

**FINAL REPORT  
ON  
CONSUMER PROTECTION**



*This study has been prepared by ETO on behalf of ECTRA for the Commission of the European Union.*

*ECTRA has given its approval for the report to be delivered to the Commission; nevertheless, individual ECTRA members do not necessarily endorse all findings and proposals contained herein.*

© European Commission

*Work order nr: 48371  
Date: 23 January 1998  
Author: Laura Pontiggia*



*Table of contents*

<b>EXECUTIVE SUMMARY .....</b>	<b>5</b>
<b>CHAPTER 1 -PRESENTATION OF THE STUDY.....</b>	<b>9</b>
<b>CHAPTER 2 -BACKGROUND ON NATIONAL SITUATIONS.....</b>	<b>11</b>
-INTRODUCTION.....	11
2.1 - INFORMATION TO CONSUMERS .....	13
2.2 -FAIR CONTRACTS .....	14
2.3 -QUALITY OF SERVICE .....	15
2.4 -INFORMATION ON THE LEVEL OF CONSUMPTION .....	16
2.5 -BILLING ACCURACY .....	17
2.6 -NON-ABUSIVE USE OF INFORMATION ON CONSUMERS .....	18
2.7 -PROTECTION OF PRIVATE LIFE .....	19
2.8 -NON-ABUSIVE DISCONNECTION .....	20
2.9 -RECOURSE PROCEDURES .....	21
<b>CHAPTER 3 –SURVEY .....</b>	<b>23</b>
-INTRODUCTION.....	23
3.1 –INFORMATION TO CONSUMERS .....	24
3.2 –FAIR CONTRACTS.....	30
3.3 –ITEMISED BILLING.....	35
3.4 –NON-ABUSIVE DISCONNECTION .....	40
3.5 –RECOURSE PROCEDURES .....	47
<b>CHAPTER 4 –COMPARATIVE ANALYSIS AND RECOMMENDATIONS .....</b>	<b>55</b>
-INTRODUCTION.....	55
4.1 –INFORMATION TO CONSUMERS .....	55
4.2 –FAIR CONTRACTS.....	57
4.3 –ITEMISED BILLING.....	59
4.4 –NON-ABUSIVE DISCONNECTION .....	61
4.5 –RECOURSE PROCEDURES .....	63
4.6 –QUALITY OF SERVICE.....	65
4.7 –CONCLUSIONS .....	65
4.7.1 – <i>Concluding recommendations</i> .....	66
<b>ANNEX 1 -WORKORDER ON “CONSUMER PROTECTION” SIGNED BY ETO WITH THE EUROPEAN COMMISSION.....</b>	<b>68</b>
<b>ANNEX 2 -CONTRACT ON “CONSUMER PROTECTION” SIGNED BY ETO AND IDATE</b>	<b>72</b>
<b>ANNEX 3 – ANSWERS TO THE IDATE QUESTIONNAIRE ON CONSUMER PROTECTION .....</b>	<b>74</b>
<b>ANNEX 4 – DETAILED RESULT OF THE SURVEY .....</b>	<b>96</b>
1 –SURVEY ON “INFORMATION TO CONSUMERS” .....	96
2 – SURVEY ON “FAIR CONTRACTS” .....	104
3 – SURVEY ON “ITEMISED BILLING” .....	109
4 –SURVEY ON “NON-ABUSIVE DISCONNECTION” .....	113
5 –SURVEY ON “COMPLAINT AND RECOURSE PROCEDURES” .....	119

<b>ANNEX 5 – PROVISIONS IN COMMUNITY LAW .....</b>	<b>125</b>
- INFORMATION TO CONSUMERS .....	125
-FAIR CONTRACTS .....	126
-ITEMISED BILLING.....	127
- NON-ABUSIVE DISCONNECTION .....	128
- RECOURSE PROCEDURES .....	129
<b>ANNEX 6 -COMMENTS TO THE STUDY ON “CONSUMER PROTECTION” EXPRESSED DURING A WORKSHOP HELD IN BRUSSELS ON 21 OCTOBER 1997.....</b>	<b>133</b>

## EXECUTIVE SUMMARY

The purpose of this study is first to give a thorough description of telecommunication-specific consumer protection regulation in CEPT countries and, second, to propose guidelines on a set of telecommunication-specific consumer protection obligations, distinguishing between different operators on which such obligations may be imposed (e.g. operators with universal service obligations and other operators).

The study has been prepared by ETO on behalf of ECTRA for the European Commission. It has been commissioned as one of a series of independent studies aimed at proposing common licensing regimes in European countries.

The starting point for the analysis conducted in the study is the EU regulatory framework on the issue, in particular, the “common position for a European Parliament and Council Directive on the application of ONP to voice telephony and on universal service for telecommunications in a competitive environment” and, more specifically, those provisions of this Directive dealing with consumer protection.

The report contains:

- a) an introduction to the study (Chapter 1)
- b) a description of the current situation with regard to telecommunication-specific consumer protection regulation in some European countries (Chapter 2)
- c) a survey of some of the issues identified in b) above (Chapter 3).
- d) a comparative analysis of the information collected through the survey and some conclusions and recommendations (Chapter 4).
- e) a number of annexes containing detailed information on the issue covered in the report.

Chapter 2 and Annex 3 of this report are based on information collected by the consulting company IDATE, Montpellier (France). IDATE collected information in CEPT countries on obligations of consumer protection linked to the provision of public fixed voice telephony services.

The telecommunication-specific consumer protection provisions identified in Chapter 2 (and Annex 3) and the corresponding provisions in the EU regulatory framework have been discussed with ECTRA experts in order to verify, for each condition, whether or not further analysis/harmonisation is needed.

The conclusion has been reached that, for the moment, no further harmonisation as such is deemed necessary with regard to any of the consumer protection issues identified in the study, but a more detailed analysis of some of these issues would be seen as very useful.

Chapter 3 (and Annex 4) of the report consists therefore of a collection of information and detailed analysis with regard to “information to consumers”, “itemised bills”, “fair contracts”, “non-abusive disconnection” and “recourse procedures” in European countries. The survey is based on a careful examination of the particulars of national

regulation in European countries and makes it possible to ascertain common conditions, procedures and practices.

Chapter 4 consists of a comparative analysis of the information collected through the survey and some conclusions, accompanied in certain cases by ETO's recommendations.

Conclusions and recommendations, if any, are based on the following considerations:

1. analysis of the current and future EU and national regulation of the different aspects of consumer protection;
2. expectations with regard to the ability of competition mechanisms to guarantee consumer protection;
3. identification of consumer protection aspects which cannot be guaranteed by either 1. or 2. above and which might therefore need a recommendation.

The analysis conducted in this study has shown that:

- the proposed ONP-Voice Telephony Directive provides for a quite high level of harmonisation with regard to consumer protection issues. The result of this is that no more harmonisation seems to be needed, at least at the level of general principles and in many cases also at the level of some of the detailed measures;
- certain details of the provisions contained in the ONP-Voice Telephony Directive have been implemented in ways which vary very much from country to country, subject to national interpretations. This does not necessarily imply the need for further harmonisation because the differences in the way the ONP-Voice provisions have been (or will be) implemented reflect national specificities, very often of a social and political character or linked to market characteristics that can hardly be the object of an harmonisation process and that do not prevent the development of a freely competitive internal market;
- telecommunications consumer protection can be reached through measures established by operators on a voluntary basis or through regulations which are not at all telecommunication-specific, very often depending on national legal and juridical traditions which cannot be the object of a telecommunication-specific harmonisation;
- in a market which is not yet open to complete competition, a number of issues related to consumer protection need to be regulated, but once the market has demonstrated its efficiency, these same issues will lose their relevance because competition mechanisms will guarantee protection to consumers.

It can therefore be concluded that from the investigation and the analysis conducted in this ETO study it appears that no further harmonisation is needed with regard to telecommunication-specific regulation on consumer protection.

The analysis conducted in the study also aimed at helping operators to respect consumer protection provisions in Europe and at setting consumer protection targets at a European level. The result of this exercise can be summarised in the following conclusive recommendations:

From the analysis undertaken in this study with regard to

- information to consumers

it was concluded that

- the EU provisions on information to consumers and, in most cases, national regulations seem to ensure a sufficient level of consumer information;
- in the transitional period towards competition the disadvantages of an imperfect functioning of competition can harm consumers and it is therefore recommendable to maintain a certain level of direct regulation with regard to “information to consumers”.

It is therefore desirable to recommend that telecommunications operators and service providers make information available on their tariffs, and do so in a form which is sufficiently detailed and transparent to allow consumers to make comparisons, using this information, without difficulty.

From the analysis undertaken in this study with regard to

- fair contracts

it was concluded that

- the EU provisions on fair contracts seem to ensure a sufficient level of protection of telecommunications consumers with regard to contracts;
- “fair contracts” can be considered an issue to be regulated in general commercial and consumer protection laws and it can be expected that competition will act as a stimulus for telecommunications operators to provide more customer-friendly contracts;
- in the transitional period towards full competition, consumers should be protected against the disadvantages of an imperfect functioning of competition, which could also lead to contracts containing abusive clauses or terms which could cause a significant imbalance in the parties’ rights and obligations.

It is therefore recommendable that telecommunications operators and service providers involve consumer associations in the process of drafting their contracts.

From the analysis undertaken in this study with regard to

- itemised bills

it was concluded that

- bill itemisation seems to be a facility already widely provided by most operators/service providers in Europe. It can therefore be considered, already now, as a commercial issue which follows competition mechanisms;
- a basic level of itemisation is implemented in almost all European countries and is considered as sufficient by consumer organisations;
- it can be expected that, where not already imposed by law, any more detailed level of itemisation will be a matter of competition among different players in the market.

From the analysis undertaken in this study with regard to

- non abusive disconnection

it was concluded that

- the EU regulation leaves some open questions on the subject;
- obligations on “non-abusive” disconnection imposed on telecommunications operators exist and are clearly defined in legislation and regulation of all European countries, but an easily understandable and easily available list of consumers’

rights with regard to disconnection does not exist in practically any of the countries studied.

It can therefore be recommended that:

- NRAs, together with consumer associations and telecommunications organisations draft a list of consumers' rights with regard to disconnection;
- the due warning given before disconnection to the subscriber by telecommunications operators and service providers is given in writing;
- the period elapsing between the first written warning and the activation of disconnection is not shorter than 1 month, except in cases of fraud and persistent late or non-payment.

From the analysis undertaken in this study with regard to

- complaint and recourse procedures

it was concluded that

- it can be recommended that NRAs ensure the publication of data and statistics on the number and the kinds of complaints filed every year by telecommunications users, both to NRAs and directly to the telecommunications operators and service providers, and how they have been solved.



## CHAPTER 1 -PRESENTATION OF THE STUDY

The purpose of this study is to identify and analyse general requirements for consumer protection linked to the provision of public fixed voice telephony services, and to propose a set of harmonised conditions to be attached to authorisations of service providers in CEPT countries after the liberalisation of voice telephony services and infrastructure in the European Union.

The justification for such a study lies in the fact that Member States, in authorising providers of voice telephony services and infrastructure, may impose certain conditions on these providers in order to attain public interest objectives benefiting telecommunications users, such as requirements relating to consumer protection.

Even though Community legislation has defined a general framework for a common European approach, it is reasonable to expect that these conditions are not uniform throughout Europe. They are subject to national legislation which varies from country to country. The existence of different consumer protection obligations to be respected by telecommunications operators might prevent the creation of an internal market for telecommunications networks and services. A set of harmonised consumer protection obligations to be included in the list of licensing conditions which may be imposed on operators of public fixed voice telephony services has, therefore, to be agreed upon by European countries.

The work requirements assigned to ETO were the following:

(1) to identify and analyse the consumer protection obligations linked to the provision of public fixed voice telephony services and to divide obligations between those which are telecommunication-specific conditions and those which are applicable to other sectors in the CEPT countries.

(2) to propose harmonised consumer protection obligations which are telecommunication-specific and could be included in the set of licensing conditions for public fixed voice telephony services.

(3) to indicate obligations, not mentioned in (2), for which further studies should be undertaken and in which an/other organisation/s could be involved.

The text of the work order signed by the Commission and ETO is attached as Annex 1.



## CHAPTER 2 -BACKGROUND ON NATIONAL SITUATIONS

### **-Introduction**

The collection of information necessary to draft this chapter was carried out by the consulting company IDATE (Montpellier, France). IDATE had to identify the obligations of consumer protection linked to the provision of public fixed voice telephony services in CEPT countries and to identify which of these obligations are telecommunication-specific conditions and which are more general conditions also applicable to other sectors.

The tasks of IDATE with regard to this study are attached in Annex 2.

IDATE interviewed CEPT telecommunications regulators with the aim of identifying the existence of consumer protection obligations in:

- licences issued to telecommunications operators
- national telecommunications regulation
- national general legislation.

The IDATE study is based on the consideration that the relationship between a supplier and a consumer of telecommunications services usually consists of four phases: pre-sale, sale, use of the service, termination of the contract. In each of these phases, different aspects of consumer protection appear to be important and need to be investigated, as is shown in the table below:

<b>Phases</b>	<b>Consumer protection aspects</b>
<i>pre-sale</i>	information to consumers (on services, quality, tariffs, coverage, etc.)
<i>sale</i>	fair contracts
<i>usage</i>	adequate quality of service mastering of consumption billing accuracy non-abusive use of information on consumers protection of privacy
<i>termination</i>	non-abusive disconnection
<i>all the time</i>	easy recourse procedures

The different issues indicated in the table above are not intended to be exhaustive. In particular, the study mainly addresses the basic voice telephony, but consumer protection has other important aspects with regard to other services. With the development of new services, new fields of protection may have to be considered. For instance, the present development of the Internet gives rise to numerous questions

about the protection of youth against certain categories of services (the same problems had to be studied in certain countries with regard to premium rate services).

Following the structure presented above, IDATE sent the telecommunications regulators of the 43 CEPT countries a questionnaire aiming at collecting information on the following aspects of consumer protection:

- information to consumers
- fair contracts
- quality of service
- information on the level of consumption
- billing accuracy
- non-abusive use of information on consumers
- protection of private life
- non-abusive disconnection
- recourse procedures

The questionnaire also aimed to collect information on the existence of consumer protection organisations in the different countries. The following issues were addressed:

- presentation of the different bodies acting in the field of consumer protection
- specific analysis of consumer associations and operators' organisations.

The countries which answered the IDATE questionnaire and which are therefore included in the study are: Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Latvia, the Netherlands, Norway, Portugal, Republic of San Marino, Spain, Sweden, Switzerland, the United Kingdom and Ukraine.

A questionnaire was also sent to the consumer associations identified above, asking their opinion on the same issues.

The consumer associations which answered the questionnaire are the following:

- AUTEL, a Spanish association of telecommunications business users, the objective of which is to uphold freedom of choice in the field of equipment, services and infrastructure
- BTG, a Dutch association of 145 large organisations, the objective of which is lobbying and the availability of a platform facilitating meetings of telecommunications managers
- AFUTT, a French association representative of residential and small business users
- European VPN users association, a UK-based association of large multinational members
- TMA, Telecommunications Managers Association (it transmitted answers from individual members)

This chapter only includes:

- an explanation of how the above-listed aspects of consumer protection have been interpreted in the IDATE study (in the boxes at the beginning of each paragraph);
- a short overview on how these same issues are regulated in CEPT countries, according to the answers given to IDATE questionnaire;
- the opinion of consumer associations on the same issues.

The detailed answers given by the interviewed NRAs to IDATE questionnaires on consumer protection regulation are presented in Annex 3 of this report.

## 2.1 - Information to consumers

### DESCRIPTION OF “INFORMATION TO CONSUMERS” IN THE IDATE QUESTIONNAIRE

In order to make efficient decisions to purchase in a competitive market, consumers must have access to complete and comprehensive information regarding at least pricing, services, contractual conditions, etc. before subscribing.

Consumers must also be informed about any changes in the above-mentioned information.

The provision of detailed information to consumers is also a way of protecting consumers against deceptive marketing practices.

A few of the interviewed regulators include in operators' **individual licences** obligations to publish service tariffs (Belgium); obligations to publish the contractual conditions, including conditions of provision, tariffs, billing modalities, quality of service and confidentiality (France); the UK regulator intends to introduce fair trading conditions in operators' licences.

Most national **telecommunications regulations** refer to obligations to provide information for consumers and several countries are revising their telecommunications act in order to introduce more provisions on information to consumers as a consequence of the implementation of the ONP voice telephony directive.

Most countries have general **non-telecommunications specific regulations** imposing obligations to provide information on prices and tariffs to consumers. These general laws may be consumer protection laws (Belgium, Estonia, Finland, Portugal, Switzerland, Ukraine and Sweden where the obligation of informing consumers is also included in each licence) or commercial laws (Czech Rep., for instance) or others (UK).

The interviewed **users' associations** assess the present level of information to consumers either as being sufficient or in need of improvement. Users' associations insist upon the importance of detailed information to consumers, but they underline the amount of work required to follow the different areas (in particular when competition is open): coverage, functionality, prices, etc.

## 2.2 -Fair contracts

### DESCRIPTION OF "FAIR CONTRACTS" IN THE IDATE QUESTIONNAIRE

Consumers should be protected against abusive clauses in contracts –such as, for instance, the obligation to subscribe for a long period of time, the obligation to subscribe to a bundle of services or features of services, etc.

Consumers should also be protected against contracts from service providers containing terms which could cause a significant imbalance in the parties' rights and obligations under the contract, to the detriment of the consumer.

An important aspect of the fair contract issue is the presentation of compensation schemes in case providers do not meet their commitments.

"Fair contract" has often been considered by regulators to be a matter for general regulation, not requiring any telecommunication-specific regulation. However, in some of the countries studied, the issue is regulated by telecommunication-specific regulation with reference to: equal access for everybody, compensation schemes in case operators do not meet their commitments, unbundling of services (or of supplementary services), and in some countries unbundling of equipment and services.

In a few countries, general contract conditions of the present monopolistic operator must be approved by the NRA (Denmark and foreseen in Portugal) and / or by a specific Committee (Belgium).

Some countries are planning to introduce fair contract obligations in future operators' **individual licences**, such as the obligation of submitting consumers' contracts to a specific committee (Belgium); compensation schemes in case the quality of service objectives are not met (France).

Denmark is the only country to have included detailed obligations on fair contracts in a **class licence** (prices independent of the type of use of the service, unbundling of services and features of services, conditions for termination of the contract), while the UK considers that competition will act as a stimulus for operators to provide more customer-friendly contracts.

Most countries have a **non-telecommunications specific** regulation on non-abusive clauses in contracts. These provisions are included either in "consumer protection law" or in "commercial laws" or in "civil laws" or in "competition law".

**Users' associations** assess the fair contracts issue in different ways :

- the Dutch business association (BTG) considers that the situation is good and that no specific rules are required. A strict application of existing consumer protection regulations would be better. The regulator should only explain the existing consumers' rights more clearly.
- other associations are of the view that the situation should be improved, pointing out that very often payment periods are too short and penalties in case of payment delays are excessive; subscription periods are too long (mobile, France); automatic

bank withdrawal conditions are too restrictive (mobile, France); no official procedure against abusive clauses exist (France, Spain); contract terms are still one-sided (UK).

### 2.3 -Quality of service

#### DESCRIPTION OF “QUALITY OF SERVICE” IN THE IDATE QUESTIONNAIRE

In this study related to consumer protection, quality of service is seen from the consumer's viewpoint. This covers both the quality of service related to the service itself (call set-up delay, transmission quality, etc.) which has been called *technical quality* of service (generally speaking, one speaks of technical quality of service when it relates to network performance) and the quality of service related to those other aspects of service provision which are connected to the kind of relationship the service provider establishes with the customer (*non-technical quality*).

In competitive markets (Czech Republic, Finland, Sweden), apart from the UK, the regulator has included technical quality of service obligations in the operators' **individual licences**. In the UK, the technical quality of service obligation imposed on BT refers to the network performance and the wholesale market, not the retail market.

