

THE REPUTATION OF SKI RESORTS: RESPONSIBILITY FOR SKIERS

Luis Carús Ribalaygua and María Isabel Saz Gil

Universidad de Zaragoza

Spain is the highest country in Europe after Switzerland, with an average altitude of more than 600 meters. The country's mountain ranges have a total of 29 ski resorts, providing over one thousand kilometers of ski slopes, which according to ATUDEM (the Spanish Ski and Mountain Resorts Tourist Association) are visited by around 6 million skiers each season (ATUDEM, 2008a, b). But skiing carries a risk of accidents, whether attributable to third parties or otherwise, that regrettably can sometimes be fatal. In fact, it is the only widely practiced amateur sport with sufficient accidents to warrant on site medical services with their own medical transport and evacuation systems to provide fast efficient assistance (Tressera, 1985). Although people have been skiing in Spain since 1908 (Roldán, 1993), it was not until the end of the 80s and the beginning of the 90s that the sport began to attract the large numbers of skiers seen today. The first conclusive ruling in a legal case resulting from a ski accident was made in 1995. Since then, lawsuits arising from ski accidents have been brought in both civil and criminal courts. According to the multinational insurance company Intermundial Seguros¹, 6% of skiers in Spain suffer an accident while practicing the sport, a percentage that is consistent with the European average.

The information available on skiing accidents is scant. Ruffier and Descamps (2003) estimate that the number of skiing accidents on French slopes is higher than the official statistics. Similarly, Spanish ski resorts are reluctant to provide data on accident rates for their ski slopes. One example of published accident data can be found on the Sierra Nevada website, which details skiing accident information for that area². Although the size and safety of slopes has increased and equipment has improved, one of the key factors affecting the accident rate appears to be that while skiing is a risk sport, it is not regarded as such by some of those who practice it. The high accident rate is at least partly due to the huge popularity of winter sports, since higher densities of skiers increases the likelihood of

1 http://www.consumer.es/web/es/viajes/derechos_del_viajero/2003/01/14/56418.php Figures also show that 200,000 Spanish people take out insurance to cover ski accidents every winter.

2 See (in Spanish): <http://www.cetursa.es/En%20pista/Seguridad%20en%20Pistas/Estadísticas%20Accidentes>

accidents (Schad, 2000), together with the appearance of new winter sport activities such as snowboarding (Ronning et al, 2000; Torjussen and Bahr, 2005). The new winter sports practiced in ski resorts, such as snowboarding, freestyle, free-riding, etc., are now firmly established and continue to grow. However, this growth has not been accompanied by a greater awareness of the risks that winter sport activities entail (Sombardier, 2002). In fact, enthusiasts of these new activities have embraced a series of values that set them apart from the mainstream and encourage them to go against sporting orthodoxy; risk-taking is one of their signature traits (Wheaton and Beal, 2003).

Although ski resorts are not always involved in the lawsuits resulting from accidents occurring within their skiing areas, they do represent a cause for concern among the managers charged with designing, implementing and evaluating safety policies. Lawsuits for damages or injuries caused by negligence or carelessness on the part of the accident victim, the far from inconsiderable repercussions of insurance premiums on costs, and the serious damage to the company's brand image—even when they are not found to be responsible for the accident—are all issues that oblige ski resort managers to put measures in place to minimize the risk of accidents. Given this situation, ski resorts, in line with their commitment to stakeholders, must act responsibly and reduce the risk of accidents so that skiers can practice their chosen sport safely. It is worth noting that accidents always attract negative publicity, which affects the ski resort's image; more serious accidents are widely covered in the media and can jeopardize the reputation and the image of the ski resort.

Against this background, the main objective of this paper is to collate and analyze Spanish court rulings from 1995 to 2008 in which a ski accident occurring within the skiing areas of a resort led to litigation for damages or injuries. We aim to provide information that can be used to plan safer measures and therefore reduce to a minimum both the number of accidents and the number of occasions in which companies are involved in lawsuits. Our analysis of the sentences brings to light a series of actions ski resorts can introduce to reduce risk and therefore improve skiers' safety. Similarly, the results of the study show that ski resorts are sued more than any other party in accident cases, but at the same time receive the highest percentage of acquittals. This situation highlights the fact that skiers perceive the ski resort as being responsible for monitoring and guaranteeing their safety on the slopes, and by extension, they are responsible for the accidents that occur within their skiing areas.

There is no doubt that a good corporate reputation is an asset for any organization. Sethi (1977) argues that organizations can jeopardize their reputation when they fail to understand what their stakeholder groups expect of them. This lack of understanding leads to a breach of legitimacy in the organization. Corporate Social Responsibility (CSR) is therefore an increasingly important tool with which to strengthen the company's reputation, since it is considered to legitimize the organization in the eyes of society.

In the context of accidents occurring within the skiing areas of a ski resort, the present empirical study provides information and suggestions for specific actions to reduce the differences between skiers' expectations and their perception of how ski resorts operate, thereby improving the resort's reputation. Under legitimacy theory, organizations endeavor to transmit the message that the values underlying their actions mirror the values and

concerns of the society in which they operate. Hence, if the society perceives that the actual behavior of an organization operating within its sphere does not coincide with its own values, it can penalize that organization. For this reason it is crucial that ski resorts identify the causes of accidents—since skiers understand the ski resort to be responsible for damages suffered within the skiing area—and instigate actions within the CSR framework in ski resorts.

