



2020 report

Executive summary

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Presentation

Notwithstanding the results obtained, the year 2020 took place during the most critical phases of the global COVID-19 pandemic. It also coincided with the renewal of its presidency and vice-presidency and part of its board during the month of June, and the processes that this entails. The dedication of the Commission's operational units, which have worked intensively in atypical remote work conditions, has been truly exemplary.

The objective of the entire organisation has focused on fulfilling the mandate conferred in order to guarantee, preserve and promote the correct functioning, transparency and the existence of effective competition in all markets and productive sectors, to the benefit of consumers and users. This mandate covers investigation, sanctioning, advisory, supervisory and regulatory actions in different areas. Details of this activity are set out in detail in the Annual Report, which is made public in accordance with the criteria of transparency that guide the institution's activity.

The following is an outline of the most significant actions undertaken by the different CNMC directorates and units during the past year 2020. The CNMC presents this executive summary in order to provide a general, concise and visual overview of the activity carried out by the independent organisation during 2020.



President
Cani Fernández

ANTITRUST

Antitrust activity focuses on the supervision of anti-competitive practices and merger control.



ANTITRUST

During 2020, 735 queries were received, a much higher number than the previous year (110), mainly due to a special e-mail address launched in March for complaints and queries related to the application of competition rules in the context of COVID (covid.competencia@cnmc.es). The majority were answered within a maximum of a week as of their receipt.

In terms of anti-competitive behaviour, the Competition Directorate carried out 4 inspections at 10 company headquarters, considerably less than in 2019, given the restrictions caused by the COVID-19 pandemic, and resolved 15 sanctioning cases. As a result, sanctions totalling €4.3 million were imposed on two cartels, one against companies that agreed on bids for the tender of metrological radars launched by Meteocat, the other against companies for illicit agreements in the solid fuels market in the Basque Country.

In the area of trade control, 70 mergers were notified, compared to 86 in 2019. Nearly 90% of the operations were subject to the pre-notification procedure, which streamlines and simplifies the procedure, increasing efficiency and speed in processing. 64 files were resolved, only three of them in the second phase.

In the course of 2020, 7 new surveillance decisions on previous decisions were initiated and 9 were resolved. In 2020, the first ex post evaluation of a CNMC sanctioning decision on the "paper envelopes" case was launched, allowing to analyse the impact that the action of the competition authority has had on the affected market, as well as to assess the practical difficulties related to the ex post analyses.

In 2020, the Competition Directorate continued to maintain coordination mechanisms with the Competition Authorities of the Autonomous Communities.

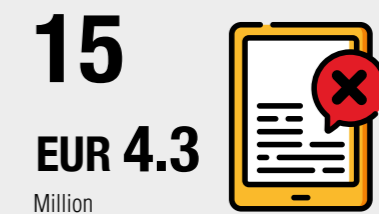
With regard to the CNMC's judicial review of competition cases, in 2020 the National High Court resolved 91 contentious-administrative appeals corresponding to 18 CNMC sanctioning resolutions and the Supreme Court handed down 17 rulings affecting a further 5 CNMC resolutions. In a total of 53 appeals the National High Court upheld the CNMC's analysis of the conduct and the Supreme Court upheld the CNMC's position on 15 occasions.

The CNMC continued to be actively involved in relations with our European partners in the framework of the European Competition Network and in other international forums related to competition, such as the OECD, the International Competition Network (ICN) or the UNCTAD forum of the United Nations.

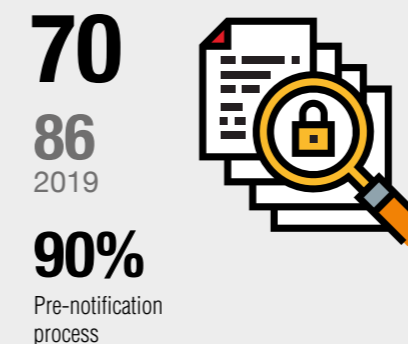
Consultations (highlight: COVID mailbox)



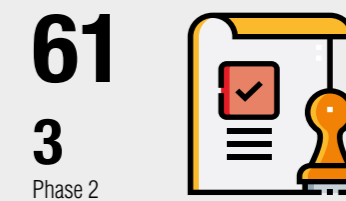
Disciplinary proceedings



Concentration transactions



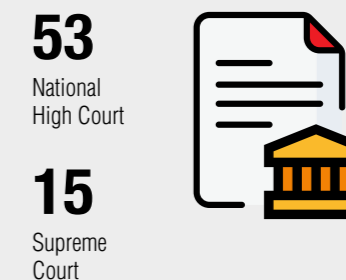
Transactions cleared in phase 1



Inspections



Courts - Appeals in favour of the CNMC



PROMOTION OF COMPETITION AND MARKET UNITY

The CNMC's Promotion of Competition uses three tools for the dissemination of competition policy: advice to Public Administrations and economic organisations; challenging acts of Public Administrations that are contrary to the principles of good regulation, and sector reports in which competition problems are identified.