In the monopolistic markets, many fixed operators have been assigned technical quality of service obligations (Belgium, France, Italy, Portugal, The Netherlands, and Estonia). Some of these countries have decided not to include quality of service targets for all fixed operators but only for universal service providers (Belgium, Denmark) while others will include technical quality of service obligations for all operators (France, San Marino, Switzerland, Ukraine and, very likely, Ireland).

Few obligations mainly related to the publication of statistics on the quality of service are included in some countries' **telecommunications regulation** (Finland, UK) or are foreseen to be included (Belgium, Ireland, France).

In fact, many operators are rather confident about the beneficial effects of competition on the quality of service. They expect that their main role will be to publish information on quality of service so that the consumer is correctly informed and in the position to make the best choice.

With regard to non-technical quality of services, telecommunications regulations essentially refer to general statements in the telecommunications act (Czech, Latvia, Ukraine) or in the publication of statistics on quality of service (Finland, UK).

The assessment of the technical quality of telephony services by **users' associations** differs from one country to another, rating from “good” (France, UK) and “sufficient” (Netherlands) to “should be improved” (Spain).

As far as non-technical quality is concerned, consumer associations in France and Spain think it should be improved -the commercial relationship between the operator and the consumer is too often insufficient.

## 2.4 -Information on the level of consumption

### DESCRIPTION OF "INFORMATION ON THE LEVEL OF CONSUMPTION" IN THE IDATE QUESTIONNAIRE

Consumers should have access to information concerning their communications so that they can follow their level of consumption either on line (during the call) or via a specific on line service where they can have access to their amount of consumption since the previous bill.

In fact, control of the level of consumption may be addressed in different ways :

- *itemised billing* (this issue will be discussed in the section on billing accuracy because it is rather an a posteriori control of level of consumption than an a priori one)
- *barring calls*: possibility for the user to bar some calls (long-distance, international, premium rate services, etc.)
- *billing control*: the customer has, at any time, access to the amount he will be billed by the provider
- *billing control arrangement*: for instance, the operator warns the user when his bill is higher than usual

**Individual licences** of some monopolistic operators contain obligations with regard to billing control. Deutsche Telekom in Germany has to provide this information on request to the consumer (within the limits of respect for the privacy of personal data). France Telecom had the same obligation, but this gave rise to debates on the non-protection of private life. Consequently, France Telecom has stopped the practice of warning consumers, but consumers may decide the level they do not wish to exceed.

Some regulators are of the opinion that this control of the level of consumption is a marketing argument which should be seen as an option for operators (France, where obligations to this end are being imposed only on the Universal Service provider).

In the UK, OFTEL has incorporated into BT's licence a scheme designed to offer affordable services for residential customers unable to afford standard telephony charges (customers on this scheme pay a low fixed charge for telephone services). This would be part of the Universal service licence modification.

Other regulators think that the promotion of competition will further stimulate the introduction of new measures in this area for the benefit of consumers (UK, Netherlands). In the UK, all of BT's customers can obtain free itemised billing and the vast majority can request selective call barring as a result of market pressure.

Denmark is the only country to have fully addressed the control of level of consumption in a **class licence**: obligations related to the billing control (the customer must have access to the required information at the normal tariff) and the requirement that operators must also offer the customer the possibility of subscribing to



supplementary services, such as itemised billing, barring calls and billing control arrangement.

In some countries, the control of consumption is contained in **telecommunications regulation**, while in some others, operators provide this service without any regulatory constraint. In the Netherlands, PTT Telecom warns the consumer, though this is not an obligation; they provide this service on a voluntary basis. In the UK new customers to BT are given a call level which is a financial ceiling on call charges, and are warned when this level is breached and are sent a usage only bill. "Call my Bill" is also available to those customers who wish to find out, free of charge, the amount of call charges they have incurred since their last bill.

In several countries, there are no obligations at all: consumers may control their level of consumption by setting up an additional information equipment (provided it has been duly approved and its connection notified to the operator) (Portugal).

**Users' associations** mostly call for an improvement in the facilities provided to consumers to follow their level of consumption.

Consumers should have the means to master their budget (for instance, a specific unit counting device at home); information should be given free of charge (maybe on-line information could be charged, but at a moderate rate); barring calls should be widely offered as a solution to help consumers master their consumption.

## **2.5 -Billing accuracy**

### **DESCRIPTION OF "BILLING ACCURACY" IN THE IDATE QUESTIONNAIRE**

Bills should be very clear in order to be easily understandable to consumers and in order for consumers to be able to verify that they have been billed according to the tariffs options they have subscribed to and according to their actual communications. Bills should be issued frequently.

Billing information obligations are included in **individual licences** in some of the interviewed countries, such as an obligation to provide itemised billing as a supplementary service (Denmark) or an obligation to have the taxation and billing process approved (Denmark).

Several countries have included itemised billing obligations in their **telecommunications regulation**, but they have addressed it in different ways -such as obligation for the operator to have its billing system approved (Belgium, France); general obligation for the operator to provide the consumer with the follow-up of the numbers called (Finland) or general right for the consumer to receive an itemised bill and decide to what extent the different calls must be specified on the bill (Germany); availability of free itemised billing for nearly all of the operators' clients (UK).

In some countries, the provision of itemised bills may remain difficult if digital switch boards are not available (Greece).

All **users' associations** share the same view: billing accuracy should be improved, with itemised billing provided free of charge (France, Spain); more complete itemised information (France); detailed information about local calls given on request to the consumer (Spain); itemised bill electronically available (the Netherlands); collection and publication of statistics on billing accuracy, with imposition of penalties if necessary (UK).

## 2.6 -Non-abusive use of information on consumers

### DESCRIPTION OF "NON-ABUSIVE USE OF INFORMATION ON CONSUMERS" IN THE IDATE QUESTIONNAIRE

With increasing competition, and given the value of knowledge about consumers (the level of their bills, their pattern of communications, the kind of services they call, etc.), consumers may fear that operators or service providers could use the information they have at their disposal for other purposes.

Some regulators have included some obligations in operators' **individual licences** (Czech Republic, France and the Netherlands).

In the UK, PTOs are required to draw up a code of practice on confidentiality. The code, which has to be approved by the Director General of Telecommunications, specifies the parties to whom PTOs may disclose information and the kind of information that may be disclosed without the prior consent of the consumer.

The **telecommunications regulation** of some nations includes reference to the non-abusive use of information about consumers (Czech, Denmark, Finland, France, Germany). In some cases, the regulation concerns ways in which information may be exchanged between operators (Finland, Belgium, Germany).

Some regulations also lay down consumer rights aimed at preventing the abusive use of information: the consumer may forbid commercial use of his personal data in France, while, in Germany, the consumer may demand deletion of data related to him.

Nearly all the countries refer to a general **non-telecommunications specific regulation** as far as non-abusive use of information about consumers is concerned. Most of them refer to a "data protection act" or equivalent (Belgium, Denmark, Finland, France, Portugal, Switzerland and the UK).

Nevertheless, some countries indicate that they do not have any general regulation that covers this area (Greece, Latvia, San Marino and Ukraine).

The issue does not elicit a lot of comments from **users' associations**. Residential associations stress that operators must be prevented from using information in an abusive manner.

Business associations are of the opinion that consumer protection regulation on this issue is sufficient and that no further action is called for.

## 2.7 -Protection of private life

### DESCRIPTION OF "PROTECTION OF PRIVATE LIFE" IN THE IDATE QUESTIONNAIRE

Protection of private life covers many issues in the field of telecommunications services, including:

*Presence of personal data in publicly available directories:*

People may decide whether they want to appear in directories and, when they decide to, they may choose the level of details to be indicated (full address or not, sex, etc.).

*Confidentiality of communications*

should be guaranteed and consumers should be protected against intrusive listeners.

*Itemised billing*

is necessary in order to understand the amount of the bill; but a high level of details is also contradictory to respect for private life, as it makes available the patterns of communication and the called numbers.

*Calling line identification*

is a new facility in the context of digital networks, but it may also undermine the protection of private life.

*Call forwarding*

may be a problem too, if calls are forwarded to a wrong number (or to a subscriber who does not want to receive these forwarded calls).

*Teleactivities*

are constantly developing, in particular telemarketing. People should be protected against harassing telemarketing practices.

*Malicious or fraudulent calls*

also occur and consumers should be protected against them.

Very few countries have included protection of private life obligations in operators' **individual licences** and those which have done so have done it in different areas, such as obligation to give the user the possibility to withdraw calling line identification on demand, except in the case of emergency services (Denmark); obligation for the public operator to establish a minimum set of functionality aiming to protect the user's private life such as calling line identification and malicious call identification (Portugal); obligation for the operators to guarantee the confidentiality of communications (France and Portugal).

The Netherlands and Ukraine intend to include obligations in future operators' individual licences

Several countries have protection of private life obligations in their **telecommunications regulation**, such as: option for the consumers to choose not to be listed in publicly available directories (Belgium, France, Germany and others);

protection against malevolent or malicious calls (Belgium, UK); possibility for the user to choose not to be the recipient of telemarketing phone calls (orange list in France, TPS scheme in the UK); possibility for the person receiving forwarded calls to suppress the diversion to his connection (Germany).

All **users' associations** claim that more needs to be done for the protection of private life. Calling line identification should be implemented as soon as possible (Spain) and made mandatory (UK), so as to allow consumers to bar calls without CLI (the Netherlands, France); consumers should receive telemarketing calls only if they have signed a preliminary agreement (France); automatic calls made by computerised systems should be forbidden unless the calls contain urgent general interest information (France); permanent capture and storage for telemarketing without permission should be made illegal (the Netherlands).

## **2.8 -Non-abusive disconnection**

### **DESCRIPTION OF "NON-ABUSIVE DISCONNECTION" IN THE IDATE QUESTIONNAIRE**

Consumers should be protected from arbitrary termination of services, regardless of whether this is due to problems in payment, dispute about the bills or some other reason. Specific procedures should be established in each case. Some form of notice should be sent in advance to the consumer.

In some countries, **individual licences** impose obligations on the telecommunications operator, indicating that abusive disconnection is not allowed (Portugal); specifying that the operator shall inform the consumer of restrictions on usage in the event of non-payment (Sweden); stating that the operator can stop offering the telephone service or supplementary services with six months' notice, with the possibility of terminating the agreement with the customer after one month's notice when the customer has committed a gross breach of his obligations (Denmark).

In the UK, OFTEL is currently working with industry and consumer representatives to draw up a comprehensive list of operator and consumer rights concerning disconnection. BT and Kingston (universal service providers) will offer an outgoing call barred service as an alternative to disconnection for debt. If direct negotiation is unsuccessful, OFTEL will consider introducing these obligations in BT's and Kingston's licences.

The universal service provider or the monopolistic operator has specific obligations in Belgium, Denmark, France, Germany, Portugal, Netherlands and the UK: long term notice must be provided (Denmark) and there may even be the provision that the universal service provider cannot disconnect (Belgium, France). In France, the universal service provider must maintain a restricted service (incoming calls and free of charge calls) for at least one year.

General **non-telecommunications specific regulations** on this issue include regulations regarding contracts (Belgium), code of civil laws (Czech, Switzerland), debt law (France) and general laws on consumer protection in the domain of essential services.

**Users' associations** suggest that fines should be imposed for wrongful disconnection (UK); that the situation should be improved through the establishment of a procedure impeding the operator from disconnecting without specific authorisation from the regulator (Spain); that disconnection should occur only in case of fraud by the customer, while a restricted service (incoming calls and calls to emergency services) should be maintained in other cases, particularly, default of payment (France).

## 2.9 -Recourse procedures

### DESCRIPTION OF "RECOURSE PROCEDURES" IN THE IDATE QUESTIONNAIRE

When users are experiencing difficulties with a service provider, it is important for them to have a clear view and understanding of the steps they need to take in order to defend their views and recover their rights, if any.

The general framework on recourse procedures applies also to telecommunications issues, but it may simplify things if telecommunication-specific, simplified recourse procedures for consumers were also made available.

In some countries obligations with regard to recourse procedures are included in operators' **individual licences**. Examples are the obligation to set up a service responsible for answering consumers' complaints (Belgium); the obligation to improve the way in which consumers' complaints are handled (France); the obligation for the operator to notify its decision to the consumer within 30 days (Portugal); the obligation to draw up consumer codes of practice which set out guidelines on complaints and disputes (UK); the obligation to offer the customer an independent arbitration procedure for the resolution of disputes (UK).

Denmark has introduced a detailed set of obligations in a **class licence** (probably due to the large number of debates and disputes regarding telecommunications bills).

In many countries, the matter is regulated in national **telecommunications regulation**, through the creation of a specific mediation service independent of the operator offering consumers easy and free access to recourse procedures (Belgium); through the description of the procedure to be followed while lodging complaints (Netherlands, Finland); through the indication of the role that the NRA plays in the domain of arbitration (Portugal, France; Denmark where the NRA has specific powers as far as universal service is concerned).

**Non-telecommunications specific regulations** provide for recourse procedures which are naturally still valid even where telecommunication-specific regulations also exist . The specific ones exist for simplifying the procedures.

Some countries have specific consumer complaint boards or their equivalent (Finland, France, Portugal) which act as mediation bodies for simplifying and accelerating the procedures.

**Users' associations** suggest that recourse procedures should be improved and a mediation procedure for handling complaints should be developed (France); that a clear and simple recourse procedure should be defined and circulated among users (Spain) and that an independent ombudsman should be appointed to act as dispute arbitrator (UK).

## CHAPTER 3 –SURVEY

### **-Introduction**

The consumer protection aspects studied in Chapter 2 (and Annex 3) were discussed by ETO with ECTRA experts with the aim of identifying, in the existing telecommunication-specific consumer protection regulation, areas where further analysis/harmonisation was necessary.

It was concluded that, for the moment, ECTRA members did not see any need for further harmonisation with regard to any of the obligations on consumer protection identified in the study, but they could agree that a more detailed analysis of some of the identified issues would be very useful. Following the decision taken by ECTRA members, ETO therefore undertook an in depth analysis of the issues listed below. At the same time, in order to fulfil the work requirements contained in the contract signed with the European Commission, ETO investigated whether harmonisation of some of the same issues was necessary and/or feasible.

The implementation of provisions regarding “information to consumers”, “itemised bills”, “fair contracts”, “non-abusive disconnection” and “recourse procedures” may differ very much from country to country and, in some cases, it has not been completed yet. A detailed collection of information on the listed issues in European countries and a comparative analysis of such information is seen at the moment as a possible means for helping operators to respect consumer protection provisions in Europe. This exercise will also be very useful in gaining experience on common European approaches on consumer protection, in setting consumer protection targets at a European level and in determining whether harmonisation is necessary and/or feasible.

The scope of the Chapter 3 of this study therefore consists of a comprehensive summary of national practices in European countries with regard to:

- “**information to consumers**”
- “**itemised bills**”
- “**fair contracts**”
- “**non-abusive disconnection**” and
- “**recourse procedures**”

The chapter consists of information collected and detailed analysis with regard to the above-listed issues.

The survey, based on the examination of the particulars of national regulation in European countries, will make it possible to ascertain common conditions, procedures and practices, which is the content of the next chapter.

The survey has been conducted through a questionnaire sent to all CEPT countries asking for details on the issues listed above. The following is a summary of the information collected through the survey. Detailed country-specific description is included in Annex 4.

The corresponding provisions in Community Law are listed in Annex 5.

The following tables summarise the result of the survey on “information to consumers”, “itemised bills”, “fair contracts”, “non-abusive disconnection” and “recourse procedures”, described in detail in Annex 4.

In some cases, the survey has been integrated with information made available by some countries through the first questionnaire prepared by IDATE and analysed in Chapter 2 and Annex 3.

The expression “NOT AVAILABLE” in all boxes indicates that the country in question did not provide information on the issue.

### 3.1 –Information to consumers

	<b>Who is subject to the obligation to provide information to consumers</b>	<b>Information to be given</b>	<b>How is information made available</b>	<b>How up-to-date must the information be</b>	<b>Cost of services identified with certain numbers: how to inform consumers?</b>
<b>BEL</b>	Belgacom (PTO) and, after liberalisation, other fixed voice telephony operators.	Tariffs of services.	To be published in telephone directories.	NOT AVAILABLE	NOT AVAILABLE
<b>CYP</b>	CYTA is the sole body responsible for telecommunications networks and services. Since there is no separation between regulatory and operational activities, CYTA performs some regulatory functions as well.	There are no specific rules: all regulations have to be publicly available.	All regulations are published in the Government’s Official Gazette. In addition, all regulations or other information concerning the Telecommunications Service Law provided by CYTA are made available on request.	There are no specific rules.	NOT AVAILABLE
<b>DK</b>	All providers of public telecommunications networks or services.	-the terms applicable to the provision; -extent to which it is possible, via the networks or services, to communicate with other providers’ customers; -details of the interface specifications	The information does not have to be published but given <u>on request</u> , verbally or in writing. It is not prohibited to make it available through other means <u>in addition to</u> verbally or in writing.	The information shall be correct the day it is given to the customer. If published information cannot be updated overnight, this must be made clear to customers.	The numbering plan is a closed plan with no NDCs. Consumers rely on price information which the service provider/operator is obliged to provide.
<b>FIN</b>	Telecommunications	-Delivery terms for the	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE



	<b>Who is subject to the obligation to provide information to consumers</b>	<b>Information to be given</b>	<b>How is information made available</b>	<b>How up-to-date must the information be</b>	<b>Cost of services identified with certain numbers: how to inform consumers?</b>
	operators.	telecommunications subscription and services offered. -Price list.			
<b>GER</b>	There are, in principle, information obligations vis-à-vis customers for all providers of publicly available telecommunications services, i.e. for operators of fixed and mobile networks and for service providers. Where a company does not provide its services to the public, the general information obligations governing contractual relations in accordance to German law apply.	Customers must, in principle, be informed of all the terms of contract modifying or going beyond the contract regulations laid down by virtue of law. In addition to these regulations which are applicable to all contracts, publicly available telecommunications services are given special treatment in the case of service disruption affecting customers who depend on uninterrupted use. Companies must inform customers of the possibility of such preferential treatment .	It is left to the provider to decide how information is published in detail. At any rate, it is sufficient to publish information in the Official Gazette of the NRA and to keep it available for customers at the companies' branch offices. The general terms and conditions are available to customers at all Deutsche Telekom branches. Partly, they are also contained in telephone directories. In addition, they can be ordered by telephone free of charge. Information can, in principle, be obtained orally or in writing at any time e.g. from customer services. There are also charge-free service numbers, etc. In the case of on-line services, information and general business relations can also be retrieved via display.	The information must be sufficiently up-to-date to reflect the current situation at the date of publication, i.e. the information must, in principle, be always up-to-date. Changes must be announced in advance. Only in the case of statistical data published periodically, the old values apply until the data are published again.	Information obligations applicable to prices are the same as those applicable to contracts and general terms and conditions. Customers may for instance obtain from Deutsche Telekom a detailed price list and, following the conclusion of a contract, general price information from which tariffs can be taken. Such information is also contained in the telephone directory. Moreover, customers are informed via letters, press releases, articles in newspapers and magazines, radio and TV reports, etc.

