider/s of any general services on signing individual agreements with clients, relating to prices.
- These tariffs should be transparent and not discriminatory even when the same are of a special character, for example those relating to company services.

The inclusion of the Spanish rules and regulation to these EU Directives has been carried out through the ([Law](#)) [Ley 24/1998](#), 13<sup>th</sup>. July, relating to the general postal service and its liberalization (the Postal Law), together with later legislation such as the [Royal Decree RD444/2001](#) 27<sup>th</sup>.April that modifies the previous [Royal Decree RD1475/2000](#) 4<sup>th</sup>.August.

In agreement with the relative legislation, the Ministry of Promotion has delegated the responsibilities for the regulation of the postal services to the sub secret Area of the Ministry, to ensure the application of these same general services within a framework of quality, that is to be applied throughout the country, with a guaranteed price level and in the same way in agreement with the regulations that control the functioning of the postal market, with respect to the organizing, Inspecting and evaluating quality control, the supervising of the registering of companies and of any claims by users and also the application of any European policy, these actions being carried out by the aforementioned



Sub-Secretariat, also known as the General Subdirectory of Postal Service Regulation, in agreement with the [Royal Decree RD1476/2004](#), 18<sup>th</sup>.June.

The [Royal Decree RD1232/2003](#) 26<sup>th</sup>. Sept. establishes the composition and Regulations of the Regulating Postal Council, in which the CCU.is represented. The [Royal Decree RD1476/2004](#), 18<sup>th</sup>.June, explains the general basic structure of the Ministry of Promotion and establishes the direct dependence of the Sub- Secretariat of the Department on that of the Regulation of the Postal Services, which has the responsibility for the regulation, organising, inspection and the sending of any sanction orders or their imposition for certain lesser faults, for the quality control of services, company registering, pricing control, as well as the Compensatory Fund for the General Postal Services, as well as any follow up on EU policies, as well as the application of this information on the various postal organisations as well any other issues so related.

These various responsibilities are applied through the different administrative departments relating to these areas: technical, inspectionary, economic, and judicial and also international.

#### CONTACT INFORMATION

The General Register of Postal Service Companies at:

#### THE MINISTRY OF PROMOTION

Sub directorate General for Postal Service Regulation, also  
The Central Office for Administrative Information for citizens, is at  
Castellana, 67  
28071 Madrid

Tel. 91 597 72 72 - 91 597 73 25  
Email: [regemppostales@fometo.es](mailto:regemppostales@fometo.es)

Fax: 91 597 85 93

#### GENERAL POSTAL INSPECTION

Plaza de las Cibeles s/n  
28014 Madrid

On Internet ([www.fomento.es](http://www.fomento.es)) you can access to the Ministry library, which includes a section on Client Service in which there is space for claims.

Among claims received in this sector, there have been **17** that were directly related these three concepts, as follows:

Postal correspondence	<b>7</b>
Parcel distribution	<b>5</b>
Post offices	<b>5</b>

In the past, the public in general were very satisfied with the service received; nowadays it is difficult to get information about claim management, as the organism itself is responsible for these services, so that there is not so much contact with the Consumer Organisations.

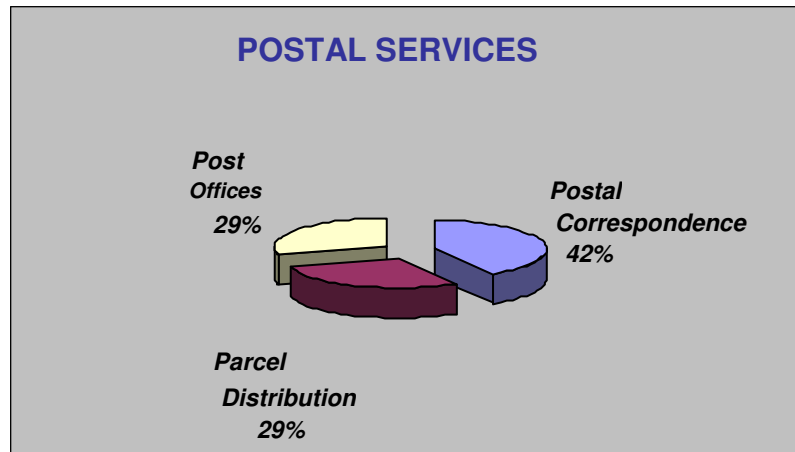
The distribution service for letters has received most of the claims, which have been related to lost letters or wrong delivery. Some claims have also been received relating to parcel delivery or damaged goods in transit.

In like manner, there have been fewer claims related to an inefficient management in the post offices, which has been reflected in certain problems with employees, long queues for the different services, opening times, inadequate solutions.