PROMOTION OF COMPETITION

In 2020, in response to the health and economic crisis resulting from COVID, a large number of regulatory measures were adopted within very tight deadlines and were the subject of a report by the Promotion Unit. In addition, the unit carried out intensive surveillance in some markets affected by the crisis, such as the prices of hygiene masks or the conditions of public guarantees applied by banks to prevent abuses. The annual State Aid report focused on the evaluation of the financial assistance put in place to mitigate the effect of COVID.

In this context, 23 reports were approved on new regulations, mainly related to tourism, food and agriculture sector, waste and environmental protection, services and professional associations, transport, telecommunications and audiovisual. Other reports were also carried out on labour relations in the port loading sector and on administrative procurement.

The Promotion Unit also prepared two studies on urban water supply and sanitation services and on price reductions for air transport tickets for passengers residing in non-mainland territories. In addition, a guide to recommendations on public procurement planning was published.

Reports

23

New regulations on tourism, waste, professional organisations, etc.



Studies and guidelines



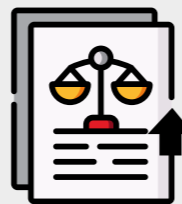
2 Studies: Water and air transport



Public procurement guidelines (planning stage)

Report on regulatory measures

Report on COVID-19 state aid



MARKET UNITY

The Market Unit is endowed with the powers under Law 20/2013, of 9 December, on guaranteeing market unity, aimed at making the principle of market unity effective in the national territory, as stipulated in Article 139 of the Spanish Constitution.

In compliance with these responsibilities, the CNMC prepares reports on obstacles and barriers resulting from acts of the Public Administrations at the request of a complaint from an economic operator and can even file a contentious-administrative appeal before the National High Court.

In 2020 there were 58 requests for action by the CNMC under Law 20/2013 on market unity and 26 reports were issued on various regulations or public procurement.

In addition, the CNMC filed 5 special appeals in defence of market unity on professional reserve or professional bodies, transport and territoriality requirements.

In 2020, of the 11 rulings on appeals filed by the CNMC in this area, 8 had a favourable ruling and 3 were dismissed.

