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Working paper **Internet – a new potential for European political communication?**

Case report: **Spain**

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## **Decision Making Structures: National Competition Law and Regulatory Authorities**

Responsibility for regulation and policies regarding the Internet lies on two major institutions: The Commission for the Telecommunications Market at the Spanish Ministry of Economy and the Spanish Ministry for Science and Technology respectively.

The Commission for the Telecommunications Market was created in 1996, as part of a government decree for the liberalization of the telecommunications sector. The Commission is the institution responsible for regulating everything concerning the telecommunications market. The Law 12/97 indicates that the Commission's goals are to guarantee the existence of true competition in the telecommunications market and the development of adequate pricing policies, and to play the role of arbiter in case of conflict.

The Spanish Ministry for Science and Technology (created in year 2000), through the Secretary of State for Telecommunications and the Information Society, is the main institution responsible for policy regarding Internet, and coordinates its efforts with the Intergovernmental Commission for the Information Society and New Technologies. The MST is responsible for the drafting of legislative proposals, for the promotion and development of advanced infrastructures and services, for the design and execution of projects aimed at facilitating the use of information technologies in all contexts, for the planning, administration, and control of scarce resources in the field of telecommunications, relations with and control of the activities of service and access providers, and for controlling, inspecting, and sanctioning in topics related to telecommunications, audiovisual media, and the information society.

## **Spanish Government Policy Regarding Internet**

### Legislation

The main legislation concerning Internet includes:

1. Decree 1289/99, which created the Interministerial Commission for the Information Society and New Technologies.
2. The Decree/Law 7/2000, which included a package of Urgent Measures in the Telecommunications Sector (it included an Internet flat rate).
3. The Resolution of June 29, which ordered the publication of the homologation agreement included in the Decree/Law 7/2000 on Urgent Measures in the Telecommunications Sector.
4. Order of July 31<sup>st</sup>, 2000, toward the publication of the Agreement of July 27, 2000, reached by the Delegate Commission of the Government for Economic Issues, which established a new regulatory framework for pricing policy developed by Telefónica de España, S.A.U.
5. Resolution of October 31<sup>st</sup>, 2000, by the Secretary of State for Telecommunications and the Information Society, which granted a specific numbering system for Internet access.

6. Order of October 31, 2000, which establishes the publication of the agreement by the Delegate Commission of the Government for Economic Issues, which modifies the benchmark interconnection offer by Telefónica de España S.A. U, based on Article 6 of the Decree/Law of 7/2000 on Urgent Measures in the Telecommunications sector.
7. Order of October 31, 2000, which approves the specific contracting conditions for pricing rate policies regarding telephone access in metropolitan areas and the new flat-rate for Internet access established by the Decree/Law of 7/2000 of Urgent Measures in the Telecommunications Sector.
8. Decree/Law 3456/20000, which approves the regulations concerning access to the node of subscribers of the fixed telecommunications public network of dominant operators.
9. Resolution of December 28, 2000 by the Secretary of State for Telecommunications and the Information Society, which modifies the first offer of access to the node of subscribers of Telefónica de España, SA.
10. Decree/Law 1290/1999, which develops article 81 of the Law 66/1997, of fiscal, administrative, and social order provisions regarding security services by the Fábrica Nacional de Moneda y Timbre-Real Casa de de la Moneda, in the field of e-communication with the Public Administrations.
11. Order of February 21<sup>st</sup>, 2000, which approves the Rules regarding accreditation of certification service providers and the certification of specific e-commerce services.

The main policy guidelines regarding Internet are encompassed by the Info XXI program and the Law Project of Services corresponding to the Information Society and E-Commerce.

### Info XXI Framework

The main guidelines of government policy with respect to Internet are contained in the framework program *INFO XXI: La sociedad de la información para todos (INFO XXI: An information society for everyone)*. This framework program was approved by the Spanish Ministry for Science and Technology in December 1999. It contains a series of objectives, programs, and measures aimed at promoting the information society in Spain and make access to information technologies available to all.