One important thing to note has been the reaction of the public to the resulting situation after the liberalization of the sector, which to many has appeared to have negative effects on certain services, for example the work of the postmen/women, where there appears to be little effort on their part, to deliver letters that have incomplete addresses or some other minor errors.

### Postal Services

Problems	Number	Cases %
Postal Correspondence	7	42%
Parcel Distribution	5	29%
Post Offices	5	29%
<b>Total</b>	<b>17</b>	<b>100%</b>



### 3.5. AVIATION

Of all the forms of transport, that exist, air transport is the one that has registered the most surprising growth in the last twenty years in the EU because of the dynamism of this industry, the claims are that more noticeable, mostly related to saturation of the different services and problems with the control systems.

The Community policy of liberalization in this sector covers four huge areas; namely, market access, capacity control, tariffs and the business licenses for the related companies. Work began in 1980 and was carried out in three stages the third of which is the so-called “third package”, begun on the 1<sup>st</sup>. of Jan. 1993 full entrance of this stage was on the 1<sup>st</sup>. April, 1997, once this period of transition was over.

The Process was based on:

- The introduction of a special license for air-transport issued to the related companies in the EU.
- Access conditions for the transporters to the Community’s connections.
- Passenger tariffs, especially those related to immediate intervention by EU because of unfair competition.
- Contract services.

Because of liberalization, one single market was created for air transport, and the EU has been able to harmonize most of the related rules and regulations so as to be able create a situation of commercial equality for all companies.

Legislation in the area of technical regulations and administrative procedures has produced a more stable situation with common norms for navigation and also in the mutual admittance of licenses for personnel working in this sector, so that pilots can be contracted directly from any of the member states. In the

same way the EU has regulated means of application for these different norms for fair competition among the different airlines and also to categorize the various agreements and practices contracted that have been approved previously by a EU Directive especially for the sector, that regulates the market for the services for passengers stopping off on their way to other destinations.

The European Commission has adopted a series of proposals related to the management of air traffic for the so-called “European Sky”, which is an initiative created to reform the framework of air traffic control, so as to satisfy the future needs for capacity and security, relating to the definition of objectives and also to principles of working, around six main areas:

- Air space management.
- The creation of a strong common regulatory authority.
- The progressive integration of the civil and military management of the sector.
- The definition of the institutional synergy between the EU and Eurocontrol (EN)
- The application of an adapted and renovated technique for the sector.
- Better-coordinated policy of human resources in the air control sector.

In December, 1992, the Commission published a “White Book” (on policy) about the future common policy on transport, in which there was a definite commitment to promote the trans-european transport networks especially (RTE), through the promotion these connections within the member states, as well as the ability to operate within these networks, respecting at the same time the limitations imposed because of environmental protection rules and regulations.

The Commission has also established a new list of 30 priority projects that will be initiated before the year 2010. The total cost is estimated at 225 m. euros, and this list establishes certain sustainable mobility schemes as these investments are more focussed on rail and waterways.

Relating to passenger rights, the new legislation that became law in 2005 increases the amounts that the airlines should pay out to passengers when there are embarking problems etc. so new passenger rights for compensation as well as added assistance for passengers that suffer important delays or cancellations.

However, although this new legislation is effective, up to a point, the everyday problems with air transport seemed to persist, so that in April 2007, the Commission published a new Requisite on the evaluation of the application of the [normative 261/2004](#) about the embarkation refusals, cancellations and delay focussing on those areas that should be improved as much by the operators as by the regulating entities.

One of the problems here is that certain phrases like “reasonable measures”, (Article 5), or “comparable transport conditions” (Article 8), have opened the door to the different interpretations given by the various airlines. Claims presented, because of lack of information for passengers, about their rights, relating to the same, as in Article 14, mean that as there are no exact definitions on cancellations or delays, means that there are abuses by the airlines, so avoiding any compensations.

At the same time, an independent investigation on the results of the application of the aforementioned requisite by the EC resulted in a new poster giving information about the rights of passengers, which can be found in all the airports. This information can also be read on the Internet at:

[http://ec.europa.eu/transport/air\\_portal/passenger\\_rights/information\\_en.htm](http://ec.europa.eu/transport/air_portal/passenger_rights/information_en.htm)  
[http://ec.europa.eu/transport/air\\_portal/passenger\\_rights/information\\_en.htm](http://ec.europa.eu/transport/air_portal/passenger_rights/information_en.htm)

The creation of national organisms to ensure that passenger rights are respected (Art.16) has been ineffective in many cases. The CE has tried to work together with the national regulators and operators to resolve existing problems so that if no solutions are found, then the Commission initiates procedures against the member states to change the existing legislation.

