

QUESTION 18-2/1

ENFORCING NATIONAL
POLICIES AND REGULATIONS ON
CONSUMER PROTECTION
NOTABLY IN A CONVERGING ENVIRONMENT

**CONSUMER
PROTECTION**

POLICY

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QUESTION 18-2/1:

***Enforcing national policies and regulations
on consumer protection notably in a
converging environment***



ITU-D Study Groups

In support of the knowledge sharing and capacity building agenda of the Telecommunication Development Bureau, ITU-D Study Groups support countries in achieving their development goals. By acting as a catalyst by creating, sharing and applying knowledge in ICTs to poverty reduction and economic and social development, ITU-D Study Groups contribute to stimulating the conditions for Member States to utilize knowledge for better achieving their development goals.

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Study Group 1

For the period 2010-2014, Study Group 1 was entrusted with the study of nine Questions in the areas of enabling environment, cybersecurity, ICT applications and Internet-related issues. The work focused on national telecommunication policies and strategies which best enable countries to benefit from the impetus of telecommunications/ICTs as an engine of sustainable growth, employment creation and economic, social and cultural development, taking into account matters of priority to developing countries. The work included access policies to telecommunications/ICTs, in particular access by persons with disabilities and with special needs, as well as telecommunication/ICT network security. It also focused on tariff policies and tariff models for next-generation networks, convergence issues, universal access to broadband fixed and mobile services, impact analysis and application of cost and accounting principles, taking into account the results of the studies carried out by ITU-T and ITU-R, and the priorities of developing countries.

This report has been prepared by many experts from different administrations and companies. The mention of specific companies or products does not imply any endorsement or recommendation by ITU.

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QUESTION 18-2/1

Enforcing national policies and regulations on consumer protection notably in a converging environment

1. Introduction

The accelerated modernization of production techniques has sparked a revolution which has not spared the telecommunication sector, where momentous change has indeed resulted in a highly diversified range of services for today's consumers.¹

With the advent of convergence and the expansion of Internet broadband networks, regulators and policy-makers need a comprehensive framework for dealing with issues that at one time were managed in previously separate and distinct domains (broadcasting, ICTs and telecommunications).

Governments are now introducing reforms to better respond to the changes resulting from this converged environment and are taking measures to improve enforcement and implementation of legislation, rules and regulations. These reforms and measures are also targeting consumer protection, not least because:

- service providers that previously served different markets are now competing for the same customers;
- there are significant and ongoing changes in how services, applications and content are provided and sold to consumers.

It is clear that the impact on regulation and the subsequent benefits for consumers are significant: availability of alternative or complementary services, additional tariff options and an explosion of innovative services and products. By stimulating customer interest, convergence will offer many new economic, social and cultural opportunities.

With the uptake of convergence and broadband services, network neutrality and data privacy rules are two of the most significant consumer protection issues that policy-makers and regulators are considering. The issue of net neutrality continues to be discussed in the wake of real and potentially massive increases in data traffic as consumers use more services and applications that place greater and ever increasing demands on network capacity.

Policy-makers and regulators recognize the importance of protecting consumer data and ensuring that consumers are aware of the information collected and how it is used by operators and content providers.

¹ Natural persons and corporate entities acquiring or using, for strictly non-professional purposes, products and services available on the market. Citizens were first officially recognized as consumers on 15 March 1962, when President John F. Kennedy, in a speech to the United States Congress on the adoption of the Consumer Bill of Rights, stated, "Consumers [...] are the largest economic group in the economy, affecting and affected by almost every public and private economic decision. [...] But they are [...] often not heard." Consumers are therefore powerful economic agents who shape product markets and thus human and economic development.

Today, and mainly in developing countries, many legislative and regulatory tools that were developed during the narrowband era may therefore require recalibration for use in a convergent broadband environment. It is important, in this new era, to ensure that due account is taken of consumer needs and requirements. On the other hand, within the consumerism movement, consumer defence associations or organizations must adjust to convergence and take on board the necessary tools and means to defend consumer rights.

1.1 Definition and terms of reference of the Question

At the fifth World Telecommunication Development Conference (WTDC-10), held in Hyderabad (India) from 24 May to 4 June 2010, Question 18-1/1 on domestic enforcement of telecommunication laws, rules and regulations by national telecommunication regulatory authorities was revised and reworded as follows:

Question 18-2/1: "Enforcing national policies and regulations on consumer protection, notably in a converging environment".

The thrust of the revision of the Question is to take on board the reality of convergence and its impact on issues associated with regulation and consumer interests. The meeting participants decided that the draft revised Question should cover consumer protection, and notably in a converging environment.

Expected outputs

By the end of the study period, the following outputs were expected:

- Recommendations and/or guidelines for regulatory authorities for enforcing national laws, rules and regulations relating to convergence of broadband communication services and consumer protection.
- Organization of a seminar, in collaboration with BDT Programme 3, on the issue of consumer protection in a converging environment.

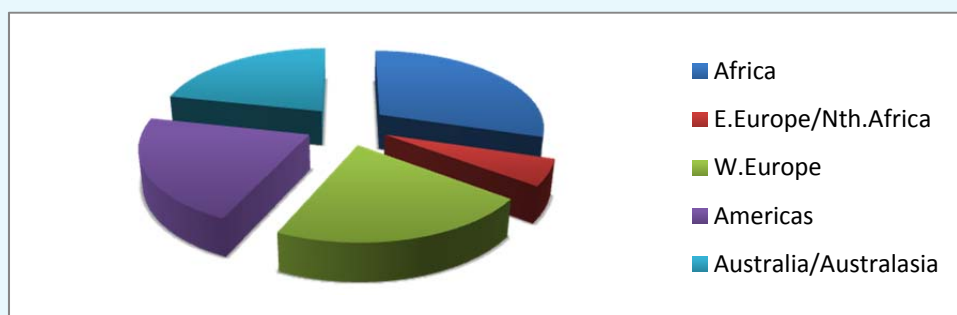
To achieve the expected outcomes, the group has relied on cooperation between the current Study Group 1 Question 18-2/1 and BDT Programme 3, and with the study groups of the other ITU Sectors, where appropriate. A questionnaire was drawn up on consumer protection policies, focusing on convergence, and circulated to the 193 ITU Member States in order to gather country experiences. Case studies were also submitted by quite a few countries within the framework of examination of the Question (see Annexes 1 and 2).

The results of the questionnaire have helped to inform the conclusions of Question 18-2/1 study for the 2010-2014 study period.

A total of 37 replies were received, including two from regional/international organizations and two from Sector Members.² Figure 1 below illustrates the regional breakdown of respondents. Table 1 breaks down respondents according to development status.

² Turk Telekom, U-COM Burundi, ARCTEL-CPLP, African ICT Consumers Network (AICN).

Figure 1: Regional breakdown of questionnaire respondents



Source: ITU

Table 1: Breakdown of questionnaire respondents by development status

	Percentage
Developed countries	18.9
Transition countries	2.7
Developing countries	54.1
Least developed countries	21.3

1.2 Impact of convergence on consumers and most recent discussions

As consumer needs continue to diversify, technology will continue to advance, obliging States and public and private institutions to adopt new forms of governance. The regulation of telecommunication services in a converging world is the perfect illustration of this.

Improving the regulation of telecommunication services in a converging world requires rules that are adapted to change in the sector, and regular strengthening of the capacity of regulators and consumer organizations. In all events, consumers have a responsibility to read their rights properly and, thanks to the recognized associations they have established, to prompt political decision-makers and the private sector to set up infrastructure, structures and appropriate regulation that will enable them to benefit from the advantages of technological change in all its forms.

It may be observed that consumer rights are not, or are inadequately, reflected in the national and regional texts applicable to the sector, and that consumers are not, or are poorly, represented on telecommunication regulatory bodies, particularly in Africa.

2 Legal and regulatory framework

Technological advances and convergence of services have had a profound effect on the way consumers make decisions and hence on their choices. In turn, changing consumer behaviour also has an impact on the business practices of operators/service providers. This mutual interaction between consumers and service providers/operators helps to improve the quality of the services supplied, but at the same time gives rise to some challenges.

Consumers are always asking for better services, and ICT providers have to make investments to meet growing demand. For their part, regulators are endeavouring to put in place the requisite legal and regulatory framework to protect consumers in an environment which is already highly complex, characterized by networks of cross-platform converged services. Yet every step taken towards consumer protection adds a new responsibility for service providers/operators. At this point, regulators also have to

foster a climate in which service providers/operators are able to make the necessary investments to satisfy growing consumer demand (**WTDC Final Report, page 26**). Thus, national regulatory authorities (NRA) are seeking to establish the best possible legal framework that will offer a satisfactory level of consumer protection without at the same time causing a decline in investment.

2.1 General

There is no doubt that better legislation and regulation are key factors in consumer protection. Hence, the role of the legal and regulatory framework, which is fundamental, has to be given more and better attention. In the European Union, **EU Directive 2002/22/CE**, on universal service and users' rights, serves as the base legislation for consumer protection for electronic communication networks and services, establishing the rights of end users and the corresponding investment obligations. The EU regulatory framework has a direct impact on consumer rights.

In this context, it is necessary to underline the importance of the EU regulatory environment in the light of convergence of ICT services. European consumers have indeed come to enjoy an EU regulatory framework allowing them to use innovative electronic communication services at affordable prices. Nevertheless, some market and institutional problems have not been resolved. For instance, the effectiveness and functionality of national regulatory authorities (NRA) have been discussed in terms of consumer rights and consumer protection. On the one hand, consumers cannot fully benefit from the advantages of the single market. On the other, the Commission has endorsed a "Digital Agenda for Europe" so as to make the transition to a high-speed digital economy on the basis of a better single online market (**EC 2010, page 2**).

2.1.1 Current status of consumer rights and consumer protection

United Nations General Assembly Resolution 39/248 of 9 April 1985 recognized the need to protect consumers of goods and services in the marketplace. The Guidelines for Consumer Protection adopted with the resolution form the foundation for all legislation and regulations aimed at protecting the end user of a good or service. This consumerism in a converging telecom environment takes the eight rights to which consumers are entitled according to the United Nations and transposes them to telecommunications and ICTs in a converging world. Those rights are as follows:

- the right to satisfaction of basic needs,
- the right to product guarantee,
- the right to be informed,
- the right to choose,
- the right to be heard,
- the right to a remedy,
- the right to education,
- the right to a healthy environment.

The majority of countries appear to have conferred particular rights on consumers in order to protect them. Although they may go by different names, most of them are fairly similar in essence. Before embarking on an analysis, it is worth taking a look at these rights³. While some are listed below, detailed information can be found in the annexes to this report (**Annex 1**).

Through the evolution of regulations, countries go from stating these key points, without going into further detail, to regulating more detailed rights for consumers.

Out of the 32 responses to the ITU questionnaire received from Member States,⁴ 67 per cent reported having specific legislation for consumer protection and consumer rights for telecoms/ICT consumers. By contrast, only two out of the eight respondents from least developed countries (LDCs),⁵ Senegal and Mali, have such legislation.

Where legislation exists, the most commonly cited consumer related provisions are: access to information/transparency; quality of service; equity/right of access to services; protection of personal data; privacy; confidentiality of information and the right to complain.

The least commonly cited rights were:

- The right to end/change a contract (7/29, 24 per cent)
- Compensation in case of service interruptions (5/29, 17 per cent)
- Right to block advertisements (4/29, 14 per cent)
- Access to emergency numbers (3/29, 10 per cent)
- Portability of phone numbers (3/29, 10 per cent).

Survey respondents reported almost universal provision for consumers to have access to pricing/rates information for fixed, mobile, and Internet access and services (for personal computers and smartphones). Twenty-three of the survey respondents (62 per cent) reported playing a role in the investigation of consumer complaints.

Consumer complaints play a valuable role in helping regulators to identify those areas where current legislation/regulation may be lacking and where best to target intervention. The most commonly reported type of complaint, cited by all survey respondents, were about pricing and billing; quality of service; and service outages/poor coverage.

A key indicator of successful consumer protection practices is the time taken to resolve consumer complaints. This helps demonstrate the level and cost of resources required and identifies which agency is best placed to handle the complaints. In cases where national regulatory authorities (NRAs) reported having a role in complaint handling, there was a fairly even distribution of the time taken to resolve complaints, with around two-thirds of them being resolved within 25 days. Three out of the 16 respondents reported encountering problems and challenges with slow complaint procedures.

³ Contributions on country experiences cited below in the study of Question 18-2/1.

⁴ Those countries participating in the survey were Azerbaijan, Bahrain, Belgium, Bhutan, Bolivia, Brazil, Bulgaria, Colombia, Côte d'Ivoire, Cyprus, El Salvador, Honduras, Italy, Lithuania, Mali, Mexico, Mongolia, Oman, Portugal, Qatar, Rwanda, Senegal, South Africa, Sudan, Swaziland, Switzerland, Syria, Thailand, Tunisia, Uganda, Uruguay, Vanuatu, and Venezuela.

⁵ The United Nations lists 49 countries in the least developed countries category.

2.1.2 Recent changes in regulation/legislation to adapt to a converging environment

Telecommunication services are evolving extremely rapidly, on account of transborder connections and the technological progress recorded in the sector throughout the world, leading to a new stage in the evolution of telecommunications as we embark on the 21st century: convergence of technologies.

In Africa, despite the existence of modern infrastructure (undersea and land cables, satellites) for transporting traffic nationally, regionally and across the continent, despite the establishment of telecommunication sector regulators and of regional associations of regulators such as the ECOWAS West African Telecommunication Association (WATRA) and CERTEL, and despite the regional regulatory arsenal,⁶ the players in the sector continue to hold the whip hand over consumers of telecommunication services when it comes to quality of service and billing mechanisms.