Market unity



Report on obstacles or barriers of public administrations



Appeals filed with the National High Court

"LGUM" (Market Unity Law) requirements

58

26
Reports



Special appeals

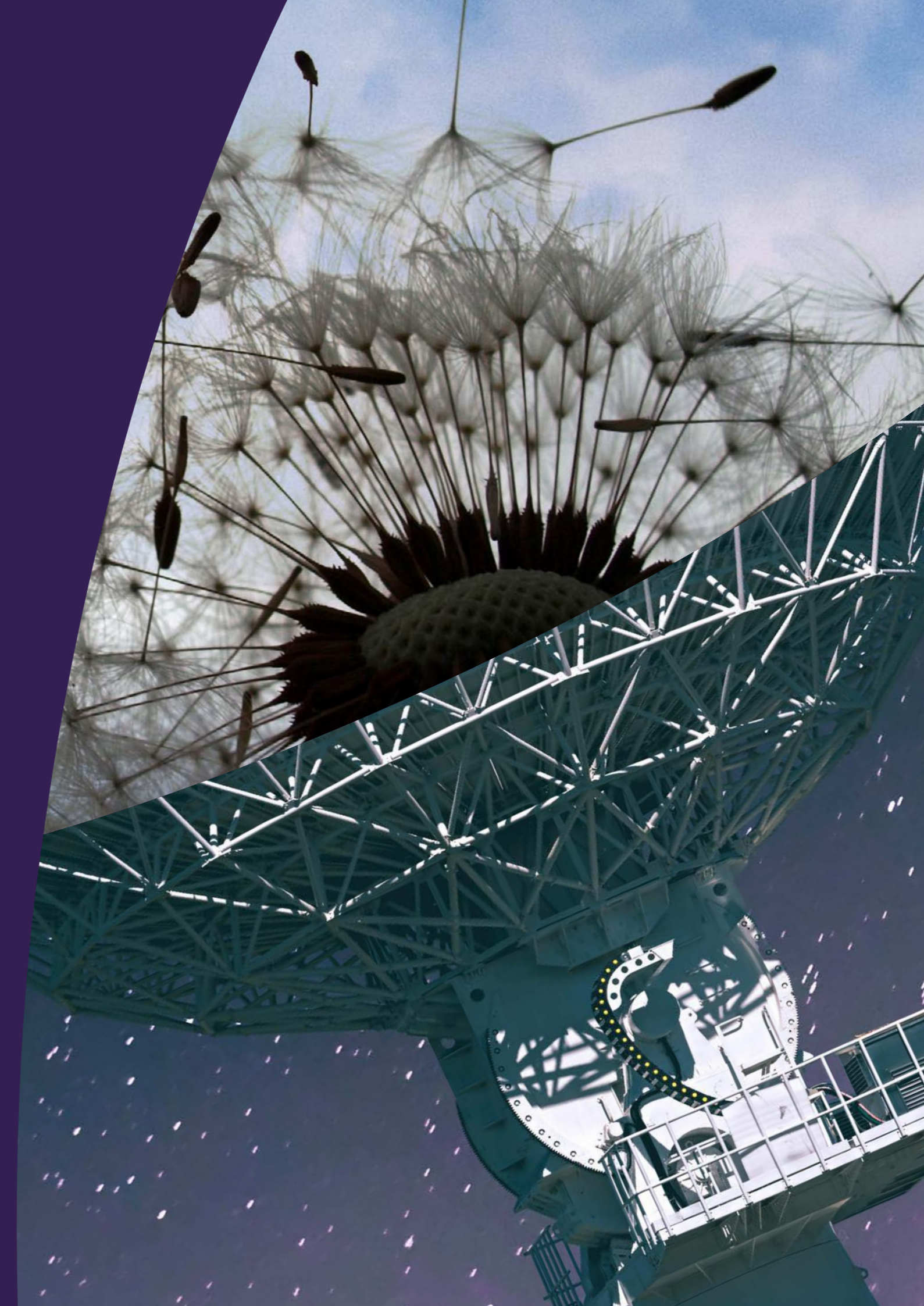
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Market unity



TELECOMMUNI- CATIONS AND AUDIOVISUAL

The Telecommunications and Audiovisual Directorate has various powers to supervise and monitor the proper functioning of the electronic communications markets and the audiovisual communications market.



TELECOMMUNICATIONS AND AUDIOVISUAL

In 2020, the fourth review of both the mass and business broadband markets was launched. The CNMC proposed to extend the area where there is no obligation to provide wholesale fibre services from 66 to 592 municipalities (from 35% to 70% of the population). In the business market, the CNMC proposed to continue to enforce regulation in which Telefónica is obliged to provide high quality wholesale broadband services and leased lines throughout the national territory, and proposed a reduction in the price of leased lines.

The approval of the third revision of the economic duplicability test and the extension of the NEBA and local NEBA offer to 100 Mbps, is particularly interesting. A number of questions on portability were resolved. The CNMC issued several reports on draft legislation, notably the report on the preliminary draft of the new General Telecommunications Law.

In the audiovisual area, the CNMC carried out a systematic analysis of the broadcasts made by 120 television channels, with a view to guaranteeing the rights of minors or the disabled. Monitoring automation was improved and around 320,000 hours of broadcasts per month were analysed.

In 2020, 111 rulings were issued regarding the exemption of advertising, mostly requested by NGOs and foundations, most of which were upheld. A sanction was imposed on MEDIASET for non-compliance regarding programming.

A process of "Public consultation on the application of audiovisual regulation to audiovisual media service providers" was carried out with the aim of gathering relevant information on video-sharing platforms.

In 2020, 21 files were processed in relation to compliance with the advance financing obligation for the production of European works in the financial year 2019 and the resolutions corresponding to compliance with this obligation in 2018 for Fox, Sony and Vodafone. The annual report on compliance with this obligation for 2018 was also approved.

In 2020, sanctions were imposed on eight telecommunications operators, for a total amount of 633,200 euros and 808,550 euros in sanctioning proceedings, in the categories of hidden advertising, unjustified changes to programming and poorly executed product placements. No audiovisual disputes were brought before the CNMC in 2020.

Finally, as regards judicial review, most of the judgments handed down in 2020 in the telecommunications field (9 out of 10, 90%) have dismissed the appeals filed by operators against the Commission's decisions.

