

SPAIN

Name of Regulatory Authority: Comisión del Mercado de las Telecomunicaciones (CMT) –
Telecommunications Market Commission

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Basis for operation

Legal framework : Law 32/2003, November 3rd, General of Telecommunications

General remit : TV radio networks and infrastructures
 others (please specify)

Funding mechanisms¹ : licence fee industry fee state budget
 mixed funding (please specify):
 other (please specify):

The Commission is funded almost exclusively from the income received through rates, levies and public prices earned by providing the services of protecting, ordering, managing and monitoring telecommunications. These services are basically the following:

- Granting permits, licences and registration certificates.
- Charging for the provision of telecommunication services that require users to pay compensation established as a percentage of the gross earnings from operation.

Composition

Number of members: 9 Term of office: 6 years Re-election possible: (only once)

Proposal of members: The members of the Council are proposed jointly by the Ministers of Economy and Science and Technology.

Appointment of members: The members of the Council are appointed by a Decree of the Spanish Government. The nomination of the proposed members should be submitted to the competent parliamentary Commission for information only.

Revocation of mandate possible: based on: exceptional circumstances

Number of staff: 119

Chairman: D. Carlos Bustelo García del Real
(if not applicable, please name Director General)

Vice Chairman: D^a Elisa Robles Fraga

Please describe your authority's structure if it doesn't have a board:

Competences

		national	Regional *	local
Granting of licences	terrestrial analogue broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	terrestrial digital broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	satellite analogue broadcasters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	satellite digital broadcasters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	cable analogue broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	cable digital broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	others(please specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* Regional basis will be considered equivalent to Spanish Autonomous Communities in our answers.

in the areas where your authority is not competent to grant licences, please specify the authority in charge:

- In Spain, the public services of terrestrial analogue/digital TV broadcasting are provided by concessionaires, which get their licences (concessions) after tender processes. The authorities competent to grant these licences are: Spanish Government (national basis); Autonomous Communities Governments (regional and local basis).
- Only the provision of satellite TV services is fully liberalized at present, so the CMT grants administrative authorizations for the provision of satellite TV services.
- As far as cable TV services are concerned, their situation has been modified recently:
 - Until the approval of the new Law 32/2003, November 3rd, General of Telecommunications, cable analogue/digital TV broadcasting services were provided by concessionaires (public-service regime). The Ministry of Science and Technology granted the licences (concessions), only on a regional basis.
 - Nowadays, pursuant to Additional Provision 10^a and Transitory Provision 10^a of the Law 32/2003, November 3rd, General of Telecommunications, the provision of these services has been liberalised. The old concessions have been transformed into administrative authorizations. Nevertheless, there is a legal period of deferral for the effective liberalization: only from December 31st 2009 (or from December 31st 2005, at decision of the Spanish Government) the CMT (on national basis) or the competent authority of the Autonomous Communities (on regional or local basis) will be able to grant new administrative authorizations for the provision of cable TV broadcasting services.

Please add any other relevant information:

Granting of declarations	terrestrial analogue broadcasters *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	terrestrial digital broadcasters *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	satellite analogue broadcasters**	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	satellite digital broadcasters **	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	cable analogue broadcasters ***	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	cable digital broadcasters ***	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	others(please specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

in the areas where your authority is not competent to grant declarations, please specify the authority in charge:

* The CMT is in charge of the management of the Public Register of Concessionaries of TV public services. It means that all terrestrial analogue/digitalTV private broadcasters (on national basis) should register their concessions in this Register.

On regional/local basis, the respective terrestrial analogue/digital TV broadcasting concessions should be registered in the Registers created by each Autonomous Community for such purposes, in case of exists (situation differs among the various Autonomous Communities).

** It doesn't exist a Register of Satellite TV broadcasting administrative authorisations.

*** The CMT is currently in charge of the registration of the cable analogue/digital TV broadcasters. The Register is called "Special Register of Cable Operators", and cable TV broadcasters are obliged to be registered in it. After December 31st 2009 (or December 31st 2005: see previous section), new administrative authorizations that will be granted for the provision of cable TV broadcasting services by the CMT (on national basis, or whether the coverage exceeds the area of one Autonomous Community) or the competent authority of the Autonomous Community (on regional or local basis) should be recorded in the appropriate Registers (the Register of the CMT -on national basis- and the Registers created by each Autonomous Communities for such purposes -on regional or local basis-).

