AN ANALYSIS OF THE PROTECTION MECHANISMS FOR ECONOMIC OPERATORS ESTABLISHED BY THE LAW TO ENSURE MARKET UNITY

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Abstract

This paper examines the effectiveness of the protection mechanisms established by Spanish Law 20/2013 to ensure market unity, which allows economic operators to challenge regulations that may constitute unjustified barriers to competition. Using a quantitative analysis of over 1,000 claims filed between 2014 and 2024, the study shows that claims are mainly concentrated on specific activities, with recent growth in those related to renewable energy and telecommunications. The highest number of claims have been filed against local governments, and their share has increased over time. Regarding market type, no strong sectoral characteristics are found to be associated with the likelihood of a claim, beyond the presence of specialised legal representatives. At the company level, claims are submitted both by individuals and by large corporations that are relatively well positioned in terms of productivity within their sector and region. The proportion of claims that result in regulatory change is limited, especially in the case of those filed against local governments. In terms of sectoral productivity outcomes, a positive impact has only been observed in small sectors, with no significant aggregate effects.

Keywords: market unity, barriers to competition, firm productivity, economic federalism, competition policy.

JEL classification: L51, H77, O43.

Resumen

En este documento se analiza el funcionamiento de los mecanismos de protección establecidos por la Ley 20/2013, de garantía de la unidad de mercado en España, que permite a los operadores económicos reclamar sobre las regulaciones que puedan suponer barreras injustificadas a la competencia e inversión empresarial. El estudio, realizado a partir de un análisis cuantitativo de más de 1.000 reclamaciones interpuestas entre 2014 y 2024, muestra que las reclamaciones se concentran principalmente en determinadas actividades, con un crecimiento reciente de aquellas relacionadas con las energías renovables y las telecomunicaciones. Por Administración afectada, la local es la que ha acumulado un mayor número de reclamaciones, y su contribución ha ganado peso con los años. Según el tipo de mercado, no se encuentran características sectoriales fuertemente relacionadas con una reclamación más allá de la presencia de representantes legales especializados. A escala empresarial, las reclamaciones son interpuestas tanto por particulares como por grandes corporaciones relativamente bien posicionadas en términos de productividad dentro de su sector y comunidad autónoma. El porcentaje de las reclamaciones que consiguen una modificación de una regulación existente es limitado, especialmente frente a las Administraciones locales. En cuanto a las consecuencias para la productividad sectorial, se ha detectado un impacto positivo en sectores pequeños, pero sin efectos agregados apreciables.

Palabras clave: unidad de mercado, barreras a la competencia, productividad empresarial, federalismo económico, política de competencia.

Códigos JEL: L51, H77, O43.

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1 Introduction

Excessive regulation, with more rules than necessary or rules that are disproportionate to the market failures they are intended to address, increases the cost of corporate activity, which could reduce profitability and discourage the entry of competitors (Tirole, 2014). Furthermore, there is a risk that regulatory agencies may be captured by the interests of the industries they are meant to regulate, which can lead to sectoral regulations that benefit established firms rather than consumers or the public interest (Stigler, 1971 and Posner, 1974). These concerns may be particularly significant in the case of Spain, given that various indicators point to high levels of regulation of economic activity compared to other neighbouring countries. Specifically, in 2022, the European Commission's Single Market Scoreboard ranked Spain 22nd in the European Union in terms of the burden of government regulation. Similarly, in 2023, the Organisation for Economic Co-operation and Development's (OECD) Product Market Regulation (PMR) indicator placed Spain behind the average practices of the other four major European countries (Italy, the United Kingdom, France and Germany), although ahead of the average for OECD countries as a whole.

The Spanish administrative structure, which is characterised by a high degree of decentralisation, grants the regions considerable regulatory power. This institutional structure exacerbates the aforementioned problems and has also led to a marked fragmentation of the regulatory framework, leading to significant differences in legal and administrative requirements across regions and sectors. In his analysis, Mora-Sanguinetti (2022) shows that, since the transition to democracy, more than 400,000 regulations have been approved in Spain, with an upward trend in regulatory output. In 2022 alone, 11,775 new regulations were published, equivalent to 32 regulations per day. In this context, in accordance with the firms' views reflected in the National Statistics Institute's (INE) business environment opinion module, economic regulation is the third most important factor, after demand and the macroeconomic environment, in limiting corporate growth capacity in Spain.[1]

Law 20/2013 of 9 December 2013 to ensure market unity (LGUM, by its Spanish initials) establishes the basic regulatory principles that all administrative actions in Spain must comply with in order to guarantee market unity and improvements in regulation, thereby ensuring an environment that is more favourable to competition and investment. On the one hand, operators may not be discriminated against on the basis of the place of establishment or residence of the economic operator or its staff. And on the other, regulatory measures must only be implemented if they are necessary to achieve a legitimate objective and they must be proportionate, i.e., no more restrictive than is necessary to achieve that objective. Lastly, where regulations involve action by various administrative levels, duplication that could increase costs for firms must be avoided.