ITU-D Resolution 64 (Hyderabad, 2010)

The World Telecommunication Development Conference (Hyderabad, 2010) which took place from 24 May to 5 June 2010 was an important event in regard to incorporating consumer rights in telecommunication services. Several resolutions were adopted with a major focus on consumer rights, the main one being Resolution 64 (Hyderabad, 2010), on protecting and supporting users/consumers of telecommunication services/information and communication technologies. Under that resolution, ITU instructed the Director of the Telecommunication Development Bureau:

⁶ The regulatory texts and bodies include for ECOWAS:

- Supplementary Act A/SA 1/01/07, on the harmonization of policies and of the regulatory framework for the information and communication technology (ICT) sector;
- Supplementary Act A/SA 2/01/07, on access and interconnection in respect of ICT sector networks and services;
- Supplementary Act A/SA 3/01/07, on the legal regime applicable to network operators and service providers;
- Supplementary Act A/SA 4/01/07, on numbering plan management;
- Supplementary Act A/SA 5/01/07, on the management of the radio-frequency spectrum;
- Supplementary Act A/SA 6/01/07, on universal access/service.

For WAEMU:

- Directive No. 1/2006/CM/UEMOA, on the harmonization of telecommunication sector oversight and regulatory policies;
- Directive No. 2/2006/CM/UEMOA, on the harmonization of the regimes applicable to network operators and service providers;
- Directive No. 3/2006/CM/UEMOA, on the interconnection of telecommunication networks and services;
- Directive No. 4/2006/CM/UEMOA, on universal service and network performance obligations;
- Directive No. 5/2006/CM/UEMOA, on the harmonization of telecommunication service tariffs;
- Directive No. 6/2006/CM/UEMOA, establishing the general framework for cooperation between the national telecommunication regulatory authorities.

"1 to continue to support work aimed at raising awareness among decision-makers regarding telecommunications//information and communication technologies as well as among regulatory agencies regarding the importance of keeping users/consumers informed about the basic characteristics, quality, security and rates of the different services offered by operators, and at creating other protection mechanisms to facilitate the exercise of consumers' rights;

2 to collaborate with the Member States in order to identify the critical areas for the establishment of policies or regulatory frameworks for the protection of consumers and users;

3 to continue its coordination with the Telecommunication Standardization Sector on such topics as service quality, perceived quality and security;

4 to strengthen its relations with other international organizations and entities involved in consumer protection;

5 to invite relevant regions to create their end-user/consumer associations".

It also invited Member States "to create and promote policies that favour providing end users/consumers with information on the characteristics of the telecommunication service offered by different providers".

Finally, it invited ITU-D Sector Members "to contribute with inputs on international best practices related to the implementation of consumer-protection policies, taking into consideration ITU guidelines and recommendations".

Convergence is the present and the future of telecommunication/ICT services. The process and its progress appear inevitable. Traditional approaches and current legislations and regulations are unable to satisfy new requirements, making it important to take appropriate measures in order to adapt to the changes now occurring. Generally speaking, we find that almost all countries have at least one service undergoing convergence. However, very few countries appear to have implemented regulatory and legislative measures to facilitate adaptation to the converging world.

The following section looks more closely at the contributions and responses received with respect to study of the Question.

Question: Has the legislation governing consumer protection in the telecommunication/ICT sector been updated during the course of the past two years (2010 and 2011)?

Have amendments been made to the existing legislation to accommodate the various aspects of service convergence?

A few respondents reported updates made to consumer protection legislation in their country (19 respondents).⁷ Where this had taken place, it had been within the previous two years in over half of respondent countries (59 per cent) and covered a number of different areas including:

- new user rights;
- increased information/transparency;

⁷ Six in developed countries, one in a transition country, eight in developing countries and four in least developed countries.

- data security/privacy; price regulation; and
- accessibility.

Of those respondents reporting reforms in only one area of their legislation, these included consumer protection guidelines (Bahrain), telecommunication employee regulation (El Salvador) and a new complaint resolution system (Senegal).

A very small number of respondents (6 out of 33) reported implementation of regulatory changes to accommodate different aspects of converging services.⁸ The measures were diverse, with the only areas of overlap being price transparency (three out of eight) and technology/net neutrality (two out of eight).

Unique responses included:

- Customer communication regulations – sales of bundled services (Colombia)
- Contract regulations (Colombia)
- Pay TV regulatory framework (Brazil)
- Protection of personal information and possible regulatory measures on neutrality (Italy)
- Convergence and spectrum usage (Uganda)
- Information for consumers on the costs of calls, SMS, push-service (Switzerland).

This is a surprisingly low number given the high prevalence of converged services reported in all respondent countries:

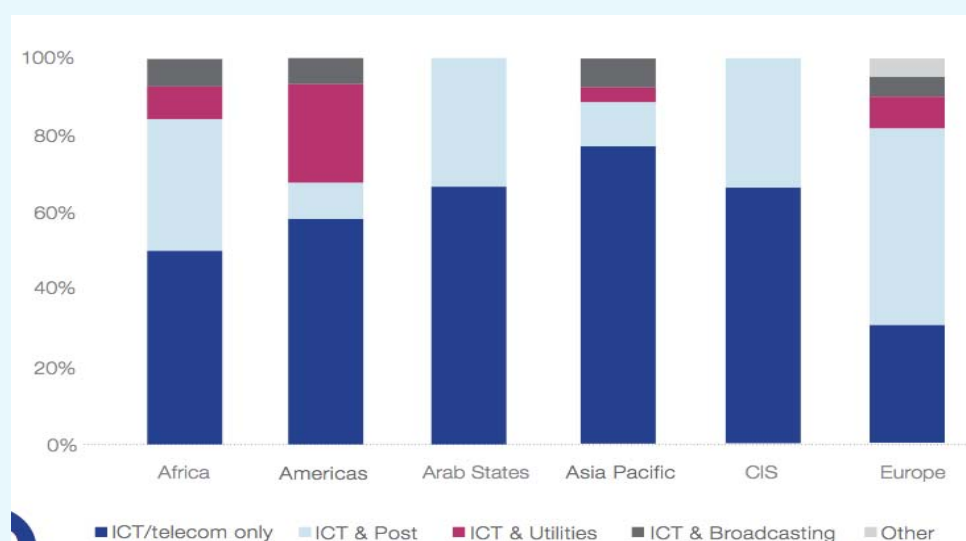
- 79 per cent have VoIP services;
- 52 per cent have IPTV/mobile TV services;
- 14 per cent have mobile payment/banking services;
- 21 per cent have 'other' converged products and services including mobile GPS-localization services; smart phone and tablet services; combos (pay TV, telephone and Internet broadband); double play (broadband and fixed line services); triple play (broadband, fixed and restricted TV services) and total play (broadband, fixed, mobile and restricted TV services).

ITU data from September 2013 show that there were 161 autonomous telecom/information and communication technology (ICT) regulators worldwide – albeit many have seen their mandates expand over the past five years to include information technology and radio/TV broadcasting. Telecom/ICT regulators are responsible for regulation of Internet content in only around 16 per cent of countries (mainly in Africa, Arab States and Asia-Pacific),⁹ although this is double the amount reported in 2009. Telecoms/ICT regulators have broadcasting regulation as part of their mandate in 18 per cent of the countries.

⁸ Three out of four in developed countries, two out of seventeen in developing countries, and one out of five in a least developed country.

⁹ According to responses provided to the annual ITU telecommunication/ICT regulatory survey.

Figure 2: Mandate of Regulators, worldwide, 2012



Source: Trends in Telecommunication Reform Report 2012¹⁰

2.2 Overview of legislation on consumer protection (country examples)

The ever-changing and evolving nature of ICT services is obliging countries to adopt and enforce ICT-specific consumer-protection regulations. However, this does not mean that general consumer legislation can be neglected. On the contrary, the two types of legislation should complement one another in the interests of enhanced consumer protection. This fact underlines the importance of consumer-protection legislation in general, and hence the need to take a closer look at it.

In **Turkey**, consumer rights are protected by Law 4077 on consumer protection (the "Consumer Protection Act"). Further to the amendments made in 2003, substandard services now fall within the scope of the act, being defined as "a service containing material, legal or economic shortcomings undermining the quality specified in the provider's advertising and announcements or stipulated in the relevant technical standards or regulations, or reducing or eliminating the value of the services or the benefits expected therefrom by the consumer". The purpose of the act is described as "to take measures designed to protect the health, safety and economic interests of consumers in line with the public good, building consumer awareness, indemnifying consumers for losses incurred and protecting them against environmental hazards; to promote consumer initiatives aimed at protecting consumer interests, and to encourage voluntary organizations aimed at devising consumer-related policies". A number of the act's provisions are intended to ensure that consumer interests are not harmed, while others relate to reimbursement or compensation in cases where such harm has occurred.

China has established laws to protect consumers, including, for example, the "Chinese antimonopoly law", "Law of the People's Republic of China on protection of consumer rights and interests", "Law of the People's Republic of China against unfair competition", "Telecom services criteria", "Telecom services quality supervision and management methods" and "Provision relating to the telecom consumer temporary appeal method".

¹⁰ ITU Broadband Commission Report p. 70 – The State of Broadband 2012 Achieving Digital Inclusion for all: www.broadbandcommission.org/Documents/bb-annualreport2012.pdf.

In **Brazil**, in 1990, a consumer protection code (*Código de Defesa do Consumidor*) was issued. Furthermore, the privatization of public telecommunication services in the late 1990s gave rise to a new and highly significant legislative framework governing the telecommunication sector, including tools designed to ensure the protection of consumer rights.

The existence of regulatory agencies combined with the privatization of public services has made consumers realize how important it is to have a regulatory basis capable of guaranteeing their rights. Since then, telecommunication operators have been required to follow a number of legal directives establishing rights and obligations both for consumers and for service providers.

In **Mali**, competition rules governing the Malian market are in place at the subregional and national levels.¹¹

The various texts include a number of provisions on consumer information and protection, including the requirement to publicize prices and conditions of sale, provide user instructions, refrain from counterfeiting or from selling or using out-of-date products, and ensure that product/service prices are indicated on labels or otherwise displayed.

In the **Democratic Republic of the Congo**, the legal arsenal is all but non-existent on the matter of consumer protection.

With telecommunication sector liberalization, Framework Law 013/2002 of 16 October 2002 on telecommunications in DRC has not been sufficiently explicit, stipulating only that telecommunication operators in DRC are required to provide customers with access to telephone services under the conditions foreseen under the law.

This was accompanied by the provisions of Act 014/2002 of 16 October 2002, establishing the Postal and Telecommunication Regulatory Authority (ARPTC), which explicitly (in its Article 3) entrusted the authority with the task of protecting the interests of consumers in the postal and telecommunication market. The performance of this task should require the putting in place of appropriate implementing arrangements.

However, the provisions of the specifications for obtaining licences to provide public telecommunication services in DRC, in an isolated manner, define the obligations in the form of guiding principles for consumer protection, of which there are two types:

¹¹ Treaty of the West African Economic and Monetary Union (WAEMU/UEMOA)

- Regulation 02/2002/CM/UEMOA, relating to anti-competitive practices within WAEMU
- Regulation 03/2002/CM/UEMOA, relating to procedures governing cartels and abuse of dominant position within WAEMU
- and other WAEMU directives.

The conduct of commercial activities in general is governed by:

- Ordinance 07.025/P-RM, on the organization of competition
- Decree 08-260/P-RM of 6 May 2008, establishing the practical arrangements for the implementation of Ordinance 07-025/P-RM.

- Technical protection: protection against technical malfunctions (sudden and unannounced interruption of service, dropped calls, network unavailability, network disruption, white spots, etc.).
- Commercial protection: protection against commercial abuses (obligatory network interconnections, equal treatment of users, correct and transparent charging, transparent service offers, proper attention to customer complaints and compensation, etc.).

To date, therefore, DRC does not yet have a general regulatory framework designed to safeguard the interests of Congolese consumers in all areas of the country's economic life, and even less so in the area of telecommunications within the context of convergence.

Draft ARPTC decisions are under preparation, one of which will establish the procedure for handling complaints by customers and consumer associations, and another on number portability, aimed at safeguarding the customer's right to keep his or her number.

ARPTC also envisages the setting up of a call centre for the registration, in real time, of complaints by telecommunication service customers, with a view to taking automatic action on cases of violation of consumer interests.

It is also planned to implement a decision on number portability, aimed at safeguarding the customer's right to keep his or her number.

2.3 Legislation/regulation and specific projects on consumer protection (country examples)

While some countries are continuing to apply general consumer-protection laws for ICT services, most already seem to have adopted some form of specific regulation to protect the ICT consumers. The questionnaire shows that 70 per cent of respondents have adopted specific rules for the protection of ICT consumers.

In 17 countries, however, the telecommunication regulatory authorities (TRAs) reported having no specific consumer protection legislation (13 per cent of responses). Ten of those countries have an alternative NRA that is empowered to apply general consumer protection regulations to the telecoms/ICT sector.

In order to take the necessary measures in a timely fashion, regulators should act speedily and appropriately whenever the need arises. This prompts regulators to implement some *ex ante* regulations that enable them to react and adapt to changes in the environment in a timely and speedy manner. The following paragraphs present a more in-depth look at the regulatory frameworks in a number of countries.¹²

¹² Countries having submitted a contribution on their experience within the framework of Question 18-2/1.

Even though **Turkey** already has a general code on consumer protection, its ICT regulatory authority, ITCA, adopted an "Ordinance on consumer rights in the telecommunication sector" in late 2004. In July 2010, the ordinance was modified in the light of new requirements. There are also other regulations that are closely related to consumer benefits in the areas of universal service, terminal equipment, personal data protection, etc. The Ordinance on consumer rights in the telecommunication sector is the main regulatory instrument relating to the rights and protection of consumers, setting out the specific rights of telecommunication service customers in the interests of ensuring that such services are without any negative impact on their health, are provided without interruption, are of a high quality and are equitably priced.

Burkina Faso has legislation on electronic communications, electronic services and transactions, and personal data protection. The core legislation for the regulation of electronic communications is Act 061-2008/AN of 27 November 2008. This act and its implementing texts are also based on application of the directives and additional acts dealing with various aspects of telecommunications/ICTs adopted by the Economic Community of West African States (ECOWAS) in Abidjan on 23 March 2006, and by the West African Economic and Monetary Union (WAEMU) in Ouagadougou on 19 January 2007.