It should be remembered that not only inexperienced skiers suffer skiing accidents. Expert sportsmen and women skiing in favorable conditions can also be affected. It has been demonstrated that accidents occur on ski slopes for numerous reasons, and each type of skiing activity may involve different causes. Chamarro and Fernández-Castro (2009) stress the importance of the psychological aspects of accidents, and the determining role of human error, whether in carrying out the activity, in taking decisions or in irrational beliefs. Ski resorts must therefore play a leading role in extending knowledge about the causes of accidents that will help efforts to educate and protect the new generations of mountain sports enthusiasts and enable them to enjoy the mountains safely.

The 106 lawsuits analyzed in the study were resolved over a continuous period from 1995 to 2008 in the Spanish Provincial Courts and in the Supreme Court of Justice. These lawsuits were brought as a result of damages or injuries suffered by skiers in four categories of accidents, of which collision between skiers was the most common cause. The vast majority of lawsuits (87.78%) were a consequence of serious or slight accidents; 71% of the lawsuits were brought against ski resorts, which were alleged to be responsible for all the cases of accidents resulting from access to or use of the ski lifts, and all cases of accidents due to collisions with objects. However, 86.1% of these cases resulted in acquittals.

In light of the final court rulings, it seems clear that sentences were consistently based on one of three principles. These were as follows: a) the doctrine of jurisprudence on the «principal of risk assumption», whereby, in principle, injured skiers must assume their injuries, based on the supposition that they voluntarily accept or assume the risks of the activity and consequently, to attribute responsibility to a third party they must prove that they acted with the due level of skill for the ski slope conditions to ensure safe skiing; b) in the presence or absence of the elements required to prove damages arising from negligence as covered by Article 1902 of the Civil Code, or in the presence or absence of the elements required to prove injury arising from the negligent offences against the integrity of the individual as covered by Articles 147 and 621 of the Penal Code; c) in the assumption or otherwise of the burden of proof by the plaintiff, taking into account the required conduct of the parties based on the Regulations governing Spanish Ski resorts (ATUDEM, 2008c) and the Rules of Conduct of the International Ski Federation (FIS, 2008) for skiers and snowboarders. Although there were more acquittals than convictions in both types of legal proceedings, the proportion of convictions varied greatly, depending on which legal path was taken.

We believe this study may be useful to researchers analyzing the winter sports sector and to professionals in the sector who wish to make further improvements in ski resorts, identify more specifically which problems to tackle to prevent skiing accidents, and improve the reputation and image of the resort. To conclude, we point out that ski resorts

must operate responsibly, as part of their responsibility to stakeholders, and contribute to ensuring that the services they provide help to satisfy the recreational needs of skiers in the safest possible way. Likewise, they should introduce a series of activities designed to reduce the risk of accidents and move toward a change in the sports culture that encourages appreciation of the mountains as a space for planned adventure. From the analysis, a series of recommendations can be put forward to improve ski resorts' commitment to skiers and reduce the risk of accidents:

1. Concerning the use of maintenance equipment, resorts should: (a) resolve dangerous conditions and maintain safe pedestrian accesses to skiing areas; (b) ensure that systems for transporting skiers are in good working order and properly maintained.
2. Signage should: (a) give detailed information about the location on the slopes of equipment for specialist sports, such as half-pipes or trampolines; (b) provide signs preventing access to closed ski slopes; (c) improve signs advising skiers to be particularly alert and to reduce their speed.
3. Regarding systems of protection and safety, resorts should: (a) install safety nets on problematic sections of ski lift routes; (b) take measures to isolate and protect all elements of signage, barriers, protection etc., to minimize the risk of collision in ski lift access waiting areas and skier exit areas at the end of slopes; (c) ensure that ski slope surfaces remain free of extraneous objects; (d) install safety nets on the outer limits of ski slope sections where falls may cause skiers to slide off the slope and collide with dangerous elements, fall off cliffs etc.; (e) provide adequate protection for elements that must necessarily be installed on or alongside the slopes, such as artificial snow cannons, ski lift pylons, slope boundary posts, signs, safety net or fence posts, and ensure that none of these or their protective elements fails to function correctly due to external causes (thawing, wind, snowfalls, etc.); (f) take sufficient measures to avoid, or at least reduce, the danger of collision with buildings and/or reduce or lessen damage should this occur; (g) ensure that ski slope maintenance vehicles are parked or circulate in areas where they involve no risk to skiers.
4. Trained, qualified personnel should be available to monitor all aspects of installation maintenance and safety, and to attend to skiers according to their skills, age or sex.
5. Finally, measures must be adopted to inform and raise awareness among users, namely: (a) regulate ski lift use and restrict child access unless they are accompanied by an adult parent or guardian; (b) restrict access to more difficult ski slopes according to users' capabilities and experience; (c) provide all the necessary information so users can fulfill their obligation to be aware of the particular features and norms for using each ski lift, enabling them to recognize their own attitudes in using them; (d) provide all the necessary measures to enable skiers to identify the conditions of use and degree of ski slope difficulty at all times; (e) provide abundant information on the advisability of using protective equipment such as goggles, gloves or helmets, and on the safety rules for ski lifts and ski slopes as stipulated in national and international rules.