In the framework of this law, any operator that considers that an administrative action infringes the above principles may file special claims through administrative channels with the Secretariat for Market Unity (SECUM, by its Spanish initials). The process begins with a claim which, if admitted, is immediately forwarded to the competent government authority. This administrative authority also receives a report from SECUM within 10 days. The latter is responsible for sending the explanatory report and the resolution (whether favourable, unfavourable or administrative silence) to the interested party within less than 15 days.[2] The law also incorporates a mechanism for requesting information on barriers to economic activity, which may be submitted to SECUM and which functions

1 In 2019, the last year in which this question was asked, it had, thus far, ranked above taxation, labour market efficiency, NPLs, the adequacy of human capital, access to finance, input costs, infrastructure, insufficient equipment and legal costs. Six years earlier, it had also been ranked below access to finance and was on a par with taxation, problems which have become less significant in this latest survey.

2 This mechanism corresponds to Article 26 of the LGUM.

as an arbitration system in which a solution to the potential barrier is sought with the government authority in question.[3] Lastly, if a party is dissatisfied with the resolution of a claim,[4] they may submit a request to the National Commission on Markets and Competition (CNMC) to file an appeal with the National High Court or, directly, file an appeal with the competent court.

This paper uses sectoral and regional data from cases resolved by SECUM arising both from a claim under Article 26 and from a request for information under Article 28 to identify the markets (defined as sector-region pairs) in which unjustified barriers to economic activity may exist. Hereinafter, the term "claim" will be used to refer indiscriminately to actions arising from Articles 26 and 28. Furthermore, firm-level data is used to characterise the economic operators resorting to these mechanisms according to their size and productivity and, also, to analyse whether significant changes in their productivity dynamics are observed following their use.

The analysis reveals certain significant patterns in the use of the protection mechanisms established by Law 20/2013:

- Claims are concentrated in specific sectors, with a recent upturn in areas such as renewable energy and telecommunications.

- Local government emerges as the main source of regulatory conflict, having accumulated a growing volume of claims over time.

- Although no sectoral characteristics are identified that systematically explain the emergence of claims, a correlation is observed with the occurrence of specialised legal advice.

- Claims come from individuals and associations as well as large corporations with high productivity levels in their respective sectors.

- The impact of these claims on regulatory change is limited, especially at local level.

- Lastly, their effects on productivity are confined to smaller sectors, without generating significant aggregate improvements.

3 This mechanism corresponds to Article 28 of the LGUM and does not result in a resolution by the competent authority but rather in a SECUM report indicating whether or not there is a solution to the problem raised.

4 This mechanism corresponds to Article 27 of the LGUM. The CNMC may also act on its own initiative.

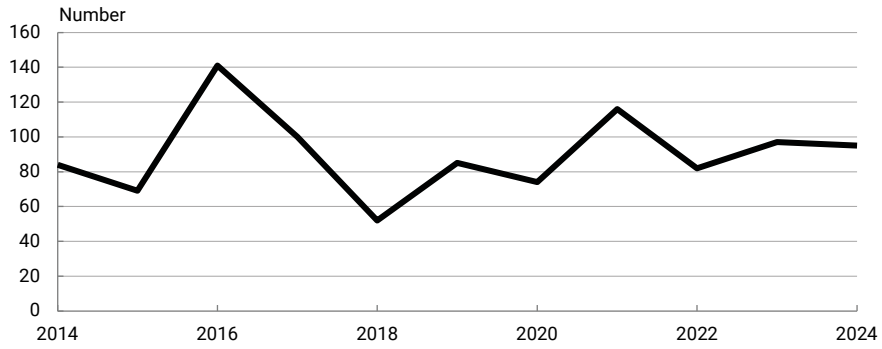
2 Description of claims

Since 2014, SECUM has received 1,053 claims or requests for information. Apart from the considerable heterogeneity between these mechanisms, which makes it difficult to draw conclusions simply by aggregating them, not all of them can be regarded as separate actions.[5] In particular, there may be claims regarding the same action filed by different firms, or even by the same firm using different channels.[6] After taking these potential duplicates into account, 995 single actions (claims or requests) have been identified since 2014. Chart 1 shows that the number of cases peaked in 2016 with 141 claims. Subsequently, there was a marked decline in the number of actions to 52 in 2018. This may have been prompted by the Constitutional Court rulings which declared certain articles of Law 20/2013 to be null and void.[7] Since then, the number of claims has risen gradually, reaching 95 cases per year in 2024.

On the basis of their characteristics, SECUM categorises these claims according to the sector to which they refer and the government concerned. According to this record, 75% of the actions subject to claims are concentrated in six areas of activity. The most prominent areas are the retail and professional services areas, followed by education, information and communications, and electricity supply. In terms of the government concerned, local government accounts for most claims (46%), closely followed by the regions (41%) and, further behind, the central government, with 13%.