In 2020, the CNMC continued to participate actively in international forums, with a special focus on BEREC (Body of European Regulators for Electronic Communications) and ERGA (European Regulators Group for Audiovisual Communication Services), in relation to the regulatory frameworks for electronic and audiovisual communications respectively.

In 2020, BEREC was extremely focused on responding to the new electronic communications needs that arose from COVID. ERGA launched a task force to assess the implications of the pandemic on the economic conditions in the audiovisual sector and in the field of disinformation.

Broadband markets review

592

Proposed extensions to towns



66
2019

Systemic analysis of broadcasting

120

TV channels



>3.8

Million hours of broadcasts reviewed

Report

Report on the preliminary draft of the new General Telecommunications Law



Sanciones

EUR 633,200

Telecommunications operators fined



EUR 808,550

Audiovisual penalties (hidden advertising, programming changes, etc.)

Cases involving promotion of European works

21

1

Annual Report



Adaptation to COVID-19

BEREC
ERGA

Focus on new requirements and impacts of the COVID-19 pandemic



ENERGY

The CNMC's Energy Directorate supervises and monitors the correct functioning of the electricity and natural gas sectors, with special emphasis on consumers. It maintains oversight functions in the petroleum products markets.



ENERGY

In 2020, in the consumer area, several actions were taken to monitor the gas and electricity retail market and the price comparison tool was improved. In addition, recommendations were published to avoid abusive clauses in supply contracts and improvements were made to resolve disputes with suppliers. A total of 700 complaints were dealt with and 5 sanctions were imposed on marketers.

With regard to electricity, the most noteworthy aspect relates to the work done regarding infrastructures and the new competencies resulting from the entry into force of Royal Decree-Law 1/2019: methodology on the economic regime for the remuneration of transmission facilities; planning, authorisations for new facilities and interconnections. In the area of electricity distribution, the Memo establishing the remuneration method was approved.

In 2020, important regulatory projects were reported on, including the Draft Bill on Climate Change and Energy Transition, the Law on the National Fund for the Sustainability of the Electricity System and the Royal Decree regulating the economic regime for renewable energies.

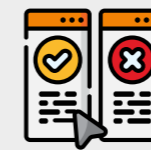
Regarding the gas sector, the actions focused mainly on the preparation, development and implementation of the Memos arising from the entry into force of Royal Decree-Law 1/2019, relating to the economic system applicable to the gas sector and its operation, as well as the design of regulatory accounting to guarantee the quality of the information to carry out these tasks. In addition, 19 reports on new transport facilities were carried out.

In turn, the regulated prices and economic and financial area established the methods for calculating access tolls to gas and electricity infrastructures and reported on the regulations relating to electricity system charges.

Throughout 2020, the CNMC produced a total of 22 supervisory reports on electricity and natural gas markets and forward allocation mechanisms and closed the year with a further 10 reports being processed.

The fourth Report on the functioning of the wholesale gas market (MIBGAS) was prepared and important improvements were identified regarding its functioning as a result of the recommendations carried out in previous years. Work was also done to improve the LNG market.

Oversight of the gas and electricity market



Improved price comparison tool



Tips to avoid unfair terms

Consumer service

700

Complaints



5

Penalties imposed on suppliers

Electricity

New competencies following enactment of Royal Decree-Law 1/2019



Circular on distribution methodology

Draft regulations

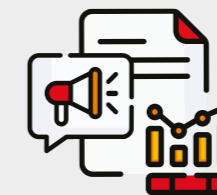
Draft Climate Change and Energy Transition Act

Law on the National Fund for the Sustainability of the Electricity System

Royal Decree regulating the economic regime of renewable energies

Gas

Circulars on the economic regime and the functioning of the gas system



19

Reports on new transmission facilities

Market reports and mechanisms

22

>10

Reports being processed



ENERGY

Particularly worth mentioning is the participation in the draft Royal Decree approving the basic procedure for the certification of building energy efficiency.

The CNMC continued to monitor the liquid hydrocarbon markets, with particular attention on the supervision of the fuel market and the CLH's logistics system.

In 2020, the functions on the provisional and final certification of biofuels for the years 2019 and 2020 continued to be carried out. In addition, work began on the necessary actions to ensure the transfer of competencies in the area of biofuel certification to the Ministry for Ecological Transition and the Demographic Challenge, as foreseen in the Law drafted by the CNMC.