In Spain, the regulating organism for the sector is the General Direction of Civil Aviation, dependant on the Ministry of Promotion and also the AENA. As the organism that provides public services in airports and navigational areas. This entity is that relating to Public Administrative Businesses, created through the regulations stipulated in Art.82, of the (Law) Ley 4/1990, 29<sup>th</sup>. July, from the General budget for this year and adheres to that mentioned in the Royal Decree RD905/1991, 14<sup>th</sup>. June, where the Statutes of the aforementioned entity were approved, so proving the legal base and operating framework for the Organism.

As mentioned in Art.1 of its Statute, AENA’s mission is to contribute to the full development of air transport in Spain, so guarantying air movement that should be fluid, efficient and economic, offering a quality service, in agreement with client and user demand, within the framework of a general policy on transports by the “Government”. This being so, its objective is the effective control and management of the nation’s airports (of general interest) and also of their installations and the network associated with the related navigational areas.

AENA is a legally constituted entity in its own right and is independent of the state. It has its own jurisdiction, both public and private and its own patrimony, although it is dependent on the Ministry of Promotion, which in agreement with regulations stipulated by the Government, establishes its own framework and Its passes its own rules and objectives annually following up the fulfilment of the

same and ensuring various controls on effectiveness according to the relative norms previously established.

#### CONTACT INFORMATION

#### INSPECTION SERVICE AND USER RELATION/CLIENT ATTENTION SERVICE

Paseo de la Castellana, 67 - Despacho A-259  
Madrid 28071- España

Tel: 91 597 83 21 / 91 597 72 31 (9:00 a 14:30)

Fax: 91 597 83 00 / 91 597 86 43

Email: [pasajeros.aereo@fomento.es](mailto:pasajeros.aereo@fomento.es)      [www.mfom.es](http://www.mfom.es)

#### AVIACIÓN – OPERATORS

Within this sector, only **51** complaints have been taken into consideration as being directly related to the following issues considered in this study:

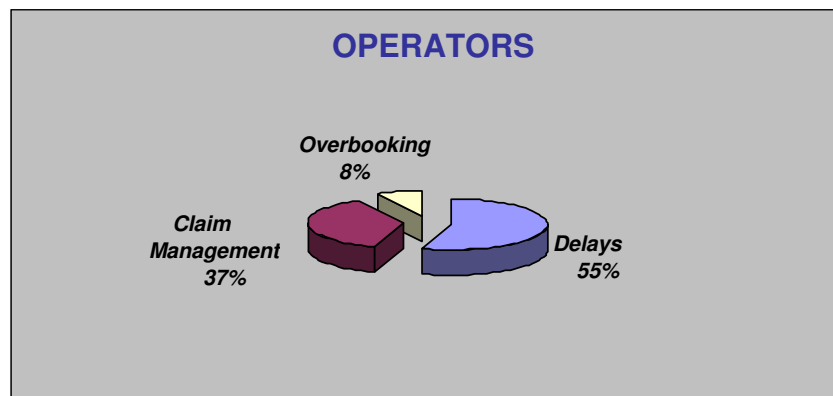
Flight delays	s	<b>28</b>
Claim management		<b>19</b>
Overbooking		<b>4</b>

The greatest problems in this sector are the delays, which according to the norms are the responsibility of the airlines as well as any resulting damage, which has resulted in most of the claims.

During the period included in this study, it is important to note that the bankruptcy of the airline Air Madrid, affected thousands of passengers in that they were not able to use those tickets bought previously and so resulted in many claims. The Ministry of Promotion activated a series of measures, so as to transport many of the affected passengers and the case is now in the Mercantile Courts awaiting final injunctions and the liquidation of the company.

**OPERATORS**

Problems	Number	Cases %
<b>DELAYS</b>	<b>28</b>	<b>54%</b>
<b>CLAIM MANAGEMENT</b>	<b>19</b>	<b>38%</b>
<b>OVERBOOKING</b>	<b>4</b>	<b>8%</b>
<b>Total</b>	<b>51</b>	<b>100%</b>



**AVIATION - AIRPORTS**

From among the various claims received, only **19** have been recognized as referring directly to the issues treated in this study:

Baggage **15**  
Lack of information **4**

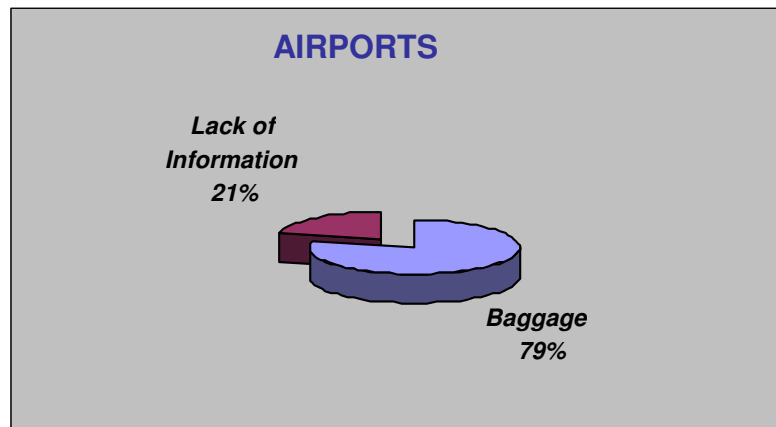
Other issues reflected by the number of claims received on this area:

- Problems with claim management
- Strikes
- Building works in the airports
- Access problems
- Difficulties with access to public transport from the airports
- Faulty management within the check-in and waiting areas
- Over pricing for airport services
- Lack of flight information

- Difficulties and bad management in the security controls
- Cancellations and the normal practice of informing passengers and other difficulties with the PA systems

**AIRPORTS**

Problems	Number	Cases %
<b>Baggage</b>	<b>15</b>	<b>79%</b>
<b>Lack of Information</b>	<b>4</b>	<b>21%</b>
<b>Total</b>	<b>19</b>	<b>100%</b>



**CONCLUSIONS ARISING FROM THE CLAIMS ANALYSIS**

Once the analysis of all the claims had been finished those considered pertinent to the sectors studied here (Electricity, Gas, Telecommunications, Postal services and Aviation), we can extract the following practical conclusions:

1. The lack of information and transparency in the various transactions are among the greatest problems facing the consumer today.
2. Users complain about the excessive time period taken by the various companies in the different sectors to resolve problems and the resulting efforts made by the same on having to repeatedly insist on their rights.
3. Prices are again, one of the main problems met by the consumer, as in many cases products/services are overpriced to what is received by consumers.



4. As from the liberalization of the markets in certain sectors, there has also been an influx of companies offering the same services with the same abuses.
5. The quality of services rendered has not been of the level expected or for that matter, promised by those same companies contracted by consumers.
6. Unfortunately, in many cases, contracts are not at all clear, too complicated in phrasing and also in the conditions put forth, which automatically presupposes an unfair “weighting”, within the same, to the obvious advantage of the company.
7. Billing is a constant problem for users and consumers, as the actual bills are not at all transparent, with the corresponding misunderstandings.
8. The operators dealing with the Client Attention Services of the various companies in the different sectors are not sufficiently prepared for their jobs and there are obvious deficiencies when specific information is desired by the clients about different products or services that are offered on the market as that also related to legislation established for the protection of the said clients.
9. Many of the telephone numbers given for Client Information are not free and it is a proven fact that the costs for these calls are higher even than for local ones.
10. The automatic answering systems used now by many companies, are the cause of many serious problems for users, as in many cases, they not only do not relate to the clients problems, but also do not enable any access to operators.
11. There appears to be a certain apathy on the part of consumer when claiming as there is the problem of the time needed for these claims as well as the real frustration felt by many consumers and users, that problems will not be solved.
12. There is an excessive interest on the part of companies, to oblige consumers to use technological advances/tools in communication, where it cannot be supposed that all of the population has either the ability or the knowledge to be able to utilize these tools (especially elderly people).
13. In the Postal Service sector it is often difficult to know if a claim is being processed correctly as it is difficult for the Associations to access this information.
14. The full application of recent legislation on the protection of the consumer, should help to lower the incidences in many of the aforementioned sectors, above all in the telecommunications sector and especially in those claims that are related to the cancellations of contracts with operators and also with those related to a better transparency in tariffs and the elimination of “rounding off”.
15. Last but certainly not least is the fact that many consumers have the general feeling that in spite of the liberalization effected in many markets, there has not been a corresponding improvement in the quality of the services received.