It is interesting to note the increased share, in recent years, of claims regarding actions related to new markets, where regulation has grown rapidly. In particular, Chart 2.a shows a marked increase in cases related to the renewable energy and telecommunications markets, whilst the more mature markets related to tourist accommodation and

Chart 1
Claims filed over time



SOURCE: SECUM.

5 A joint project between SECUM, the State Secretariat for the Economy and Business Support and the Banco de España matched firm-level economic information with all claims received since 2014 that could be accessed via the LGUM resolved case finder. These claims underwent an anonymisation process to ensure the proper protection of any personal data, and they were matched with information on sales, employment and lines of activity from the Integrated Central Balance Sheet Database (CBI) within the secure BELab environment. The date of the most recent claim considered in the analysis is 26 December 2024.

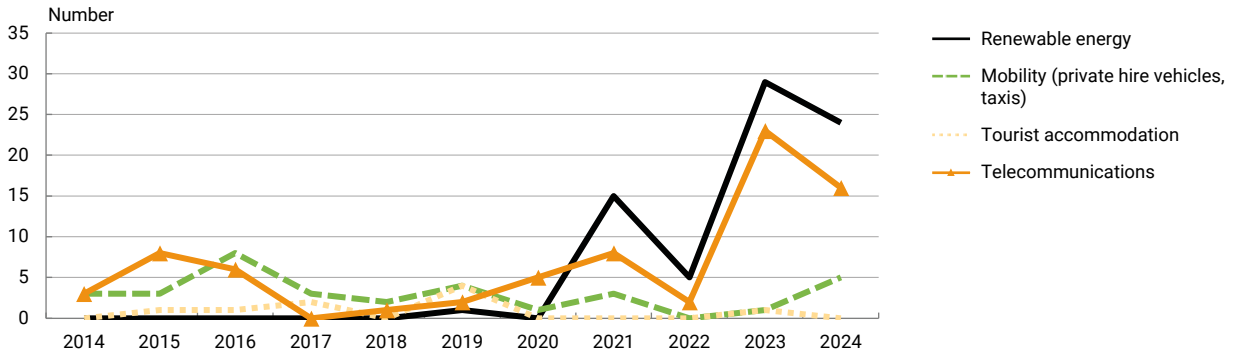
6 This latter scenario could arise if, for example, a firm invokes Article 28 because, for various formal reasons, its claim does not meet the necessary requirements to use the procedure under Article 26 or this procedure has been rejected.

7 See the following Constitutional Court judgments: 79/2017 of 22 June 2017; 110/2017 of 5 October 2017; and 111/2017 of 5 October 2017.

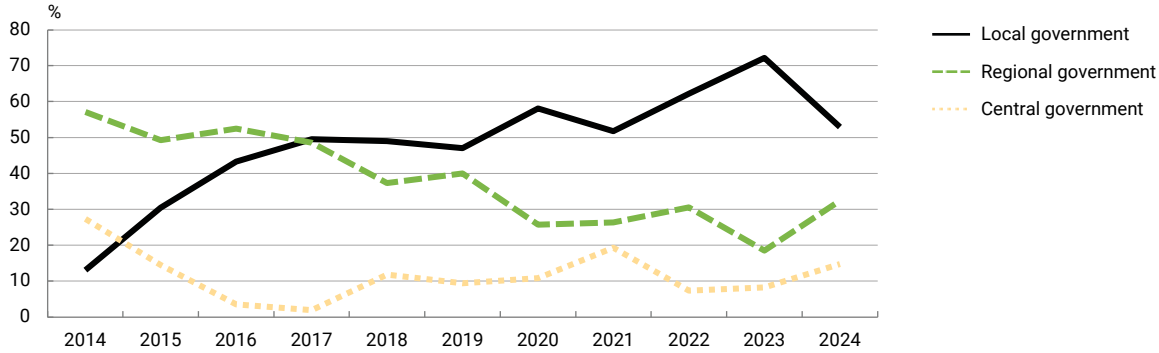
Chart 2

Claims regarding actions relating to new markets

2.a Number of claims in new markets



2.b Percentage of claims, by government



SOURCE: Authors' calculations, drawing on SECUM data.

various forms of municipal mobility have remained stable.[8] Local government is the authority most affected by claims related to renewable energy and telecommunications, accounting for 49.3% and 84.4% respectively, although in the case of claims related to renewable energy, a high proportion (35.6%) are also directed at central government. In general, there is an increase in claims affecting local government and a drop in those affecting the regions, while claims directed at central government have remained stable at a lower level (see Chart 2.b).