In the area of electricity and gas settlements, the CNMC continued to execute the provisional settlements for 2020 and 2019, and the final settlement for 2019. The corresponding system monitoring and adaptations to the new toll schemes coming into force in 2021 were carried out.

In 2020, 181 conflicts were initiated, a significant increase of 50% compared to 2019. This is in response to the increasing saturation of the various access nodes to the transmission and distribution networks, leading to an increase in refusals.

In 2020, the National Court (NC) and the Supreme Court (SC) issued a total of 18 rulings in the energy sector, while exercising their jurisdictional review powers regarding the activities carried out by this Commission, most of them in relation to settlements. 9 were upheld and 9 were dismissed.

In 2020, the CNMC's international activity in the energy field focused on cooperation with European energy regulators, through the Council of European Energy Regulators (CEER) and the Agency for the Cooperation of Energy Regulators (ACER). CNMC's contribution to the regional initiatives for the construction of regional energy markets and to various European energy forums, promoted a better integration of the Spanish energy sector with Europe.

Cooperation and participation continued in the Iberian Electricity Market (MIBEL), for the development of the Iberian Gas Market (MIBGAS), cooperation with the Mediterranean Energy Regulators Group (MEDREG) and cooperation with Ibero-American regulators through the Ibero-American Association of Energy Regulators (ARIAE).

Hydrocarbons



Provisional and final certification of biofuels



Monitoring of the liquid hydrocarbons markets (fuel market and CLH's logistics system)

Settlements

Final settlement of 2019

Provisional settlements of 2020 and 2019



Network disputes

181

Disputes

50%

Increase from 2019



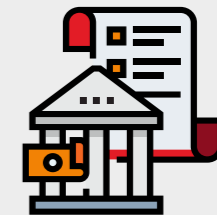
Rulings related to the energy sector

18

Rulings by the National High Court and Supreme Court

9+9

Upheld and dismissed



International activity

ACER

Agency for the Cooperation of Energy Regulators

ARIAE

Ibero-American Association of Energy Regulating Entities

CEER

Council of European Energy Regulators



MIBGAS

Iberian Gas Market

MIBEL

Iberian Electricity Market

MEDREG

Association of Mediterranean Energy Regulators

TRANSPORT AND POST SECTOR

The CNMC carries out various supervisory and control functions in the postal, airport and railway sectors.



TRANSPORT AND POST SECTOR

In the airport sector, which was extremely affected by the pandemic in 2020, the CNMC issued a mandatory report on the processing of various management plans relating to the airports of Fuerteventura, Seville and Bilbao, approving several recommendation agreements for AENA during the year. It also supervised the airport tariffs of Aena S.M.E., S.A. in the financial year 2021 and the parameters for their update and certified the surplus amounts for 2019.

In the railway sector, a number of resolutions were adopted. In particular, it was agreed to sanction ADIF and ADIF AV for non-compliance related to fees and capacity allocation. Of particular note is the resolution on train drivers, which has an essential effect on the entry of new operators into the liberalised market.

The CNMC issued the report on the Draft Bill amending Law 38/2015, of 29 September, on the Railway Sector, regarding fees and pointed out some distortions that the system generates in terms of sustainability and predictability. Recommendations were also made on the sanctions system to ensure that sanctions are proportionate and effective.

The CNMC issued a report on the rail sector in 2019 highlighting the opening of the new high-speed (HS) section between Antequera and Granada, as the intensity of use of the network is still far from the figures achieved in other European countries. Revenues from fees and from the provision of basic and ancillary services by network managers exceeded €1.57 billion in 2019, gaining significant weight in the operator's revenues.

In the postal sector, the CNMC concluded that postal services provided under public service obligations for 2020 complied with the principles of affordability, transparency and non-discrimination and alignment with the actual costs of providing the service, except for some parcel services for which a sanction procedure was initiated. Prices for cross-border services did not change significantly.

In postal services, several resolutions were adopted on regulatory accounting as a tool for better supervision. With regard to the supervision of the universal service, in general, they made recommendations to the Ministry of Transport and Urban Mobility to clarify the obligations incumbent on Correos in the provision of the Universal Postal Service, the supervision of its compliance by the CNMC, and that the estimate of the unfair financial burden be as close as possible to the reality of the net avoided cost incurred by the operator.

It should be noted that the CNMC ruled in 2020 in the declaratory procedure that Amazon is a postal operator and must therefore comply with parcel and courier regulations.