The background for this framework program is the 1994 Bangemann Report, entitled “Europe towards the Information Society” (translated from Spanish). This report concerned the implementation of liberalization measures in the field of telecommunications, as well as other measures concerning the regulation mechanisms, networks, and services connected with the new information technologies, the social and cultural dimensions of the new information technologies, and the promotion of the new information technologies. This report was followed by a 1996 European Commission Communication entitled “Europe at the vanguard of the information society” (translated from Spanish), that included a list of actions deemed necessary to make the information society a reality in Europe. Since this date, all public administrations in Spain have been adopting measures to implement that action program.

The INFO XXI: La Sociedad de la Información para todos initiative attempts to facilitate and coordinate the policies in the field of new information technologies adopted by different Ministries and public institutions and by other economic, social, and institutional actors with a stake in the development of the information society in Spain.

Until now, the Spanish Public Administration has passed laws and regulations, and adopted measures in the following fields:

1. Liberalization of the telecommunications market and development of telecommunications infrastructures. Fourteen law projects and one hundred and two regulations to develop those laws have been adopted thus far. In addition, measures have been taken to facilitate the use of new technologies, to regulate services and tariffs, and to regulate the development of Internet and Internet, and to improve security in Internet.
2. Modernization of the infrastructures used by the Spanish Public Administration.
3. Priority attached to the funding of research related to the new information technologies. Resulting from this priority, in the period 1997-1999 39% of all research funds allocated by the Spanish National Research Agency were assigned to projects related to the information society.
4. Development of measures to improve access to new information technologies in the education sector. Since 1996, more than 42 million Euros have been invested and more than 100000 teachers have received instruction on how to use these new information technologies. In addition, the Spanish Public Administration has developed and distributed multimedia products, provided access to Internet to all centers for public education and to all public school teachers. In addition to this, the Ministry of Education hosts more than 51.000 Internet accounts and provides education via Internet to more than 14,000 students.
5. Development of specialized groups and forums to discuss and reflect on new developments connected with the new information technologies.
6. Coordination of activities between different sectors of the Spanish Public Administration.

The main objectives of the Initiative INFO XXI are:

1. To make new information technologies available to all.
2. To ensure that citizens are prepared to work in jobs that require the use of new information technologies.
3. To develop the necessary infrastructure and the juridical instruments needed to promote the development of the digital economy. In particular, to invest in the development the legislation and the infrastructure that are necessary to make access to broad-band Internet services (ADSL) widely available and affordable to all.
4. To use the new information technologies to promote Spanish culture around the globe.
5. To use the new information technologies to improved the population's quality of life.
6. To promote innovation and technology development in the information society sector.
7. To develop e-commerce and use the new information technologies to promote Spanish companies.

8. To use the new information technologies to improve the citizens' access to the public administrations.
9. To promote the companies' use of new information technologies.
10. To use the new information technologies to promote the Spanish state's cultural pluralism.

The budget for this initiative represents yearly expenditures of about 820 Million Euros per year during the 2000-2002 period. These funds will be spread across different government ministries.

As part of the Info XXI plan, the Government presented on April 15, 2002, the Program "Internet at School", with a budget of 272 Million Euros. The plan aims to promote the use of new technologies throughout the Spanish school system. It will be implemented in Spain's 17,500 public education establishments. The goal is to ensure that all public funded schools get broadband, high speed Internet connection and develop local networks. The plan also aims to finance the purchase of 150,000 new pieces of equipment to allow Internet connection and to reduce the number of students per computer from 33 to 12 students. In addition to this, the funds will be used for the development of software applications that schools will be able to get for free. Finally, part of the budget will be invested in the development of education strategies and in the provision of teacher training in the use of new technologies.

#### Law project of services corresponding to the information society and E-commerce

This law project was approved on February 2002 by the government and is pending Parliament's approval. The law project addresses the issues of regulation of internet content/state surveillance of internet communication, as well as legal provisions concerning the provision of e-services.

#### General Outline of the Law:

##### Title 1: General Provisions

###### Chapter I: Object

Article 1: Object

###### Chapter II: Applicability

Article 2: Service providers established in Spain

Article 3: Service providers established in another EU country or in a EEA Country

Article 4: Service providers established outside the EU or the EEA

Article 5: Services that are excluded from the application of this law

##### Title 2: Service Provision in the Information Society

###### Chapter 1: The principle of free provision of services

There cannot be restrictions to the provision of e-services, with exceptions specified in articles 3 and 8.