8 As regards renewable energy, cases related to solar power, wind power, electric vehicles and photovoltaic installations have been counted. Many of these cases relate to solar and wind power plants or charging infrastructure. With regard to the telecommunications market, cases relating to fibre-optic, 5G and Wi-Fi networks are included. Many of these cases relate to the roll-out of fibre-optic or Wi-Fi networks. Lastly, with regard to mobility, data on private hire vehicles (VTCs) and taxis are used.

3 Characteristics of the markets and operators filing claims

3.1 Characteristics of the markets in which claims arise

Given the granularity of the available data, the characteristics of a set of markets segmented into 14 sectors of activity according to the sections of the National Classification of Economic Activities (CNAE) and the 17 regions[9] are analysed with the aim of analysing the market characteristics associated with the existence of claims. To this end, the following equation is estimated:

$$y_{s,CA} = \alpha_0 + \alpha_1 T_{s,CA} + \alpha_2 L_{s,CA} + \alpha_3 C_{s,CA} + \rho_s + \gamma_{CA} + \varepsilon_{s,CA}$$

The dependent variable (y) approximates the incidence of claims in each sector of activity (s) and region (CA). Specifically, two alternatives are considered. On the one hand, a dichotomous variable that takes the value 1 if at least one claim is observed in the 2014-24 period (extensive margin). On the other hand, the number of claims in the same period (intensive margin).

With regard to the main explanatory variables, three areas are considered, and the values taken are always those referring to the mean for the period prior to the law (i.e. 2010-13):

- Size of the business sector (T): measured on the basis of the average number of active firms in each market defined by each CNAE section in each region.

- Legal environment (L): this vector includes an approximation of the market's regulatory complexity based on the number of pages of new legislation in the relevant market[10] and a variable reflecting the presence of legal representatives whose clients include more than one firm in the same market.[11]

- Production structure and degree of competition (C): this is approximated by the concentration index of the ten largest firms in the relevant market (CR10), calculated on the basis of sales derived from CBI data.[12] A variable approximating the average productivity of firms in the sector, defined as sales per employee, has also been included, together with another variable approximating the allocation of capital across firms within the sector, defined as the dispersion of each firm's sales-to-capital ratio.[13]

In addition, sector ρ_s and region γ_{CA}, fixed effects are included and, therefore, the other parameters are estimated on the basis of the variability within each sector and region.[14] Lastly, $\varepsilon_{s,CA}$ represents the error term of the equation.

9 Due to data limitations, it was not possible to construct all the model variables for the Basque Country or the region of Valencia. Information on the two autonomous cities of Ceuta and Melilla is also included as a single "Region".

10 See Mora-Sanguinetti, Quintana, Soler and Spruk (2024).

11 Calculated on the basis of data provided by SECUM, which has been suitably anonymised. The variable refers to representatives with more than 19 cases involving different clients. Of the 181 single representatives identified, 3 account for 19 or more claims. These 3 representatives operate in 2.7% of the 223 segmented markets. These markets would score 1 on this indicator. The results remain consistent when a less strict definition is used with 4 or more cases, which yields a total of 21 representatives meeting the requirement (9.9% of the segmented markets).

12 Also, other indicators such as the Herfindahl index were used, yielding similar results.

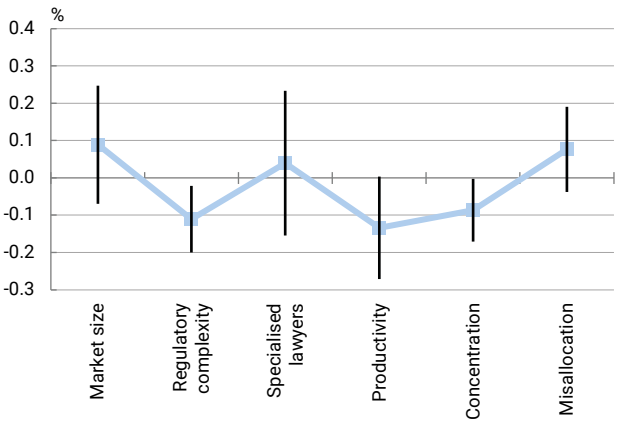
13 A high dispersion of capital productivity across firms may reflect an insufficient allocation of capital in that market.

14 In the regression without fixed effects, due to omitted variables, there could be a stronger correlation between operators' capacity to file claims, the number of active firms, the regulatory burden and the presence of large corporations with market power. To mitigate this problem, variables capturing the income level of each region — average unemployment rate, average income and average gross domestic product (GDP) for each region — and the existence of a co-official language were included.