In the international area, the CNMC's participation in the assessment and review procedure both individually and through its participation in the Forum of Independent Airport Tariff Supervisory Authorities (ISA) or Thessaloniki Forum is noteworthy. The railway also took part in the SERAC meetings, which aim to analyse the state of the European rail freight corridors.

Rail sector resolutions and reports

ADIF ADIF AV

Penalties for
infringements



Draft Railway
Sector Law

Report on the
railway sector
in 2019



Impact on the airport sector

Report on
master plans for
Fuerteventura,
Seville and Bilbao



Oversight of
Aena's airport
tariffs for 2021



Postal sector resolutions and proceedings

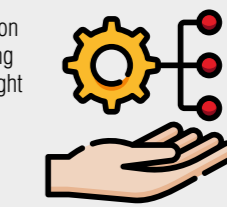
AMAZON

Requirement to
comply with
parcel delivery
and courier
service regulations



Several resolutions on
regulatory accounting
for enhanced oversight

Recommendations
on oversight of
universal service



TRANSVERSAL UNITS

Along with the governing and management bodies, the CNMC has certain units that provide cross-cutting services to the rest of the CNMC and are essential for its functioning.

General Secretary
Legal Department
CNMC's Economic Advisory Office
Statistics and Documentary Resources Unit
Communications Department



TRANSVERSAL UNITS

General Secretary

In particular, the General Secretary is responsible for providing the organisation's common services, as established in article 27 of CNMC's General Regulation. Its functions include human resources management and planning, the economic-financial and asset management of the organisation, the maintenance and development of information and communications systems, and the processing of agreements with other entities.

In 2020, one of the most important tasks of the General Secretary was organising remote working, which was successfully implemented with the cooperation of all staff. As a result, the work of all units was able to proceed almost normally and there were no major delays or shutdowns in the day-to-day operations.

Legal Department

On the other hand, the Legal Department of the CNMC also carries out a series of cross-cutting functions, providing legal advice to all the institution's bodies, reporting and processing proposals, investigating proceedings, reporting on contestation proposals, and collaborating with courts and tribunals. In 2020 and within the framework of the COVID, telematic notification procedures were boosted, with a substantial increase in the number of companies registered in the Agency's register of powers of attorney for contacts notifiable via telematic means, which now stands at 6,000 companies.

CNMC's Economic Advisory Office

The CNMC's Economic Advisory Office supports the President and the Council of the CNMC, as well as the four investigating directorates and the Department for the Promotion of Competition. It collaborates in particular with the Legal Department and the Competition Directorate to carry out the economic assessment of cases.

Statistics and Documentary Resources Unit

The Statistics and Documentary Resources Unit provides support to all CNMC directorates. It houses one of the main documentary collections in Spain specialising in competition, energy, telecommunications, audiovisuals and postal services. It brings together the statistical information produced by all CNMC directorates. It is also in charge of preparing the monthly business cycle notes and quarterly statistics on electronic communications.

Communications Department

The Communications Department in 2020 continued the CNMC's commitment to communication and transparency. This was key for the agency's ability to remain an essential point of reference for businesses and citizens in the unprecedented circumstances triggered by the State of Alarm declared on 14 March 2020.

In 2020, social media in particular was used as a means to reach out to citizens and businesses. In particular, the Communication Department launched a strategy to publicise the COVID complaints mailbox, which received 700 complaints/enquiries (between April and September).

Also within the framework of COVID, internal communication played a special role during the three months of confinement in order to maintain the work rhythm and the relationship with the workers remotely.

Teleworking arrangements

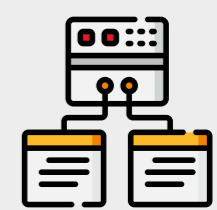
90%
of staff (months
of the pandemic)



Increase in notification procedures

6,000

Companies in the
Agency's register of
powers of attorney
of notifiable contacts



Statistics and reports

Monthly, quarterly
and annual
telecommunications
reports



e-Commerce reports

Expansion of documentary resources

The CNMC holds
vast documentary
resources in Spain
on competition in the
telecommunications,
energy, audiovisual
and postal sectors.



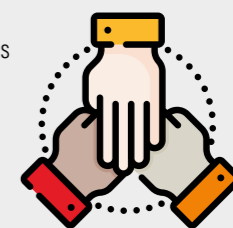
Dissemination strategy

SM
Increased use
of social media



Commitment to internal communication

Sustain the level
of work and relations
during the 3-month
lockdown





Get the full report

2020 report

 **CNMC**
COMISIÓN NACIONAL DE LOS
MERCADOS Y LA COMPETENCIA

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