



CNMC

Spain's National Authority for  
Markets and Competition

# **The Spanish National Authority of Markets and Competition: A New Institutional Model of Competition and Regulatory Supervision**

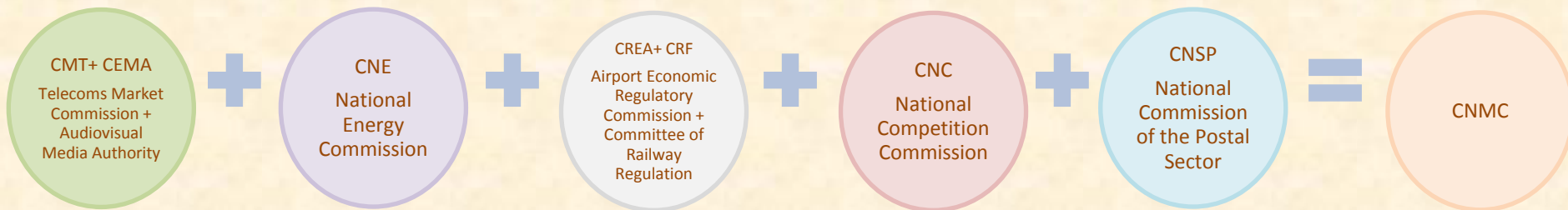
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# A new integrated model of competition enforcement and multisectoral supervision

- Act 3/2013 of June created the Spanish National Authority for Competition and Markets
- The new Authority comprises the former competition Authority and several sectoral regulators (telecommunications and audiovisual products, energy, railways and airports, postal services)



- The main functions of the CNMC:
  - Ensure, preserve and promote the correct operation, transparency and effective competition in all markets and economic sectors: competition enforcement and dispute resolution
  - Perform regulatory supervision of the regulated industries: the electronic and audiovisual communications markets, the electricity and natural gas sectors, railways tariffs and the postal services
  - Provide advice to the government regarding competition and the correct operation of markets
  
- Considering the importance and scope of its functions, the CNMC could be a dynamic factor for the stable growth of the Spanish economy and an important link in the process of structural reform

# Why change the model?

- When the trend towards liberalization became widely accepted in Europe, Spain chose a functional separation between the sectoral regulators, and also between any of them and the competition authority.
- Why change the model now to a single authority with the mandate
  - to regulate a wide array of economic sectors (multisectoral regulatory model)
  - and to incorporate also the task of competition enforcement (integrated model)?
- A careful examination of the literature on regulation indicates that there is no “one-size-fits-all” solution to regulatory institutional design: great importance of context

# Main critiques of the new model

- The problems of a multisectoral regulatory model:
  - the risk of losing industry-specific knowledge and specialization of skills (especially when the new authority has fewer resources available)
  - the lack of diversification against institutional failure, which would affect all regulated sectors
  
- The different nature of the tasks of competition enforcement and sectoral regulatory supervision
  - the possible lack of debate between the sectoral regulation and the competition rules, and the dominance of one set of rules over the other
  - possible “loss of focus” of the new institution
  - again, the reduced diversification against institutional failure

# The advantages of a single authority

- There are significant advantages to a multisectoral regulator that is integrated with the competition authority:
  - a reduced risk of regulatory capture by the private sector or by the government
  - synergies of costs in technical, legal, economic and administrative services
  - consistent use of principles, rules and procedures (especially important for convergent products and companies): overcome regulatory fragmentation and inconsistent policy initiatives
  - the know-how and the best practices of different sectors can be used
  - the benefits increase as sectoral markets grow in maturity over time
  - higher effectiveness in the defense of competition due to the immediate knowledge of the sectoral regulators integrated into the same authority

- The new Spanish authority was introduced to exploit the advantages of the new model in achieving several objectives:
  - to guarantee the coherence between competition rulings and sectoral regulation
  - to take into account the external effects of strategic sectors like energy or telecommunications on the rest of the economy
  - to take advantage of synergies
  - to respond to changes in the telecommunications, energy and transport industries during the past decade (due to more competition and convergence between sectors)
  - to ensure a predictable business environment and legal certainty for the firms, indispensable conditions if investment and innovation are to be promoted, especially for network industries.
  - to make regulatory capture much more difficult, preventing the alignment of the authority with sectoral interests



- To achieve the objectives mentioned before, the CNMC's institutional design had to fulfil several key features:
  - Independence
  - Accountability
  - Transparency
  - Global vision
  - Efficiency
  - Flexibility
  - Predictability

- The CNMC's structure and operation are designed to guarantee that it remains independent, behaves with transparency and is effectively accountable to the Parliament
  - Appointment of the Board subject to control by the Parliament and non-renewable terms
  - Collective decision-making (10 members of the Board)
  - Exclusion of any other activities for the Board, Directors and staff
  - Prohibition to accept and request instructions from the Government
  - Appointment of Directors and managerial staff by the Board
  - Independence of the investigative Directorates
  - Coordination among Directorates by the President
  - The size and sectoral diversity of the new Authority makes regulatory capture harder

# Challenges for the new authority

1. Effective integration into a cohesive unit: the difficulties in the implementation of the new model should not be underestimated
  - Coordination across Divisions
  - Cohesive institutional culture
2. Effective independence: the crucial point of financial independence
3. Attracting and retaining human resources



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**Thank you**

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# Appendix. Structure of the CNMC