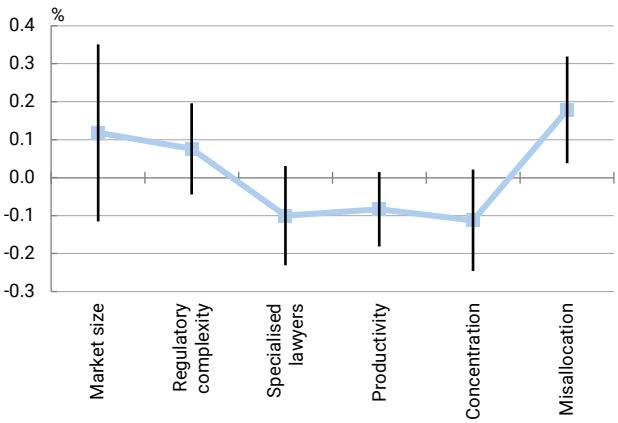
Chart 3

Relationship between the existence and number of claims and different market characteristics

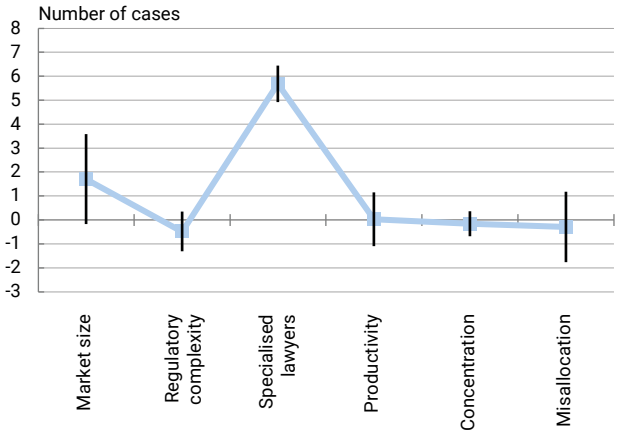
3.a Extensive margin (without fixed effects)



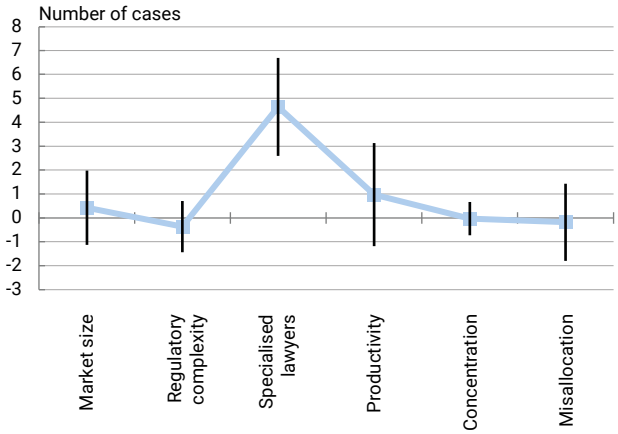
3.b Extensive margin (with fixed effects)



3.c Intensive margin (without fixed effects)



3.d Intensive margin (with fixed effects)



SOURCES: Authors' calcualtions, drawing on data from SECUM, INE and the Banco de España.
NOTE: Market size is defined as the logarithm of the number of active firms according to the INE's Central Business Register, and regulatory complexity is defined as the average number of pages of new regulation per market (Mora-Sanguinetti, Quintana, Soler and Spruk, 2024). The specialised lawyers variable refers to legal representatives with more than one client in the same market, obtained from the information provided by SECUM; productivity is defined as the logarithm of sales per employee by market, according to the Banco de España's Integrated Central Balance Sheet Database (CBI); the concentration index is the percentage of sales of the ten largest firms; and misallocation is defined as the logarithm of the standard deviation of thelogarithm of the sales-to-capital ratio, according to the Banco de España's CBI. The chart shows the coefficients of a regression of the existence of at least oneclaim (extensive margin) or of the number of claims (intensive margin) across the different variables and the sector fixed effects separate from the region fixed effects.

The top two panels of Chart 3 show the correlation between the aforementioned factors and the incidence of claims, approximated by the extensive margin. In this case, no variable is found to have a statistically significant correlation in the specifications considered.[15] In any event, the point estimates suggest that, on average, the occurrence of a claim is positively associated with having a higher number of firms, a lower sales concentration, lower average productivity and a greater degree of dispersion in firms' capital productivity. As regards the intensive margin (see lower panels, Chart 3), the presence of legal representatives acting for more than one firm emerges as a relevant factor, which shows a positive and significant correlation with the number of claims. Although this

15 To ensure the robustness of the results, two alternative specifications are considered, depending on whether or not they include fixed effects for sector and region.

relationship is attenuated slightly when sector and region fixed effects are incorporated, it remains significant, which reinforces its validity. This finding is particularly important, as this specification helps mitigate potential endogeneity issues: in markets with high levels of litigation, it is to be expected that more specialised lawyers will emerge, which could distort the causal interpretation of the observed relationship. Taking into account the point value of this latter specification, one can observe that the presence of such lawyers in the market increases the number of claims by five. The other variables, once again, show no significant correlations.