	<b>Who is subject to the obligation to provide information to consumers</b>	<b>Information to be given</b>	<b>How is information made available</b>	<b>How up-to-date must the information be</b>	<b>Cost of services identified with certain numbers: how to inform consumers?</b>
<b>GRE</b>	Existing legislation makes no distinction regarding who is subject to the obligation, only "the telecommunications service provider" is mentioned.	Obligation to publish technical specifications, tariffs, terms and conditions of the provided services, subscription procedures and corresponding deadlines, reparation time, duration of the contract and refund procedures.	Both published and available on demand. Available also on a free-phone number. In the specific case of OTE (the PTO), tariff modifications are published in the Official Gazette.	Fully up-to-date. Any modification to service specification or prices: available to the public before coming into force. For OTE: new tariffs to be published at least two months in advance.	No policy defined yet for tariffs of services under exclusive of special rights. Information on tariffs for Premium Rate Services: clearly indicated in all advertisements.
<b>ITA</b>	Each telecommunications organisation providing services accessible to the public through telecommunications networks or mobile communication systems	a) access and use of the public fixed telephony network and of voice telephony services (as in Annex I of the ONP/Voice Directive); b) new offerings and modifications of existing offerings; c) date of service activation; d) rules or technical specifications about service provision; e) periods when access to or use of the public telecommunications network can be limited or precluded due to planned maintenance.	Following the classification of information given in the previous box: a) on request b) not specified c) not specified d) on request e) through adequate means  Other information to be provided to the subscribers must be included in the contract (see table on "Fair contract").	Following the classification of information given in previous box: a) complete and updated information (not better specified) b) at least one month in advance c) when the user requests a connection d) not specified e) in advance (not better specified)	NOT AVAILABLE
<b>LAT</b>	PSTN operators.	Information on services, tariffs, terminal equipment use, billing.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE
<b>LUX</b>	Secondary legislation still to be adopted				

	<b>Who is subject to the obligation to provide information to consumers</b>	<b>Information to be given</b>	<b>How is information made available</b>	<b>How up-to-date must the information be</b>	<b>Cost of services identified with certain numbers: how to inform consumers?</b>
<b>MA</b>	TeleMalta is at present the telecommunications regulator and at the same time the telecommunications operator. It provides information to the users.	The "Customer Charter", a document established by TeleMalta, tries to answer some of the more frequent user questions and to explain how Telemalta deals with any problem which may arise.	Information published in the "Customer Charter". TeleMalta has a Customer Care Unit targeted to consumer needs and an Answerline service to assist users with information or advice about any services.	NOT AVAILABLE	TeleMalta charges and price list are available on request.
<b>NET</b>	PTT Telecom.	ONP-Voice Telephony provisions, in particular:  -Any change in the network characteristics, if it has effect on service provision; -tariffs and changes in tariffs.	No need for telecommunication-specific regulation on consumer protection. Of course all obligations stemming from EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy will be implemented in the Telecommunications Act, but no further obligations will be introduced because consumer protection issues are fully covered by the following: -national General Law (the Constitution and the Civil Code); -general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council; -competition's effect and market demand.		
<b>NOR</b>	Organisations providing access to both fixed and mobile public telephone networks and suppliers of leased lines which are subject to licensing. Not service providers.	A detailed list of the information to be given exists: any important information related to service provision, prices, technical and physical characteristics, connection of equipment, compensation/refund arrangements, etc. (See text)	Information available in an appropriate manner and easily accessible to the public. In practice, the incumbent publishes information in telephone directory and makes it available on a free-phone number.	Nothing is said in the legislation about how up-to-date the information should be. Customers to be informed of changes in existing offers as soon as possible.	International and PRS prices published in telephone directory. Additional obligations for providers of PRS: prices published in advertisements and given at the beginning of each call.

	<b>Who is subject to the obligation to provide information to consumers</b>	<b>Information to be given</b>	<b>How is information made available</b>	<b>How up-to-date must the information be</b>	<b>Cost of services identified with certain numbers: how to inform consumers?</b>
<b>POR</b>	Operators of public fixed telephony services and Portugal Telecom for <u>all</u> the services it provides.	Type and conditions of access to the fixed telephone service; standard contract; compensation or refund forms and conditions; types of maintenance service provided; conditions of connections to terminal equipment; conditions concerning access to and use of the fixed telephone service; indicators of the quality of the service, including its definition, measurement methods, defined objectives and reached values; service facilities and objectives concerning the introduction of additional facilities, functions and prices; special access conditions to the fixed telephone service; tariff list; fundamental elements of the numbering plan; procedures in case of non-payment of invoices amounts; procedures for conflict settlement.	NOT AVAILABE	NOT AVAILABLE	NOT AVAILABLE

	<b>Who is subject to the obligation to provide information to consumers</b>	<b>Information to be given</b>	<b>How is information made available</b>	<b>How up-to-date must the information be</b>	<b>Cost of services identified with certain numbers: how to inform consumers?</b>
<b>SPA</b>	Teléfonoica and Retevisión will have the obligation to inform consumers, as soon as the national regulation on the subject is approved.	List of information to be provided to consumers not set yet. Tariff changes or modifications have to be published.	Information on basic conditions and standard terms for access and use of the public telephone network and services is given to consumers in the contract. Tariffs of most services are published in the Official Gazette.	Not yet defined.	Like all tariff information, this information is published in the Official Gazette.
<b>SWE</b>	Since telecommunications organisations are in general very concerned about customer satisfaction, the NRA is of the opinion that information given to the consumer is sufficient -otherwise consumers would move to another supplier providing better information. Notwithstanding the above, according to the Telecommunications Act, the licensee shall make tariffs publicly available. Furthermore, licensing conditions shall include the obligation for the licensee to keep the following information about the provided telephone services easily available: fees and charges; delivery period and terms of usage, with information about ordering procedures, contractual period, repair time and refund procedure; restrictions for access and usage; procedure in the event of failure to pay.				
<b>UK</b>	BT, according to Condition 16 of its licence and Kingston Communications according to Condition 54 of its licence. Other PTOs have this condition but it is subject to a trigger.	Charges for services and any main price change.	Price changes are included in leaflets sent out with the bill. Other information is available by calling a free-phone number. OFTEL has the power to publish information which is in the interest of consumers. A code of practice for live conversations, to be followed by PRS providers, includes rules on information to consumers.	Customers registered on BT's Pricing Information Service receive advance notice of price changes. BT must give OFTEL 28 days notice of any price changes.	An industry and consumer working group has been established to look at ways of better informing customers of costs associated with calls to mobile numbers and other expensive numbers.

### 3.2 –Fair contracts

	<b>Who is subject to the obligation to provide a contract</b>	<b>Are service providers obliged to provide contract?</b>	<b>Minimum contractual content and clauses</b>	<b>Does a model contract exist?</b>	<b>Compensation/refund information in case of non-respect of contract</b>
<b>BEL</b>	Belgacom and probably, after liberalisation, other telecommunications operators.	NOT AVAILABLE	NOT AVAILABLE	Belgacom have to submit their project-contract to the Consultative Committee on Telecommunications.	NOT AVAILABLE
<b>CYP</b>	CYTA is the sole network and service provider and provides a Single Contract which has to be signed by subscribers prior to the provision of any service.	CYTA is the sole network and service provider.	The contract states that all services will be regulated by and in accordance with the Telecommunications Service Law and rules and regulations enacted by CYTA.	There is only a so-called "Single Contract".	There are no specific rules.
<b>DK</b>	All providers of public telecommunications networks/services.	YES, when they are providers of public services.	No regulation on what a contract shall specify as a minimum. Minimum contractual clauses: -if included, conditions under which security is provided must be open, objective and non-discriminatory. - the customer shall be entitled to terminate the agreement for the service at any time after 6 months, without further costs.	No "model" exists.	General law will apply. The customer will not be automatically informed about this.

	<b>Who is subject to the obligation to provide a contract</b>	<b>Are service providers obliged to provide contract?</b>	<b>Minimum contractual content and clauses</b>	<b>Does a model contract exist?</b>	<b>Compensation/refund information in case of non-respect of contract</b>
<b>FIN</b>	Telecommunications operators.	Yes.	A telecommunications operator shall have written general delivery terms, which mean generally delivery terms confirmed and offered by a telecommunications operator for provision of the telecom service. These terms, the content of which is established by regulation, shall be included in the subscription contract. The contract shall be concluded in writing.	NOT AVAILABLE	This information shall be included in the general delivery terms.
<b>GER</b>	The obligation to conclude a contract basically ensues from the provisions of the Telecommunications Act on dominant network operators.	Service providers are obliged to provide customers with a contract only when they have a dominant position and contract denial would be discriminatory.	Any contract must contain all the regulations required to specify in detail the mutual service relationship. In addition, the telecommunication-specific regulations of the Telecommunications Customer Protection Ordinance (TCPO) must be respected. There are no standard clauses prescribed in the NRA. However, parties may not diverge from the regulations of the TCPO to the detriment of customers.	There is no "model contract", but providers have to respect general legal regulations and the provisions of the TCPO. Contracts are supplemented by legal regulations, which means that general law applies where a contract does not contain a specific rule. This is the reason why far-reaching regulations are not required in contracts.	Information about such proceedings is given in the general terms and conditions of the voice telephony provider. All other regulations are laid down in laws and ordinances all of which have been published. Moreover, there is extensive literature and consumer guidance available in the market.

	<b>Who is subject to the obligation to provide a contract</b>	<b>Are service providers obliged to provide contract?</b>	<b>Minimum contractual content and clauses</b>	<b>Does a model contract exist?</b>	<b>Compensation/refund information in case of non-respect of contract</b>
<b>GRE</b>	Existing law does not oblige any telecommunications operator/service provider to provide a contract.	NO, since nobody is obliged to.	No rules have been as yet officially set.	No "model" has been defined yet, but NTC is working on the issue.	Compensation/refund information must be published by the operator/service provider (see above in table on Information to consumers)
<b>ITA</b>	Each telecommunications organisation providing services accessible to the public through telecommunications networks or mobile communication systems	YES	Obligation to use suitable contractual schemes with clauses referring to: -description of the specific services offered; -levels of service quality to be respected; -non-payment of bills and any consequent service interruption or disconnection; -complaint procedures and complaint handling. Moreover: -minimum provided service -procedures for compensation and reimbursement in the case of non-respect of service quality levels. -indications regarding the ways for starting conciliation procedures for dispute resolution.	No "model contract"	This information has to be included in the contract.
<b>LUX</b>	Secondary legislation still to be adopted				



	<b>Who is subject to the obligation to provide a contract</b>	<b>Are service providers obliged to provide contract?</b>	<b>Minimum contractual content and clauses</b>	<b>Does a model contract exist?</b>	<b>Compensation/refund information in case of non-respect of contract</b>
<b>MA</b>	TeleMalta provides the person wishing to subscribe for a telephone line with the relevant service agreement, which has to be signed within 15 working days from the date of the operator's notice. Otherwise it is cancelled.	TeleMalta is the only operator/service provider.	NOT AVAILABLE	No model contract exists.	In the "Customer Services Guarantee", a document developed by TeleMalta.
<b>NET</b>	No need for telecommunication-specific regulation on consumer protection. Of course all obligations stemming from EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy will be implemented in the Telecommunications Act, but no further obligations will be introduced because consumer protection issues are fully covered by the following: -national General Law (the Constitution and the Civil Code); -general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council; -competition's effect and market demand.				
<b>NOR</b>	Organisations providing access to the public telephone networks.	No, service providers are not obliged to provide a contract.	Content: information regarding time-limit for delivery and fault repair, service quality, conditions for access to and use of the service. No list of minimum contractual clauses.	No "model" exists.	In the relevant legislation or by contacting the telecommunications NRA.
<b>POR</b>	The provision of the fixed telephone service shall be the object of a written contract to be agreed upon by the operator and the subscriber.	NOT AVAILABLE	The contract should include, among other things, a long list of clauses and provisions ensuring user's rights (see details in Annex 4).	In the case of adhesion contracts, the operator should send the respective projects to the NRA (ICP) for approval, which should be preceded by a hearing of the Consumer Institute;	This information is included in the contract.

	<b>Who is subject to the obligation to provide a contract</b>	<b>Are service providers obliged to provide contract?</b>	<b>Minimum contractual content and clauses</b>	<b>Does a model contract exist?</b>	<b>Compensation/refund information in case of non-respect of contract</b>
<b>SPA</b>	Organisations providing access to the public telephone networks and organisations providing leased lines.	As of today (October 1997), the NRA does not impose the obligation to provide a contract on service providers.	There are no general rules about the minimum content of a contract. However, each telecommunication service has its own specific regulation (usually a by-law) which in most cases contains the obligation to draft a contract with a specified content, as is the case for leased lines, mobile telephone and public telephone services. These can be considered to be "model contracts".	See previous box.	This information can be found in the regulation about consumers and users. Also, a procedure for solving these problems –the consumers arbitral system - has been established by law.
<b>SWE</b>	All issues related to contracts are regulated in the general consumer protection law and in agreements between the National Boards for Consumer Policies and the licensee.				
<b>UK</b>	Detailed contractual terms are not regulated by licence conditions. Competition should act as a stimulus for operators to provide more customer-friendly contracts. General consumer protection law places limits on the terms which may be incorporated into contracts.				

### 3.3 –Itemised billing

	Who is subject to the obligation to provide an itemised bill	Description of the obligations	Basic level of itemisation	Additional levels of itemisation	Additional levels: free of charge or at a tariff?
<b>BEL</b>	Belgacom.	Belgacom billing system has to be submitted to the Consultative Committee on Telecommunications and is itemised as described in next box. Belgacom mobile used to provide itemised bills, but they had to compromise for privacy protection reasons and now the bill can be itemised <u>on request</u> .	As of today, local, interzonal and infokiosk calls are separate. International calls are always itemised: date, number, duration.	Nothing at the moment.	Not applicable.
<b>CYP</b>	CYTA is the sole network and service provider.	Only mobile service customers are provided with an itemised bill free of charge. Fixed telephony customer connected to digital exchange can have it, on request, upon a monthly charge.	There is only one type of itemised bill containing information on destination of a call, time & date, duration and cost.	There are no additional levels of itemisation.	Not applicable.
<b>DK</b>	All providers of public telecommunications networks and services who have been assigned numbers in the Danish numbering plan for telephony, ISDN and mobile communications	Obligation to offer customers the option of subscribing to the service “itemised billing”. The service is provided free of charge or for a payment not exceeding the cost of providing the service.	Itemised billing shall mean written specification of the invoiced calls. A sufficient level of detail in an itemised bill comprises date, time, called number, duration and price of the call.	Nothing	Not applicable

	<b>Who is subject to the obligation to provide an itemised bill</b>	<b>Description of the obligations</b>	<b>Basic level of itemisation</b>	<b>Additional levels of itemisation</b>	<b>Additional levels: free of charge or at a tariff?</b>
<b>FIN</b>	Telecommunications operators.	The telecom operator shall, with no charge and, if the bill exceeds 150 marks, without an order, itemise the bill.	Local, long-distance and international calls, calls to mobiles and services other than telecommunications services. Calls free to the caller shall not be identified.	Nothing.	Not applicable.
<b>GER</b>	The obligation to provide itemised billing is imposed by law. It is not necessary for the NRA to designate individual operators to provide itemised billing: fixed and mobile network operators as well as service providers are obliged to provide itemised billing.	The customer may request any provider offering publicly available voice communications services to provide an itemised bill.	An itemised bill must show a sufficient level of detail to allow checking and verification of payable charges. Further details have not been prescribed yet, but requirements will, however, only be deemed met if each chargeable call is specified showing date, costs, time and (abbreviated) destination number. Deutsche Telekom is at present offering two types of itemised billing. The basic level contains the total of all local calls.	The extended itemised bill offered by Deutsche Telekom also offers differentiated local calls. A further difference could consist of a print-out of the called numbers either completely or as abbreviated numbers, as far as this is permitted under data protection regulation.	From 1 January 1998 the standard form of itemised billing must be offered free of charge. It is uncertain whether or not there will be different forms of itemised bills at a later date. Both types of itemised billing are at present available from Deutsche Telekom at the non-recurrent amount of 19 DM. No other charges have to be paid.
<b>GRE</b>	All telecommunications providers. No specific operator has been designated yet. OTE, upon request, provides itemised bills to customers connected to digital exchanges	Obligation to offer the subscribers a sufficient analysis of the billed amount.	Not defined yet.	Not defined yet.	The itemised bill offered by OTE is charged at a rate based on administrative and printing costs.

	<b>Who is subject to the obligation to provide an itemised bill</b>	<b>Description of the obligations</b>	<b>Basic level of itemisation</b>	<b>Additional levels of itemisation</b>	<b>Additional levels: free of charge or at a tariff?</b>
<b>ITA</b>	Each telecommunications organisation providing services accessible to the public through telecommunications networks or mobile communication systems.	Obligation to provide different analytical levels of itemised billing <u>upon user's request</u> , taking into account the development of the telecommunications network or system and in accordance with the legislation in force.	Itemised bills have to contain an adequate indication of the charges composition. Calls which are free to the caller, including emergency calls, shall not appear in the bill.	No further level of itemisation is foreseen.	
<b>LUX</b>	Secondary legislation still to be adopted.				
<b>MA</b>	TeleMalta.	TeleMalta normally sends a bill to the subscribers every two months.	The bill includes charges for calls effected during a specified period separated into categories; rental charges for the telephone line; charges for any works performed in relation to the installation; charges for any additional services provided.	The subscriber can request an itemised telephone bill which will indicate the date and number called, the time, duration and charge of each call.	The itemised bill can be requested by the subscriber at a charge.
<b>NET</b>	PTT Telecom.	PTT Telecom is obliged to provide itemised bills <u>on request</u> .	No need for telecommunication-specific regulation on consumer protection. Of course all obligations stemming from EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy will be implemented in the Telecommunications Act, but no further obligations will be introduced because consumer protection issues are fully covered by the following: -national General Law (the Constitution and the Civil Code); -general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council; -competition's effect and market demand.		

	<b>Who is subject to the obligation to provide an itemised bill</b>	<b>Description of the obligations</b>	<b>Basic level of itemisation</b>	<b>Additional levels of itemisation</b>	<b>Additional levels: free of charge or at a tariff?</b>
<b>NOR</b>	Telecommunications organisations in general. The incumbent Telenor provides "rough" itemised bills to all users. Providers of PRS, if feasible.	Telecommunications organisations should provide itemised bills on demand. Payment for the use of each individual PRS category shall be itemised on the invoice if technically feasible. Users may request itemised bill free of charge.	No basic level has been defined by the NRA.	No additional level has been defined.	Not applicable.
<b>POR</b>	Fixed public telephony operator.	Decree-Law n.240/97 of 18 September states that, <u>at the subscriber's request</u> , the operator should provide an itemised bill, unless it is not possible due to technical limitations, acknowledged at such by the NRA (ICP). Furthermore, whenever there is an invoice complaint, the operator is obliged to have a record of the itemised information concerning the billing of the previous three months, so as to make it possible to clarify any problem concerning the invoice sent to the subscriber	An itemised bill consists of the indication, call by call, excluding calls which are free of charge, of the number of calls, their starting time and duration, and the respective number of impulses. It also includes network connection price, usage prices, periodical price of leased terminal equipment, charges for service provision and consumer's debt, if any. National and international calls shall be separated. The last four digits of the called numbers should be suppressed and replaced with alphabet letters.	No other levels of itemisation are foreseen.	Not applicable.

	<b>Who is subject to the obligation to provide an itemised bill</b>	<b>Description of the obligations</b>	<b>Basic level of itemisation</b>	<b>Additional levels of itemisation</b>	<b>Additional levels: free of charge or at a tariff?</b>
<b>SPA</b>	In 1993 the NRA decided that Telefonica should extend the facility of itemised billing in a gradual, progressive way, so that in 1997 all consumers could be offered it.		In accordance with the regulation on itemised billing, an itemised bill comprises two levels: -The first level, free of charge for the consumers, includes information about the called number in long-distance calls, international calls and 0XY-numbers if they are free of charge.	-The second level of itemisation, upon payment of a certain tariff, includes information on local calls.	The tariff to be paid in order to obtain the second level of itemisation must be laid down by the Government and must be published in the Official gazette. Consumers interested in this level of itemisation should contact Telefonica.
<b>SWE</b>	There are no regulatory obligations in Sweden to provide consumers with itemised bills. This is considered a commercial issue and each single telecommunications operator is free to decide whether or not to provide its customers with such a service.				
<b>UK</b>	Free itemised billing is available to all BT's customers and the vast majority of other operators offer this service.	See previous box.	BT itemises all calls costing more than £040 in bills.	Full itemised billing is available on request.	Free of charge.