Article 6: Services not subject to previous authorization

Article 7: Principle of free provision of services

Article 8: Restrictions to the provision of services

The authorities can pass measures to interrupt the provision of services or withdraw data contained in particular sites, when these infringe the following principles:

- The maintenance of public order, public safety, and national defense, and the conduct of criminal investigations.
- The protection of public health or of consumers and users, even in their role as investors
- The respect of a person's dignity and the principle of non discrimination for race, gender, religion, opinion, nationality, and any other personal or social circumstance
- The protection of youth and children

If the provider is based outside Spain, the authorities can contact the appropriate transmission provider so that they undertake measures to prevent access to these providers or their data. The measures that can be taken must be objectively determined and follow the principles of proportionality and non discrimination.

#### Chapter 2: Obligations and Responsibility of service providers in the information Society

##### Section 1: Obligations

Article 9: Registration of the domain name

Article 10: General information

Article 11: Cooperation duty of providers of mediation services

##### Section 2: Responsibility

Article 12: Responsibility of service providers in the information society

Article 13: Responsibility of net operators and access providers

Article 14: Responsibility of service providers who create a temporary Copy of data requested by the users

Article 15: Responsibility of providers of services for the storage Of information

Article 16: Responsibility of service providers who facilitate links to Sites or search engines

#### Chapter 3: Codes of Behavior

Article 17: Codes of Behavior

#### Title 3: Commercial Communication via Internet.

Article 18: Juridical frame

Article 19: Required information about commercial communication, Promotions, and contests

Article 20: Prohibition of commercial communication through e-mail and Equivalent media

Article 21: Rights of recipients of commercial communication

#### Title 4: Contracts through Internet.

Article 22. Validity and consequential character of contracts through Internet

Article 23: Proof of contracts signed via Internet

Article 24: Participation of trusted third parties

Article 25: Applicable law

Article 26: Obligations that precede the beginning of a contract procedure

Article 27: Information following the signing of a contract

Article 28: Place in which the contract takes place

#### Title 5: Judicial and extrajudicial conflict resolution.

Chapter 1: Cessation  
Article 29: Cessation  
Article 30: Active legitimation  
Chapter 2: Extrajudicial conflict resolution  
Article 31. Extrajudicial conflict resolution

Title 6: Information and control.

Article 32: Information to destinataires and service providers  
Article 33: Communication of relevant resolutions  
Article 34: Supervision and control  
Article 35: Duty of cooperation

Title 7: Infringements and Sanctions.

Article 36: Responsible parties  
Article 37: Infringements  
Article 38: Sanctions  
Article 39: Determination of the character of the sanctions  
Article 40: Provisional measures  
Article 41: Coercive fines  
Article 42: Competence for sanctioning  
Article 43: Conflict between infringement and sanction  
Article 44: Prescription

First additional prescription: Meaning of terms employed in this law.

Second additional prescription: Medication and health products.

Third additional prescription: Arbitration system for consumption.

Transitional prescription: Entry in respective public registries of the domain names awarded before the passing of this law.

First final prescription: Modification of the Civil and Commercial codes.

Second final prescription: Adaptation of complying regulation about telephone or electronic contracts with this law's general conditions.

Third final prescription: Constitutional foundation.

Fourth final prescription: Empowerment of the government.

Fifth final prescription: Certification of adherence to Codes of Behavior that include specific guarantees.

Sixth final prescription: Implementation date.

Annex:

Definitions.

## **E-Government and Online Administration**

According to a 2001 survey of government websites conducted by World Markets Research Center and Brown University, Spain ranks 50 in terms of the delivery of information and services online via the internet by government agencies. According to this report, which was questioned by the Spanish Ministry of Science and Technology, only 17% of governmental sites offer online services, 100% offer access to publications, 61% provide access to Data Bases, and no sites offer information on Privacy and Security Policy or Handicap Accessibility.