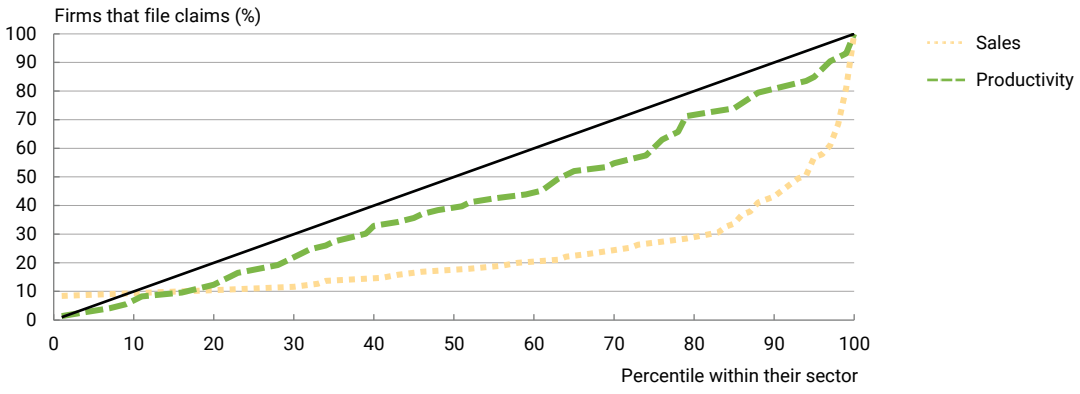
In summary, these findings suggest that the occurrence of claims is not clearly correlated with the size of the market's corporate fabric, nor with its legal environment, productive structure or degree of competition. On the other hand, there does appear to be a relationship between the number of claims and the number of legal representatives who have several clients in the same market. In this regard, the results suggest that claim intensity is more closely related to the specialisation of certain lawyers in this type of action than to the sector's own characteristics.

3.2 Characteristics of the firms filing claims

As regards the characteristics of the operators filing claims, around 40% of claims are filed by firms, whilst the remainder is divided equally between associations, professional bodies and individuals, which seems to indicate that this is not an especially costly procedure for small firms or the self-employed.

Due to collaboration between SECUM, the State Secretariat for the Economy and Business Support and the Banco de España, it was possible to match data from the cases filed by firms with the Banco de España's CBI in a secure and anonymous manner (without any personal data being processed or transferred). Consequently, data is available on the sales, employment and sector of 110 firms that filed a claim.[16]

Chart 4
The firms that file claims are among the largest and most productive in their sector



SOURCES: Authors' calculations, drawing on data from SECUM and the Banco de España's CBI.
NOTE: Productivity is defined as sales per employee.

16 The sectoral distribution based on CBI data is fairly consistent with the case distribution by section carried out directly by SECUM for the group of firms that were successfully matched, which allows for a reasonable degree of confidence that no significant errors occurred in SECUM's manual file distribution. Also, the identified group is distributed across sectors in a similar way to the population of claimants, which suggests that the sample is representative.

To analyse the characteristics of these firms, each firm is first placed in the percentile it occupies in the distribution of size by sales and productivity level (measured as sales per employee) relative to the other firms in its market, defined as a pair consisting of CA and four-digit CNAE sector. In other words, a value of 100 means being in the top 1% by sales or productivity and a value of 1 means being in the bottom 1%. Chart 4 shows that the firms that filed claims are particularly large. Specifically, 57% of these firms were among the top 10% in terms of size. Furthermore, they also exhibit higher levels of productivity, although the differences in this dimension are smaller than those in the size dimension (21% of the firms filing claims are among the top 10% in terms of productivity).

In summary, the majority of claims are filed by individuals and associations. Among the firms that file claims, a significant number are among the largest or most productive firms.

4 Macroeconomic impact

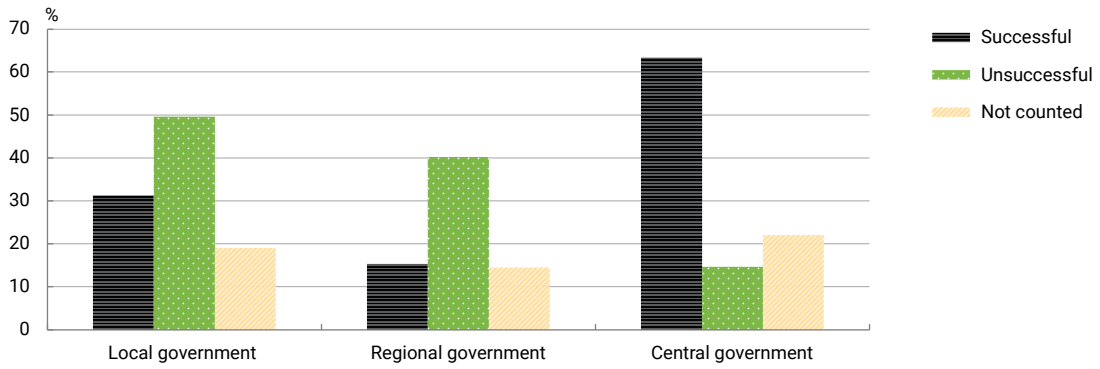
Measuring the macroeconomic impact of claims is complex, since it is not easy to find a group of firms comparable to the group filing claims. In particular, the great heterogeneity in the type of claims makes it difficult to conduct any analysis other than on a case-by-case basis. Furthermore, a positive resolution should not only benefit the party concerned, but also many other potential competitor firms, and, therefore, it is also unclear which firms would constitute the treatment group and the control group. Given this difficulty, it was decided to analyse, first, the degree of success of the claim, defined as an amendment of an existing regulation, and, second, the developments in sectoral productivity by comparing markets defined as sector-region pairs in which claims were filed with such markets in which they were not.