### 3.4 – Non-abusive disconnection

	Who is subject to certain obligations with regard to disconnection?	Description of the obligations	Who has to continue to offer the service after disconnection?	Is disconnection communicated in writing?	List of operators' and consumers' rights and obligations with regard to disconnection	Universal Service providers and their obligations with regard to disconnection
<b>BEL</b>	NOT AVAILABLE	No specific regulation on non-abusive disconnection for mobile operators, but de facto they are authorised to disconnect in the case of non-payment. Other cases of disconnection are covered by the regulation of contracts.	US providers cannot disconnect.	An obligation of a warning before disconnection with sufficient long notice will probably be incorporated in future licences.	NOT AVAILABLE	US providers cannot disconnect.
<b>CYP</b>	CYTA is the sole network and service provider.	Disconnection is activated if the customer does not pay the bill one week after last payment date. If payment is made within 1 month from disconnection, the service is re-connected with a surcharge.	There are no specific rules.	If, after the disconnection of a service, the customer does not pay within 1 month, CYTA sends a letter informing the customer that if he does not pay within a pre-defined period, <u>all</u> services are disconnected without further notice.	It does not exist.	CYTA is the sole network and service provider.



	<b>Who is subject to certain obligations with regard to disconnection?</b>	<b>Description of the obligations</b>	<b>Who has to continue to offer the service after disconnection?</b>	<b>Is disconnection communicated in writing?</b>	<b>List of operators' and consumers' rights and obligations with regard to disconnection</b>	<b>Universal Service providers and their obligations with regard to disconnection</b>
<b>DK</b>	Only the universal service (US) provider has specific obligations with regard to abusive disconnection.	The subscription agreement is normally irrevocable on the part of the US provider. However the US provider is entitled to terminate it, upon at least one-month's notice, if the customer's connection is closed due to gross breaches of his obligations under the subscription agreement.	No obligation of maintaining any restricted service for a certain period of time.	Notification not necessarily communicated in writing. If doubt arises whether the notification was received or not, the US provider may have to prove that the notification was given to the customer.	List of gross breaches from the customer allowing the US provider to disconnect (see text).	See previous columns.
<b>FIN</b>	Telecommunications operators.	Interruption of the service provision when the subscriber fails to comply with delivery terms, has been proven to cause interference to the network or other users, fails to pay a mature bill or is insolvent.	NOT AVAILABLE	The telecommunications operator has to send a reminder in writing to pay a bill giving the subscriber 2 weeks time to settle the payment. The general procedure is: a reminder; a written notice informing of the possible disconnection; the cancellation of the subscription contract in writing.	If a household user proves that failure to pay is due to an illness or unemployment or other important reasons, the service cannot be disconnected if the bill is paid within 1 month from the dispatch of a reminder.	NOT AVAILABLE

	<b>Who is subject to certain obligations with regard to disconnection?</b>	<b>Description of the obligations</b>	<b>Who has to continue to offer the service after disconnection?</b>	<b>Is disconnection communicated in writing?</b>	<b>List of operators' and consumers' rights and obligations with regard to disconnection</b>	<b>Universal Service providers and their obligations with regard to disconnection</b>
<b>GER</b>	Providers of general access to public fixed telecommunications networks and providers of voice telephony have telecommunication-specific obligations. To all other providers –e.g. providers of services non-publicly available or mobile operators – the general regulation of the German Civil Code on rights to refuse performance apply.	Refusal to provide services, in total or in part (barring), only if: -the customer fails to pay at least 150 DM from the amount of his bill and the lodged guarantee has been used up; -there exists a reason for barring. Barring without previous announcement and observance of the prescribed waiting time shall only be permitted in cases of -the customer giving reasons to terminate the contractual relation without notice; -imminent harm to the operator's facilities, or risk to public safety; -the volume of charges rising to such an extent that there is reason to believe that the customer would not pay.	As far as technically feasible, barring shall be restricted to the service concerned and the service shall be restored without delay once the reason for such a measure no longer exists. Full barring of general network access can only be implemented after outgoing traffic has been barred for at least one week.	Customers always have to be informed in writing of the discontinuation of the service offerings in general and of barring in particular and a reasonable time must be given before implementation of the measures.	Operators: see previous boxes. Customers may raise objections, conclude an agreement extending the term for payment or pay the average amount of disputed telephone bills in order to be reconnected. In addition, they may bring their cases before the NRA for conciliation or before the courts with the request for an immediate judicial order.	Organisations required to provide Universal Service may disconnect the service only on account of essential requirements.
<b>GRE</b>	The regulations refer	Interruption or cessation	Not defined yet.	In the case of non-	30 days for subscriber to	Not defined yet.

	<b>Who is subject to certain obligations with regard to disconnection?</b>	<b>Description of the obligations</b>	<b>Who has to continue to offer the service after disconnection?</b>	<b>Is disconnection communicated in writing?</b>	<b>List of operators' and consumers' rights and obligations with regard to disconnection</b>	<b>Universal Service providers and their obligations with regard to disconnection</b>
	generally to telecommunications providers.	of service provision <u>only</u> when subscriber breaches the contract terms, in case of destruction or malfunctioning of the telecommunications network, or in case of force majeure.		payment, the telecommunications provider is obliged to notify the subscriber in writing on the future interruption of the service provision.	make payment after notification of interruption. Reductions or reimbursement of fixed charges are provided for in case of long interruptions of the services	
<b>ITA</b>	All operators providing voice telephony services on fixed public networks are subject to specific obligations with regard to non-abusive disconnection.	<p>-Non-payment, within 15 days from receipt of the bill, of initial access fee: suspension of service in total, including incoming calls;</p> <p>-If the subscriber opens, disassembles or tampers with the operator's equipment: after giving notice, suspension of the service;</p> <p>-If the subscriber does not allow access to his premises for technical checks: suspension of the service;</p> <p>-Suspension of the service without notice when the subscriber uses the services for non-legal purposes;</p> <p>-If the subscriber refuses to lodge the required guarantee as an advanced payment for long-distance calls: suspension of the service in total, including incoming calls. If the subscriber persists in not lodging the guarantee within 60 days: rescission of the contract;</p> <p>-Suspension of subscriber's outgoing calls if he does not pay the telephone bill within 45 days from the payment deadline or anyway after 15 days from receipt of a written reminder sent after the bill's deadline. The suspension of the service, if technically possible, is limited only to the services subject to dispute.</p> <p>-After 15 days from the date of suspension of the service for any of the mentioned reasons, the operator can rescind the contract, after sending the subscriber a written 10-days notice.</p> <p>The suspension of the service, for any reasons decided upon by the operator, will leave the subscriber the possibility to use emergency numbers and to receive calls in all cases where this is technically possible.</p>				The provisions described in the previous box apply also to the US provider.
<b>LUX</b>	Secondary legislation still to be adopted					
<b>MA</b>	TeleMalta	The only information	NOT AVAILABLE	Yes, TeleMalta has to	NOT AVAILABLE	TeleMalta is the sole

	<b>Who is subject to certain obligations with regard to disconnection?</b>	<b>Description of the obligations</b>	<b>Who has to continue to offer the service after disconnection?</b>	<b>Is disconnection communicated in writing?</b>	<b>List of operators' and consumers' rights and obligations with regard to disconnection</b>	<b>Universal Service providers and their obligations with regard to disconnection</b>
		available is about disconnection for non-payment of bill, which can occur only after two notices sent to the subscribers.		send a first notice to the subscriber warning that the service will be disconnected if the bill is not paid and a second and final notice informing that they intend to disconnect.		network and service provider.
<b>NET</b>	PTT Telecom.	In the general agreement between PTT Telecom and consumer organisations, specific regulations are laid down about abusive disconnection.	No need for telecommunication-specific regulation on consumer protection. Of course all obligations stemming from EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy will be implemented in the Telecommunications Act, but no further obligations will be introduced because consumer protection issues are fully covered by the following: -national General Law (the Constitution and the Civil Code); -general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council; -the effects of competition and market demand.			

	<b>Who is subject to certain obligations with regard to disconnection?</b>	<b>Description of the obligations</b>	<b>Who has to continue to offer the service after disconnection?</b>	<b>Is disconnection communicated in writing?</b>	<b>List of operators' and consumers' rights and obligations with regard to disconnection</b>	<b>Universal Service providers and their obligations with regard to disconnection</b>
<b>NOR</b>	Organisations providing fixed or mobile public telecommunications services.	In certain circumstances the organisations in the previous box may alter or close public telecommunications services no earlier than two months after giving notice of the alteration or closure of the service (six months in the case of leased lines).	Nobody has to continue the provision of services after the two-month period of notice (six-month for leased lines).	No provisions specify that the notice has to be in writing.	It does not exist.	No difference between US provider and other telecommunications organisations.
<b>POR</b>	Telecommunications operator providing public fixed telephony.	The operator may suspend the provision of public fixed voice telephony at the consumer's request, on faults imputable to the customer and in other specific situations (See details in Annex 4 ).	NOT AVAILABLE	The operator may rescind the contract in specific situations by registered letter with recorded delivery.	NOT AVAILABLE	NOT AVAILABLE

	<b>Who is subject to certain obligations with regard to disconnection?</b>	<b>Description of the obligations</b>	<b>Who has to continue to offer the service after disconnection?</b>	<b>Is disconnection communicated in writing?</b>	<b>List of operators' and consumers' rights and obligations with regard to disconnection</b>	<b>Universal Service providers and their obligations with regard to disconnection</b>
<b>SPA</b>	Teléfonoica has specific duties and obligations with regard to non-abusive disconnection.	Teléfonoica may interrupt or disconnect the telephone service when there is a delay in the payment of the telephone bill of at least twenty days from when the bill is presented to the subscriber. The disconnection should not be made during holidays or on the eve of holidays.	Only the rules about Teléfonoica described in the other boxes apply.	After 20 days since service disconnection and after a request for payment sent to the subscriber by registered letter giving the subscriber ten days to pay the bill, Teléfonoica may rescind the contract.	An exhaustive list of operators' and consumers' rights and obligations with regard to disconnection does not exist. In addition to the above-mentioned situation of non-payment, Teléfonoica can disconnect in the case of a certain and immediate situation of danger for the public network.	Nothing.
<b>SWE</b>	The licensing conditions state that the licensee shall keep information easily available on restriction for access and use. Furthermore, information shall be made available regarding the procedure in the event of failing to pay the bill.					
<b>UK</b>	There are no specific obligations in PTO's licences with regard to non abusive disconnection. OFTEL worked with the industry and consumer representatives to draw up a comprehensive <b>list of operator and consumer rights</b> concerning disconnection. As part of this BT and Kingston will offer customers an outgoing call barred service as an alternative to disconnection for debt. If this approach is unsuccessful OFTEL will consider introducing a licence condition on disconnection into BT's and Kingston's licences. PTO consumer codes of practice set out operators' disconnection policies, and will soon include details of the new approach as outlined above.					

### 3.5 –Recourse procedures

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>BEL</b>	Telecommunications operators.	Operators have the obligation to settle a service responsible for answering consumer complaints. A mediation service, independent from Belgacom, has been established by law. It offers consumers easy and free access to recourse procedures.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE
<b>CYP</b>	CYTA is the sole network and service provider, but there are no specific complaint handling procedures outlined in Law or regulation.	See previous box.	Not applicable. There are only some internal procedures, designed by CYTA to deal with customers complaints.	Not applicable.	Not applicable.	Not applicable.

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>DK</b>	All providers of public telecommunications networks/services	Appointment of a special internal investigation unit to make investigations and give opinions on complaints concerning amounts in bills. Not clear yet how it works in practice.	Complaint handling procedures shall be ISO9002-certified or certified according to similar standards.	The communication does not necessarily have to be in writing. After 3 months from lodging complaint, extendible to 6 months if checks are necessary.	Telecom-specific procedure and, next to it, general framework of recourse procedures apply, with no distinction, to all operators/service providers.	Telecom NRA. Decisions issued by the NRA can be appealed to the Telecom Consumer Board. If orders are not respected, these bodies may impose daily penalties.
<b>FIN</b>	Telecommunications operators.	Each operator has its own toll free number to be used by customers with disputes.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE	Telecom legislation contains information on the procedures which can be followed by users to complain (DETAILS NOT AVAILABLE)



	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>GER</b>	The law does not foresee any obligations for telecommunications organisations to set up a service for consumers' complaints. However, companies offer these services themselves both at their branch offices and via central call numbers (care-lines; service-lines).		There are no legal requirements to have these procedures approved by or agreed upon with other bodies.	No fixed period of time within which to make a decision about a customer's complaint. If a customer feels that the decision-making process is taking too long, he can bring the case before the courts or the NRA at any time. The telecommunications organisation informs the customer in writing of its position on the complaint, except when the matter can be settled by discussion on site.	Both general complaint procedures and telecommunication-specific procedures are available to customers. Arbitration proceedings are not restricted to telecommunications contracts, but apply to all contracts and contracting parties. Conciliation proceedings in accordance with the Telecommunications Customer Protection Ordinance apply to organisations offering access to public telecommunications networks and providers of voice telephony (which could also be just service providers).	Depending of the type of procedure chosen, customer complaints can be processed by the following bodies: -Conciliators/Arbitrators -Consumer Associations -NRA -Courts.  Arbitration: binding, it excludes the courts' jurisdiction. Court decision: binding. Consumer Associations can seek judicial decisions. NRA conciliation is only binding when parties (are willing to) reach an agreement. Customers may have recourse to courts against the NRA's decision within the framework of the legal regulatory functions and not in its capacity as a voluntary conciliation body.

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>GRE</b>	Existing legislation does not provide for specific arrangements related to complaint handling at telecommunications providers level.				Users may file complaints to the NRA in the cases falling within its jurisdiction	The responsible body is the NRA in the cases falling within its jurisdiction .
<b>ITA</b>	Operators providing voice telephony services over public fixed networks.	Complaints about the amount of the telephone bill have to be sent, in writing, to the competent operator's branch in the territory, within the deadline date of the contested bill. The operator is obliged to set up, in its regional branches, a free-phone service for collecting complaints about unresolved faulty services and suggestions on how to improve services. In any case, the subscriber can send a written complaint directly to the operator's competent branches in the territory.	The operator is obliged to transmit to the Ministry of Communications copies of those complaints received which could not be solved.	The result of the complaint will be communicated to the subscriber in writing within 30 days from receipt of the complaint.	NOT AVAILABLE	For each dispute procedure about the subscription contract, the competent court is chosen on the basis of the territorial branch of the operator involved in the contract.

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>LUX</b>	Secondary legislation still to be adopted					
<b>MA</b>	TeleMalta.	TeleMalta has set up different internal and independent bodies who deal with billing and other complaints.	Not applicable.	TeleMalta target is to complete the investigations centred on complaints within a maximum period of 20 working days from the date the complaint is acknowledged and received.	NOT AVAILABLE	For billing complaints: Billing Enquiries Section of TeleMalta; Contestations can be filed at a charge to the Billing Contestation Board (internal body). The last step is Appeals Contestation Board (independent body set up by TeleMalta) whose decision is final.  Other complaints: TeleMalta and eventually the Complaints Review Board (independent).

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>	
<b>NET</b>						<p>No need for telecommunication-specific regulation on consumer protection. Of course all obligations stemming from EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy will be implemented in the Telecommunications Act, but no further obligations will be introduced because consumer protection issues are fully covered by the following:</p> <ul style="list-style-type: none"> <li>-national General Law (the Constitution and the Civil Code);</li> <li>-general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council;</li> <li>- the effects of competition and market demand.</li> </ul>	<p>All complaints can be brought first before the director of the consumer's telephone area, otherwise to the NRA (OPTA), the "Consumentenbond", the "Stichting Geschillencommissie voor Consumentenzaken" or finally to the Court.</p>
<b>NOR</b>	Organisations providing fixed or public telephone networks	Obligation to set up a service for consumer complaints. For fixed networks there is a board of 3 people – one judge, one representative of the incumbent operator, and one of a consumer protection agency. For mobile networks, complaints are handled by the operators themselves.	Agreed with the telecom NRA.	In writing, but there are no time limits within which to take a decision.	Not clear yet because procedures are being revised.	<p>Board of Telecommunications Complaints; Consumer Protection Agency ;and the telecommunications NRA.</p> <p>In the ordinary course of the events, these bodies' decisions will be respected.</p>	

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>POR</b>	Operators of public telephone services.	Without prejudice to the appeal to either the judicial or the arbitration courts under the terms of general law, the user can forward complaints to the operator concerning acts or omissions that violate the provisions of the applicable legislation.	NOT AVAILABLE	The user shall file his complaint within 30 days from the knowledge of the fact. The operator shall make a decision on the complaint within 30 days from the date the complaint is acknowledged and received and shall notify the interested party of the decision within 5 days.	NOT AVAILABLE	If the operator's decision does not accept the complaint, the interested party may request the NRA (ICP) to make an appreciation and decision on the object of the dispute within 30 days after the notification referred in the previous box. The operator should provide the NRA (ICP) within 10 days with all information requested for the decision, which should be pronounced within 30 days. The decision of the NRA can be appealed before administrative courts.
<b>SPA</b>	<p>Complaints against Telefónica with regard to its telephone service may be solved in several ways:</p> <ul style="list-style-type: none"> <li>– The first step is to appeal directly to the Public Commercial Office in Telefónica, within two months of the occurrence of the fact causing the disagreement.</li> <li>– If the consumer is not satisfied with the first-step decision, he can appeal to the “Delegación del Gobierno en Telefónica” within one month. The decision of this Unit may be brought to the Administrative Court of Justice.</li> <li>– Alternatively, the consumer can go to the National Arbitral Procedure to obtain satisfaction. The implementation of such a decision is voluntary on the part of the operator.</li> </ul>					

	<b>Who is obliged to set up a service for consumer complaints?</b>	<b>Description of the obligations with regard to consumer complaints</b>	<b>Do complaint procedures have to be agreed with NRA or other body?</b>	<b>How and when to communicate decision to complaining customer?</b>	<b>Which legislation applies to whom (general legislation or telecom-specific?)</b>	<b>Bodies responsible for handling complaints and the validity of their decisions</b>
<b>SWE</b>	Licensees.	Licensees have to collect and forward the consumer complaints reported to them to the NRA, which is obliged to report annually to the Government.	For issues related to recourse procedures, general consumer protection rules apply.			The Swedish Consumer Agency, which can force an organisation/company to stop its abusive consumer behaviour through fines.
<b>UK</b>	PTOs; Operators with at least 25% market share.	PTOs are required to draw up and consult with the Director General of Telecommunications (DGT) Consumer Codes of Practice which set out guidelines on complaints and disputes; BT and Kingston Communications are required to offer customers an inexpensive independent arbitration procedure for disputes resolution.	Operators with at least 25% market share (currently BT and Kingston) are required to formally agree their complaints handling procedure with DGT. OFTEL has formally agreed to BT's and Kingston's complaint handling procedures.	NOT AVAILABLE	See columns 2 and 3. The requirement to agree complaint handling procedures is required by the Competition and Service Utilities Act 1992.	OFTEL has a statutory duty to consider any complaints related to telecommunications services provided or apparatus supplied in the UK. OFTEL allows the operator concerned to consider the matter first and to resolve the dispute directly with its customer.

## **CHAPTER 4 –COMPARATIVE ANALYSIS AND RECOMMENDATIONS**

### ***-Introduction***

The following section presents a comparative analysis of the information collected through the survey described in the previous chapter (and in Annex 4).

It should be borne in mind that the information collected relates mainly to telecommunication-specific consumer protection regulation.

In some countries, the same goal of protecting consumers can be reached through measures established by operators and service providers on a voluntary basis. Moreover, consumer protection rules can be found in regulations which are not telecommunication-specific: this is the case also in some of the countries included in the survey, such as the Netherlands and, for some aspects, the UK and Sweden.

The survey does not include details of non-telecommunications specific regulation or operators observing voluntary self-regulation with regard to consumer protection, but since the purpose of the study was to describe and analyse telecommunication-specific regulation, the lack of information on the two above-mentioned cases does not influence the result of the study.