In **France**, in December 2007 Parliament adopted new legislation, known as the "Chatel Act", aimed at developing competition for the benefit of consumers using mobile and Internet technology by updating the French Consumer Code to accommodate new technologies. It examines the conditions that have to be included in contracts for the provision of electronic communication services. It also examines the new rules governing remote sales, which will have an impact on the information that must be provided to customers. The new provisions on Internet access and mobile-telephony subscriptions were introduced in order to protect customers by limiting the duration of contracts, shortening notice periods, ensuring the refund of amounts paid in advance and restricting the use of premium-rate lines for support services.

In **Mali**, Ordinance 2011-023/P-RM sets out, in its general principles, a number of measures relating to user protection, including:

- the guaranteed protection of users and their right(s): this concerns approval by the authority of the general conditions of subscriptions/service operation and any amendments thereto, satisfaction of requirements and network and service quality;
- access for as many users as possible (particularly in rural areas) through enhanced coverage of the national territory, and maintenance and development of the public telecommunication service.

In **Côte d'Ivoire**, the regulatory and institutional reform enacted with the adoption of Ordinance 2012/293 of 21 March 2012 placed particular emphasis on consumer protection. Specific provisions on the rights and obligations of operators and consumers are contained in Articles 162-170 thereof.

In **Tanzania**, legal provisions on consumer protection are provided under the Electronic and Postal Communications Act, 2010 (EPOCA), the Tanzania Communications Regulatory Authority Act, 2003 and the Tanzania Communications (Consumer Protection) Regulations, 2005. Provisions on consumer protection may be divided into the following three categories: responsibilities of the Authority, obligations of operators and consumer obligations (see Box 1).

Box 1: Obligations of operators and consumers in Tanzania

Obligations of operators

Operators have a number of obligations in regard to consumer protection. Most of the obligations are provided in the EPOCA, on issues that have resulted from misuse of SIM cards and other problems facing consumers:

- protection of consumer information by licensee not monitoring or disclosing the content unless required or permitted by law;
- duty of confidentiality of consumer information by a person who is a member or employee of an application service licensee or its agent not disclosing content or information of any customer except where such person is authorized by any other written law;
- protection against interception of communication without lawful authority;
- protection from transmission of any obscene, indecent or false electronic communication;
- to register users of SIM cards as a means to protect users from misuse of SIM cards;
- requirement to block blacklisted phones which have been reported as stolen; and
- protection from promotions or advertisements which are deceitful.

In cases where an operator breaches licence conditions on consumer protection issues, the Authority may take action against the said operator after hearing of consumer complaints through the Complaints Committee for electronic communication and postal issues or the Content Committee in cases that relate to broadcasting issues.

Obligation of consumers

Consumers also have obligations in ensuring they are protected in use of communication services. With changes in the communications sector and in the legal framework, consumers now have a number of obligations which did not exist before. Some of the said obligations are as follows:

- to use communication services for proper use and not for the purpose of abusing other users or transmitting any obscene or indecent message;
- to submit complaints to their service provider on the nature of the communication service, and if not satisfied with action taken to refer complaint to the Authority and Complaints Committee;
- to register their SIM cards;
- to report change of ownership of mobile phone or SIM card;
- to report theft, loss or destruction of mobile phone or SIM card.

Throughout the world, it is common for regulations to require companies to establish procedures for handling customer complaints, to have a customer service available round the clock, to publicize information concerning the right to submit claims and the procedures for doing so, and to display that information visibly within the company's premises and/or on its website. Furthermore, operators are often required to create special forms designed to facilitate customer claims, to keep a register of consumer claims and to establish specific time-frames for resolving complaints or applying specific rules.

The statistics derived from the ITU questionnaire on reform trends provide an overview of the legal/regulatory frameworks specifically covering consumer protection and including the converged environment (**Annex 2**).

3 Legal bodies or entities responsible for consumer protection

There will inevitably be many contradictions; nor is it possible or reasonable for national regulatory authorities to seek to resolve every issue on their own. The same goes for consumers. Each specific issue is in most cases encountered by thousands or perhaps millions of individuals. This may be at the national level, or sometimes worldwide. To facilitate the task of all concerned, other entities or organizations must become involved.

3.1 General

Legal entities or institutions, whether state-governed or private, have a huge influence on the degree to which consumer protection is exercised. Consequently, their roles and practices should be properly analysed in order to determine their impact on consumer protection. In this section, the role of various entities will be analysed and presented with a number of examples.¹³

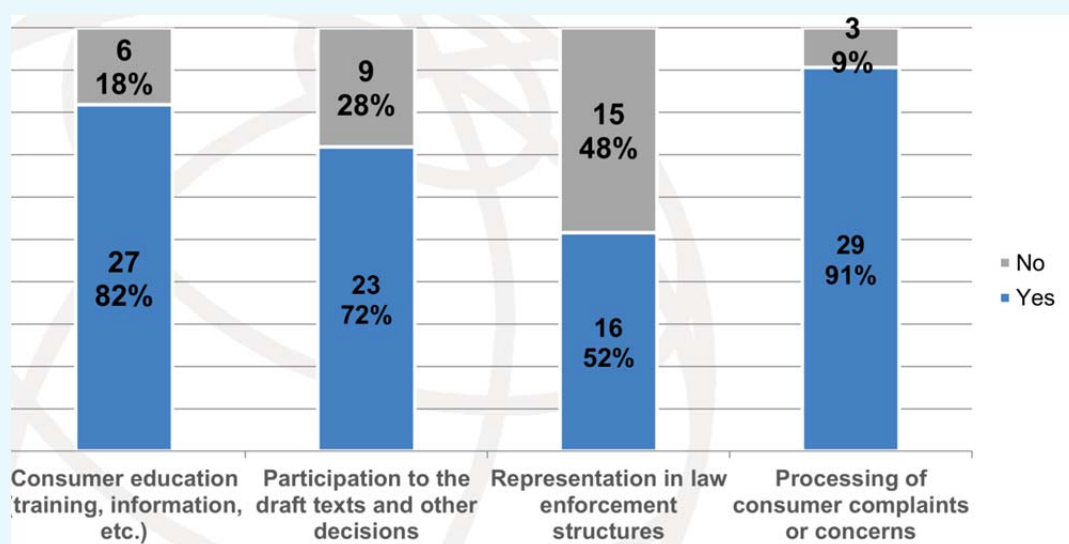
3.1.1 Overview of the entities involved in consumer protection

In your country, how many entities are involved in consumer protection?

In almost two thirds of respondent countries, only one or two agencies are involved in consumer protection, but in the remaining third there are three or more.

The table below indicates the level of responsibility of consumer protection entities. The responses show considerable variation in the type of consumer protection for which those agencies are responsible. In the majority of cases the agency in question has some responsibility for consumer education and complaints: around three quarters play some role in drafting legislation and just over one half have a role in law enforcement.

Figure 3: ICT/Telecom related responsibilities of consumer protection agencies



Source: ITU

¹³ Examples drawn from the contributions submitted by countries as part of the study of Question 18-2/1.

Half of the respondents reported difficulties experienced by the agencies in enforcing consumer law and/or encouraging consumer protection in some form. This proportion rose to three quarters amongst LDC respondents.

There are also consumer associations working to protect consumer rights. In some countries, the creation of such associations is reflected in legal texts. Thus, the French Consumer Code defines the conditions under which consumer organizations may be identified as such at the national level. The corresponding authorization empowers an organization to act to defend consumer interests in general. Granted by decree, both by the ministry responsible for consumer issues and the justice ministry, the authorization is the instrument according recognition to the consumer organization at the national level.

The organization must not be engaged in any professional activity. A total of 18 nationally approved consumer associations (French) have the right to take legal action against infringements before the courts.

The table below shows examples of consumer protection regulatory authorities with a remit that extends to telecoms/ICT.

Figure 4: National consumer protection regulatory authorities with a remit that extends to telecoms/ICT¹⁴

Mexico	PROFECO and COFETEL
Mongolia	Authority for Fair Competition and Consumer Protection of Mongolia
South Africa	ICASA and the National Consumer Commission
Sudan	National Telecommunication Corporation (NTC)

Source: ITU

A few Member States have started to move towards a converged regulatory framework by merging telecommunication and broadcasting regulatory authorities into a single converged ICT authority.¹⁵ The converged regulators' responsibilities include consumer protection, competition oversight and industry specific regulation. Some also have a specific mandate to guarantee a certain level of consumer protection and education alongside promoting a level playing field and monitoring quality of service.

Overall the survey findings demonstrate a general lack of resource, strategies and tools available to protect consumers in a rapidly converging environment.

Over half of all survey respondents felt that some additional legislation to protect consumers was needed in their country, with almost two thirds reporting that consumer needs were not being served appropriately by existing legislation, or that legislation was out of date. Almost three quarters of

¹⁴ Data relate to survey respondents only.

¹⁵ These include the Tanzanian Communications Regulatory Authority (2003); The Australian Communications and Market Authority (ACMA) (2005), the Bhutan Information Commission and Media Authority (2000) the Malaysian Communications and Multimedia Commission (1998), the UK Office of Communications (Ofcom) (2003); and the Independent Communications Authority of South Africa (ICASA) (2005).

respondents felt they needed more guidelines and recommendations on consumer protection – including how to educate consumers and keep them informed.

3.1.2 Coordination among entities working on consumer protection issues

In a pluralistic environment characterized by overlapping practices within the same area, coordination among the various players is both important and essential. Different countries use different methods to achieve such coordination. It is important to analyse those methods and identify the ones that work best, with a view to guiding other countries in the right direction.

Whereas in the majority of cases respondents reported a clear division of responsibilities between the different agencies involved, just under one third reported some overlap in competencies. Where this exists, only around one half of respondents said they had the means with which to actively share information about the challenges faced. Where information is shared this is either through official information sharing agreements, special papers and reports or workshops, forums and other similar platforms, or through a government ministry. **Uganda, Switzerland, Uruguay, Cote d'Ivoire, Belgium and Mali** are examples of countries which use this method.

Around the same proportion – some 50 per cent – said they cooperated or coordinated with consumer protection agencies on a 'needs' only basis. This may explain why only half of respondents believed consumers found it easy to know which agency to contact for different matters. On the other hand, this response seems to contradict the survey finding that just over two thirds of consumers can solve their problems concerning converged services by contacting one agency. There was an almost even split between respondents who agreed that consumers should apply to different entities for their specific problems.

In **Portugal**, the tasks are actively shared between the National Regulatory Authority (NRA) and the Portuguese General Consumer Protection Agency (DGC), which have established cooperative relations. NRA handles the training requirements communicated to it by DGC with respect to specific issues affecting consumers in the electronic communications sector.

In **Italy**, Article 8 of the Electronic Communication Code requires that AGCOM, the Ministry of Economic Development and the Antitrust Authority exchange all information required for implementation of the law and regulations relating to electronic communications, and that they ensure cooperation and transparency between themselves and the European Commission.

The Electronic Communication Code also stipulates that AGCOM and the ministry shall provide the European Commission with all necessary information, and that, where necessary, such information shall be made available to any other independent national authority or similar authorities in another EU Member State. It is within this framework that AGCOM cooperates with other public authorities responsible for the application of consumer-protection laws.

More generally, cooperative obligations are foreseen with respect to the Data Protection Authority (DPA) and other independent Italian authorities.

In **Mexico**, there is a collaboration agreement between COFETEL and PROFECO.

In **China**, the regulator MIIT has launched a special initiative known as "Sunny Green Network" with other government entities in the interests of creating a healthy Internet environment. There is a consumer-relations unit within the Executive Secretariat. A partnership has been established between the regulator and all of the consumer associations. The objective is to build the capacities of the organizations and support them in their telecommunication/ICT oversight activities.

Mauritius has a ministry responsible for consumer protection and a national consumer-protection charter. Telecommunication and ICT service customers are protected by actions that are coordinated between the ministry, the Mauritian Consumers Association, the regulator and the Institute for Consumer Protection.

Senegal has a Consumer Code and a National Consumer Council. The regulator contributes to the protection of telecommunication/ICT service consumers through a mechanism designed to strengthen the work of consumer organizations and assist them in their activities. It is to be noted, however, that these texts do not take account of network and telecommunication/ICT service convergence, and that they therefore need to be updated.

In **Mali**, AMRTP and DNCC sometimes confer regarding customer complaints relating to anti-competitive practices, including below-cost selling and untruthful or misleading advertising.

3.2 State-governed consumer-protection entities, with country examples

3.2.1 Role of the national regulatory authority (NRA) (country examples)

Regulatory accountability also implies that regulators must have appropriate procedures for channelling customer enquiries and claims, informing consumers about their rights and ensuring their protection in the event of market failures. In a majority of countries, regulators assume responsibility for handling consumer complaints.

Telecommunication regulators have put in place various methods for making themselves accessible to the public and facilitating the handling of customer complaints. In numerous countries, consumers are able to file complaints by postal mail, e-mail, telephone or fax, or in person in the regulatory body's offices, consumer assistance centres or other specially designated facilities. In order to facilitate the process for consumers, the procedures for registering their complaints are generally simple. Regulators provide consumers with easily accessible information about the relevant procedures. They also endeavour to put in place ways and means for consumers to share their concerns or expectations and enable them to influence policies and decision-making processes.

The questionnaire shows that, in the majority of countries, it is the national regulatory authority's responsibility to enforce the consumer-protection regulations. In addition, however, most countries have their own consumer-protection mechanisms according to their specific needs.

Colombia has adopted a different approach to the management of customer complaints. While one of the functions of the regulator is to provide customers with information on telecommunication services, the authority to adjudicate disputes between telecommunication operators and their customers has been delegated to a multisectoral administrative body called the Superintendencia de Servicios Públicos Domiciliarios (SSPD), which exercises supervisory, inspection and oversight functions vis-à-vis entities providing public services such as electricity, gas and telecommunications. SSPD receives users' and subscribers' appeals after they have been filed directly with the telecommunication operator. It is empowered to impose sanctions on public service providers.

In **Turkey**, the Consumer Court pronounces situational as well as compensational verdicts, such as the partial or total invalidation of contracts in which some or all of the clauses run counter to the notion of consumer protection or are interpreted and applied to the detriment of the consumer. The court may also order that certain services be provided rightfully, even if there is no clause in that regard in the corresponding contract or legislation. In cases where customers are in some way wronged or dealt with unfairly, the court requires the operator in question to put matters right and provide due compensation. And in the interests of protecting customers further and securing compensation, if any harm is caused by an item of equipment, all those involved in the equipment supply chain are held responsible vis-à-vis consumers.