There are contrasts within the Spanish Administration in the degree to which new technologies are being adopted. In general, the State Administration has made more progress than the Autonomous Administration, and the latter more than the Local Administration.

## Internet Usage

### 1. Users

Internet usage in Spain has begun late relative to the USA and other countries, but it is growing relatively fast. The following data come from the Estudio General de Medios 2001, a privately funded national representative survey on media use among the population aged 14 and over and conducted every year (Sample size about 14,000 respondents). As the table below indicates, the estimated number of Internet users in year 2001 was thirty times higher than in 1996. Whereas in 1996 0.7% of the adult population used Internet, the corresponding figure for year 2001 was 21.2%. In fact, data for February/March 2001 indicate that 1,875,000 households or 14.3% had access to internet.

Year	Internet Users (thousands)	% Internet Users
Feb/Mar 1996	242	0.7
Oct/Nov 2001	7388	21.2

In comparison to the use of other media, Internet lags well behind. T.V., magazines, and radio are still the dominant media in the Spanish market. The tremendous growth in use of the past few years is reflected, however, in the fact that in year 2000, the percentage of Internet users was already as high as that of moviegoers (12.6% and 11.0% respectively).

Media/Year	1996	2000
Newspapers	38.2	36.3
Magazines	55.6	53.6
Total Radio	56.6	52.9
TV	91.3	89.2
Cinema	9.3	11.0
Internet	1.0	12.6

The sociodemographic make-up of Internet users is similar to the one obtained for most technological innovations. That is, men, young adults, and the middle and upper classes are the groups where use of Internet is most prevalent.

	April/May 2000
Men	48.6 (62)*
Women	51.4 (38)
14-19	13.4
20-24	18.4
25-34	37.1
35-44	16.9

45-54	10.2
55-64	3.3
65+	0.8
Upper Class	23.7
Middle Upper Class	27.9
Middle Class	37.6
Lower Middle Class	9.1
Lower Class	1.4

\* Used Internet in the last month.

Despite the socio-demographic disparities above, the diffusion of Internet use across the Spanish regions has been rather homogeneous. As expected, the most developed regions—Catalonia, Basque Country, La Rioja, and Madrid—are the ones with the highest Internet use rates, whereas the poorest regions—Extremadura, Galicia, Castilla-Mancha—are the ones with the lowest rates. The contrasts are less wide as one would expect, however, given the difference in levels of wealth between the Spanish Autonomous Communities. Thus, the range in usage rates goes from 12.3% in Castilla/Mancha to 26.6% in Catalonia.

Region/Year	1997	2001
Andalucía	1.5	18.2
Aragón	2.2	18.1
Asturias	3.4	22.7
Baleares	4.3	21.9
Islas Canarias	1.9	19.1
Cantabria	1.2	19.1
Castilla/León	1.6	16.0
Castilla/Mancha	1.7	12.3
Cataluña	4.8	26.6
C. Valenciana	2.8	21.6
Extremadura	1.7	14.0
Galicia	1.6	14.6
Madrid	3.9	23.4
Murcia	1.7	18.5
Navarra	4.0	17.3
País Vasco	2.5	25.1
La Rioja	4.0	24.3

## 2. Access

Individuals access Internet through one of the more than 3000 providers across Spain. On June 23, 2000, the government approved a Decree that determined urgent measures in the telecommunications sector. This Royal decree established that dominant Telekom companies would have to determine before November 1st, 2000, two new metropolitan rates for telephone conversations and an Internet access rate.

On June 3, 1999, the Spanish Telekom (Telefónica de España, Sociedad Anónima Unipersonal) had been declared as the only dominant company.

On October 31, 2000, the government passed an Order that stipulated the Internet access rates set by Telefónica. Subscription and cancellation of Internet service were to be free and the monthly rate was set at 16.5 Euros. This rate applies from Monday to Friday, from Midnight to 8 am and from 6 pm to Midnight, and the whole day on Saturdays, Sundays, and Holidays. There has not been changes to this rate.

Flat rate plans in combination with ADSL lines have also been developed by Telefónica. The kit needed to subscribe to an ADSL line costs 30.05 Euros and there is a monthly fee of 39.06 Euros.