The following comparative analysis is based on the countries for which information is available, i.e. the 16 countries included in the tables from 3.6.1 to 3.6.5 in the previous chapter. **Out of these 16 countries, 12 are EU Member States (Austria, France and Ireland being the EU Member States not included), while the remaining 4 are Cyprus, Latvia, Malta and Norway.** However, given the fact that Luxembourg's relevant legislation is not ready yet, the following comparative analysis is actually based only on 15 countries. In addition, there are many cases in which the answer is "Not Available" -which further reduces the significance of the sample.

The following paragraphs present some conclusive analyses of the information collected and propose some recommendations. Conclusions and recommendations, if any, are based on the following considerations:

1. analysis of the (current and future) EU and national regulation of the different aspects of consumer protection;
2. expectations with regard to the ability of competition mechanisms to guarantee consumer protection;
3. identification of consumer protection aspects which cannot be guaranteed by either 1. or 2. above and which might therefore need a recommendation.

### ***4.1 –Information to consumers***

1. NRAs were asked to explain whether the information to be published in accordance with Community Law was the only information required in their national regulation or whether something more was required.

NRAs were also asked to explain which operators or service providers were subject to which information obligations (organisations providing access to the fixed public telephone networks; organisations providing access to the mobile public telephone networks; organisations providing access to other networks; service providers; etc.).

The information collected through the survey shows a wide variety of regulatory situations in the different countries analysed and is of little practical use in the context of ascertaining common conditions, procedures and practices.

From the wide variety of answers analysed it can at least be concluded that more than half of the 12 countries for which detailed information is available oblige telecommunications operators to inform users about terms and conditions of access to and use of public networks. In particular, in more than 83% of the 12 countries, telecommunications operators are obliged to inform users about their tariffs and in 50% of them, telecommunications operators have to inform users about their compensation and refund policies.

**2.** Another question put to the NRAs in the survey was whether the information had to be published or given on request to interested parties and, in the case of publication, where should it be published.

The result of the survey shows that, in most of the cases, national regulations do not specify how the information has to be made available and the choice is therefore left to operators.

In a few cases, it is specified that the information has to be given on request to interested parties.

Often, especially, but not only, in monopoly situations, information can be found in the telephone directories of the operators or published in the Official Gazette.

An interesting case is that of the UK where information on price changes is included in leaflets which are sent out with the telephone bill and where OFTEL has the power to publish information which is in the interest of consumers.

**3.** The survey also aimed at collecting information on how up-to-date the information provided to the consumer must be.

It became apparent from the survey that in general the issue is not specified in national regulations and practices: in general it is simply stated that information has to be up-to-date. Only for information on tariff changes is a time limit of one or two months in advance sometimes specified.

**4.** The last question asked on the issue “information to consumers” was on how NRAs intend to ensure that consumers are informed of tariffs related to different services identified by certain numbers (e.g. which tariff is applicable to a call when the user dials 00 for an international call, or a prefix for a GSM network, or a prefix characterising a Premium Rate service).

On this matter, the regulation is clearly developed only with regard to Premium Rate Services. As also pointed out in a previous ETO study<sup>1</sup>, in almost all European

---

<sup>1</sup> ETO study for the European Commission on “Fixed Telecommunications Services other than Voice Telephony, Telex and Bearer Data Services”.



countries price indication is compulsory in all advertisements related to a Premium Rate Service and it must be clearly visible or audible.

With regard to other services, there is either no information available on how NRAs intend to ensure that consumers are informed, or it is stated that consumers have simply to rely on price information they might receive from the operators/service providers.

The UK presents an interesting case. An industry and consumer working group has been established to look at ways of better informing customers of costs associated with calls to mobile and other expensive numbers.

**The EU provisions on information to consumers (mainly contained in the new ONP-Voice Directive) would appear to ensure a sufficient level of consumer information. This also holds true for national regulations, in most cases.**

**With regard to competition mechanisms, it can be expected that in a competitive environment the consumer is free to select what he considers the best offer in the market in terms of prices, quality and any other relevant parameter which influences consumer choice. Consumers may nevertheless suffer due to the information provided being insufficient, incorrect or unclear, but in that case they can either complain to any agency or body in charge of consumer protection or appeal to a court.**

**In most European countries, however, the market of voice telephony services is going through a transitional period towards full competition. In this transitional period the disadvantages of an imperfect functioning of competition (e.g. proliferation of low cost/low quality options; increases in price discrimination) can harm consumers and it is therefore recommendable to maintain a certain level of direct regulation with regard to “information to consumers”. It is worth noting however that low quality/low cost options will appeal to some consumers over the long term and that price discrimination may increase overall consumer welfare.**

**Finally, tariffs, which are in most cases a driving factor in influencing customers’ choices, present a very high rate of change.**

**ETO recommends that telecommunications operators and service providers make information available on their tariffs, and do so in a form which is sufficiently detailed and transparent to allow consumers to make comparisons, using this information, without difficulty.**

**If operators and service providers do not conform to this recommendation to the detriment of consumers, NRAs will have to take adequate measures to ensure the observance of such a principle.**

## **4.2 –Fair contracts**

1. NRAs were asked to provide information on who is subject to the obligation of providing a contract (e.g. only organisations providing access to the public telephone networks or also other organisations, specifically service providers).

In more than 28% of the cases analysed, it is only the monopolist (where the sector has not been liberalised yet) or the ex-monopolist who is obliged to provide the subscribers with a contract.

In more than 21% of the cases, the obligation applies to all providers of public telecommunications networks and services.

In two of the countries it is specified that only organisations providing access to public networks are obliged to provide a contract, thus excluding service providers. In Germany only dominant network operators have the obligation to provide a contract.

Finally, in more than 28% of the analysed countries, all issues related to contracts are not regulated in telecommunication-specific regulation, but in general law or general consumer protection regulation. This 28% includes the UK and Sweden, countries where competition in the telecommunications sector has been in force for some years.

**2.** NRAs were also asked questions about what the contract should specify as a minimum and which contractual clauses, if any, should be included in the contract.

With regard to the content of the contract, the information collected in the survey leads to the conclusion that very few countries have clearly established what a contract should specify as a minimum: general delivery terms for the provision of the service (Finland); minimum provided service, procedures for compensation and reimbursement in the case of non-respect of the promised quality levels and information on procedures for dispute resolutions (Italy); all regulations required to specify in detail the mutual service relationship (Germany); information regarding time limits for delivery of the service and fault repair, quality of the service and conditions for access and use of the service (Norway).

In most of the cases, specific rules have not been established yet.

In a few cases, regulation on what a contract should contain as a minimum does not exist.

In the UK and Sweden, as said above, all issues related to contracts are not regulated in telecommunication-specific regulation, but in general law or general consumer protection regulation.

With regard to a list of minimum contractual clauses to be included in the contract, the result of the survey is pretty much the same as for the minimum content of the contract, with only two countries confirming the existence of minimum clauses: Denmark (conditions related to security must be open, objective and non-discriminatory; the customer shall be entitled to terminate the agreement for the service at any time after 6 months, without further costs) and Italy (clauses related to description of the services, quality levels to be respected, non-payment of bills and complaint procedures and complaint handling).

**3.** Regarding the question whether one or more “model” contracts exist to be used by operators/service providers as guidelines when drafting a contract, practically all countries answered that no such model contract exists.

**4.** The last question on “fair contracts” related to where consumers can find all necessary information on compensation and/or refund arrangements that apply if the

contracted service is not fully provided, and information on the method of initiating procedures for the settlement of disputes.

The survey showed that more than 35% of the countries considered include this information in general law or in the relevant regulation and around 22% answered that such information has to be included in the contract. The remaining 43% was equally divided among the following answers: a) no rules exist on the issue; b) such information is in the list of information to be given to consumers by telecommunications providers; and c) “no answer”.

**The EU provisions on fair contracts, mainly contained in the new ONP-Voice Directive, in the Directive on unfair terms in consumer contracts (93/13/EC) and the Directive on the protection of consumers in respect to distance contracts (97/7/EC), seem to ensure a sufficient level of protection of telecommunications consumers with regard to contracts.**

**Fair contract can be considered an issue to be regulated in general commercial and consumer protection laws, as is the case in many of the countries analysed, and it can be expected that competition will act as a stimulus for telecommunications operators to provide more customer-friendly contracts.**

**Nevertheless, as already explained above, in the transitional period towards full competition, consumers should be protected against the disadvantages of an imperfect functioning of competition, which could also lead to contracts containing abusive clauses or terms which could cause a significant imbalance in the parties' rights and obligations, to the detriment of the consumer.**

**Moreover, contracts for the provision of telecommunications services are - and will become even more so - a classic example of the conclusion of a contract regarding services whereby the contact between the consumer and the service provider takes place by means of technology for communication across a distance, i.e. the two parties do not meet face to face. Therefore, the provisions (contained in the above-mentioned Directive 97/7/EC) on the protection of consumers in respect to distance selling with regard to telecommunications contracts should be applied to all telecommunications operators and service providers .**

**ETO recommends that telecommunications operators and service providers involve consumer associations in the process of drafting their contracts.**

### ***4.3 –Itemised billing***

1. NRAs were asked to provide information on who were, in their countries, the operators designated to provide itemised billing (organisations providing access to the fixed public telephone networks; organisations providing access to the mobile public telephone networks; organisations providing access to other networks; service providers; etc.).

The survey results show that in almost 43% of the countries analysed it is only the monopolist (where the sector has not been liberalised yet) or the ex-monopolist who is obliged to provide itemised billing.

In more than 35% of the countries analysed, all providers of public telecommunications networks and services are obliged to provide itemised billing.

In the UK and Sweden, the issue is left to competition and each telecommunications operator is free to decide whether or not to provide its customers with such a facility.

In the UK, the experience has been that the facility is provided by nearly all operators in the country.

In Denmark the obligation to offer itemised billing applies to all providers of public telecommunications networks and services who have been assigned numbers in the Danish numbering plan for telephony, ISDN and mobile communications.

2. NRAs were also asked to describe the basic level of itemised billing, explaining what is a sufficient level of detail in an itemised bill and what are the additional levels of detail, if any.

In more than half of the countries analysed the itemised bill consists of separating charges for local, long-distance and international calls, with some of them also specifying calls to Premium Rate Services and to mobile services and in the case of one country (Spain) detailing only long-distance and international calls. In 5 of these countries the different calls are also itemised in terms of date of the call, time, duration and called number (in one country this applies only to international calls).

In more than 21% of the countries analysed the level of itemisation of bills has not been defined yet.

As already explained above, in Sweden and the UK billing is a competitive issue and therefore not regulated in telecommunications.

With regard to additional levels of itemisation, only one country (Malta) has a provision on the issue: the subscriber can request an itemised bill indicating the date, the number called, the time and duration of each call. The basic level of itemised billing in that country only consists of a separation of the calls per category.

In Spain, information on local calls is considered an additional level of itemised bill.

In all other countries no further level of itemised billing is foreseen or has been defined yet.

**The EU regulation on itemised billing (Art. 14 of the new ONP-Voice Directive), which provides for NRAs to designate one or more operators to offer itemised billing, does not specify what is a sufficient level of detail in an itemised bill and what are the additional levels which may be offered to subscribers. However, bill itemisation seems to be a facility already widely provided by most operators/service providers in Europe. It can therefore be considered, already now, as a commercial issue which follows competition mechanisms.**

**A basic level of itemisation consisting of distinguishing in the bill the amounts to be paid for local, long-distance and international calls is implemented in almost all European countries and is considered as sufficient by consumer organisations, as long as it is provided free of charge. It can be expected that, where not already imposed by law, any more detailed level of itemisation will be a matter of competition among different players in the market.**

#### **4.4 –Non-abusive disconnection**

1. NRAs were asked to give information on which organisations have specific obligations with regard to disconnection of the service/network.

The result of the survey is that more than 35% of the countries analysed impose certain obligations with regard to disconnection on the monopolist (where the sector has not been liberalised yet) or the ex-monopolist, while almost 43% impose obligations on all telecommunications operators.

In Denmark, only the Universal Service provider has specific obligations with regard to abusive disconnection.

In the UK, where there are no specific obligations in PTO's licences with regard to non-abusive disconnection, OFTEL is working with the industry and consumer representatives to draw up a comprehensive list of operator and consumer rights concerning disconnection and PTO's "consumer codes of best practice" set out operators' disconnection policies. New disconnection policy statements are expected to be published soon by BT and other main operators. This will include the right to an "outgoing calls barred service" accompanied by a repayment plan as an alternative to disconnection.

2. NRAs were also asked to describe the provisions related to disconnection in their national regulations.

In practically all countries analysed, the operators subject to obligations with regard to disconnection are allowed to disconnect only when the subscriber breaches the terms and obligations under the subscription agreement/contract. The list of breaches can vary from country to country, depending on the obligations included in the subscription agreements, but always include "non-payment of the telephone bill".

The procedures to be followed by operators before disconnecting vary from country to country. The following information is available: in Cyprus temporary disconnection for non-payment is activated about one week after last payment day; in Denmark disconnection due to gross breaches by the subscriber is activated upon at least one month's notice; in Finland the operator has to send notice giving the subscriber 2 weeks to settle the bill; in the case of non-payment, in Greece the operator is obliged to send the subscriber a notice giving him one month to settle the bill; in Italy the procedure varies depending on the reason for suspending the service or rescinding the contract; in Spain, disconnection for non-payment of a bill is activated 20 days from when the bill is presented to the subscriber; in Norway the operator can disconnect not earlier than two months after giving notice to the subscriber.

In all the countries analysed, excluding Denmark and Norway, the disconnection has to be communicated in writing.

3. NRAs were also asked to explain whether some specific organisations had to continue offering their services for a reasonable period of time before termination.

Belgium answered that the Universal Service provider has such an obligation, while in Italy it is specified that the suspension of the service will leave the subscriber able to use emergency numbers and to receive calls in all cases where this is technically possible. In the UK, BT and Kingston have such an obligation.

4. Another question put to the NRAs was whether, in their national regulations, there exists a list of all possible situations in which the organisations concerned can disconnect.

Such a list exists in very few countries.

In Denmark the list consists of all the cases in which the Universal Service provider is allowed to disconnect: all cases in which the subscriber grossly violates his obligations under the subscription agreement are listed.

In Finland, if a household user can prove that the failure to pay the bill is due to an illness or unemployment or other important reasons, the service cannot be disconnected if the bill is paid within one month of the dispatch of a reminder. In Germany the list of operators' rights and obligations corresponds to the provisions applicable to operators with regard to disconnection, while the consumers may raise objections, conclude an agreement extending the term for payment or pay the average amount of disputed telephone bills in order to be reconnected. In addition, they may bring their cases before the NRA for conciliation or before the courts with the request for an immediate judicial order.

As said above, in the UK OFTEL has worked with the industry and consumer representatives to draw up a comprehensive list of operator and consumer rights concerning disconnection.

**The EU regulation on “non-abusive disconnection” (mainly contained in the new ONP-Voice Directive) leaves open some questions such as how long the reasonable period of time should be during which the service has to be continued before termination; should the operator communicate the disconnection in writing; should providers of Universal Services not be allowed to disconnect or should they be obliged to maintain at least a restricted service for a certain period; what should such a restricted service be; and how long should the period be.**

**Obligations on “non-abusive” disconnection imposed on telecommunications operators exist and are clearly defined in the legislation and regulations of all European countries, but an easily understandable and easily available list of consumers' rights with regard to disconnection exists in virtually none of the countries studied.**

**Moreover, a wide variety of social goals which were fulfilled by the monopolist under the monopoly regime are expected to be met in the new liberalised telecommunications sector, but it is to be expected that many of these goals cannot be achieved in a completely unregulated competitive market. One of these social goals is, for example, to ensure that a Universal Service provider, after disconnection of outgoing calls, maintains the provision of incoming calls and emergency services for an unlimited period of time. However, these goals, even if strictly related to consumer protection, have to be considered as regulated by regulation on Universal Service obligations and are therefore out of the scope of this study.**

**ETO recommends that:**

- **NRAs, together with consumer associations and telecommunications organisations draft a list of consumers' rights with regard to disconnection;**
- **the due warning given before disconnection to the subscriber by telecommunications operators and service providers is given in writing;**
- **the period elapsing between the first written warning and the activation of disconnection is not shorter than 1 month, except in cases of fraud and persistent late or non-payment;**

**4.5 –Recourse procedures**

1. NRAs were asked to provide information on which operators had the obligation to set up a service for consumers' complaints and how this service worked in practice.

In practically all countries analysed, the public telecommunications operators have an obligation to set up a service responsible for answering consumer complaints. Moreover, in Belgium a mediation service, independent from Belgacom, has been established by law to offer easy and free access to recourse procedures and in the UK PTOs are required to offer customers an independent arbitration procedure for dispute resolutions.

2. NRAs were asked to explain whether complaint-handling procedures of operators/service providers have to be formally agreed with the NRA or any other independent body.

This provision applies only in a few countries. In Denmark complaint-handling procedures shall be ISO9002-certified or certified according to similar standards, while in Norway they have to be agreed upon with the NRA. In Italy the operator is only obliged to transmit to the Ministry of Communications a copy of the complaints received and not solved.

In the UK, the ex-monopolist has to formally agree its complaint-handling procedures with the Director General of Telecommunications.

3. NRAs were also asked to explain whether operators/service providers had to make a decision within a certain period of time from receipt of the customer complaint and how these operators/service providers should communicate their decision to the consumer.

Once again, the information available is unfortunately very limited, but it shows that the procedures are very different from country to country. In Denmark the answer from the operator to the complainant does not necessarily have to be in writing and has to be given within three months from lodging the complaint (six months if checking is needed). In Italy the decision has to be communicated in writing within 30 days.

TeleMalta's target is to answer to the complaint within a maximum period of 20 working days from receipt. In Norway the answer has to be in writing, but there is no time limit within which to take a decision. In Portugal the consumer has to be notified of the answer to his complaint within 30 days.

4. With regard more specifically to recourse procedures, the NRAs were asked to specify whether the general framework of recourse procedures was the only regulation applicable to telecommunications issues or whether telecommunication-specific recourse procedures were also available to consumers; and in the case that specific telecommunications recourse procedures existed, whether they apply only to some operators (e.g. the former monopolist) while the general framework (or general consumer protection rules) applies to other operators/service providers (e.g. a new entrant providing international telephony service).

From the (only) 4 countries which gave an answer to this question, it could be concluded that general legislation on recourse procedures is applicable to telecommunications issues. Alongside this, however, telecommunication-specific recourse procedures also apply, with no distinction between different types of operators.

In Sweden, for all issues related to recourse procedures, general consumer protection rules apply.

5. The last question put to NRAs in this survey was about which bodies were responsible for handling consumers' complaints and what was the value of these bodies' decisions.

Only 11 countries gave an answer to this question. In 7 of them the body responsible for handling consumers' complaints is the Telecommunications NRA, supplemented in 2 of them by a Telecommunications Consumer Board, in one of them by a Telecommunications Consumer Board and a Consumer Protection Agency and in another by Consumer Associations, Conciliator/Arbitrator and Courts.

In Sweden, where general consumer protection rules apply to all issues related to recourse procedures, the responsible body is the Regional Consumer Guidance, while in Italy the responsible bodies are regional courts.

Finally, in Malta, where TeleMalta is the monopolist responsible for both operational and regulatory functions, different bodies within TeleMalta are responsible for handling consumers' complaints. If, after appealing to all these internal bodies the complainant is still not satisfied, he can appeal to the Appeals Board, an independent body set up by TeleMalta itself.

**Recourse procedures comprise an issue which can hardly be considered telecommunication-specific and which can be regulated in general law or in the general consumer protection law, depending very much on the national legal system of a country. The survey of this issue aimed only at collecting, analysing and comparing information on procedures and practices related to recourse procedures in European countries.**

**With regard to the requirement for telecommunications organisations to create internal services for handling consumers' complaints, it seems that this is a**



**reality in almost all European countries. It would be very important, in the interests of both consumers and telecommunications organisations, to make data on consumer complaints publicly available, in order to improve both the service offered and the customer/provider relations.**

**ETO recommends that NRAs ensure the publication of data and statistics on the number and the kinds of complaints filed every year by telecommunications users, both to NRAs and directly to the telecommunications operators and service providers, and how they have been solved.**

#### **4.6 –Quality of service**

When discussing the issue with ECTRA experts with the aim of identifying areas where further studies were needed, it was decided to leave the issue open to further analysis depending on the results of discussions on the subject with consumer organisations.