Please add any other relevant information:

Frequency allocation Ministry of Science and Technology

Supervision of private broadcasters Ministry of Science and Technology Determinate Autonomous Communities have created Audiovisual Councils with supervision competences and sanctioning capacity (ex. Catalonia and Navarra Broadcasting Councils). In the Determinate Autonomous Communities have created Audiovisual Councils with supervision competences and sanctioning capacity (ex. Catalonia and Navarra Broadcasting Councils). In the

remaining Autonomous Communities, supervision competence attributed to respective Administrations. Councils). In the remaining Autonomous Communities, the supervision competence is attributed to the respective Administrations.

public broadcasters

Ministry of Science and Technology/ RTVE Parliamentary Control Commission

Others:

Satellite broadcasting.- On 29 November 2002, the Spanish Government approved the merger between Sogecable and Via Digital (the companies that manage the two leading Spanish digital pay-TV platforms), imposing conditions to the deal. The CMT, among other authorities, will control the compliance of the conditions by the merged company.

Effective competition: CMT, according to Transitory Provision 8^a of the Law 32/2003, November 3rd, General of Telecommunications, will be in charge of safeguarding the existence of effective competition in the audiovisual services markets.

Handling complaints

The CMT seeks to provide speedy settlement of disputes between agents operating in the sector in order to safeguard the existence of effective competition in the audiovisual services markets. It may act as arbitrator at the request of the interested parties (article 1.Dos.2.a of the Act 12/1997).

The CMT doesn't deal with

content issues.

- Sanctioning
- | | | |
|--|---|--|
| <input type="checkbox"/> issue warning | <input checked="" type="checkbox"/> impose fine | <input type="checkbox"/> demand to broadcast announcement |
| <input type="checkbox"/> revoke licence | <input type="checkbox"/> suspend licence | <input type="checkbox"/> reduction in the licensing period |
| <input type="checkbox"/> suspend a programme / broadcast | | |
| <input type="checkbox"/> other (please specify): | | |

The competence to impose sanctions corresponds to the CMT, among other cases:

- When the undertaking fails to fulfill the Resolutions adopted by the CMT (art. 53.r of the Law)
- When the undertaking repeatedly fails to fulfill the requirements of information formulated by the CMT in the exercise of its functions (art. 53.x of the Law);
- If the operator does not provide the data required by the CMT or inexcusably delays its contribution (art. 55.d of the Law).
- If the undertaking fails to fulfill the Directions adopted by the CMT (art. 53.q of the Law)

- Rule making
- | | |
|--|--|
| <input type="checkbox"/> codes | <input checked="" type="checkbox"/> rules (please specify): The CMT may approve Directions ("Circulares") which, once published in the Official Journal, shall become binding for all operators. The CMT is allowed to adopt measures whose aim is to safeguard diversity in the provision of services, to guarantee access to networks and to ensure that pricing and commercialization policies do not restrict competition. |
| <input type="checkbox"/> other (please specify): | |

- Consultative powers please specify the areas covered:

CMT provides advisory services to the Government and the Ministry of Science and Technology at their request or acting on its own initiative, on any issue related to the market and communications regulation, particularly when they may affect the free and competitive development of the market.

- It furnishes mandatory reports on proceedings to draw up legislative dispositions on electronic communications whenever those matters fall within the scope of the Central State Administration.
- Likewise, the CMT also provides direct advisory services to Autonomous and Local Governments at their request when exercising the powers conferred on them on matters related to the State competence on telecommunications.

- Power of nomination please specify:
(e.g. chairman of PSB)

Monitoring

programming Ministry of Science and Technology (national basis) / Audiovisual Councils created by determinate Autonomous Communities (ex. Catalonia and Navarra Broadcasting Councils) or in the remaining Autonomous Communities, the respective Administrations.

financial performance Ministry of Science and Technology / Audiovisual Councils created by determinate Autonomous Communities (ex. Catalonia and Navarra Broadcasting Councils) or in the remaining Autonomous Communities, the respective Administrations.

others (please specify):

others

Please specify:

Please add any information you deem important:

ⁱ By "licence fee" we refer to the public service licence fee usually paid by the entire population, whereas the term "industry fee" implies all those funding mechanisms based on a contribution from broadcasters themselves, including, for example, licensing fees (i.e. an amount of money that is paid by the broadcaster for it to be able to carry out its broadcasting operations) and frequency taxes.