## **RECOMMENDATIONS FOR COMPANIES.**

Once all the conclusions have been analysed, relating to those complaints that have been received, we feel that the companies operating in all the sectors that have been studied should act in the following way and that there should be:

1. A greater **TRANSPARENCY** in the information that is given to the consumer relating to the many contracts that are offered for services in the different sector.
2. Greater **TRANSPARENCY** and **SIMPLICITY** in the presentation and design of the bills sent out by the different companies.
3. More **TRANSPARENCY** in the many offers that are published by the different companies and the **OBLIGATION** to facilitate to the consumer, information about final prices, including taxes, renting and connections (telecommunications), as well as discounts, monthly payments and exact amounts relating to these costs.
4. **REDUCING** of the total time needed to solve claims and to arrive at a reasonable solution in a reasonable period.
5. That all calls related to inquiries about services and client attention should be **FREE** for all consumers and users.
6. In the same way, all those processes related to the above should also be **FREE**.
7. There should be an **OBLIGATION** for all companies to adhere to a system of arbitration when there are problems with consumers, to effect efficient solutions.

## **FINAL CONCLUSIONS**

As has been explained throughout the whole of this study, in Spain there are different regulating entities for all of the sectors previously mentioned; the capacities and area of influence within each sector has been determined by specific legislation, which is related accordingly.

That information available to the consumer, for him/her to be able to claim through those regulating organisms is generally sufficient, although there is sometimes certain confusion about where to claim and to whom, for every situation and in different sectors.

In certain occasions extra costs are required, to be able to access to different entities for the various claim processes and too much effort is needed by consumers as well as certain advanced technologies available (computers, Internet etc.) That cannot be used by certain sectors of the population.

Nowadays, the Ombudsman does not intervene in conflicts that arise between companies and individuals, only in those cases where consumers in their relation to the local Authorities in the development of their normal activities

however, in some cases consumers have gone directly to him to express their discontent with certain situations within certain sectors, which in turn makes us aware of the need to establish a “Supervising Entity” that would be able to give rapid solutions to specific problems.

Within the energy sectors the problems arise through a lack of real competition, as there is no real choice available to the consumer in many of the geographical areas in the country. There are also problems related to the lack of information or transparency relating to the origin or sources of a specific type of energy or problems relating to billing or meter reading.

Another problem we have encountered is the great difference between the “reselling” of energies deriving from renewable sources in the different autonomous communities within the country. As these forms of energy become more common, these and other types of problems arise and they are likely to increase if adequate solutions are not found. The NEC is able to develop the correct rules and regulations within a legal framework as well as its effective application, so as to be able to avoid many of the conflicts that have arisen in the past.

Relating to the telecommunications sector, the CMT should have the sufficient authority to be able to resolve many of the serious conflicts that consumers have suffered in recent years. The principle safety measure adopted for the protection of the consumer/user is that of enabling the possibility of change of operator, being able to keep the same subscriber number etc. With the introduction of the new law and after an exhaustive application of the same, it is hoped that many of these aforementioned problems could be eliminated. However for this to happen it is essential for the various companies involved to commit themselves to work together, to apply principles of transparency and fairness and in this area the regulating agency will have a lot of work to do to ensure all of this becomes a reality, not only for the market, but also for all the consumers/users.

The organisation and management of the Postal Service, has not been adequately evaluated as it has been difficult to find sufficient information, so that any access has been limited and the lack of transparency with the sector have been the main problems here.

In the Aviation sector, airport management has been one of the principle problems in this area, although AENA should have sufficient capacity to be able to develop and apply initiatives, so as to improve the various services that are on offer, above all, the availability of information for users, as well as better access to public transport from the different airports.

In reference to operator management, it is evident that this sector is undergoing a period of rapid growth and development and this same success is the cause

of certain problems such as the existent competition, especially in the cut-price market, which results in a loss in quality and attention for the client, as well as the added problem of access to adequate information at any given moment on flight times and other essential data, to say nothing of incomplete or deceptive publicity. Another source of conflict is the lack of a constant and effective application of the legal norms applicable in this area, i.e.: Overbooking.

It is inconceivable that after the purchase of airline tickets (especially return), that a client who wishes to cancel any one of the trips, is faced with a total cancellation of the contract by the operator, without any previous knowledge on his/her part, not only that, but in many cases the ticket is resold, with the resulting situation now known as overbooking, caused basically through the greed and competition of the operators, who thus try to maximise profits at every turn and of course puts the user in a very disadvantageous position whenever dealing with airline companies in similar subsequent situations. On a similar line, the fact that a passenger cannot even ask for a glass of water, but is obliged to buy a bottle, is a case in point. All these situations contribute over time to a complete lack of trust on the part of any consumer or potential user and of course all this contributes to the really bad reputation this sector enjoys with the public.

As a consequence of all the above mentioned situations, we feel that there is an urgent need for greater supervision and control of the market on the part of the regulating organisms in all of the sectors analysed in this study, to be able to guarantee sufficient and adequate attention to consumers and users and to be able to protect and guard those interests solely relating to those members of the public that wish to use any of the services previously mentioned.

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