ETO discussed the issue with BEUC, the European Consumers' Organisation.

BEUC is of the opinion that quality of service is an essential issue to be considered at the European level with regard to consumer protection and that common quality performance targets should be set at the European level and made publicly available. European NRAs must set performance targets in the authorisations (general or individual licences) that apply to organisations providing fixed public telephone networks and/or publicly available telephone services.

BEUC proposes to set these European common targets as a long term goal. It should be possible to set common targets corresponding to the average quality parameters of all European telecommunications operators. These parameters do not have to be necessarily respected immediately in all countries, but can be seen as goals to be reached in all countries within a certain period of time.

The UK has provided the following input to the still-open discussion with regard to quality of service:

In the UK quality of service targets are not pre-specified as this may stifle progress rather than promote it. Sufficient account may fail to be taken of market dynamics and the need to avoid the second-guessing of customer expectations. Instead, regular and comparable quality of service information is collected and published and this allows effective monitoring and benchmarking. Combined with the increasing pressure of competition, this is considered the best way of delivering improvements in service quality to customers.

#### **4.7 –Conclusions**

The analysis conducted in this study has identified the following as the main aspects of consumer protection in the telecommunications sector:

- **information to consumers**

- **itemised bills**
- **fair contracts**
- **non-abusive disconnection**
- **recourse procedures**

The analysis conducted in this study has shown that:

- the proposed ONP-Voice Telephony Directive provides for a quite high level of harmonisation with regard to consumer protection issues. The result of this is that no more harmonisation seems to be needed, at least on the general principles and in many cases also in some of the detailed measures;
- certain details of the provisions contained in the ONP-Voice Telephony Directive have been implemented in ways which vary very much from country to country, subject to national interpretations. This does not necessarily imply the need for further harmonisation because the differences in the way the ONP-Voice provisions have been implemented reflect national specificities, very often of a social and political character or linked to market characteristics that can hardly be the object of a harmonisation process and that do not prevent the development of a freely competitive internal market;
- telecommunications consumer protection can be reached through measures established by operators on a voluntary basis or through regulations which are not at all telecommunication-specific, very often depending on national legal and juridical traditions which cannot be the object of a telecommunication-specific harmonisation;
- in a market which is not yet open to complete competition, a number of issues related to consumer protection need to be regulated, but once the market has demonstrated its efficiency, these same issues will lose their relevance because competition mechanisms will guarantee protection to consumers.

It can therefore be concluded that

**From the investigation and the analysis conducted in this ETO study it appears that no further harmonisation is needed with regard to telecommunication-specific regulation on consumer protection.**

The analysis conducted in the study also aimed at helping operators to respect consumer protection provisions in Europe and at setting consumer protection targets at a European level. The result of this exercise, illustrated in the previous paragraphs of this chapter, can be summarised in the concluding recommendations presented below.

The opinion of the telecommunications industry on the ETO recommendations is presented in Annex 6, which consists of a summary of the comments collected during a Workshop held in Brussels on 21 October 1997 with the aim of presenting and discussing three ETO studies, including the one on “Consumer Protection”.

#### ***4.7.1 –Concluding recommendations***

With regard to “information to consumers”

**ETO recommends that telecommunications operators and service providers make information available on their tariffs, and do so in a form which is sufficiently detailed and transparent to allow consumers to make comparisons, using this information, without difficulty.**  
**If operators and service providers do not conform to this recommendation to the detriment of consumers, NRAs will have to take adequate measures to ensure the observance of such a principle.**

With regard to “fair contracts”

**ETO recommends that telecommunications operators and service providers involve consumer associations in the process of drafting their contracts.**

With regard to “non-abusive disconnection”

**ETO recommends that:**

- **NRAs, together with consumer associations and telecommunications organisations draft a list of consumers’ rights with regard to disconnection;**
- **the due warning given before disconnection to the subscriber by telecommunications operators and service providers is given in writing;**
- **the period elapsing between the first written warning and the activation of disconnection is not shorter than 1 month, except in cases of fraud and persistent late or non-payment**

With regard to the requirement for telecommunications organisations to create internal services for handling consumers’ complaints,

**ETO recommends that NRAs ensure the publication of data and statistics on the number and the kinds of complaints filed every year by telecommunications users, both to NRAs and directly to the telecommunications operators and service providers, and how they have been solved.**

## **ANNEX 1 -WORKORDER ON “CONSUMER PROTECTION” SIGNED BY ETO WITH THE EUROPEAN COMMISSION**

### **1. Subject: Consumer protection**

### 2. Purpose

To identify and analyse the general requirements on consumer protection linked to the provision of public fixed voice telephony services, and to propose a set of harmonised conditions to be attached to authorisations of service providers in CEPT/ECTRA countries, after the liberalisation of voice telephony services and infrastructure in the European Union.

### 3. Justification

Council resolution of 22 July 1993 on the review of the situation in the telecommunications sectors and the need for further development in that market, establishing the timetable of the liberalisation of telecommunications services, including additional periods of up to five years to 5 Member States.

Council resolution of 18 September 1995 on the implementation of the future regulatory framework for telecommunications, inviting the Member States to foster the establishment of dynamic competition by defining and publishing at the earliest opportunity, with a view to the future Community regulatory framework, the general authorisation and individual licensing regimes applicable to the whole telecommunication sector.

European Parliament and Council Directive 95/62/EC of 13 December 1995 on the application of Open Network Provision (ONP) to voice telephony.

Proposal of 14 November 1995 for a “European Parliament and Council Directive on a common framework for general authorisations and individual licences in the field of telecommunications services” which concerns the procedures associated with the granting of authorisations and the conditions attached to such authorisations in order to attain public interest objectives to the benefit of telecommunications users, such as requirements relating to consumer protection.

Annex 1 of the above-mentioned proposal for a directive (14 November 1995) listing the only conditions which may be attached to authorisations.

#### 4. Work requirement

- (1) to identify and analyse the consumer protection obligations linked to the provision of public fixed voice telephony services and to divide obligations between those which are telecommunication-specific conditions and those which are applicable to other sectors in the CEPT/ECTRA countries.
- (2) to propose harmonised consumer protection obligations which are telecommunication-specific and could be included in the set of licensing conditions for public fixed voice telephony services.
- (3) to indicate obligations, not mentioned in 2, for which further studies should be undertaken and in which an/other organisation/s could be involved.

#### 5. Execution

The final report on this work requirement will be made available to the Commission on 1 October 1997

#### 6. Deliverables

Two interim reports and one final report shall be delivered.

The first interim report shall be delivered during the course of the work, containing identification, description and analysis of obligations to be considered in the provision or authorisation of telecommunications services (December 1996).

The second interim report shall contain the draft findings and proposals as they will be submitted to CEPT/ECTRA for approval (June 1997).

The final report shall contain the findings and proposals, as approved by CEPT/ECTRA and will include any comments individual CEPT/ECTRA members have on the implementation with regard to their respective national regimes.

All reports shall be made available in draft form one month before a liaison meeting at which the results will be discussed and approval can be given for their release.

The Commission shall receive three copies of the interim reports, while the approved final report shall be made available in 15 bound copies, one unbound copy and one copy on floppy disk in Word for Windows V2.0 format. Graphics shall be made available on separate hard copies.

#### 7. Manpower

It is expected that this task can be accomplished in 10 man-months of effort at expert level, including subcontracting.

## 8. Subcontracting

Subcontracts may be given to external experts for the execution of parts of this contract, representing 3 man-months.



## **ANNEX 2 -CONTRACT ON “CONSUMER PROTECTION” SIGNED BY ETO AND IDATE**

The purpose of this ETO study is to identify and analyse the general requirements of consumer protection linked to the provision of public fixed voice telephony services, and to propose a set of harmonised conditions to be attached to the authorisations of service providers in CEPT/ECTRA countries, after the liberalisation of voice telephony services and infrastructure in the European Union.

ETO's study should a) result in proposals for harmonised telecommunication-specific consumer protection obligations which may be included in the set of licensing conditions for public fixed voice telephony services and b) indicate obligations not mentioned in (a), for which further studies should be undertaken and in which other organisation(s) could be involved.

The tasks of the subcontractor with regard to this study are the following:-

### **Work requirements:**

- (1) to identify the obligations of consumer protection linked to the provision of public fixed voice telephony services and to divide obligations into those which are telecommunication-specific conditions and those which are applicable to other sectors;
- (2) to identify the entity within national administrations which is in charge of consumer protection regulation for public fixed voice telephony services, and where this entity is not the one in charge of telecommunications, to provide details on it;
- (3) to identify consumer demands with regard to obligations of consumer protection linked to the provision of public fixed voice telephony services

The study, to be based on work requirements 1-3 listed above, should be conducted in the following countries:-

#### a) EEA countries:

Austria, Belgium Denmark, France, Finland, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, the UK;

#### b) Other CEPT countries:

Albania, Andorra, Bosnia, Bulgaria, Croatia, Cyprus, Czech republic, Estonia, Hungary, Latvia, Lithuania, Malta, Moldova, Monaco, Poland, Romania, Russian federation, San Marino, Slovak republic, Slovenia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, Vatican City.

Information on EEA countries has to be as complete and exhaustive as possible; for other CEPT countries, information should be provided where applicable/available.



**Execution:**

The final report on this study will be made available to ETO on 4 November 1996. The subcontractor will give a presentation of the study to ETO and the ECTRA Project Team on Licensing at a meeting which will be held in a European country.

**Manpower:**

The task is evaluated at 2 man-months.

## ANNEX 3 – ANSWERS TO THE IDATE QUESTIONNAIRE ON CONSUMER PROTECTION

### Information to consumers (Publication and adequate notice of any change in access conditions, including tariffs, quality and availability of services)

- Belgium** As laid down in its management contract, Belgacom has to publish in its directories the tariffs of its services.  
Mobile operators (2nd operator since August 1996) have no such obligations.  
Fixed voice telephony operators will have this information obligation (implementation of ONP voice telephony directive).  
BIPT is thinking about introducing equivalent obligations for mobile operators.
- Denmark** General class license (Executive order n°712) includes the obligation of providing information to the consumer  
- \$6, (1) "on request, providers of public telecommunications networks and services shall inform any person of the terms applicable to the provision including notice of termination, quality, prices, delivery periods and any requirement for security to be provided.  
  
(2) on request, providers of public telecommunications networks or services shall inform any person of the extent to which it is possible via the networks or services of the provider in question to communicate with end-users who are customers of other providers of telecommunications networks or services as well as prices and terms for this.  
  
(3) Information about conditions mentioned above shall be given to any customer at the latest in connection with the establishment of a customer agreement".  
  
The terms of subscription approved by the National Telecom Agency includes obligations for consumer information : the consumer is informed of the scope of the subscription, the supplementary services and facilities, if any, the time of order execution and usage charges.
- Finland** Telecommunications operators must have written commitments on the delivery terms for the telecommunications subscriptions and services offered.  
A Subscription contract between the operator and the user on the supply and use of a telecommunication service must be concluded.  
Telecommunications operators must have public price lists (tariffs are set freely by operators).
- France** Article 23 of the "cahier des charges" of France Telecom includes obligations to provide information to consumers. The new licence should include the same obligations.  
The mobile licences include obligations to provide information on services and tariffs to the consumers.  
As stated in the law 96-659, the new licences will very likely include the obligations to inform consumers about the tariffs and the contractual conditions.  
  
France Telecom has specific obligations on consumer information.

<b>France (contin.)</b>	<p>The law 96-659 foresees obligations of consumer information on tariffs and contractual conditions for every service provider.</p> <p>The obligation of information included in the ONP voice telephony directive is under implementation.</p>
<b>Germany</b>	<p>All obligations related to consumer protection are included in the Telecommunications Act.</p> <p>The Telecommunications Customer Protection Ordinance contains a number of specific information obligations of Deutsche Telekom.</p> <p>The Telecommunications Customer Protection Ordinance is being revised. General obligations will be imposed on all the operators and specific obligations on the dominant operator.</p>
<b>Greece</b>	Nothing
<b>Netherlands</b>	<p>PTT Telecom must inform customers of any change in the network characteristics as far as it has an effect on the provision of the service. All tariffs and changes in tariffs must be announced to the customers.</p> <p>Nothing more is foreseen unless the revised Voice telephony directive imposes further obligations.</p>
<b>Portugal</b>	<p>The draft regulation for the exploitation of public fixed telephony services establishes a wide range of specific obligations related to consumer information. The operator is bound to publish and make available information on : types and access conditions, service facilities, methods of compensation and reimbursement, conditions for terminal equipment network connection, standards and indicators of quality of service, prices, numbering and recourse procedures.</p> <p>The provision of public fixed voice telephony services implies regular publication and distribution of directories and special information services. Portugal Telecom has the same obligation of information for all the services it provides.</p>
<b>Spain</b>	Nothing
<b>Sweden</b>	<p>An obligation for the licensee to keep information available on the telephony services provided is included in all licenses; the information shall encompass fees and charges, delivery period, terms of usage with information about ordering procedure, the contractual period, the repair time and any refund procedure, restriction for access and usage and procedures at the event of failing of payment.</p> <p>In addition, consumer protection law applies.</p>
<b>UK</b>	<p>Condition 16 of BT's licence requires it to publish its charges for services.</p> <p>BT are required by their Licence to advise the consumers of any main price changes (They do so by sending leaflets with consumers' bills).</p> <p>If consumers need advance notice of price changes they may register at BT Pricing Information Service. They also gain access to further information by calling a free phone number.</p> <p>OFTEL has recently completed formal consultation on the introduction of a fair trading condition into BT's licence which amongst other things will prohibit deceptive marketing practices. It is intended that similar conditions will be inserted into other operators' licences.</p> <p>OFTEL has a general power to publish information which would be in the interests of the consumer. OFTEL has drawn up a good practice guide encouraging PTOs to produce inclusive guides covering a wide range of consumer rights. There is a code of practice for live conversation services (established by the independent committee for the supervision of standards of telephone information services), which the service providers offering premium rate services have to follow. This code includes rules regarding the content of promotional and advertising material which are designed to</p>

<b>UK (contin.)</b>	ensure that customers are properly informed about the cost and nature of these services. OFTEL is working to assist CA to publish comparative information on the prices charged by different telecommunications companies. An industry and consumer working group has been established to look at ways of better informing customers of the costs associated with calls to mobile numbers and other expensive numbers.
<b>Czech Republic</b>	Consumer information obligations are defined in the Telecommunications Act, in the Telephone regulation and in the general conditions issued by an operator on the basis of his license and approved by the Czech Telecommunication Office.
<b>Estonia</b>	The operator has to determine the conditions of the service and the rights, obligations and responsibilities of the parties. There are provisions on consumer information in the Estonian Telephone Company Ltd regulations on subscriber telephones and in Estonian mobile telephone company Ltd regulations on NMT and GSM.
<b>Latvia</b>	PSTN operators shall provide information on services, tariffs, terminal equipment use, billing information.
<b>San Marino</b>	Both specific regulation and inclusion of this provision in telecommunications regulations are under study.
<b>Switzerland</b>	Reference to federal law on consumers' information and federal law on unfair competition. Obligation of detailed information on prices and quality. The federal council has fixed the detailed prices of the telecommunication services of the monopolistic operator. In the future, details on price and quality of the universal service will be in an ordinance of government.
<b>Ukraine</b>	A harmonised set of obligations is intended to be included in the standard form of the operators' licence.

**Fair contracts (Prior approval by the national regulatory authority of the standard subscriber contract)**

- Belgium** Operators' contracts with consumers might be submitted to the Consultative Committee mediation service, but this has not been decided yet.  
At present, Belgacom have to submit their project of contract to the consultative Committee on Telecommunications and the same obligation might be imposed on other operators.
- Denmark** The general class license includes obligations on fair contracts (§8 of the Executive Order n°712) :
- prices must be independent of the purpose for which the customer is using the services
  - prices and terms for access and use are arranged in such a manner that the customer is not compelled to accept or pay for services, facilities or other offerings that are not necessary for the service requested.
  - conditions under which security is provided must be open, objective and non-discriminatory
  - the customer is entitled to terminate the agreement for a service at any time after six months, without further cost (even if the agreement includes conditions specifying that the agreement is not terminable for a period of more than six months) - this is applicable only for customer agreements corresponding to consumer transactions (see 4a of the Danish Sale of Goods Act).
- The terms of subscription of Tele Danmark approved by the National Telecom Agency include a paragraph (§17) on the limits of the liability of Tele Danmark but also a paragraph (§16) on the reduction of subscription charges in the case of non-respect of the time of execution by Tele Danmark or if faults occur leading to interruption of the connections, provided that the amount exceeds DKK 25 (in the cases when these lack of quality are due to circumstances under the control of Tele Danmark).  
In the terms of subscription it is stated that (§21) Tele Danmark may change the subscription terms upon at least 2 months notice via a written notification sent together with an invoice. Minor adjustments of subscription terms are noticeable through the publication of an advertisement in Danish national newspapers upon at least two months' notice.
- Finland** The terminals and the telecommunications services (e.g. subscription) cannot be bound. Consumers must always have the opportunity to select a network operator for trunk calls on a case by case basis.
- France** Law 96-659, (article 33-1 r) includes an obligation of information to consumers regarding contractual conditions and compensation charges in case the service does not meet the quality objectives.  
Provisions of the ONP voice telephony directive are under implementation.
- Germany** The Telecommunications Customer Protection Ordinance TKV contains a number of provisions in order to ensure fair contractual arrangements. In particular, these provisions intend to avoid abuse of power by Deutsche Telekom in contractual arrangements. They are related to :
- prohibition of restrictive practices §4
  - prohibition of abuse and obligation of equal treatment §5
  - transparency requirement: separation of quotations for different services § 7
  - open network access §10
  - specific obligations to contract §22
- Greece** Nothing, the regulator has not defined the type of contract that operators should propose to consumers.

<b>Netherlands</b>	Nothing
<b>Portugal</b>	The draft new regulation of "Exploitation of public fixed telephony services" foresees that provision contracts shall be submitted to the NRA (ICP) for approval after consultation with the Consumers Institute.
<b>Spain</b>	Nothing
<b>Sweden</b>	Nothing telecommunication-specific because this matter is regulated under the general consumer protection law.
<b>UK</b>	Detailed contract terms are not regulated by licence conditions. However BT is prevented from showing undue preference to particular persons of any class or description. Competition will act as a stimulus for operators to provide more customer-friendly contracts. If contract terms are considered unfair OFTEL will consider whether some changes are necessary and, where appropriate, seek to introduce them by negotiation or will consider referral to the Office of Fair Trading (OFT). This latter is currently active in weeding out unfair contract terms in the telecommunications field.
<b>Czech Republic</b>	Licensing conditions include a provision stating that one service cannot be bound with another and that equal access should be guaranteed to all customers.
<b>Estonia</b>	Some measures related to fair contracts are described in the Estonian Telephone Company Ltd regulations on telephone subscribers.
<b>Latvia</b>	Nothing.
<b>San Marino</b>	Models of contracts are under study. Their introduction is foreseen before 1998.
<b>Switzerland</b>	Detailed subscription conditions to Telecom PTT services are publicly available. For other operators, the contract conditions will be determined in an ordinance of the Federal Council after liberalisation.
<b>Ukraine</b>	An harmonised set of obligations is intended to be included in the standard form of the operator's licence.