In **Nigeria**, a forum known as the Telecom Consumer Parliament (TCP) enables consumers to engage in direct interaction with industry stakeholders. The Parliament is usually held in major towns and cities around the country. The Consumer Outreach Programme (COP) enables consumers in rural and semi-urban communities to interact with telecommunication service providers and to be informed and educated on developments within the sector, thereby enabling them to take informed decisions with respect to the various services available on the telecom market. Another forum, known as the Consumer

Townhall Meeting (CTM), serves consumers in rural communities by enabling them to interact with service providers and the regulator. The local dialect of the area in which the meeting is being held is often used for the purposes of information and awareness-building.

In **Brazil**, three entities work with ANATEL to handle customer complaints. The Office of Consumer Affairs receives customer complaints against operators or ANATEL. Complaints concerning operators are initially sent to the competent service of the operator in question, which shall contact the customer within five days, and complaints concerning ANATEL are sent to the specific department to which the complaint relates. Citizen Rooms provide a communication channel between ANATEL and the public and information on ANATEL's activities. The Committee for the Protection of Telecommunication Service Users comprises representatives from ANATEL, the ministry, operators and consumers. It advises the Board of Directors on consumer protection. ANATEL has also developed an index known as IDA (Customer Care Index), which offers benefits as a tool for enforcing improved consumer protection in a converged environment.

Since January 2009, ANATEL has been publishing the IDA on its website (www.anatel.gov.br), the aim being to provide information and data on operator performance. The data are available for the years 2009, 2010 and 2011. Progress has been observed, with operators having improved their performance and customer complaints having diminished.

In **Ireland**, for example, consumers can lodge complaints with the Small Claims Court, the European Consumer Centre, REGTEL (the independent regulatory authority for content and the promotion of telecommunication services), the Office of the Data Protection Commissioner, the Advertising Standards Authority of Ireland and the Office of the Director of Consumer Affairs. Generally speaking, the intervention of an attorney for consumer claims is not required because this would oblige the consumer to incur further expenses and discourage claims. The consumer, however, usually has discretion to use an attorney if desired.

In **Australia**, the regulator is required by law to put in place a forum for consumers. Australia has also created an independent structure bringing together telecommunication sector entities for the purpose of examining complaints concerning telephone or Internet service provision and helping the parties to settle their disputes in that regard.

In **Peru**, the Administrative Tribunal for the Settlement of User Claims (TRASU) adjudicates claims filed by public telecommunication service users. Although TRASU forms part of OSIPTEL, it is fully independent in its rulings and is the final administrative recourse for user complaints. It may be made up of OSIPTEL staff or of professional experts. It settles consumer claims and appeals, proposes procedures for handling user complaints and intervenes in other areas entrusted to it by OSIPTEL.

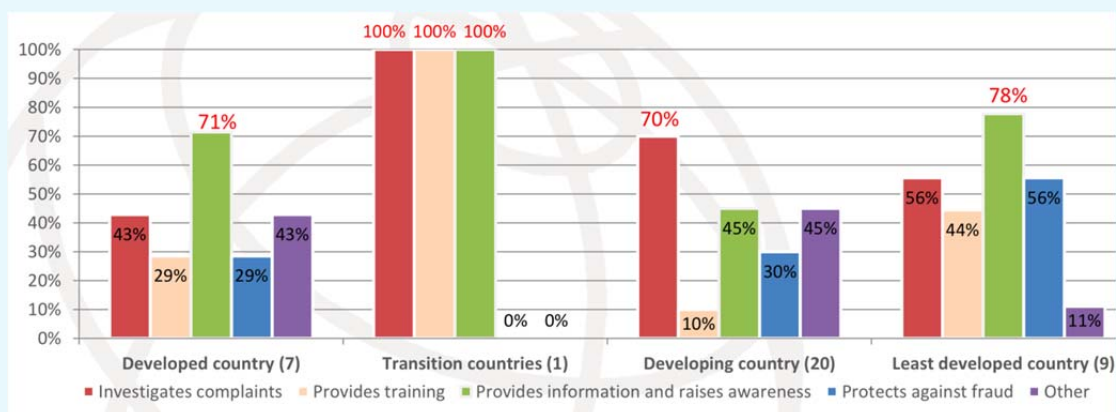
In **China**, the Ministry of Industry and Information Technology, China's regulator, organizes satisfaction investigations for telecommunication services (SITS). The results are made public. With the rapid development of new services such as broadband and wireless Internet, the degree of satisfaction for telecommunication services (DSTS) has taken on a new dimension in recent years. The satisfaction surveys give the public greater knowledge of the ICT sector and of operators' services in terms of quality of service and tariffs. Continuous improvements have been noted over the past six years. The research centre has observed new trends associated with the development of mobile broadband. Despite this important work, disputes still occur in regard to tariff transparency, QoS and information security. The experience of consumers has evolved and their expectations vary. The three operators have reacted positively to the investigations, and new requests concern enhanced 3G coverage with good QoS, billing and the sending of messages and reminders to consumers for data services.

The investigations are carried out annually by independent institutions, with consumers providing the data. The results of the SITS provide a basis for the work of the regulator, aimed at protecting consumers. The index takes into account all categories of consumer.

The SITS are now used extensively in many countries as an effective tool for regulating QoS and to monitor innovation and convergence in the telecommunication sector, which have an impact on the consumer's experience.

As Figure 5 illustrates, there is considerable variation between developing and developed/transition countries in the type of consumer protection responsibilities undertaken. For example, regulators in developed countries are less likely to play a direct role in complaints handling than those in developing countries, with responsibility for fraud protection most prevalent in least developed countries.

Figure 5: Consumer protection regulatory activities by development status



Source: ITU

This trend is also reflected in the 2011 statistics¹⁶ (to be updated) produced under ITU-D Programme 3 within the framework of the questionnaire sent out each year to Member States on telecommunications/ICT regulation (**Annex 2**).

Analysis of these data allows the following observations to be made:

- Efforts should be made in some regions to put in place a specific telecommunication consumer-protection legislation/regulation. In the case of Europe, the European directive requires the presence of strict consumer-protection legislation.
- Consumer complaints are the responsibility of the regulatory authorities.
- In some regions, such as Asia and the Pacific, CIS, Europe and the Americas, efforts need to be made by the regulatory authorities to promote consumer participation in their activities.
- As a general rule, consumers are informed of their rights (consumer education) by most of the regulatory authorities.
- In some regions, such as Asia and the Pacific, CIS, Europe and the Americas, efforts need to be made by the regulatory authority to defend or represent the rights of consumers.
- In some regions, such as Asia and the Pacific, CIS, Europe and the Americas, the regulatory authority is generally not responsible for providing comparative tariff information. This is done by the operators.
- In almost all countries worldwide, the regulatory authority is monitoring quality of service.

¹⁶ Statistics taken from Trends in Regulatory Reform.

3.2.2 Role of private entities

Private entities working to protect or promote consumers' interests in relation with the regulator have become widespread over the past two to three decades. These organizations span nearly every country. It can be said that there is a certain level of cooperation among them, at both national and international level. **Consumers International** (CI), founded in 1960, is the world federation of consumer groups. CI defines itself as the only independent and authoritative global voice for consumers. It reports having over 240 member organizations in 120 countries, and asserts: "we are building a powerful international consumer movement to help protect and empower consumers everywhere".

There are also other international organizations as well as hundreds of local organizations. These associations have shared values (high ethical standards, independence from companies, governments and political parties, integrity, transparency and accountability) and certain shared operating principles.

At national level, the right to be heard is exercised by the consumer organizations represented on decision-making bodies. These organizations use campaigns, advocacy/lobbying, monitoring the quality and cost of the goods and services available to consumers, denunciation of all practices or standards that undermine the interests or infringe the rights of consumers, and representation at forums for action to improve the quality of goods and services.

In **Africa** several subregional organizations (ECOWAS, WAEMU, CEMAC, ATU, AU, etc.) have mandates involving the protection of telecommunication consumers. In 2008, The African ICT Consumers Network (AICN) was created as the first subregional civil-society organization and a recognized partner of ITU. This institution seeks not only to strengthen African consumer organizations and make them more professional, but also to make consumers more aware of their rights and responsibilities, and to contribute to the fostering of policies to protect the rights of telecommunication/ICT service consumers.

3.3 Examples of successful implementation

The **United Kingdom** has adopted an interesting approach to handle consumer complaints concerning telecommunications services. In January 2003, the Office of the Telecommunications Ombudsman (OTELO) which covers 96 per cent of the fixed-line telephone market, over 55 per cent of the mobile-telephone market and 33 per cent of the ISP market, was established as a voluntary independent dispute-resolution service. OTELO reviews and seeks to resolve consumer complaints against member companies. It also intervenes where the complainant and the company have been unable to reach an agreement, and determines whether the member company must take any action for the consumer's benefit.

In **Benin**, for example, the consumer movement has consistently advocated that a regulatory authority be set up for the telecommunication sector. The organization of peaceful marches, public talks, press conferences and meetings with the competent authorities, the signing of petitions sent to the authorities and the regular dissemination of press articles on the Internet ultimately led to the establishment, on 1 March 2007, of the *Autorité Transitoire de Régulation des Postes et Télécommunications* (Transitional Regulatory Authority for Post and Telecommunications). Moreover, several studies conducted regularly in the telecommunication sector on telecommunication service quality and rates in Benin and in the subregion (<http://www.ldcb.org/>) have prompted operators to review their tariffs and the quality of their services.

In **Nigeria**, the Consumer Affairs Bureau (CAB) was set up as the interface between the consumer, service provider and regulator in order to protect, inform and educate consumers. This mandate enables the consumer to have a fair share of the industry pie, which is very important.

China has set up the telecommunication subscribers' complaints centre (TSCC) to deal with telecommunication consumers' complaints. Telecommunication operators and related companies have also put in place units to deal with consumer complaints. Regular meetings are held to discuss and analyse the reasons for consumers' complaints, and statistics are published regularly. Meanwhile, China has also instituted the "Minister's Letterbox", allowing consumers to complain to and request help from the

highest authorities. China is also launching the second phase of a platform to deal with consumer complaints in each province.

In some countries, mobile-subscriber identification, which *a priori* comes under cybersecurity policy,¹⁷ is also recommended among measures taken to protect consumers, of which it is a corollary. Subscriber identification has to comply with principles related to consumer rights, data protection and the confidentiality of electronic communications. Operators have access to information, but under specific conditions.

Thus, for example, the Telecommunications Regulatory Authority of **Oman** has strengthened its commitment to protecting telecommunication consumers in the Sultanate by launching, in April 2011, a three-month campaign "My number, my identity", aimed at educating mobile users about the risks associated with use of a mobile phone and with the sale or transfer of telephone numbers that are not registered under their name. The main objective of the campaign is to identify all SIM card users, protect consumers and educate them regarding the legal and financial implications of using SIM cards under a false identity. The work was carried out in cooperation with the police and telecommunication network operators. Foreigners leaving the country definitively must inform the operators so that their line can be suspended. Otherwise, the line is disconnected after a period of three months. A communication campaign is conducted via the press (radio, TV, printed press), through text messages and at certain events, to educate people regarding the correct use of SIM cards and the fact that they should not be given over to third parties.

4 Consumer protection in a converging environment: challenges and outlook

Convergence of services makes it difficult for states to protect consumers. Normally simple and predefined processes become complex and sometimes require the involvement of more than one entity.

These trends mean that regulators are henceforth confronted with major overlap between broadcasting regulation and the regulation of electronic communications, very often with two different regulators involved in monitoring the same or different activities on the same network. In response to this, some governments have begun introducing modifications to their regulatory frameworks, including by measures to improve the enforcement and implementation of legislation, rules and regulations.

Convergence opens up many new economic, social and cultural opportunities for consumers. It also gives rise to new challenges for decision-makers and regulators in respect of consumer protection, including and no doubt most significantly in regard to network neutrality and data privacy.

4.1 Issues faced by entities involved in consumer protection

4.1.1 The meaning of convergence for regulation and consumers

a) The expansion of digital technologies and the Internet, particularly Web 2.0, has dramatically changed the way in which electronic communication services are delivered and accessed. This presents regulators with a number of challenges. These include:

- Encouraging investment in high-speed networks and advanced technological solutions that are universally available and accessible.

¹⁷ See ITU-D Study Group 1 Question 22-1/1.

- Protecting innovators, creators and consumers from counterfeiting and piracy associated with the online (increasingly cross-border) distribution of goods and services
- Promoting and safeguarding E-commerce: by creating a framework in which reliable and efficient electronic payment mechanisms (card, internet and mobile) can flourish (e.g. e-identification and trust services for e-transactions).
- Ensuring consumers have all the information they need to make informed choices and have adequate protection and redress mechanism if things go wrong.
- Safeguarding trust in the Internet by developing a robust cybercrime strategy and data protection and privacy strategy that is future proofed to cope with new technologies.
- Creating a simpler, clearer regulatory framework and level playing field for distributors of content,¹⁸ avoiding legal uncertainty, duplication and double monitoring that may occur where network and transmission regulation is separate from content regulation.

b) Installation of reliable high-speed networks. A reliable infrastructure offering improved connectivity and speed is central to the successful delivery of converged services that match consumers' expectations. This is why governments across Member States are actively promoting the use and development of broadband as a vehicle for economic and social development and growth. This helps businesses and consumers to conduct their businesses both domestically and internationally, promoting digital products, services and physical products. By the end of 2011, fixed broadband services were commercially available in 206 economies; and mobile broadband services (3G and 4G) in 160 economies.¹⁹

c) Combating online counterfeiting and piracy. The Internet has provided counterfeiters and pirates with a new and powerful means to sell their products via auction sites, stand-alone e-commerce sites and e-mail marketing. The development of new technologies also poses a challenge for the prevention of the unauthorized use of protected works and the principle of copyright as the means to reward the development of and investment in creative content.

d) Promoting and safeguarding e-commerce. Consumers want easy access to the goods and services they buy online, including purchases made through their mobile devices. They also want assurance that their data is safe and not being used for irresponsibly or fraudulently. Trust is essential for promoting e-commerce and cross border online trade but regulation has to be proportionate and sufficiently flexible to accommodate future innovation.

e) Keeping consumers informed and providing redress if things go wrong. Government, regulators and industry need to ensure consumers have access to clear information and education about converged services so they can make fully informed choices. Consumers need to understand the type of content they are accessing and the level of regulation it is subject to. Regulators need to find ways to protect consumers from harmful content and provide access to redress, particularly as services are increasingly delivered from outside national boundaries.

f) Safeguarding trust in the Internet. Internet traffic is doubling every 2-3 years and mobile Internet traffic every year. It is predicted that by 2015 there will be 25 billion wirelessly connected devices globally; doubling to 50 billion in 2020; and mobile data traffic will increase twelvefold between 2012 and 2018,

¹⁸ Network operators that retransmit broadcasting signals and offer them to the public, e.g. cable or satellite operators, mobile operators, IPTV providers.