4.1 Degree of success of claims

The success of a claim is defined as any positive resolution that amends an existing regulation or the obtainment of a partial or full upholding in an appeal filed by the CNMC following a negative resolution.[17] With regard to this dimension, SECUM monitors the actions that have been amended following the resolution of the proceedings. According to the information gathered from all the cases processed, the degree of success stands at 45% of the cases admitted.[18] Around 20% of the cases processed are not admitted or have been withdrawn as they do not correspond to claims falling within the scope of the law, and of the total number of cases opened through this mechanism, 36% result in some type of regulatory amendment or the full or partial upholding of the appeal by the CNMC.

As shown in Chart 5, the government concerned appears to be a major determining factor in the degree of success of claims. In particular, central government has a much higher degree of success than regional governments and, above all, than local governments. Although the available data do not allow for a precise identification of the

Chart 5
Degree of success of claims, by government concerned



SOURCE: Authors' calculations, drawing on SECUM data.

17 Beyond any actual amendment of the requirement, firms have significant incentives to continue using these "privileged" mechanisms. In particular, SECUM's procedures have much shorter deadlines than ordinary procedures, and firms would have a report that could be used in subsequent litigation, which would save them costs.

18 It should be borne in mind that around 20% of the cases processed are not admitted or have been withdrawn because they do not correspond to claims falling within the scope of the law.

causes explaining the differences in the degree of success of claims depending on the government concerned, some reasonable hypotheses can be put forward. On the one hand, it is possible that claimants' profiles vary across governments, which could affect the technical or legal quality of the claims filed. On the other hand, local and regional governments may face constraints in terms of human, technical or financial resources that hinder a swift and effective response to the proceedings initiated, as compared to central government. Also, local and regional governments may have fewer incentives to amend certain regulations, particularly where these regulations allow them to retain powers, information or control over specific aspects of economic activity.

4.2 Analysis of the impact of claims on productivity

In line with the importance of understanding the macroeconomic effects of the law, a fixed effects linear regression model is used to estimate the impact of claims on sectoral productivity. A market is defined as the pair of each four-digit CNAE sector and the 17 regions (including Ceuta and Melilla as a single region). This leaves approximately 850 groups for estimating the following equation over the 2014-23 period:

$$y_{s,CA,t} = \beta T_{s,CA,t} + \gamma X_{s,CA,t} + C_{s,CA} + f_t + u_{s,CA,t}$$

Where $y_{s,CA,t}$ is the dependent variable. In different regressions, the dependent variable used was labour productivity defined in different ways (calculated as the mean of unweighted firm data and firm data weighted by employment). Also, an analysis was conducted on the impact of claims on other variables that may affect this variable, such as the dispersion in capital productivity, sales, profits, concentration defined by the Herfindahl index or the sales of the ten largest firms (CR10). The binary variable $T_{s,CA,t}$ takes the value 1 if there was at least one claim in that market, and $X_{s,CA,t}$ is a vector of descriptive characteristics. This vector includes socio-economic dimensions, such as average net annual income and GDP per capita, as well as other market characteristics, such as average employment in the market and the number of firms. Furthermore, $C_{s,CA}$ represents the market fixed effect and f_t the time fixed effect and, therefore, the other parameters are estimated based on the variability within each market and year. Lastly, $u_{s,CA,t}$ represents the error term in the equation.

The estimate results do not point to any significant impact at the aggregate level on productivity metrics (see columns (1) and (4) of Table 1).[19] This result might be expected given the marked heterogeneity of claims and the fact that the impact might only occur in certain markets with certain characteristics.

To check whether there may be a certain degree of heterogeneity in the impact across different markets, the effect of the claims is estimated in a differentiated manner according to the size of the market in which the firms operate, measured in terms of employment and volume of sales. Since the analysis is conducted by market, first, the mean of these variables (employment and volume of sales) is calculated with respect to the pre-2014 market. Then, the median is calculated for all markets during the period prior to the law (2010-13). On the basis of this value, a binary variable is constructed which indicates whether a market lies above or below that median.