## Quality of the service

- Belgium** Belgacom has quality of service targets and provides regular statistics. The licence of mobile operators include obligations regarding the quality of service (QoS) they have undertaken to fulfil. For fixed voice telephony, QoS targets will be set in licences only for the Universal Service (US) provider(s). Obligations on the publication of QoS indicators are not yet decided for operators other than the US provider. But the user should have easy access to the information. There should not be quality problems in the future; the consumer should be enabled to procure adequate quality. The management contract of Belgacom includes obligations related to different quality of service indicators. Mobile operators' licences include obligations on installation time and average time for the answering of directory services. It appears very likely that there will be the same list of obligations for all operators in the future.
- Denmark** With regard to technical aspects of quality of service, obligations are foreseen in the future for the universal service provider. With regard to non-technical aspects of quality of services, in the terms of subscription (§7) it is foreseen that Tele Danmark and the customer agree on the time of execution. If Tele Danmark finds that the time of execution cannot be kept, it may annul it within five workdays and arrange a new time of execution with the customer. §10 details the conditions of fault correction (which has to be as quick as possible) and details the liability of fault correction between Tele Danmark and the customer. Also for non-technical aspects of quality of service, obligations are foreseen in the future for the universal service provider.
- Finland** Quality of service is in a large measure linked to competition. However, telecommunications operators have quality obligations in their licences related to, for instance, call failure rates, transmission quality, etc.. International standards are referred to in the regulation of the network performance but not specifically in licences. Network performance requirements are set in the constructional requirements for telecommunications networks. International standards are referred to as requirements. Operators are obliged to keep statistics on QoS information and the Ministry of Transport and Communications publishes yearly statistics on the operators' performances.
- France** France Telecom's contract with the French State includes several technical quality of service obligations that the operator has to fulfil and to report on. Quality obligations are also included in the licences of mobile operators. Implementation of the law 96-659, which places obligations of permanence, quality and availability of the network on the operators. Law 96-659 foresees that obligation of permanence, quality and availability of the network will be included in the list of specifications to the operators. Moreover, provisions of the ONP voice telephony directive are under implementation. With regard to non-technical quality of service, France Telecom has quality of service targets to meet and it has to report on regional and national indicators and to publish them regularly. The principle of regular provision of information on quality of service indicators to the ART (the future new French NRA) will be included in the licences. Quality of service targets will be maintained in the frame of the universal service provision.
- Germany** The TKV includes obligation of compliance with European standards and service

features (§10, section 2 TKV 1995).

Also, the obligation to provide a minimum offer of technically specified leased lines in accordance with Appendix II of directive 92/44/EEC of the Council §23 section 2 TKV 1995 applies.

With regard to non-technical quality of services, the TKV includes obligations related to :

- time normally needed for installation and time needed for installing at least 80% of all leased lines and all telephony connections
- time normally needed for interference suppression ; time needed for restoring at least 80% of all transmission routes or at least 80% of all telephony connections.

<b>Greece</b>	Nothing.
<b>Netherlands</b>	<p>PTT Telecom has the general obligation to provide infrastructure and services at the quality level that can be reasonably expected from a modern company.</p> <p>In the future, all obligations stemming from the ONP voice telephony directive will be included in the set of obligations of quality of service.</p> <p>With regard to non-technical quality of service, PTT Telecom has obligations related to installation and repair time. They are obliged to report to the Ministry every year on the results.</p> <p>The regulator will implement the ONP voice directive which is expected not to increase quality of service obligations. New operators shall try to compete on prices, but also on quality and service level; no strong supervision shall be necessary.</p> <p>Therefore, no more obligations than those included in ONP voice telephony directive will be imposed; competition should ensure quality of service.</p>
<b>Portugal</b>	<p>The public fixed voice telephony service operator is obliged to fulfil certain technical standards and indicators of quality of service: percentage of non-completed calls, percentage of call with quality transmission, time delay prior to obtaining the dial tone, and time delay between dialling the number and the establishment of the communication. New technical aspects may be added to follow the technological development of the telecommunications industry and the consumers' needs.</p> <p>Specific obligations related to non-technical aspects of quality of service are included in the convention: time delay to install network lines, average age of the waiting list for the installation of network lines, time delay to repair, and billing complaints procedures.</p> <p>New aspects may be introduced to follow the development of the industry and the consumers' needs.</p>
<b>Spain</b>	Nothing
<b>Sweden</b>	<p>Existing obligations are related to: supply time for initial connection, fault repair time, call failure rates and reliability of service.</p> <p>The network shall have a quality that enables communication with a capacity of 2 400 bit/s. This is a general condition for all licensees with regard to fixed telephony service.</p> <p>The conditions are to be perceived as a floor regarding service quality for fixed telephony service.</p>
<b>UK</b>	<p>PTOs licences in general (with the exception of BT's) do not specify technical quality of service standards for customers.</p> <p>BT's licence includes technical quality of service obligations to ensure that BT does not discriminate in the quality of interconnection services.</p> <p>OFTEL monitors BT's investment program in fiber-optic transmission (this has a major impact on the technical quality of service provided to the customers).</p> <p>OFTEL monitors BT's quality of service on a regular basis. Statistics are produced on a</p>
<b>UK</b>	



(contin.)

regular basis and include, among others, call success rate, network reliability, service provision, repair service, directory assistance, operator service and public pay phone availability.

An exercise to measure the quality of service of mobile networks by means of an independent drive-around survey was carried out in 1992 / 93 by two mobile operators (Cellnet and Vodafone) with the encouragement of OFTEL.

OFTEL is working with the four mobile operators to develop comparable quality of service indicators designed to measure quality of service of mobile networks. Two consumer-focused indicators are being considered: blocked calls and dropped calls. PTOs have no obligations in their licenses related to non-technical quality of service. OFTEL has some statutory powers under the Competition and Service (Utilities) Act 1992 to fix performance target and publish performance indicator data for BT and Kingston Communications. But OFTEL has chosen not to exercise these powers. OFTEL has been working on a voluntary basis with telecommunications operators and consumer representatives to publish statistics for consumers on quality of service of fixed link telecommunications companies, which are comparable across companies. Initially performance has been measured on five indicators :

- service provisioning
- customer reported faults per 100 customer lines
- fault repairs
- complaint handling
- bill accuracy complaints per 1000 bills issued

In addition, operators are also conducting satisfaction surveys among customers who have had a service provided / repair carried out / complaint resolved. The results of these surveys will be published shortly.

BT and Kingston's voluntarily agreed to set quality standards for response times and offer compensation if these are not met.

OFTEL successfully encouraged BT and Mercury during the duopoly period to publish quality of service data (albeit not on a comparable basis). BT continues to publish this data on a six monthly basis.

Some operators, including BT, offer customer service guarantees which set out the compensation the customers will be paid if the operators fail to meet the targets they have set themselves. OFTEL has endorsed BT's customer service guarantee scheme. New performance indicators will be added after direct consultation with consumer representatives to ensure that the indicators are relevant to consumer needs.

Work has also started on the project to publish performance indicators information for mobile services.

**Czech Republic**

Quality of service obligations are included in the operator's licence and are considered as conditions for obtaining authorisations for providing services.

Quality of service obligations are also included in general conditions and technical regulation.

**Estonia**

Some technical aspects of quality of service are included in the Estonian Telephone Company Ltd regulations on subscribers telephone. Some sanctions in case of a failure to meet these obligations are described.

Non-technical quality of service is in to large extent up to the competition; however, telecommunications operators have requirements related to billing accuracy, for instance.

**Latvia**

There are several technical quality of service obligations in the licence of cellular operators. In the future telecommunications regulation, technical quality standards will be approved.

**San Marino**

Provisions related to quality of services will be set before 1998.

**Switzerland** Quality of services obligations are not included in licences at present. In the near future, such obligations will be determined in an ordinance of the federal Council.

**Ukraine** An harmonised set of obligations will be included in operators licences in the future. Some quality of service obligations are at present included in the instructions for consumer services and in the related standard contracts.

## Levels of consumption and Billing accuracy (Provision of detailed and accurate billing)

**Belgium** At present, there are no obligations with regard to "levels of consumption" in the operator's licence. The only action taken is maybe a warning service if the bill is higher than usual. The telecommunications regulation provides that, on request of the Consultative Committee, Belgacom calls the consumers when their levels of consumption reach amounts never reached before.

On audiotel services, the consumer is warned when he has been on line for more than ten minutes.

The billing system of Belgacom has been submitted to the consultative Committee. So far, local, interzonal, and infokiosk calls are separate. International calls are always itemised (date, number, length).

There are no obligations of billing accuracy in licences of the mobile operators. Nothing is really foreseen for future licences, but mobile operators' bills are not so easy to read at present. Belgacom mobile provided a detailed bill but it had to compromise for reasons related to the protection of private life. Now, the normal bill is not detailed any more but it can be detailed on request from the consumer.

There might be an obligation of billing on a monthly basis or an obligation of providing a warning system if the amount to be paid is higher than usual.

**Denmark** The general class licence (Executive order n° 712) includes (§11) the obligation to the operators to offer the customers the option of subscribing to supplementary services: itemised billing; call barring; billing control arrangement. These supplementary services are provided free of charge or for a payment not exceeding the cost of providing the services.

Billing control: The customer should have on-line access at any time, via the telephone, at the normal tariff, to check the current balance of the amount he will be billed by the provider; this balance has to be up-dated at intervals of 24 hours.

(This does not apply to analogue exchanges established and put into service before 1st July 1996).

Call barring (§14): this offers the possibility of preventing out-going calls to certain destinations (and the option of cancelling such barring).

There is the possibility of a billing control arrangement between the provider and the customer: the telephone connection is barred to outgoing traffic when the usage exceeds an amount agreed in advance. This barring option may be cancelled by the customer using a PIN agreed in advance.

In the terms of subscription, §15, of Tele Danmark it is stated that the invoices are normally sent on a quarterly basis. But on request from the customer, Tele Danmark may forward invoices at shorter intervals and add a surcharge for this additional expense.

The general class licence (Executive order n° 712 - §9) states that the charging, billing and invoicing systems are certified according to the ISO-9002 standard (or similar recognised standards).

In certain cases, the NRA may dispense with the requirements for certification.

(§11 indicates that providers must offer the itemised billing as a supplementary service: indication of date, time, called number, call duration and price for the call).

**Finland** Operators provide a service through which the consumer can check the cost of a telephone call.

Some operators give an early warning bill if the total amount to be paid exceeds a present and agreed level.

The billing systems of all telecommunications operators are changing in that direction at the same pace (by October 1996 the latest).

The subscriber can have the follow-up list of the telephone numbers he has called.

<b>Finland (contin.)</b>	<p>The value added services which have been called appear with their entire numbers. The ordinary call numbers appear without the four last digits for telecommunications secrecy purposes.</p> <p>If the new telecommunications act is implemented, the subscriber will obtain on request the entire numbers of the ordinary calls.</p>
<b>France</b>	<p>In the contractual plan of France Telecom, title 3, it is stated that FT has to take measures to facilitate the knowledge and the mastering of telephony expenses by the consumer; in particular, consumers may have access at any moment to their level of consumption and they may determine the level they do not want to exceed.</p> <p>In accordance with the contractual plan of France Telecom, the operator must engage a certification procedure on the taxation, billing and recovering procedures.</p>
<b>Germany</b>	<p>The TKV §26 section 8:          "The customer has the right to demand information on the call charges incurring during the individual calls within the existing technical and operational limits and those set by regulations relating to the privacy of personal data. Deutsche Telekom has the right to charge a fee for this service". The TKV is under revision for extension to other operators.</p> <p>In accordance with the TKV:          -the customer is entitled to a bill          -the different services comprised in a single bill must be listed separately          -the customer is entitled to asking for a bill listing the individual calls (within the technical and operational limits).</p> <p>The customer is entitled to deciding on the extent of the itemised call statement in accordance with the TDSV ordinance regulating data protection for services provided by Deutsche Bundespost.</p>
<b>Greece</b>	<p>On request, consumers may receive itemised billing but only if they live in big centres where there are digital switch boards.</p>
<b>Netherlands</b>	<p>No obligations with regard to "level of consumption": PTT Telecom warns customers if their level of consumption is suddenly higher than usual. PTT Telecom offers this service on a voluntary basis as a result of market demand.</p> <p>No need for future regulation.</p> <p>At present PTT Telecom is obliged to give on request itemised bills. No decision has been taken yet for the future with regard to itemised billing. It is possible that itemised billing will be included in the licences but the regulator also expects that the service will become a standard feature due to growing market demand.</p>
<b>Portugal</b>	<p>There is no obligation of information on levels of consumption. The consumer may control his level by setting up additional information equipment, provided this latter has been duly approved and its connection notified to the operator. No substantial changes are foreseen in the near future.</p> <p>The public fixed telephony operator is obliged whenever technically feasible to provide consumers with detailed billing.</p> <p>With regard to billing accuracy, the new draft regulation for the exploitation of public fixed telephony services foresees obligations for the operator: the bill shall be itemised and contain network connection price, usage prices, periodical price of leased terminal equipment, fees services provision and consumers' eventual debt. National and international calls will be separated.</p> <p>No other measures are foreseen.</p>
<b>Spain</b>	<p>Nothing</p>
<b>Sweden</b>	<p>Itemised billing covering local, regional, long distance and international calls is provided upon request by the incumbent operator. However, the licence holders have</p>

no obligations to provide itemised billing.

- UK** There are no specific obligations requiring operators to provide services to allow customers to monitor consumption levels. OFTEL considers that the promotion of competition will further stimulate the introduction of new measures in this area to the benefit of customers. BT, for example, offers a "Call-My-Bill" service providing up to date information on outstanding call charges.
- As part of its work on Universal Service, OFTEL, in consultation with consumer organisations and the industry, is planning to introduce into BT's and Kingston's licences schemes designed to offer affordable service for residential customers unable to afford standard telephony charges. These modifications would be introduced as part of the Universal service license modifications from August 1997. In addition, BT have committed to introduce by 1999 a scheme that would allow customers to predetermine their call expenditure.
- Under the competition and service (utilities) Act 1992 any operator with at least 25% market share (= BT and Kingston) is required to co-ordinate its deposit policy with OFTEL. OFTEL has recently agreed to BT's new deposit policy which involves the introduction of a new call levels service reducing the need for cash deposits from most new customers. BT will agree on an individual spending plan (a call level) with each new customer. For the first 12 months, BT will attempt to notify the customer by both phone and mail when they exceed a certain monetary value for call charges (their call level) during a billing period. The service is available free of charge for the first 12 months.
- PTO licences contain conditions designed to ensure that operators have accurate systems for metering use and billing customers. It is the Director General of Telecommunications' discretion to activate the condition which requires PTOs to have their metering systems approved : to date the condition has been activated for five operators (BT, Cellnet, Vodafone, Kingston Communications and Mercury). The approval is carried out by the British Approval Board for Telecommunications (BABT). To date, BT's metering has been approved by BABT.
- Free itemised billing is available to all BT's customers and the vast majority of other operators also offer this service.
- An industry consumer working group which has been established to look at ways of better informing customers of the costs associated with calls to mobile numbers and other expensive numbers is looking at how billing information can be made clearer and more informative.
- One of the figures being collected as part of the comparable performance indicators exercise is the number of billing accuracy complaints per 1000 bills issued. OFTEL has a statutory duty to consider any complaints received which relate to telecommunications services including bill accuracy complaints.
- Czech Republic** Billing information obligations are included in the licences.
- Estonia** There are some measures regarding information on levels of consumption in the Estonian telephone company Ltd regulation on telephone subscribers.
- Latvia** Nothing
- San Marino** Specific obligations relating to information on levels of consumption are intended to be included in licences. Obligations of billing accuracy will probably be included in future licences, but they have not been defined yet.
- Switzerland** There are no obligations of information on levels of consumption. Rules on billing information are intended to be included in the revisions of the telecommunications law (art 44 of the future law): the consumer will have the

possibility of obtaining all the information the operator has used to establish his bill in case of dispute.

Details will be determined in an ordinance of the Federal Council.

**Ukraine**

Obligations of information on the level of consumption and of billing accuracy are intended to be included in operators licences.

**Non-abusive use of information on consumers and Protection of private life  
(Essential requirements -Data protection: protection of personal data, confidentiality of  
information, protection of privacy)**

- Belgium** Belgacom is authorised to resell, and must sell on request, the necessary information on subscribers (name, number and address, price, etc).  
There are no specific rules on calling line identification in present licences, apart from the fact that emergency services must have the calling line number, but the commission on the protection of private life is starting to study the caller identification issue.  
There is a law against malicious calls in the telecommunications law (1991) and other clauses in the law of 21.03.96.
- Denmark** The general class licence (Executive order n°712) § 17 lists some general obligations of secrecy of information obtained on customers. Operators must not pass on and exploit the information; they must adopt measures to ensure that such information is not available to unauthorised persons; implementation of the directive concerning the processing of personal data  
In the present telecommunications regulation, obligations of non-abusive use of information on consumers are regulated by §7 of Law n° 501 of 22 June 1995 on certain aspects of the telecommunications sector.  
The data processing directive is under implementation.  
Calling line identification (CLI): it must not be possible to prevent CLI for calls to emergency services.
- Finland** A telecommunication operator may disclose information on consumers to the entity in charge of the billing according to the following rules:  
- the telecom operator may transmit the number of the called parties except the last four digits  
- if the called service is included in the subscription fees the whole number may be disclosed  
- all the digits of the called numbers except the two last ones may be disclosed, if the amount of the bill is more than double the amount of the previous bill  
A telecommunications operator may disclose other information unless it is evident that the disclosure will result in a violation of the telecommunication secrecy of a party other than the payer of the telecommunication bill.
- France** In its cahier des charges, France Telecom has obligations related to the confidentiality of the content of the communications and of information linked to the communications. Licences will include the same kind of obligations indicated in Law 96-659 art 33-1 and 33-4.  
Law 96-659 art 33-1 c) states that in the list of specifications of the operators conditions of confidentiality and neutrality with regard to the transmitted messages and the information linked to the communications will be included.  
Art 33-4 states that the publication of subscriber or user lists of the network or the service is free but the protection of the rights of the concerned people must be observed. Any consumer has the right to refuse to be included in the directories, or to forbid the inscription of his full address in the directory or to forbid the commercialisation of his personal data.  
The directive on the protection of physical persons related to the treatment and free circulation of personal data is under implementation. The directive seems to be very complete and will be therefore difficult to go beyond what it provides for.  
Article 34-10 of Law 96-659 states that every subscriber to a network open to the public can forbid the identification of his line when he is calling (except for emergency services and in the cases when this would disturb the called party).
- Germany** The TDSV (Ordinance regulating data protection for services provided by Deutsche

Bundespost) contains numerous stipulations aimed at guaranteeing the customer's right to the protection of the privacy of personal data. Using and passing on customer data is subject to strict conditions. In particular, the customer has far-reaching rights to demand the deletion of data relating to him.

The TDSV will be amended, but as the current regulation applies to other providers of telecommunications services besides Deutsche Telekom, the revision would not be that relevant.

The TDSV (§9, section 1) contains regulation on caller identification: the caller is entitled to decide whether his telephone number is to be displayed to the person he is calling or not. Furthermore, the service provider is obliged to offer telephone connections excluding calling line identification. This applies to advisory services receiving anonymous calls.

The telephone number of a caller who has objected to being listed in the public directory is not displayed in any case, unless he explicitly asks for the display of his telephone number (section 2).

However, it is not possible to suppress CLI in the case of emergency calls (TDSV, §9 section 5).

In the case of call forwarding, the person receiving calls to be forwarded is entitled to suppress the diversion of his connection (TDSV, §9, section 3). The caller has to be informed of his call being forwarded (TDSV, §9 section 4).

Customers are entitled to demand not to be entered into public customer registers (TDSV § 10 section 3). Directory inquiry services must not provide information on these customers.