¹⁹ ITU survey for the creation of a compendium on telecommunication/ICT consumer protection case studies in a converging environment, July 2012.

data traffic on smart phones by 14 times by 2018. The downside of the increase in traffic is the rising threat of cybercrime, and risks to network security. Trust in the Internet may be compromised by inappropriate use of personal data or risks to the security of online data.²⁰

g) Creating a simpler, clearer regulatory framework. The overall aim of regulatory policies and regulations to safeguard the public interest and protect consumers should be to create an environment in which high quality sustainable converged communications services can flourish. This includes developing and maintaining a consistent level of consumer protection across different digital media environments. Having thriving legitimate online markets benefits businesses and consumers alike. Thus when considering consumer protection policies, regulators need to assess the potential impact of regulatory intervention, in terms of new or additional burdens on business, as compared with the potential benefits for consumers.

4.1.2 *Inexistent, inadequate or imprecise consumer-protection legislation, especially for converging services*

It should be noted that most texts governing the telecommunication sector fail to take account of telecommunication/ICT service and network convergence and consequently of consumer protection in a converging environment, whence the need to update the texts.

Although few Member States have already established policies and/or regulations to accommodate converging services, the areas in which they have chosen to intervene include on price transparency and technology/net neutrality. This rationale appears to be supported by the most commonly reported types of complaint cited by all survey respondents, which were around pricing and billing, quality and service outages and poor coverage.

Other important consumer rights cited by respondents were the protection of personal data/privacy/confidentiality of information (9/29, 31 per cent) and the right to complain (8/29, 28 per cent).

a) *Net neutrality and quality of service issues*

The expression "net neutrality" usually refers to the debate around whether there should be an overarching principle of non-discrimination regarding different forms of Internet traffic carried across networks.

The net neutrality debate is typically argued from a supply-side perspective (i.e. whether network operators should be allowed to block or charge for prioritizing an application provider's traffic). The actual and potential massive increases in data traffic as consumers use more services and applications increases pressure on network capacity and breaks down the traditional links between end use and the associated costs of service provision.

Although consumers may be prepared to pay more for faster Internet speeds and the ability to access new content and applications, unless they are able to differentiate between the various service offerings, there is considerable potential for dissatisfaction, particularly if the quality of service is degraded or content is blocked.

The challenge for regulators is to balance a consumer's demands for unlimited access and unrestricted content against a provider's ability to use the bandwidth available effectively and resist the temptation to

²⁰ A recent Eurobarometer survey found that 40 per cent of users were concerned about their data being compromised on line and 38 per cent) were worried about the security of online payments (Special Eurobarometer survey 390, "Cyber security").

block Internet applications and content to try and control the pipeline, restrict competition and limit consumer choice.

In 2010, the **Italian** NRA, AGCOM, undertook an investigation into traffic management techniques related to VOIP and peer-to-peer (P2P) mobile applications. Following consultation with relevant stakeholders,²¹ AGCOM is assessing whether existing transparency requirements on the quality of Internet access services are adequate. Current measures include the Misura Internet speed test,²² used by consumers to verify effective speed of fixed broadband connections. If AGCOM concludes the requirements are inadequate it will consider whether to introduce new regulatory measures to protect net neutrality.²³

In June 2011, the Dutch Parliament introduced legislation in the **Netherlands** to prevent the blocking or discrimination of certain content, services or applications. Mobile Internet providers must now allow customers to use Skype and other rival services – that enable smart phone users to send messages at no extra charge – on their networks without charging extra or giving preferential treatment to their own offerings.²⁴

In the **United Kingdom**, the preferred approach is to encourage self-regulation in the first instance. Under a voluntary open Internet code of practice on traffic management, Internet service providers (ISPs) agree to provide full and open Internet access products and confirm that traffic management practices will not be used to target and degrade the services of a competitor²⁵. The code includes Key Facts Indicators (KFI), which set out individual operator's traffic management policies in a clear and comparable format. The over-arching policy objective is to allow ISPs to manage their networks in a way that enables them to innovate and develop new business models, whilst ensuring a good service for consumers. The NRA, Ofcom, has powers to intervene to ensure transparency and set minimum quality of service standards, should the market "develop in an anti-competitive or detrimental way".²⁶

b) Protection of personal data and privacy

Protecting the privacy of consumers' data and ensuring consumers' data is used for the purposes intended are essential safeguards in a converged environment. Yet only 3 out of 17 respondents reported updates to legislation on data security and/or privacy over the last two years.

In many Member States, responsibility for data protection rests with a separate authority. In **Italy**, for example, the Data Protection Authority²⁷ is responsible for the enforcement of the Personal Data Protection Code and ensuring all relevant safeguards are in place.²⁸ This extends to all aspects of the Code, including the processing of personal data in electronic communications and traffic data retention.

²¹ Undertaken in 2011 and approved with Resolution No. 713/11/CONS

²² www.misurainternet.it/

²³ Document 1/162, 18 July 2012, op. cit.

²⁴ www.physorg.com/news/2011-06-dutch-parliament-mobile-net-neutrality.html

²⁵ www.broadbanduk.org/category/open-internet/

²⁶ Department for Culture, Media and Sport Communications Review Seminar Series, The Consumer Perspective, <http://dcmscommsreview.readandcomment.com/consumers/>

²⁷ www.garanteprivacy.it

²⁸ Personal Data Protection Code (Decree No. 196 dated 30 June 2003): Italy's consolidated statute transposing EC directives 95/46 (protection of personal data), 2002/58 (electronic privacy) and 2006/24 (traffic data retention) regulating application of data protection principles to various sectors, setting up the Italian data protection authority and laying down the DPA's powers and enforcement mechanisms.

In Lithuania responsibility for the protection of personal data rests with the State Data Protection Inspectorate.

In **Oman**, by contrast, responsibility for regulation in regard to protection of the confidentiality and privacy of beneficiary data²⁹ rests with the Telecommunications Regulatory Authority of Oman, (although legislation on electronic commerce and cybercrime is the responsibility of the Information Technology Authority). The regulations permit licensees to request a consumer's personal data only if it is needed to activate the service and only on the basis that the consumer is kept informed about the reasons for collecting, processing and keeping that data. Licensees have specific obligations to protect the privacy and confidentiality of that data, including ensuring systems and networks are sufficiently secure to prevent unauthorized access. Licensees are not allowed to exchange the information with subsidiaries without the consumer's permission.

In September 2012, the Oman TRA launched a public consultation on web-based services regulation³⁰. The proposals include provisions for consumers to filter content, block unwanted content and limit the use of search results, as well as strengthening privacy and security obligations. The provisions, if adopted, will allow the regulator to block access to offensive sites.

This is a difficult area for electronic communication regulators. If regulation is considered to be overly stringent, it may be seen as a barrier to the innovation and creation of new ICT services. For example, Google recently changed its privacy policy, tying together end user data collected through services including its search engine, YouTube and Google+ that had previously been kept separate. Google presented the changes as a benefit to consumers, enabling Google to tailor users' search results and advertising more specifically to their needs.³¹

A further example of the difficult balance to be achieved arises through the increasing popularity of cloud computing services, provided to users remotely through PCs or portable handheld devices. Whereas traditionally end users would purchase a licence to install and run software from their own computer, with cloud services consumers have access to a virtual cloud in which the software is located and from where it can be accessed. Cloud storage services provide online storage facilities that can be accessed from any computer or device.

Although service providers are responsible for what happens on their services, their activities are likely to fall outside of an individual national regulatory framework. Regulation applies where the cloud computing activity takes place – either where the cloud computing business has its HQ, where the data and storage centre is located, or where the cloud computing services are initiated or accessed by users.

The **European Union** (EU) has developed an EU Cloud Computing Strategy³² central to which is the aim to "build digital confidence." Given the global scope of cloud services, the issue is how to regulate international transfers of data, with the primary focus on the prevention of cyberfraud and crime.

²⁹ Resolution No. 113/2009 issuing Regulations on Protection of the Confidentiality and Privacy of Beneficiary Data.

³⁰ www.tra.gov.om/newsite1/NewsDetails.aspx?newsid=273

³¹ See for example the Guardian report "Google's privacy policy: EU data protection chiefs 'to act within days'" Monday, 8 October 2012.

³² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Unleashing the Potential of Cloud Computing in Europe, COM (2012) 529 final, Brussels, 27.9.2012.

A report to the **European Parliament** focuses, on the other hand, on the privacy aspects, asserting that the "challenge of privacy in a cloud context is underestimated, if not ignored".³³ The report cites the concerns raised by the European network and information security agency (ENISA) about the "risks faced by customers if the cloud provider makes improper use and/or mismanages the data" contained in its data centres. This risk is said to arise in part because infrastructure is almost exclusively owned by private companies and represents a significant and growing part of the Internet – resulting in "inherent conflicts between the economic and commercial interests of the service provider and the needs of the consumer".³⁴

c) **Mobile entertainment services and mobile payment mechanisms**

The rapid growth in the use of smartphones to access mobile entertainment services and/or to make digital payments has clear implications for current regulatory frameworks. The Far East, particularly **Japan**³⁵ and the **Republic of Korea**, are leading the uptake in these services, followed by Europe, in particular **Scandinavia**, the **United Kingdom** and **Italy**.

Many consumers now use mobile phones to make micropayments to participate in interactive television services (such as voting in competitions), virtual gift giving and to pay for apps. Most new smartphone models are equipped with a Near Field Communication (NFC) facility, which allows for the transfer of data over very short distances, typically between 3 and 18 mm, though potentially up to 10 cm. NFC can be used for quick file transfers, payment transactions and other services. Mobiles can also be used as integrated contactless payment cards ('wave and pay') for retail purchases – a flexible alternative to cash and card payments.

In each case there are clearly benefits to consumers and businesses alike in having more convenient, more flexible payment methods. This is provided that consumers are adequately protected and have confidence in the security of the systems that are used.

The regulatory environment governing online and mobile payments is continuously evolving. Some countries have specific legislation that applies to online and/or mobile payments, while in others general consumer protection, telecommunications, or financial regulation applies.

To some extent existing regulatory structures already exist. In the **United Kingdom**, the NRA's responsibilities for regulating the content of and charging for Premium Rate Services (PRS) cover mobile payment services that are charged to a telephone bill or prepaid account, including some NFC wave and pay systems. However if payments are debited from an 'e-wallet' that is charged up through a debit card, responsibility for regulation falls to the financial services regulator. This makes it confusing for consumers if things go wrong. This all presupposes that the transactions themselves are legitimate and that they are captured by national supervision, which may not be the case for international transactions.

In the **Republic of Korea**, there are specific consumer protection regulations governing e-commerce,³⁶ which place a number of obligations on payment service providers. These include requirements to:

- use order forms that enable consumers to change or confirm their order before validation;

³³ European Parliament Directorate-General for Internal Policies, Policy Department C, study on Fighting cyber crime and protecting privacy in the cloud, PE 462.509.

³⁴ European Network and Information Security Agency (ENISA), Cloud computing: benefits, risks and recommendations for information security, Heraklion, November 2009.

³⁵ In Japan, the sales of NFC-mobile handsets reached more than 64 million as of the end of 2009 (FeliCa, 2010).

³⁶ 2007 Electronic Financial Transactions Act (EFTA) and the E-commerce Consumer Protection Act (ECPA).

- provide consumers with information about the seller (which should also be available on the seller's website) and about available dispute resolution mechanisms;
- protect consumers' personal information disclosed within the context of the payment process.³⁷

d) *The right to complain*

Access to a fair and transparent complaint process is an essential part of an effective consumer protection framework. Most ICT regulatory frameworks include some requirement for operators to establish and publish procedures to handle complaints. The majority of survey respondents either played a role in complaint handling/dispute resolution themselves or were able to refer these to another consumer protection agency.

The **Malaysian** Communications and Multimedia Commission (MCMC), for example, although not directly involved in the handling, has responsibility for ensuring consumer complaints are dealt with fairly and effectively. The complaints relate to all aspects of communications and multimedia services, telecommunications, broadcast, Internet services, postal and courier services, and digital certification. MCMC is also responsible for monitoring the level of complaints received from consumers.

Consumers are encouraged to take responsibility for resolving a complaint with the service provider in the first instance, but may refer their complaint to the independent, self-regulatory Consumer Forum (set up by the MCMC) if the provider fails to resolve it within seven weeks. The Forum has an online complaints portal to help users resolve complaints with the providers without the need for external involvement. The portal was developed in accordance with the Consumer Forum's General Consumer Code of Practice (GCC), which utilizes standard procedures in the handling of customer complaints and disputes.

In **Saudi Arabia**, the Communications and Information Technology Commission (CITC) requires service providers to establish a separate business unit to handle complaints. It also plays a direct role in the complaints handling process by reviewing providers' complaint procedures. It also provides a dispute resolution process for when the customer and provider have been unable to resolve the dispute themselves.

e) *Improvement of cross-border situation*

Although sector specific ADR schemes are commonplace in the **European Union**, there are a number of shortcomings that hinder their effectiveness: including gaps in coverage, lack of consumer and business awareness and differing procedures. It is important that such shortcomings are addressed where consumers are making cross-border transactions in a digital environment.