Columns (2) and (5) of Table 1 show the findings of the analysis by market size in terms of employment, and columns (3) and (6) in terms of sales. All of these columns show the effects of having at least one claim if the market is small. The effect of having at least one claim in the market on labour productivity is positive and

19 Regressions have been carried out for other variables such as misallocation, sales, profits or concentration, without yielding significant results.

Table 1

Estimated impact on productivity after receiving at least one claim for different market types

	Unweighted labour productivity			Weighted labour productivity		
	(1)	(2)	(3)	(4)	(5)	(6)
Impact after claim	0.0681	0.0399	0.0022	0.0123	-0.0305	-0.0515
Small sector (employment)						
Impact* on small sector (employment)		0.3591**			0.1798	
Small sector (sales)						
Impact* on small sector (sales)			0.3545***			0.3193***
Observations	11,639	10,828	10,828	11,639	10,828	10,828

SOURCE: Authors' calculations, drawing on SECUM data.
NOTE: Columns (1) and (4) show the coefficients of a difference-in-differences regression of the various dependent variables against a dummy variable that identifies the existence of, at least, one claim in the market (specified by sector and region) and various socio-demographic variables such as average net annual income, GDP per capita, average employment in the market and number of firms within each market. To construct the dependent variable, column (1) uses the unweighted average of all firms in the market, while column (4) is weighted by sales. The other regressions include an additional interaction between the dummy variable for having received at least one claim and the size of the market: in columns (2) and (5), size is defined by employment, and in columns (3) and (6) it is defined by sales. To define a small market, first, the mean of these variables (employment and volume of sales) is calculated for each market prior to 2014. Next, the median of this mean is calculated for each market during the period prior to the law (2010-13). On the basis of this value, a binary variable is constructed that indicates whether a market lies above or below that median. *, ** and *** indicate a significance level of 10%, 5% and 1%, respectively.

significant if the claim is in a small market, regardless of whether it is measured in terms of employment or total sales. In this case, the magnitude of the effect is considerable, since the increase in productivity is around 30 percentage points in small markets. This is also obtained in a specification where the productivity of each market is calculated based on the sales weighting of all the firms comprising it. The coefficients in this case appear to be somewhat smaller and less significant.

In conclusion, while there may have been a positive impact on productivity in certain small sectors arising from the operator protection mechanism under the Law to ensure market unity, no significant positive impact has been observed at the aggregate level to date.

5 Conclusions

Over the period from 2014 to 2024, firms filed around 100 claims per year against the various authorities due to regulations which, in the view of the firm concerned, could be contrary to the principles laid down in the Law to ensure market unity.

The paper's findings allow three major conclusions to be drawn. First, from a sectoral and administrative perspective, claims are concentrated in a limited number of economic activities, with a recent increase in sectors such as renewable energy and telecommunications. Moreover, local government stands out as the institutional sphere with the highest volume of claims, showing an upward trend over the period analysed.

Second, when observing the characteristics of the markets and of the operators filing claims, no clear sectoral patterns are identified that explain the emergence of claims, beyond the importance of having specialised legal representation. Claims are filed by individuals and associations and by large corporations, many of which have high levels of productivity in their respective markets.

Lastly, with regard to the degree of success and the economic impact of claims, cases affecting local governments are found to be the least likely to result in amendments to existing regulations. In terms of productivity, the positive effects are limited to smaller sectors, with no significant aggregate improvements observed.

In light of the findings obtained, relying on the experience derived from operators' past claims under the framework of the Law to ensure market unity appears to offer limited scope for reducing potential barriers to entry. In this regard, it might be useful to reinforce the possibility, which has existed since 2022, of initiating claims regarding ex ante barriers by requesting reports on draft regulations. Also, it would be useful to supplement the current claims system with a tool that identifies regulations, across the various spheres, which may constitute a barrier to entry for free competition. Artificial intelligence technologies, in particular large language models, may be useful for developing such tools.

Moreover, the limited success of peripheral authorities in modifying the actions that are the subject of claims points to the need to establish instruments that ensure the involvement of all authorities to increase the effectiveness of the mechanisms ensuring market unity. One way of achieving this could be to reinforce sectoral conferences with human and financial resources, and to involve the CNMC in the design of standard regulations. A good example is the standard regulation for the conduct of retail business activities, which was approved in December 2024 at the Sectoral Conferences on Domestic Trade and Regulatory Improvement and which was drawn up under Law 18/2022 on the creation and growth of companies. The "Regime 20" proposal moves in this direction, aiming to improve regulation through cooperation with the regions and local authorities.[20]

20 At the international level, there are other schemes designed to encourage collaboration among authorities by supporting the implementation of regulatory amendments in line with competition principles through a financial incentives mechanism. This is the case in Australia, whose national competition policy includes a fund for this purpose: the Federation Funding Agreement Schedule.

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