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# **Consumer protection in the digital age: assessing current and future activities**

## **BACKGROUND PAPER**

### **EXECUTIVE SUMMARY**

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**International Telecommunication Union (ITU)**

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This is one of two background papers to be presented for comments at the ITU Global Seminar on Quality of Service and Consumer protection, Geneva, Switzerland, 31 August-1 September 2006. Further information can be found on the web site at <http://www.itu.int/ITU-D/treg>.

## Summary

There are four elements that safeguard consumer rights in the telecommunication/ICT sector: consumer rights law, competition law, telecommunication/ICT and Internet law, and self-regulatory frameworks. Telecoms law usually enables the setting up of a separate regulatory authority and self-regulatory frameworks within the industry. The latter can either be put in place as part of the licence conditions for an operator or are self-imposed. Without these four elements, it is difficult for consumer complaints to be dealt with as there will be no framework for dealing with them and no recourse if operators (or others) fail to deal with them.

Of 132 countries surveyed by the ITU in 2005<sup>i</sup>, 55 (42%) had no specific telecommunication consumer protection regulation/legislation: the majority of those without provision were in transition or developing countries. Africa is a good example, in its 2004 Annual Report, Consumers International<sup>ii</sup> noted that: "To date, only a few African countries have enacted consumer protection legislation". By the most optimistic assessment only 21 (40%) out of the 53 independent countries on the continent are likely to have some form of consumer legislation in the next 2-3 years. Again according to the ITU survey, there were 13 countries out of 27 in the Americas that have no legislation and 12 out of 25 countries in the Asia Pacific region with no legislation.

Voice service providers – whether fixed or mobile – are often reluctant to provide data on the level and type of complaints they receive. Operators view this complaints data as commercially sensitive information and are therefore reluctant to release it. But the argument that annually issued complaints data would be of tactical commercial use is questionable: arguably most of the short-term issues identified would be dealt within a twelve-month period. Some regulators oblige operators to provide information of this kind and a number of them publish this information as a way of focusing on quality-of-service issues.

Levels of complaints are closely tied to expectations. In less developed markets in Eastern Europe, higher satisfaction levels were consistently registered as noted by a researcher for a major European mobile operator<sup>iii</sup>. In other words, offered the same service, users in other European countries had higher expectation levels than those in the Eastern European part. . In the absence of operator information, there are sometimes other surveys conducted that address issues such as levels of user satisfaction and these can be used as "proxies" in the absence of better information.

Although there appear to be no universally accepted international benchmark figures for complaint levels, it is possible to identify some "metrics" that are helpful. These metrics are:

- Satisfaction rating with service.
- Call completion rates.
- Provision of service within specified number of days.
- Faults per month per 100 subscribers.
- Percentage of faults repaired by next working day.
- Mean time to repair.
- Percentage of bills challenged (addressing metering and billing credibility).

Regulators seem to adopt two significantly different positions in relation to consumer complaints. Either they encourage complainants to come directly to them and take up these complaints with operators. Or they see themselves as a point of "last resort" that the complainant can come to once he or she has exhausted all other avenues. Regulators do not always publicise their complaints procedure.

Most (but by no means all) regulators have been set up with a consumer responsibility contained within their top-level objectives. The absence of references to the interests of the consumer does not mean that a regulator cannot act in their interest. But having this role stated in the enabling framework of the regulator does make it easier for them to act. The role of regulator can probably best be summarized by describing four different functions<sup>iv</sup>:

- Voice (allowing the user to be heard and being responsive through consultation and redress mechanisms);
- Choice (ensuring plentiful choice in terms of the nature, quality and amount of services);
- Representation (preventing dominance by large industry interests through consumer councils or committees);
- Information (allowing consumers to make well-informed choices).

Regulators act “on behalf” of the consumer and however closely they consult with them, they cannot alone represent the consumer. They are no substitute for consumers themselves having a voice. Likewise when the industry itself argues for greater competition, its interests coincide with those of consumers and its trade associations often speak up for consumers. But when individual companies or groups of companies resist increased competition or put forward their own narrower interest, there is a clear parting of the ways between the interests of some parts of the industry and the consumer.

If regulators are to represent consumers then it is essential that their voices are heard, either directly in the overall board of the regulator or through Committees set up specifically by the regulator to have representatives of their interests.

The background paper is composed of five sections that cover the following:

**Section one** looks at the general trends (1.1) that have made consumer activity increasingly important and sets the overall context within which regulators operate (1.2).

**Section two** looks at: the legislative and regulatory frameworks that protect consumers; in the case of Africa and elsewhere, the level and type of complaints made; and the processes put in place to resolve complaints.

**Section three** looks at: the role of the regulator; what consumer organizations and related bodies do; consumer participation and representation in policy and regulatory processes; innovative services by regulators for consumers; the important role of the media in raising issues and complaints; and policy and legislative input from consumer groups.

**Section four** concludes by highlighting best practices and proposes (can't find a better word) recommendations.

The final section – Preparing for Tomorrow - (**Section five**) looks forward to the kind of consumer issues that will arise over the next five to ten years during the transition to IP networks.

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<sup>i</sup> Source: ITU World Telecommunication Regulatory Database.

<sup>ii</sup> Consumers International (CI) supports, links and represents consumer groups and agencies all over the world. It has a membership of over 230 organisations in 113 countries. It strives to promote a fairer society through defending the rights of all consumers, especially the poor, marginalised and disadvantaged.

<sup>iii</sup> Information given in confidence to the author by a researcher for a major global mobile operator.

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iv This rather elegant summary of functions comes from Modernising Regulatory Accountability: critiques, doctrines and instruments, Martin Lodge, LSE:  
[www.policyinstitute.tcd.ie/working\\_papers/Martin%20Lodge\\_Policy%20Institute\\_21%20Jan03.ppt](http://www.policyinstitute.tcd.ie/working_papers/Martin%20Lodge_Policy%20Institute_21%20Jan03.ppt)