Proposed new legislation will require all Member States to provide for consumers and traders to have recourse to a quality ADR scheme to resolve disputes around the sale of goods or the provision of services, including through online means. This may be provided using existing ADR schemes and adjusting their scope if necessary, or by creating new ADR entities. Each Member State will have to ensure that a competent authority is responsible for monitoring the schemes. Strict guarantees of confidentiality and data protection will apply.

The schemes will be encouraged to join networks of ADR entities in sector-specific areas and to cooperate with national authorities responsible for enforcing consumer protection legislation.³⁸

³⁷ OECD Report on Consumer Protection in Online and Mobile Payments, 17 August 2012 DSTI/CP(2010) 22/FINAL.

³⁸ Proposal for a Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes COM (2011)793 final, Brussels, 29.11.2011 and Proposal for a Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes COM(2011)794 final, Brussels, 29.11.2011.

f) Pricing, billing and transparency

Consumer complaints about pricing and billing were the most commonly cited by survey respondents. These complaints arise despite consumers having almost universal access to pricing information across all services, including for mobile, Internet access and smartphone services. **Brazil, El Salvador, South Africa** and **Uruguay** specifically mentioned the availability of consumer information for subscription and pay-TV services in their responses. This suggests that the provision of information may not in itself be a sufficient measure to protect consumers in a converging services environment.

In **Turkey**, for example, changes made to telecommunications legislation during 2010 and 2011 included measures designed to incorporate different aspects of converging services. These include IPTV, VoIP and mobile payments services. The range of measures include itemized billing; the right to opt out from campaigns, tariffs or services; and the subscriber's right to set an upper limit on their telecommunication bill. The Turkish Telecom Group has reported some practical difficulties with the implementation of the latter provision:³⁹

- How to define the boundaries of the limit: should it be the whole bill or a chosen service given the wide variety of bundled services available with the telecommunication service, from home security services to computer software?
- How the limits relate to special campaigns or promotions (which are subject to minimum subscription periods and/or monthly payments)?
- How to keep track of value added services that are included in the bill, but which may cause confusion to both consumer and operator?
- How to distinguish between amounts due to different carriers where the consumer uses a carrier selection method, given that individual operators are unable to track each other's traffic?
- How to track the upper limit in real time terms within a PSTN network system? Unless a service provider is able to stop the service immediately at the point at which the limit is reached, it has to bear the cost of the excess usage itself.

The Turkish Telecom Group cites the example of the Türk Telekom VoIP service (Wirofon), whereby subscriber voice calls are charged and recorded as if they have started from the subscriber's normal PSTN line. It cites a further example of calling cards, which work like prepaid cards but with the usage fee tied to the fixed line subscription. This means that once the customer has reached their spending limit they are unable to use the card, possibly at a time when they are in most urgent need.

Türk Telekom has reportedly advised Information and Communication Technology Authority of Turkey (ICTA) that adaptation and changes to the IT and PSTN infrastructure to provide just "nearly real time" accounting before NGN transition would take approximately one to one and half years to complete. It has suggested that this particular consumer right should be confined to GSM services in the first instance. GSM operators have objected to this approach, arguing that they already offer prepaid subscriptions, which effectively serve the same purpose as an upper limit.

In the **Republic of Korea**, bundling is reported to cause consumers problems both at the initial subscription stage, during use and upon termination of the bundle.⁴⁰ The discount schemes for bundled services vary, depending on the composition of the products. The discounts are often tied to long-term commitments, which make the terms and conditions very complicated.

³⁹ Document 1/162, 18 July 2012, Türk Telekom Group (Turkey) Proposed text for Draft Report on Question 18-2/1.

⁴⁰ Dominant telecom carriers are allowed to offer bundled services, including services subject to price regulation, unless those offerings may harm competition and/or consumers.

To address these and other concerns about consumers and convergence, the Korean Government recently published a series of guidelines for communications services providers (see Box 2).

Box 2: Republic of Korea Guidelines for communications providers for the provision of bundled services to consumers

For bundled services, service providers must:

- Clearly specify key terms in user agreements (long-term discounts, bundled discounts, termination fees and so on);
- Stipulate the details of the discounts on the bill so that consumers can see where the discounts have been applied;
- Provide information about bundled services including pricing, discounts, cooling-off periods, calculation formula for termination fees, and so on;
- Not charge termination fees for the remaining component services if a consumer wishes to terminate some of the services in the bundle;
- Provide details in the user agreement about who is responsible if things go wrong.

For broadband Internet contracts, service providers may not:

- Impose cancellation fees on the consumers who receive additional benefits not specified in the contract, who then subsequently terminate the service before the expiry of the contract period.

For promotions:

- The imposition of penalties is not allowed unless these have been notified to the consumer clearly, including information on their value and the contract period.

The Korean Government also requires providers to monitor their sales agencies closely to ensure they adhere to the guidelines and help their customers to understand fully the contract they are entering into. For example, it recommends providing the customer with easy-to-understand brochures or comic books; as well as publishing the relevant contract either on the home page of the provider's website or in a place where the information is easy to find.

g) Services outages/poor coverage

Consumer rights in relation to service outages appear to be less well developed across those Member States participating in the survey. Only 5 out of 29 survey respondents mentioned the consumer's right to compensation in the event of loss of service and only 3 out of 29 cited the right of access to emergency services.

In **Oman**, all consumers have the right to be offered the same class and the same terms of services. Operators are required to provide the best possible service and meet the quality of service requirements set out in the licence conditions. Should the customer's service be interrupted continuously for more than 24 hours for technical or maintenance reasons, the service provider must waive the monthly subscription charge. If the operator-supplied device becomes defective within the warranty period, operators are obliged to replace or repair it.⁴¹

The Independent Communications Authority of **South Africa** (ICASA) has developed a framework for a consumer satisfaction index (CSI) with ICT services. The Framework aims to identify and define the

⁴¹ Document 1/162, 18 July 2012, op. cit.

parameters for Quality of Service (QoS) consistent with those used by other regulators, that will help ICASA monitor consumers' satisfaction as well as testing operators' performance.

With increasing reliance on wireline and wireless services, the frequency of service disruptions or an inability to access services in certain areas may not be well documented or easy for consumers to compare. For example, during severe flooding and power loss in downtown Manhattan, New York, and across the **United States** in late 2012, there were serious problems on the network, with customers losing fibre-optic service (FIOS) TV, Internet, and telephone connections.

The Federal Communications Commission (FCC) is to hold a series of field hearings, starting in early 2013, to examine challenges to the nation's communications networks during natural disasters and in other times of crisis.⁴² The aim is to strengthen the requirements for both wired and wireless networks in the face of such large-scale emergencies, particularly the reliability of the emergency 9-1-1 networks. The inquiry will also consider whether consumers have enough access to information about their communications services during emergencies and/or whether additional information would be helpful. For example, whether it would help consumers to know the performance and reliability of the companies' service or devices as compared to competitors' during past emergencies.

4.1.3 Situation regarding consumer associations

The replies to the survey and contributions received show that for most developing countries, the functioning of consumer protection associations in general – and in the telecommunication/ICT sector specifically, especially in terms of experience and professionalism – presents difficulties when it comes to the management of consumer protection with State agencies or regulators.

Numerous respondents indicated that the consumer protection bodies encountered structural difficulties, and in particular that they lacked the necessary competencies and human resources. Others explained that there was no or inadequate national legislation on consumer protection. Some reported problems regarding consumer education and sensitization.

4.2 Organizational methods and successful practices regarding consumer protection used by NRAs and other entities (country examples)

Effective enforcement of national policies and regulations on consumer protection is a critical component of safeguarding the public interest and helping to protect consumers. As the ITU-D Study Group 1 survey found, many NRAs are experiencing difficulties in relation to enforcement within the converging environment. The main stumbling block appears to be the need for additional legislation or improved legislation. In addition many respondents were experiencing structural problems within the consumer protection agencies and a lack of expertise or personnel to administer the regulations. One quarter of respondents referred to a lack of consumer education and consumer awareness of their rights.

a) Structural issues and division of responsibilities

In **Turkey**, responsibility for consumer protection is divided between the Information and Communication Technologies Authority (ICTA) (www.btk.gov.tr), which has a consumer protection section, and the Directorate General for Consumer Protection and Competition (www.tuketici.gov.tr), which is part of the Turkish Ministry of Customs and Trade. There is a clear division of responsibilities between the two bodies, with formally agreed principles about the division of work. For example if a consumer complaint

⁴² www.fcc.gov/document/chairman-genachowski-announces-post-superstorm-sandy-field-hearings.

about telecommunication services is sent to Directorate General for Consumer Protection and Competition, this is forwarded to ICTA if appropriate.

Although the respective regulators report this practice as working well, Turkish Telecom Group reported a number of difficulties to the study group around the regulation of converged services. These included "conflict and confusion among different authorities; the impact of convergence on competition; difficulties in analysing the converged services for regulations or rules; and the prevention of negative impacts of regulation on the development and improvement of converged services".

In **China**, where the State Council has set a target of 2013 for full telecom and media convergence, the two regulators concerned – the Ministry of Industry and Information Technology (MIIT) and the State Administration of Radio, Film and Television (SARFT) take different approaches to regulation. Censorship of content remains under the control of broadcasters and SARFT, which appears to have created difficulties for telecommunication providers who would like to expand their IPTV and mobile services. To date there has been a relatively low uptake of IPTV and mobile TV services in China, compared with the huge subscriber base for fixed broadband and 3G mobile subscribers.

In the **Republic of Korea**, by contrast, the broadcast regulator and Ministry of Telecommunications reached an agreement in 2006 (after lengthy debate) to have joint control over IPTV services. Since that time there has been a rapid growth in IPTV subscribers, reported by the IPTV operators to have increased from 1.7 million in January 2009 to 7.7 million in July 2013, due mainly to a rapid growth in consumers using real-time services.

As of 2013, responsibility for ICT consumer protection in the Republic of Korea is mostly divided between the Ministry of Science, ICT and Future Planning (MSIP), which was newly launched in March 2013, and Korea Communications Commission (KCC), which previously had jurisdiction over both telecoms and broadcasting and is now limited to broadcasting service regulatory matters following the creation of MSIP. The Fair Trade Commission (FTC) also has regulatory powers and can engage in issues of consumer protection and fair market competition.

b) Adequate resources for enforcement, consumer education and awareness

In **Colombia**, responsibility for consumer protection regulation for all information and communication technology services lies with the Comisión de Regulación de Comunicaciones (CRC). Consumer protection legislation has been updated specifically to take account of converged services.⁴³ Resolution 3066 defines specific rules for the sale of bundled services, as well as best practice around communications with users through offices, hotlines, social networks and SMS. However, in order to successfully implement the changes, CRC will need sufficient resources for both for enforcement, consumer education and information campaigns.⁴⁴

In the **United Kingdom**, the Government has proposed legislation for a new Consumer Bill of Rights.⁴⁵ The aim is to develop a new framework that will reduce regulatory burdens on business (by having a single consumer rights framework rather than the current 12 pieces of legislation) that is future proofed to accommodate future innovations and which can support consumer confidence by putting appropriate safeguards in place.

⁴³ National Law 1480, updated in 2011, included changes relating to protection of consumer health and security, protection of minors, access to information and aspects such as guarantees for goods and services. User regulation CRC 3066, also updated in 2011, made changes relating to the use of technologies for communication with companies, maximum response times, access to information, and rules for packet services.

⁴⁴ op. cit.

⁴⁵ www.gov.uk/government/news/new-proposals-for-consumer-rights

If enacted, the Bill will modernize 30-year-old consumer laws to create clear rights for consumers of digital content, including for downloads, content on disk, streamed content and content accessed in the cloud. It requires that such content must match any description given and any trial version or demo as well as being of "satisfactory quality ... [meeting] a reasonable person's expectations taking account of all relevant circumstances." A trader supplying digital content must have the right to supply that content and should not put the consumer in a position where they are breaching copyright.

c) Regulation of service standards

In its survey response, **Brazil** reported some difficulties in handling converged services – due to a lack of experience of coordination/cooperation amongst the relevant agencies; and because of a lack of legal procedures to address convergence.

Although the Ministry of Communications has overarching responsibility for formulating national policy on digital inclusion, radio and TV, postal services and telecommunications, the National Telecommunications Agency (Anatel)⁴⁶ has specific responsibility for promoting the development of the Brazilian telecommunications sector. Its powers include licensing, regulation and supervision. The regulator's decisions can only be challenged through the courts.

Consumer protection is regulated by the Consumer Defence Code (Código de Defesa do Consumidor),⁴⁷ which is administered through a number of different agencies.

Access to the Brazilian Digital Television System (SBTVD), launched in 2007, is open and free of charge and allows the transmission of high quality content in terms of image and sound, both for fixed and mobile devices. Consumers have access to digital TV through their TV sets and mobile phones, with access to high definition services and interactivity for mobile phones, mini-televisions and laptops. Interactive services are a key feature – users can use the remote control to answer tests, find information about programming, buy advertised products, participate in surveys and carry out banking.

One of Anatel's responsibilities is the regulation and protection of pay TV Subscribers' Rights, including in relation to "combo services," which bundle together pay-TV, telephone and Internet broadband services. Under new legislation⁴⁸, future licence permissions to offer pay TV will allow the use of any available technology to provide the service. This will unify the Brazilian pay-TV rules. Anatel expects Brazil's pay-TV sector to grow to 35 million subscribers by 2018⁴⁹ as a result.

Whilst opening up the market to telecommunications providers the new framework also extends responsibility for satisfying stipulated quotas for local content on pay-TV programming, traditionally associated with broadcasting regulation.⁵⁰

⁴⁶ Anatel is a special agency created by the General Telecommunications Law (LGT). It is administratively independent and financially autonomous with no hierarchical subordination to any government agency.

⁴⁷ Law 8,078, of September 11, 1990.

⁴⁸ Regulation of Pay TV Subscriber's Rights Protection and Defense – Anatel Resolution nº 488/2007 modified by Anatel; new Law 12.485/2011.

⁴⁹ Anatel data shows the number of pay-TV subscribers in Brazil reached 15.1 million in August 2012, up 30 per cent from the same month a year earlier. An index measuring penetration per household rose to 25.5 per cent in August, up from 19.4 per cent on the previous year. America Movil has a market share of 37.2 per cent, followed closely by DirecTV, through its Sky Brasil brand, with a 31.2 per cent share.

