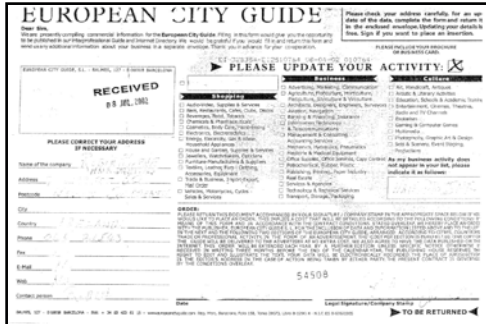


## European City Guide (ECG)

Image of advertisement (if available):



*Advertiser details*

**European City Guide (ECG)**

Martinez Cubells 6, 4º, 8ª - 46002 Valencia  
and

Balmes 127, Barcelona  
Spain

*SRO details*

**Autocontrol**

Conde de Peñalver, 52 - 1º C-D

28006 - Madrid

Tel.: 913 096 637

Fax: 914 029 824

**Action required:** Companies wishing to complain on the advertising received from the above advertiser, should send their complaints to the below mentioned addresses.

Please act immediately on this information and forward to interested parties

### Case details:

Over the last six years, self-regulatory organisations in Spain and across Europe have received hundreds of complaints regarding the European City Guide (ECG). The Spanish self-regulatory organisation for advertising, Autocontrol, has been in close contact with the competent statutory authorities in Spain throughout. The ECG has disregarded several self-regulatory decisions against it, therefore the complaints have been transferred to the competent legal authorities, first in Catalonia and now in Valencia. The Catalonian authorities have received (directly or via Autocontrol) more than 3 500 complaints against ECG over the past years. We understand that the ECG has since the spring 2004 moved its headquarters to a different jurisdiction, in Valencia (C/Colom, 32). The authorities in Valencia are now receiving numerous complaints.

Companies wishing to complain about the mail sent from the address in Barcelona (Balmes 127) should send a letter of complaint, enclosing all the supporting documentation (completed copies of ECG's form, bills, letters, etc.) to:

Servicio de Inspección de Disciplina del Mercado y Consumo  
 Dirección General de Consumo y Seguridad Industrial  
 GENERALITAT DE CATALUNYA  
 Avda. Diagonal, 405 bis  
 08008 BARCELONA  
 SPAIN

## **REF: European City Guide (Balmes 127)**

To complain about ECG mailings sent from its new location in Valencia (Martinez Cubells 6, 4º, 8ª - 46002 VALENCIA), send a letter of complaint and supporting documentation to:

Ilmo. Sr. D. Carlos Mazón Guixot  
Director General de Comercio y Consumo  
GENERALITAT DE VALENCIA  
C/ Colom, 32  
46004 VALENCIA

## **REF: European City Guide (Martínez Cubells 6)**

### **Background information on court cases against ECG**

In 1999, the Catalanian authorities (*Generalitat*) opened a file against ECG, having received hundreds of complaints (directly or via Autocontrol). The *Generalitat* issued a ruling in 2001 declaring that the ECG form was misleading and imposing a fine. ECG appealed against this decision. In March 2002, the court of first instance in Barcelona rejected this appeal, and confirmed the previous administrative decision. The Court in Barcelona considered the controversial ECG form to be advertising, since it was aimed to promote a guide to businesses, activities and services as well as to promote the ECG activities. The Court's sentence also stated that the ECG leaflet was **misleading** because companies would infer from it that by signing and returning it they would not incur any costs, which was not the case.

According to the Court's ruling, *"the form contained a section described as a "request order", which provided information about the offer and ECG services. But, in the light of the other elements of the form, it is quite obvious and natural that many recipients have thought, in good faith, that if they desired their data to be included the guide they had to proceed as indicated in the form: that is, by signing what the plaintiff [ECG] had described as a "request" with no obligation to place an order"*.

On this basis, the Court in Barcelona rejected ECG's appeal against the former ruling of the Catalanian statutory authorities and confirmed the fine imposed on ECG. ECG again appealed against this court decision, and in February 2003, the Superior Court in Catalonia ruled a new sentence fully confirming the previous one.

Both the aforementioned ruling and judicial sentence refer to the first ECG form, circulated in 1998 and 1999, which was slightly different to the one circulated in 2000 and 2001. With regard to the latter mailing, the Catalanian authorities opened a new file, and in 2002 issued a decision in which this new ECG form was considered to be **misleading**, and imposed a new (higher) fine on ECG. ECG appealed against this decision too before the courts in Barcelona, and a new court sentence was issued. On 1 September 2003, the Court of First Instance in Barcelona ruled on this appeal, and decided to confirm the second ruling of the Catalanian statutory authorities. According to this court sentence, the second version of the ECG form is misleading advertising, since its appearance was likely to lead recipients to think that by filling in the form they were not agreeing to pay any amount, when in fact they would receive bills asking for payment related to their registration in the guide. According to the court, the misleading nature of this form is also highlighted by the fact that almost 800 complaints regarding this mailing were sent to the Catalanian authorities (which means that approximately 800 people misinterpreted the form in the

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same way). The court also confirms the fine of near 30 000 EUR imposed to ECG by the *Generalitat* in its decision.

Finally, the Catalonian authorities also investigated a third ECG form which was circulated in 2001-2002, launching an investigation on the basis of more than 1 500 complaints. On 9 September 2003, the Catalonian authorities (*Generalitat*) issued its decision that this ECG form too was misleading, and imposing two sanctions on ECG: a fine of 300 000 EUR and an order to cease trading for one year.

It appears that the ECG appealed against this administrative decision in order to obtain the provisional suspension of both sanctions (the fine and the one-year close-down) until the courts have heard the appeal. This temporary suspension of the sanctions was accepted by the court.

The competent (administrative and judicial) authorities in Spain have thus already ruled on the different ECG forms circulated between 1998 and 2002. Although the latest appeal will have to be considered, there are already three administrative decisions and three judicial rulings on this cases, all of them finding that the ECG has acted in such a way as to intentionally mislead companies.