In addition, there are three possible plans based on transmission speed:

1. Subscription= 90.15 Euros and monthly fees=39.06 Euros
2. Subscription=153.25 Euros and monthly fees=74.98 Euros
3. Subscription=306.51 Euros and monthly fees=150.57 Euros

## 2. Use Habits

In the past few years, patterns of Internet use have changed considerably, following the changing availability of Internet services in different locations. Thus, in 1996, the majority of Internet users got access to Internet from work. Nowadays, however, the increase in Internet providers and the greater affordability of Internet from one's home has meant that 61% of Internet users access it from their own homes.

Place of Internet Access:

	Home	Work	University	Other	Home	Work	University	Other
Oct/Nov 96	213	372	182	80	26.6	46.4	22.7	10.0
Oct/Nov 01	4485	2253	783	1389	60.7	30.5	10.6	18.8

Most Internet users still use, however, fairly slow telephone lines to access Internet. Only 13% of internet users rely on faster means. Early in 2002, the Spanish Telekom (Telefónica) has begun an aggressive campaign to persuade consumers to rent a broad-band ADSL access line in order to access Internet.

Access Type	Absolute Numbers—Year 2001 Feb/March (Thousands)	%
Conventional Telephone Line	3389	86.9
RDSI	174	4.5
ADSL	91	2.3
Cable	142	3.6
Other systems	103	2.6

The big breakthrough in year 2001 was the possibility of signing contracts with the different telecoms, based on payment of a flat rate for continuous access to Internet. The success of this innovation is reflected in the data below. Already in 2001 61% of Internet users paid a flat rate for Internet access.

Mode of Payment	Absolute Numbers—Year 2001 Feb/Mar (Thousands)	%
Variable (based on use)	1527	39.2
Fixed Rate	2371	60.8

There are hundreds of Internet access providers in Spain. These companies rent parts of the telecommunications network to Telefónica, the main Spanish Telekom, or in a very small number of cases to British Telecom, which is trying to get into the Spanish market. Notwithstanding the great degree of competition in the market of Internet access providers, this market is dominated by just a few companies. Most of these are Spanish companies, although as in the case of Terra, some of the partners may be foreign. The main Internet access provider, Terra, captures 43% of the market. This company merged with Lycos and has signed partnerships with Bell Canada, Bertelsmann AG, Mirae Corporation, Singapore Telekom, Telefónica Móviles, BBVA, Amadeus, and Telepizza. Some of these companies are Spanish—e.g. Telefónica Móviles, BBVA, Telepizza—whereas others are foreign—eg. Bell Canada, Bertelsmann.

Providers	Absolute Numbers—Year 2001 Feb/Mar (Thousands)	%
Terra	1692	43.4
Eresmas	681	17.5
Wanadoo	346	8.9
Jazzfree	171	4.4
Navegalia	170	4.4
Arrakis	113	2.9
Euskaltel	108	2.8
Other	938	24.1

### 3. Preferred Sites

Our project is interested in the availability of web sites concerned with the topics we are studying, the extent to which these pages are used, and the Europeanization of the content of those Web sites. As a preliminary step, I report data from the Estudio General de Medios on the use of various newspaper internet pages in Spain. The data refer to users in the past 30 days and correspond to October/November 2001. As the reader can see, El País is by far the newspaper web site with the largest number of users. The other newspapers whose content we are analyzing as part of two other Workpackages, El Mundo, La Vanguardia, and ABC, have also highly visited sites. I might add, in the context about our discussion about tabloids in Spain, that the third most visited newspaper site is Marca, the most important Sports newspaper. As I

mentioned in our meetings, Spaniards read Sports newspapers instead of Tabloids (Sport, As, and Mundo Deportivo are other examples).

Users of Newspaper Internet Pages (Oct/Nov, 2001: Users in the past 30 days)

El País	1101000
El Mundo	584000
Marca	475000
La Vanguardia	216000
ABC	164000
Expansión	128000
El Periódico	111000
Sport	71000
As	67000
El Correo Digital	59000
El Mundo Deportivo	59000
Cinco Días	53000
La Estrella Digital	50000
La Nueva España	43000
Diario Vasco	41000