⁵⁰ Which are overseen by the Brazilian National Cinema Agency.

Anatel has a reputation for being tough on quality of service standards. In 2012 it banned sales of mobile phone subscriptions for 11 days because of poor quality of service and growing customer complaints.⁵¹ It is now reported to be taking a tough approach to the regulation of pay TV. This follows a doubling of the number of subscriber complaints between 2010 and 2011, particularly in relation to quality of service standards. Anatel has requested future investment plans and customer service targets from operators.

d) *Getting the right balance between privacy of personal data and innovation in ICT products and services*

With converged services regulators have to strike a fine balance between enforcement of personal privacy measures and a regulatory framework that incentivizes businesses to develop innovative ICT products and services.

In **Burundi**, for example, an increase in mobile-phone crime, with the resultant rise in anonymous threats against individuals, fraud, bank theft and misuse of stolen SIM cards, had undermined mobile-phone subscribers' trust in the security of their communications. Numerous complaints were made to the operators and the regulators. Cognizant of the importance of consumer confidence for driving market growth, the government introduced a number of measures to try and contain the problem. These include obligations on operators to install monitoring equipment and provide call records if requested by the police and/or the regulator.⁵²

Many Latin American countries, including **Argentina**,⁵³ **Brazil**, **Costa Rica** and **Mexico**, have enacted rights-based legislation to protect the privacy of consumers' data, limiting its collection and use by third parties. The overarching rights-based approach provides a constitutional guarantee over "the use of images, privacy, honour, self-determination and freedom of information".

Under this approach, individuals have the right to access their personal data, and to opt out of its uses for advertising, marketing and market research purposes. In **Brazil**, legislation being developed includes the right to compensation for the misuse of personal data. In **Costa Rica**, a separate data protection authority is being created to oversee the legislation and sanction any breaches of it. In **Mexico**, regulations on the use of personal data include specific rules for the collection and use of data in cloud computing, including an obligation to notify users on how their data is being used and/or disclosed.⁵⁴

By contrast, in the **United States** the government has favoured a self-regulatory approach to data protection, combined with sector-specific targeted measures. For example, in March 2012 the Federal Trade Commission (FTC) published a report on consumer privacy,⁵⁵ which included a series of non-binding, best practice principles (see Box 3).

⁵¹ According to a report by Chris Forrester on advanced television.com (<http://advanced-television.com/2012/09/19/brazil-wants-better-customer-service-from-pay-tv/>)

⁵² Document RGQ18-2/1/16, 4 January 2012, Burundi, Combating mobile telephone crime in Burundi: directives for operators and obligations of the regulator.

⁵³ Personal Data Protection Act (2000).

⁵⁴ Regulations of the Federal Law for the Protection of Personal Data Held by Private Parties (2011).

⁵⁵ Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers, FTC 2012.

Box 3: US Federal Trade Commission Best Practice Guidelines on privacy of consumers' data

Privacy by design

The protection of the privacy of consumers' data should be incorporated in every stage of the service and product development process. This includes provision of a reasonable level of security, limiting collection to relevant data, limiting the length of time data is stored, and putting in place procedures to ensure the accuracy of the data held.

Simplified choice for businesses and consumers

It should be easy for consumers to state their preferences about the type of information about them that is shared and to decide who it is shared with – for example through a "Do-Not-Track" facility that enables them to opt-out of online tracking.

Greater transparency

Companies should provide details about the type of consumer information they collect and how it is used, as well as providing consumers with access to their data.

Source: Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers, United States Federal Trade Commission, 2012⁵⁶

e) Framework for exchange and cooperation to deal with consumer concerns

In **Nigeria**, major progress has been made to ensure consumer satisfaction and protection, including the establishment of compensation arrangements for consumers; nationwide consumer satisfaction surveys to obtain a first-hand view of consumer experience and the way the provision of telecommunication services is perceived; establishment of the NCC Contact Centre to improve channels of communication with consumers and other stakeholders; and the Complaints Resolution Mechanism to facilitate the resolution of complaints between consumers and service providers. The regulator has at its disposal a mediation mechanism, known as the "Consumers' Parliament", which is a consumer protection system consisting in the organization of an annual meeting between operators and consumers for dialogue between players in the sector and consumers.

In **Brazil**, the regulatory authority Anatel has developed mechanisms to enhance and enforce the regulatory system from the consumer's perspective and offer mechanisms to encourage consumers to get closer to the authority. Consumers can use this means of communication to submit complaints, make suggestions or even give positive feedback, as well as to request information. A call centre will attend to people with hearing difficulties. The consumer can also make use of the "Citizen's Room" (Sala do Cidadao), which Anatel has set up in each Brazilian city to provide a more interactive relationship with society, in order to obtain information and documents, submit complaints, and track the progress of their requests.

ICTA in **Turkey** has made it obligatory for operators to set up a transparent, practical and straightforward mechanism to handle consumer complaints. Operators have to inform consumers, without being asked to do so, of the mechanisms that exist for resolving consumer complaints in an easy and accessible manner, as well as for resolving issues concerning their subscription contracts. Operators must keep records of all complaints they receive via their respective systems, along with the answers given or actions taken, for at least a year. Consumers are being afforded the legal right to consult the operator first if the problem

⁵⁶ As referred to in the study prepared for the ITU Connect Americas Summit 2012, *Regulatory Impact of Convergence and Broadband for the Americas*, prepared by ITU expert, Janet Hernandez.

derives from the service being provided by the operator. If the operator is unable to resolve the complaint, the consumer has the right to appeal to ICTA to solve the conflict.

Benin has a national consumer protection act. In practice, consumers are represented on the regulatory board.

The regulator in **Kenya** has put in place an excellent system for educating consumers of telecommunication services/ICTs thanks to a fruitful partnership established between the regulator and telecommunication service/ICT consumer organizations.

In **Côte d'Ivoire**, the regulator, as part of its policy of cooperation with consumer-protection associations, has set up a permanent exchange framework which serves as a platform through which consumer associations can examine, propose and validate action plans containing the training programme, exchange-forum topics and education for consumers.

In 2010, the **Italian** regulatory authority AGCOM conducted a survey of traffic-management techniques related to VoIP and peer-to-peer (P2P) mobile applications. Taking account of the results of the survey and the conclusions of a consultation with stakeholders involved in 2011, AGCOM undertook to ascertain whether the current transparency requirements in regard to the quality of Internet access services are adequate. The latter include the Misura Internet speed test, used by consumers to check the effective speed of fixed-broadband connections. If results are negative, AGCOM will determine whether new regulatory measures to protect net neutrality may be required.

5 Guidelines

National policies and regulations on consumer protection in the age of convergence are still at various different levels in most ITU Member States. The development of broadband infrastructures and the new services they foster are much in evidence in the developing countries. National and regulatory laws to protect consumers of ICT/telecommunication services generally remain incomplete and patchy.

These guidelines are intended to help Member States to acquire the means they need to establish regulatory policies or frameworks for consumer protection and to suggest some effective methods and practices to meet the challenges of convergence.

5.1 Basic principles of a regulatory framework for consumer protection

Consumer protection regulations in a converging environment must be based on the United Nations Guidelines for consumer protection⁵⁷. There are eight of these, as follows:

- a) the right to satisfaction of basic needs
- b) the right to product guarantee
- c) the right to be informed
- d) the right to choose
- e) the right to be heard
- f) the right to a remedy
- g) the right to education

⁵⁷ UN Resolution 39/248 of 16 April 1985.

h) the right to a healthy environment.

5.2 Regulatory provisions and regulator obligations

- 1) Revision of ICT/telecommunication texts to adapt them to the converging environment, indicating rights of appeal to ensure consumer protection in the new environment.
- 2) Development of texts on the rights and obligations of consumers in a converging environment.
- 3) Aid in the form of subsidies paid to consumer-protection associations to finance their activities, subject to clearly defined regulatory conditions and arrangements.
- 4) Definition of a permanent framework for dialogue, on one hand between the consumer associations and the ICT/telecommunication regulatory authority and on the other between the consumer associations and ICT service providers/operators.

5.3 Coordination between entities involved in consumer protection

- 5) Creation of coordination between consumer associations in the ICT/telecommunication sector.
- 6) Strengthening of cooperation between sector regulators to improve consumer protection.

5.4 Use of technology

7) In order to protect users, regulatory bodies and regulators must ensure that the technological challenges associated with the convergence of networks and services are mastered, notably quality of service, interoperability, security, privacy, universal access to services for all layers of the population, cost reduction.

5.5 International cooperation and sharing of experience

8) The World Federation of Consumers (Consumers International, <http://www.consumersinternational.org>), with 240 affiliated organizations representing 120 countries, as part of its work on communication and access to knowledge, aims to improve consumers' basic rights by campaigning for fairer laws and practices. International cooperation may therefore be needed to ensure policy coherence at the national level. A major factor in determining the desired level of international cooperation relates to the possibility of finding harmonized solutions to common problems where agreements are vague and compromises unsatisfactory. It is recommended that each State apply the different opinions issued by the UN and OECD,⁵⁸ and that national organizations be allowed to affiliate to well-established global organizations that represent consumers' associations.

⁵⁸ Since 1995, the UN has had specific provisions on the rights of consumers (Guidelines for consumer protection, revised in 1999, A/RES/53/144). OECD has published the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data (1980), the Declaration on Transborder Data Flows (1985), and the Declaration on the Protection of Privacy on Global Networks (1988). The ISO Committee on Consumer Policy (COPOLCO) is the body responsible for promoting consumers' interests in standard setting and has a mandate to encourage consumer participation in the development of standards.

Note: The EU considered consumers' aspirations to be of such importance that it adopted Decision No. 1926/2006/EC of the European Parliament and of the Council dated 18 December 2006, establishing a Community programme of action in the field of consumer policy (2007-2013). The financial envelope for the implementation of this programme (from 31 December 2006 to 31 December 2013) was set at EUR 15.68 million. Its objectives are: to ensure a high level of consumer

5.6 Education, coordination, information and capacity building for consumer associations

9) Most countries, especially the developing countries, noted the need to organize at both national and international level various series of workshops and training for consumer-protection organizations on consumer protection and the challenges arising from the convergence of different services.

Thus, the workshop organized by ITU in 2012⁵⁹ on "The Digital Dividend: Challenges and consumer interests" is to be fostered and replicated on new topics.

10) Education and sensitization of the population regarding the challenges of the ICT/telecommunication sector in the converging environment, through information forums and exchanges between players (State, authorities, consumer and press associations, civil society, etc.).

11) Upgrading of skills of consumer associations in the light of the new environment, to strengthen their socio-professional advocacy capacities in national, regional and international forums, and indeed their effective involvement in the development of policies and draft texts on ICTs.

Actions at national level

12) Organization of conferences and meetings with the competent authorities, submission of signed petitions to the authorities, and dissemination of press articles on the Internet, etc., remain ways to monitor developments continuously.

13) Encourage the regulator to establish a framework for dialogue and collaboration with national consumer associations.

At the regional, international and ITU levels

14) Encourage member countries (those that have not yet done so) to prioritize the establishment of a clear policy on the regulation of consumer protection.

15) Organize, at member-country and regional level, seminars on the guidelines on the protection of telecommunication service consumers.

16) Establish a directory of consumers' associations working in the ICT/telecommunication sector.

17) Given that fiercer competition and the transition to convergence further increase the importance of protecting and educating consumers regarding the possibilities and challenges associated with Internet connectivity⁶⁰, regulators and decision makers in cooperation with international organizations should develop tools or platforms along with indicators, indexes or parameters allowing consumers or consumer-protection associations to measure or assess the provision of services and applications in the converging environment.

protection, notably through improved evidence, better consultation and better representation of consumers' interests; and to ensure the effective application of consumer protection rules, in particular through enforcement cooperation, information, education and redress. On 22 May 2012 the European Commission adopted the Communication "A European Consumer Agenda - Boosting confidence and growth" (Doc. 10420/12+Add.1), in accordance with the Europe 2020 Strategy. A new consumer programme 2014–2020 is proposed (Doc. 16795/11) and will also be funded.

⁵⁹ Workshop on "The Digital Dividend: Challenges and consumer interests", organized jointly by INA Academy and EETT (Hellenic Telecommunications and Post Commission), supported by the ITU Centres of Excellence network for Europe, from 14 to 16 March 2012 at EETT premises in Athens (Greece).

⁶⁰ Guideline developed on the basis of guidelines take from § 5/GSR09 "Stimulating growth in innovative services, applications and devices towards connecting the unconnected and for the benefit of consumers".

5.7 Regulatory measures to protect mobile telephony service consumers

It is recommended that legislation for the protection of mobile telephony service consumers be updated to reflect the following:

- The cost and constraints involved in unblocking mobile phones put consumers in a captive state vis-à-vis their operators. The same applies for obligatory commitment periods. Two measures therefore need to be taken:
 - Simplify the steps to be taken by a consumer wishing to have his/her terminal unblocked (free unblocking after a period of some three months following purchase of the terminal).
 - Prohibition of contracts with a duration exceeding X months (where X depends on the socio-economic situation of the country in question). These measures will stimulate competition by freeing up the market.
- Encourage operators to offer at least one mobile package without any commitment. This recommendation is founded on the simple principle whereby each consumer must have access to a commitment-free package from his/her provider. This will enable consumers with an irregular consumption pattern, through time, to take up offers of short duration only.
- Introduce alert and blockage arrangements to avoid invoice shock, and step up the provision to consumers of customized advice based on their consumption profile. In other words:
 - Make it incumbent upon operators to introduce consumption alert and blockage arrangements, under all circumstances and for all services, in order to protect consumers against invoice shock.
- Guarantee to consumers that their operator will, at least once a year, inform them of offers more suited to their consumption profile.

The following measures serve to enhance transparency and consumer confidence in the mobile telephony sector:

- Oblige operators to include in their promotional material clear details of any restrictions attached to service offers that use such terms as “unlimited” or “24/24”, with those details to be shown in a font that is large enough for the consumer to read easily.
- Require that the contract include a minimum list of legitimate grounds for cancellation, and that that list evolve in line with market developments.
 - a) To avoid any misunderstanding by the consumer of operators’ loyalty policies and charge structures, including out-of-bundle usage:
 - guarantee the availability to consumers, on their operator’s website, of a personal space containing the information and documents needed for managing their telecoms contracts;
 - make available to the consumer, at least on the website, a tool for calculating the amounts to be paid in case of cancellation (charges and penalties).
 - b) In general, consumers at the lower end of the income scale can benefit from a social tariff for conventional fixed telephony (universal service). It is by ensuring that the essential means of communication in today’s information society, namely mobile telephony and the Internet, are accessible to people in the lowest income groups, that a government can express its strong commitment to respond to all the challenges of the digital revolution, whether in the technological domain or in terms of social and territorial cohesion.
- Introduction of a “social mobile tariff” (low cost): a minimum of X minutes of call time and N SMSs per month on the basis of agreements between the State and operators.

- Provision, based on the model agreement adopted for mobile telephony, for the signature of agreements between the State and operators designed to foster low-cost high-speed internet access offers for the least advantaged.
 - c) A requirement that operators propose mobile offers tailored to the needs of persons with a hearing impairment:
 - The offer, which includes SMS and mobile Internet services but not the telephony service, will be systematically proposed by all operators present in the domestic market. It is not legitimate to expect deaf, hearing-impaired or dumb users to pay for a service from which they are clearly unable to benefit.

5.8 Measures and golden rules for consumer protection in a converging environment⁶¹

a) *Update existing legislation and/or regulations to make them fit for purpose in a converged regulatory framework*

- Tackle any potential technical/infrastructure barriers that may deter consumers from subscribing to new products and services (e.g. lack of access/interruption to broadband supply)⁶² These might include measures to oversee the use of traffic-management techniques to deter unfair discrimination between market players; supported by minimum quality-of-service requirements to ensure customers have reliable access to new services, such as cloud services.
- Seek to make full use of relevant complaints statistics when formulating policy to tackle any gaps in the legislative or regulatory framework.
- Review the framework for content regulation; particularly how it relates to the use of content transmitted by telecommunication/ICT services. A stable legal framework is essential for making the business decisions that will encourage development and growth of converged services. Always use impact assessments to support evidence-based policy-making. Gather information from consumers about their experiences and keep abreast of patterns of consumer behaviour. Look at switching patterns across all platforms and types of service (i.e. individual and bundles). Identify what consumers actually want/need rather than what you think they need using consumer research, usage surveys and consumer complaints data as reference sources.⁶³
- Identify areas where use of data and exploitation of data overlap (e.g. between advertising regulation and privacy regulation), which are likely to escape the attention of ‘traditional’ communications regulation networks, and work more closely and effectively with other bodies to ensure consumers are protected and the ICT market can flourish.
- Futureproof new regulatory measures to ensure they can keep pace with rapid technological change.

⁶¹ Extract from report of the study carried out by the expert appointed by BDT under Question 18-2/1.

⁶² One of the UN Broadband Commission for Digital Development’s targets for 2015 is that entry-level broadband services should be made affordable in developing countries – amounting to less than 5 per cent of monthly GNI per capita – in order to ensure that their populations can engage fully in the knowledge society.

⁶³ The application of the European Union’s Audiovisual Media Services Directive 2010/13/EU (‘AVMSD’) is reported to have allowed the media services market to grow from a small number of service providers to more than 7 500 broadcasters; and growth in video on demand services.

b) Consumer education and information

- Ensure that the regulatory framework promotes sufficient competition and choice for consumers; and that they are able to switch between providers seamlessly if they choose. Although there are clear benefits for consumers in purchasing bundled products in terms of price and convenience, it may make it more difficult for compare different offers and switch between them.
- Ensure that consumers have access to timely and accurate information, including about speeds and data traffic management. If there is discrimination between services and/or practice such as web blocking, consumers will be made aware of it and services will be priced accordingly.
- Ensure that consumers are informed about potential security and privacy challenges they may face in e-commerce and m-commerce services and the measures available which can be used to limit the risks.

c) Build consumer trust in converged services

- Promote and safeguard e-commerce and mobile commerce by introducing measures to build trust amongst consumers.⁶⁴
- Encourage operators to develop security precautions including built-in security features to prevent unauthorized transactions and data breaches.⁶⁵
- Ensure consumers have confidence that they are secure when using online services. Consumers should be able to expect a reasonable level of security for their data, with collection limited to relevant data, retention subject to certain timescales and reasonable procedures to ensure data accuracy. They should be able to understand what information is shared, how and with whom, and have the choice to opt out of online tracking practices.
- Recognize the need to protect and educate consumers with different access needs who may be particularly susceptible to deceptive commercial practices or have difficulties fully understanding payment mechanisms.

d) Enforcement

- Provide for a strong, well-resourced consumer-protection regulatory team or separate agency with communications expertise.
- Agree a clear division of responsibilities between the different regulatory authorities concerned. This might take the form of a signed memorandum of understanding (MoU), including arrangements for sharing information and resources, as appropriate.
- Distinguish between implementation failures/shortfalls/obstacles and issues around the actual legislation/regulation.
- Establish a variety of ways to identify potential or actual breaches to regulations. This could be through monitoring activities, self-reporting (for example from service providers who have detected breaches in security), establishing complaint and dispute-resolution mechanisms whose scope covers all aspects of converged services, and making provision for cross-border cooperation and coordination of regulatory principles where possible.

⁶⁴ Note the EU proposal to repeal the existing E-Signatures Directive and replace it with broad framework to enable mutual recognition and acceptance of electronic identification. Authentication, signatures and related ancillary trust services (Council document 10977/12).

⁶⁵ OECD Report on Consumer Protection in Online and Mobile Payments, 17 August 2012 DSTI/CP (2010)22/FINAL.

6 Conclusion

Putting the consumer at the heart of the regulator's decision making maintains the focus on competition for delivering consumer benefit and helps to address areas where the market does not fully deliver.

The majority of survey respondents have consumer protection policies in place, including playing some role in handling consumer complaints, or else a separate consumer protection agency has responsibility for telecom consumers. However many respondent countries are facing difficulties with enforcement and/or encouragement of consumer protection measures, with lack of resource and expertise common themes. Very few respondents had updated their regulation/legislation to address issues around convergence, even though converged services are widely available. The majority still have separate regulators for telecoms and broadcasting services respectively.

So what can be done to develop and/or maintain a consumer protection framework that is fit for purpose in the converging environment? The "Golden rules for convergence" although not a panacea, provide a useful starting point.

Given the pace of change compared with the time it takes to introduce and implement new legislation and regulations it is difficult (but nevertheless important) to try and "futureproof" regulation. The ideal approach is to not to aim for a 'big bang' to the framework but to consider incremental changes that address the main threats (e.g. misuse of personal data) whilst maintaining the benefits (e.g. tailored content).

What is needed is a regulatory framework that balances the interests of suppliers and users, in areas such as the protection of intellectual property rights, and digital rights management, without disadvantaging innovative e-business models. For example, E- and M- commerce offers great opportunities for opening up cross-border trade, providing access to goods and services for previously underserved communities.

One of the key challenges for regulators is to establish a culture of security that promotes trust in ICT applications, one in which there is effective enforcement of privacy and consumer protection. Given that converged services are global, the need to strengthen cross-border cooperation is ever greater.

Annexes

Annex 1: Survey results

Annex 2: Other sources and useful links

Annexe 1: Résultats du Questionnaire

Liste des pays ayant répondu au questionnaire, Liste des contributions/études de cas soumis pour la Question 18-2/1, Liste des rapports de réunions du Groupe de rapporteur.

Liste des pays ayant répondu au questionnaire (<http://www.itu.int/ITU-D/CDS/gg/generic/questionnaire.asp?ProjectID=211>).

COUNTRY	ADMINISTRATION / ORGANISATION
Bhutan	Ministry of Information and Communications (Bhutan)
Rwanda (Republic of)	Rwanda Utilities Regulatory Agency (RURA)
Turkey	Türk Telekom Group
Mexico	Secretaría de Comunicaciones y Transportes
Venezuela	Comisión Nacional de Telecomunicaciones (CONATEL)
Swaziland	Swaziland Posts and Telecommunications Corporation (SPTC)
Italy	Ministry of Economic Development
Senegal	Autorité de Régulation des Télécommunications et des Postes (Senegal)
Portugal	Autoridade Nacional de Comunicações (ANACOM)
Azerbaijan	Ministry of Communications and Information Technologies (MC&IT)
Brazil	Agência Nacional de Telecomunicações - ANATEL
Thailand	National Broadcasting and Telecommunications Commission (NBTC)
Bolivia (Plurinational State of)	Ministerio de Obras Públicas, Servicios y Vivienda
Cyprus	Office of the Commissioner of Electronic Communications & Po (Cyprus)
Lithuania	Ministry of Transport and Communications
South Africa	Department of Communications
Mongolia	Communications Regulatory Commission of Mongolia
Vanuatu	Telecommunication & Radiocommunication Regulator (TRR)
El Salvador	Superintendencia General de Electricidad y Telecomunicaciones (SIGET)
Tunisia	Instance Nationale des Télécommunications (INTT)
Bahrain	Telecommunications Regulatory Authority
Benin	African Ict Consumers Network (AICN)
Syria	SYRIAN TELECOMMUNICATIONS REGULATORY AUTHORITY
Honduras	Comisión Nacional de Telecomunicaciones (CONATEL)
Mali	Comité de Régulation des Télécommunications (CRT)
Qatar	Supreme Council of Information and Communication Technology (Qatar)
Belgium	Institut belge des services postaux et des télécommunications
Côte d'Ivoire	Agence des Télécommunications de Côte d'Ivoire (ATCI)
Bulgaria	Ministry of Transport, Information Technology and Communications (Bulgaria)
Burundi	U-COM Burundi (Burundi)
Oman	Oman Telecommunications Regulatory Authority (TRA)
Sudan	sudanese consumer protection society
Portugal	Associação de Reguladores de Comunicações e Telecomunicações (International)

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COUNTRY	ADMINISTRATION / ORGANISATION
Uruguay	Unidad Reguladora de Servicios de Comunicaciones (URSEC) (Uruguay)
Switzerland	Office fédéral de la communication (OFCOM) (Switzerland)
Uganda	Uganda Communications Commission (UCC) (Uganda)
Colombia	Comisión de Regulación de Comunicaciones (CRC)

Liste des contributions/études de cas soumis pour la Question 18-2/1 ([RGQ Q18-2/1 contributions](#) and [SG1 contributions relating to Q18-2/1](#)).

PAYS/ORGANISATION
Bénin
Brésil
Burkina Faso
Burundi
Côte d'Ivoire
Chine
Madagascar
Mali
Nigéria
Oman
République Démocratique du Congo
Rwanda
Tanzanie
Tchad
Turquie
RECATIC (Bénin)
THALES Communications (France)
BDT Focal point Question 18-2/1

*Q18-2/1: Enforcing national policies and regulations on consumer protection
notably in a converging environment*

Liste des rapports de réunions du Groupe de rapporteur ([RGQ Q18-2/1 reports](#) and [SG1 reports relating to Q18-2/1](#)).

Number	Received	Source	Title
[1/REP/4]	2010-09-22	Rapporteur for Question 18-2/1	Report of the Meeting of the Rapporteur's Group on Question 18-2/1 (Geneva, Tuesday 21 September 2010, 11:15 – 12:30)
[RGQ/18-2/1/1]	2011-05-06	Vice-Rapporteur for Question 18-2/1	Report of the Rapporteur's Group Meeting on Question 18-2/1, Geneva, 4 May 2011
[1/REP/15] (Rev.1)	2011-08-29	Rapporteur for Question 18-2/1	Report of the Rapporteur Group meeting on Question 18-2/1 (Geneva, 7 September 2011)
[RGQ/18-2/1/2]	2012-05-08	Rapporteur and Vice-Rapporteur for Question 18-2/1	Report of the Rapporteur Group Meeting on Question 18-2/1, Geneva, 23 April 2012
[1/REP/25] (Rev.1)	2012-09-12	Rapporteur for Question 18-2/1	Report of the Rapporteur Group meeting on Question 18-2/1 (Geneva, 12 September 2012)
[RGQ/18-2/1/3]	2013-04-26	Rapporteur for Question 18-2/1	Report of the Rapporteur Group meeting for Question 18-2/1, Geneva, 26 April 2013
[1/REP/34]	2013-09-12	Rapporteur for Question 18-2/1	Report of the Rapporteur Group meeting for Question 18-2/1 (Geneva, Thursday, 12 September 2013, 09:30 – 10:45 hours)

Annexe 2: Autres sources et liens utiles

Source	Objet	Liens/Références
I. Statistiques tirées des enquêtes annuelles du BDT sur la réglementation des télécommunications au niveau des pays membres.	Aperçu des législations/Réglementations spécifiques à la protection des consommateurs incluant l'environnement convergent	http://www.itu.int/ITU-D/icteye/ http://www.itu.int/ITU-D/treg/
II. Rapport Question 10-3/1 CE1	–	Document 1/247-F
III. Rapport Question 7-3/1 CE1	–	Document 1/246-F
IV. Rapport Question 20/1 CE1	–	
V. Rapport Question 22/1 CE1	–	Document 1/252-E
VI. Rapport Question 12-3/1 CE1	Chapitre 3.1.3 – Effets économiques des NGN pour les consommateurs	Document 1/248-F
VII. Rapport Question 10-3/2 CE2	Chapitre 3.2.3 – Consumers' perspectives	Document 2/271-E
VIII. Rapport + Annexe Question 19-2/1		Document 1/250
IX. Programme 4 BDT	Atelier sur le thème "Le dividende numérique: enjeux et intérêts des consommateurs", organisé conjointement par l'INA Academy et l'EETT (Commission nationale des postes et des télécommunications de la Grèce), avec l'appui du réseau des Centres d'excellence de l'UIT pour l'Europe, du 14 au 16 mars 2012, dans les locaux de l'EETT à Athènes (Grèce).	
X. BDT Focal Point for Question 7-3/1, BDT Focal Point for Question 18-2/1	The World in 2013: ICT Facts and Figures	http://www.itu.int/ITU-D/ict/facts/index.html

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