<b>Greece</b>	Nothing.
<b>Netherlands</b>	All obligations stemming from EU directives on data protection, privacy, distance selling, etc. are being implemented or will be implemented. Calling line identification will be made mandatory (following the ONP voice directive).
<b>Portugal</b>	Portugal Telecom has the sole right on the directories and has the right to refuse the permission to use the information included. New obligations may be imposed on the operator following the proposal for a European Parliament and Council Directive concerning the protection of personal data and privacy in the context of digital telecommunications networks (in particular, ISDN). As part of its concession, the public operator is required to establish a minimum set of functionality aiming to protect the consumer's private life, such as Calling line identification and malicious calls identification. But the operator must guarantee the confidentiality of communications. The new draft regulation on the exploitation of public fixed telephony services imposes on the operator the general obligation to respect the rules of the protection of personal data and private life.
<b>Spain</b>	Nothing
<b>Sweden</b>	Subscriber information from numbering databases that is exchanged between the operators must not be used for other purposes than directory inquiries and publication in a directory unless agreed upon between the licensees. In accordance to the Telecommunications Act, Section 25, a part which, in its telecommunications activities, got to know about or obtained access to information on a telecommunications subscription, the content of a telecommunications message or other information relating to any specific telecommunications message, must not forward or utilise such information without authorisation.
<b>Sweden (contin.)</b>	Furthermore, according to the licensing conditions for telephony services, the licensee shall, on reasonable terms, provide published information regarding its subscribers to



other licence holders. In addition, such information shall be delivered to other future national numbering database. The obligation encompasses the subscriber's telephone number, name and address to the extent that the information is not subject to secrecy. In addition, a non-telecommunications specific regulation exists regarding non-abusive use of information about consumers.

## UK

### *-Confidentiality code of practice*

PTOs are required by licence to draw up a Code of Practice relating to the confidentiality of customer information that must be approved by the Director General of Telecommunications. This code:

- specifies to whom PTOs may disclose information acquired about a customer in the course of their business without the prior consent of the customer
- regulates the information about any such customer that may be disclosed without his consent.

For example, BT's codes of practice regulate the disclosure of information acquired through the system business (basic network services) and the supplemental services business (data and value-added services). These codes of practice prevent BT from gaining an unfair competitive advantage as a result of the information acquired in the course of its system business and supplemental service business. Moreover, these conditions are in the process of being removed from PTO licences because the issue will be covered by the Fair Trading Condition or Data Protection Act.

### *-Directory information*

All PTOs are required by licence to abide by the Data Protection Act 1984 in their use of directory information. Customers must be offered an option to be ex-directory. Persons recording telephone conversations are required to make every reasonable effort to ensure that people are aware that their conversation is being recorded (e.g. give a warning tone). In early September 1996, this requirement becomes an obligation in the Telecommunications Service Licence (TSL) and the Self Provided Telecommunications Systems Licence (SPL). Previously it was part of the approval regime.

### *-Telesales*

The Telephone Preference Service (TPS) is an independent scheme that has been set up by telephone companies and the telemarketing industry to allow customers to ask not to receive unwanted telephone calls. Customers register to join the scheme and the TPS produces a list of registered numbers which it sells to telesales companies who have decided to take part in the scheme. These companies then avoid phoning customers who have registered.

### *-Malicious calls*

Many operators offer a service providing advice about malicious calls which customers can telephone free of charge. BT runs a malicious calls bureau which can conduct call tracing. Customers receiving malicious calls can change their telephone number free of charge and become ex-directory.

### *-Calling line identification*

OFTEL undertook a public consultation exercise prior to the introduction of calling line identification services in the UK to fully examine the consumer issues it gave rise to. Following this, a voluntary industry code of practice was produced containing consumer protection and interconnection rules relating to CLI. These rules ensure that customers can stop the transmission of CLI information to the person they are calling. The CLI industry code of practice will be updated to reflect developments.

## Czech Republic

Operators are obliged to protect data on consumers. Non-abusive use of information on consumers is one of the specific obligations included in the licence. The telecommunications law includes reference to the non-abusive use of information on consumers.

Protection of private life is defined in the Telecommunications Act.

<b>Estonia</b>	No answer
<b>Latvia</b>	Nothing
<b>San Marino</b>	Obligations of non-abusive use of information on consumers and of protection of private life will be included in licences in the future.
<b>Switzerland</b>	There will be a reference to non-abusive use of information on consumers in the Federal Law on data protection (SR 253.1) Rules on privacy protection are intended to be included in the revision of the Telecommunications Law. Details will be determined in an Ordinance of the Federal Council.
<b>Ukraine</b>	Obligations of non-abusive use of information on consumers and of protection of private life will be included in licences and in telecommunications regulation in the future.

## **Non-abusive disconnection and Recourse procedures (Provision of a procedure for the settlement of disputes)**

- Belgium**
- There are no rules regarding non-abusive disconnection in licences of mobile operators, but in fact they are authorised to disconnect in case of non-payment. The other cases of abusive disconnection are covered by the regulation of contracts.
- An obligation of a warning before disconnection at a sufficient long notice will probably be foreseen in future licences.
- According to the telecommunications regulation, US providers cannot disconnect.
- With regard to recourse procedures, in accordance to a royal decree and in operators' licences, operators have the obligation to settle a service responsible for answering consumers' complaints.
- The law has established a mediation service, independent from Belgacom (even if the staff is paid by Belgacom). Users are informed via the directories and the contracts.
- This service offers the consumers easy and free access to recourse procedures. Twelve people are employed to provide this service. Mobile operators are obliged to contribute to this service.
- New operators will be obliged to contract with this service and to contribute to its funding. The issue will be the apportionment of the funding obligations (on the basis of the number of cases to be dealt with, or else ?). This obligation would rather be included in general law than in the licences.
- Denmark**
- With regard to non-abusive disconnection, §18 of the terms of subscription lists the situations (where the customer is in gross breach of his obligations) in which Tele Denmark is entitled to close the customer's connection, without any reduction in the subscription charges. In these situations, Tele Denmark is entitled to terminate the agreement at one month's notice.
- §19 indicates that Tele Denmark is entitled to stop offering the telephone services or supplementary services at six months' notice.
- With regard to recourse procedures, in accordance to the Executive order (???) §10, network or service providers have to make a decision not later than three months after the customer complaints (six months if the decision requires special recording or monitoring of usage, billing, etc.).
- Public network or service providers must have a special unit for dealing with customers complaints about the amount of the billing; the related procedures should be ISO-9002 certified (or similar standards), though in certain cases, the NRA may dispense with the requirement for certification.
- The Universal Service provider has a free phone number for dealing with customers' complaints.
- The National Telecom Agency has specific powers in the frame of universal service; it is entitled to monitor compliance with the US obligations and can refer the case to the Telecommunications Consumer Board.
- Section 14(3) of the Act on Universal Service Obligation and Certain Customer Interests states that the complaints related to universal service should be directed to the National Telecom Agency (which may refer the complaint to the Telecommunications Consumer Board).
- Finland**
- With regard to non-abusive disconnection, if a household user proves that failure of payment is due to an illness or unemployment of the user or other important reasons, the subscription may not be closed if the telecommunications fees are paid within one month of the dispatch of a reminder to make the payment.
- The telecommunications bill contains a separate item for charges of value-added services. If the customer / subscriber has problems in paying charges for these value added services, the operator has no right to terminate the customer / subscriber's line in case he has paid the ordinary telecommunications bill.
- The general procedure before disconnection is: a reminder; a written notice;

- Finland (contin.)** cancellation of the subscription contract in writing. Telecommunications legislation contains information on the procedure which can be followed by users to complain. Each operator has its own toll free telephone number for use by customers with disputes (or who ask for information).
- France** In accordance with Law 96 - 659, the universal service provider must maintain a restricted service at least for one year in case of non-payment by the consumer. The restricted service includes: call reception and call to free access service and emergency services. With regard to recourse procedures, the contractual plan of France Telecom had the objective of improving the way in which consumer complaints are handled. Future licences will not include any specific obligations because it is considered that the operators will be willing by themselves to develop services for handling complaints. The future ART will have the possibility to intervene as a mediator if the complaints are related to non-respect of commitments included in the list of specifications and the licences or in the general telecommunications regulation. It may impose fines on the operators.
- Germany** Deutsche Telekom is allowed to withdraw offers for monopoly services only upon prior permission by the Federal Ministry of Posts and Telecommunications. Only under strict conditions is Deutsche Telekom allowed to partly or completely terminate access to monopoly services in case of default of payment. In the case of an unauthorised termination, it is liable without any limit. There are no specific procedural regulations: the general procedural law applies. The establishment of an arbitration procedure is planned in the framework of the new TKV; no more details at present.
- Greece** There are no specific recourse procedures for the telecommunications sector. There is a national telecommunications committee consisting of representatives of the government which handles the cases related to the telecommunications issue. The Committee has the power to impose its decisions on the operators but only to the extent that there are specific provisions in the law (as there is nothing about consumer protection in the telecommunications law, the national telecommunications committee has no power in that field).
- Netherlands** In the general agreement between PTT and consumers organisations specific regulations are laid down about abusive disconnection. In any case, PTT Telecom must send some form of notice in advance. Nothing more than the implementation of the ONP voice telephony Directive is foreseen. The current situation, with no active role of the Ministry, meets the need. With regard to recourse procedures, all complaints can be brought before the Minister at the final stage and the "Geschillencommissie Post en Telecommunicatie".
- Portugal** Abusive disconnections are not allowed. The operator may suspend the provision of public fixed telephony service at the consumer's request, on faults imputable to the customer, etc. , but the suspension does not interrupt the obligation to pay the fees. The operator may rescind the contract in specific situations by registered letter with recorded delivery. No substantial changes to the present regulation are not foreseen. The new draft regulation on the exploitation of public fixed telephony services foresees that the provision of the service cannot be suspended in consequence of the consumer's non-payment of fees related to the provision of other services, even if these latter are included in the same bill and not functionally distinguishable from the telephony service.
- Portugal (contin.)** The consumer may complain against Portugal Telecom. The consumer shall be notified

of the decision of the operator within 30 days.

The new draft regulation for the exploitation of public fixed telephony service foresees a recourse procedure for dispute resolutions: the consumer has to complain within 30 days of his knowledge of the facts. The operator shall decide within 30 days and notify the decision to the consumer within five days. If the consumer does not agree with the decision, he may require the NRA - the ICP - to reconsider and decide on the complaint. The ICP's decision may be submitted to a judicial review.

<b>Spain</b>	Nothing.
<b>Sweden</b>	The licences pinpoint that the operator shall inform the consumer about restrictions on access, usage and procedures on the event of a failure to pay.
<b>UK</b>	<p>There are no specific obligations in PTO licences with regard to non-abusive disconnection. OFTEL has worked with the industry and consumer representatives to draw up a comprehensive list of operator and consumer rights concerning disconnection. It is intended that new disconnection policy statements will be published in Autumn 1997. As part of this BT and Kingston will offer customers an outgoing call barred service as an alternative to disconnection for debt. If this approach is unsuccessful OFTEL will consider introducing a licence condition on disconnection into BT's and Kingston's licences.</p> <p>PTO consumer codes of practice set out operators' disconnection policies. OFTEL has also used its statutory powers to obtain information about the level of BT's disconnection and ensure that this information is in the public domain.</p> <p><i>Consumer codes of practice</i></p> <p>Public Telecommunications Operators are required by licence to draw up and consult with the Director General of Telecommunications Consumer Codes of Practice which set out guidelines on complaints and disputes. Licensee are required to consult DGT at least every three years about their Codes of Practice. OFTEL has drawn up a good practice guide.</p> <p><i>Independent arbitration procedure</i></p> <p>BT and Kingston Communications are required by license to offer customers an inexpensive independent arbitration procedure for the resolution of disputes. PTOs are to consult the Director General of Telecommunications on the operation of the arbitration procedure and the method of appointment of the arbitrators at least every five years.</p> <p><i>Operators' complaints handling procedures</i></p> <p>Any operator with at least 25% of the market (this currently applies to BT and Kingston) is required under the Competition and Service (utilities) Act 1992 to formally agree their complaints handling procedure with the Director General of Telecommunications. OFTEL has formally agreed to BT's and Kingston's complaint handling procedures.</p> <p><i>OFTEL's role in consumer representation</i></p> <p>OFTEL has a statutory duty to consider any complaints received which relate to telecommunications services provided or apparatus supplied in the UK. Around 40,000 complaints and inquiries are handled each year. OFTEL has a policy of allowing the operator concerned to consider the matter first and to resolve the dispute directly with its customer. Apart from seeking to ensure that individual customers are treated fairly and their problems resolved, one of OFTEL's main objectives is to reduce the number of disputes by analysis of their causes. Where an operator's policy or practice give rise to widespread public concern OFTEL will consider whether some change is needed and where appropriate seek to introduce this by negotiation or by exercise of regulatory power.</p>
<b>Czech Republic</b>	<p>Operators can disconnect a subscriber's station if the subscriber does not pay his/her telephone bill. Dispute on the bill is not a reason for not paying.</p> <p>Reclamation regulation is included in the general conditions of the licences.</p>

<b>Estonia</b>	No answer.
<b>Latvia</b>	In certain cases specified in the telecommunications regulation, the operator may temporarily close the service. With regard to recourse procedures, well-identified institutions to whom users can address complaints exist.
<b>San Marino</b>	The items are under study.
<b>Switzerland</b>	Nothing at present and no specific procedures are planned.
<b>Ukraine</b>	Issues related to non-abusive disconnection are under study. All communication offices are obliged to handle complaints from consumers. If they do not do so, the consumer may submit his complaint directly to the organisation of communication or to the Ministry of Communications (but in this case the sanctions applied will be greater). The submission and the consideration of complaints are under the control of the Ministry of Telecommunications.



## ANNEX 4 – DETAILED RESULT OF THE SURVEY

### 1 – Survey on “information to consumers”

#### *-Cyprus*

The provision of telecommunications in Cyprus is governed by the Telecommunications Service Law and its subsequent amendments.

The Cyprus Telecommunications Authority (CYTA) is a corporate body established under the Telecommunications Service Law and is the sole body responsible for the installation, operation and maintenance of a telecommunications network in Cyprus as well as for the provision of all telecommunications services (including telephony, telex, data, etc.).

The CYTA is governed by a Board of Directors which comprises nine Members appointed by the Council of Ministers to which it is accountable through the Ministry of Communication and Works.

There is currently no separation between the regulatory and operational functions in this transitional period, awaiting the establishment of a National Regulatory Authority. Therefore, CYTA performs some of the regulatory functions as well. Specifically, CYTA has the authority, subject to the provisions of the Telecommunications Service Law, to issue regulations governing the telecommunication services offered.<sup>2</sup>

According to the Telecommunications Service Law, the CYTA may, with the approval of the Council of Ministers, prepare regulations aiming:

- a. to outline the rate of charges to be made with respect to the services offered, the equipment sold or leased and the maintenance of installations;
- b. to outline the form of application for securing any telecommunications service and terms & conditions under which this shall operate;
- c. to outline the methods to be adopted for the operation of telecommunications services, the kind of security to be furnished by subscribers and the terms & conditions for the discontinuance of a service in case a subscriber fails to observe the requirements of this Law.

In order to become valid, all regulations have to be approved by the Parliament and published in the Government’s Official Gazette. With this publication in the Official Gazette, all regulations are deemed to be publicly available.

---

<sup>2</sup> A telecommunication policy review study commissioned by the Government has been carried out by consultants. The aims of the study were to develop policy scenarios and evaluate them in terms of benefits, compliance with the European Union Directives and the safeguarding of the position of CYTA and to recommend a legal, regulatory and administrative framework through which the policy can be implemented. The main recommendations proposed by the consultants are separation of the regulatory from the operational functions, a change of the legal framework which governs CYTA and the gradual liberalisation of telecommunications services. A Government decision on the specific issues is expected.



In addition, all regulation or any information concerning Telecommunications services provided by CYTA are made available to consumers on request.

*-Denmark*

All providers of public telecommunications networks or services, including the universal service provider and providers of public mobile telephone networks, are subject to the obligation of providing information to consumers. It is foreseen that the universal service provider will be obliged to provide information according to the new ONP-voice directive, but the regulation has not been drafted yet.

The information which has to be given to consumers is: information on the terms applicable to the provision, including notice of termination, quality, delivery periods and any requirement for security to be provided; information on the extent to which it is possible, via the networks or services, to communicate with end-users who are customers of other providers, as well as prices and terms for this; and information on details of the interface specifications and any standard associated therewith or other specifications used in the network or service provided.

The information does not have to be published but given on request to any person requesting it. Some information shall be given to any customer at the latest in connection with the establishment of a customer agreement. This means that the information has to be given verbally or be handed over in writing. It is not possible to make such information available only through a free-phone number, but it is not prohibited to make it available through other means in addition to verbally and in writing.

The information provided to the customer must be updated. That means that such information shall be correct the day it is given to the customer. If published information cannot be updated from one day to another (e.g. information printed in a telephone book), the operator/service provider must make this clear to the customer, for instance by indicating that the information is for guidance only.

With regard to how NRAs intend to ensure that consumers are informed about tariffs related to different services identified by certain numbers (e.g. 00 for international calls; numbers identifying Premium Rate Services; prefixes for GSM networks), it must be taken into consideration that in Denmark the numbering plan is a closed plan with no NDCs. When a consumer dials any telephone number (including a Premium Rate, a mobile or an international number), the call will be carried by the provider of the network which has the consumer as a subscriber, and the consumer can rely on the price information given by the provider itself. If a consumer wants to use a service provider different from the organisation providing the customer with access to the network, the consumer has to do it by using a carrier selection code (on a pre-selection basis). In accordance with the obligations concerning information to consumers described above, the carrier in question has to provide the consumer with price information, etc.

There has not yet been any experience of actually providing the information to consumers.

*-Germany*

There are, in principle, information obligations vis-à-vis customers for all providers of publicly available telecommunications services, i.e. for operators of fixed and mobile networks and for service providers.

Where a company does not provide its services to the public, the general information obligations governing contractual relations in accordance to German law apply. Accordingly, the provider must inform customers of all the terms of the contract deviating from the German Civil Code in the standard contracts or deviating from general legal aims. In comparison to the ONP approach, the only exception in Germany is basically statistical data which does not entail any claim for compliance, as well as information on conciliation proceedings and compensation regulations, the latter being regulated by law.

Contracts are as a general rule based on general terms and conditions. In accordance to the German Law Governing standard Business Conditions, such terms and conditions must be incorporated into the contract. This means that customers must, in principle, be informed of all the terms of contract modifying or going beyond the contract regulations laid down by virtue of law.

In addition to these regulations which are applicable to all contracts, publicly available telecommunications services are given special treatment in the case of service disruption affecting customers who depend on uninterrupted use. Companies must inform customers of the possibility of such preferential treatment (cf. Draft Telecommunications Customer Protection Ordinance).

Telecommunications organisations have to publish information in accordance with the ONP regulation and are moreover obliged to keep it available for customers on request. Information must be published in such a way that it is easily accessible to interested parties. It is left to the provider to decide how information is published in detail. At any rate, it is sufficient to publish information in the Official Gazette of the Regulatory Authority and to keep it available for customers at the companies' branch offices. Deutsche Telekom has so far published information in the Official Gazette. The general terms and conditions are available to customers at all Telekom branches. Partly, they are also contained in telephone directories. In addition, they can be ordered by telephone free of charge.

Information can, in principle, be obtained orally or in writing at any time e.g. from customer services. There are also charge-free service numbers, etc. The details of different telecommunications organisations are, however, not known to the NRA. There are no binding regulations governing such information provision. In the case of on-line services, information and general business relations can also be retrieved via display.

The information must be sufficiently up-to-date to reflect the current situation at the date of publication, i.e. the information must, in principle, be always up-to-date. Changes must be announced in advance. Only in the case of statistical data published periodically, the old values apply until the data are published again.

With regard to how NRAs intend to ensure that consumers are informed on tariffs related to different services identified by certain numbers (e.g. 00 for international calls; numbers identifying Premium Rate Services; prefixes for GSM networks), prices are an essential part of a contractual agreement and the contractual parties must agree

on prices. Therefore, the information obligations applicable to prices are the same as those applicable to contracts and general terms and conditions. As soon as prices change, customers must be informed. They may for instance obtain from Deutsche Telekom a detailed price list and, following the conclusion of a contract, general price information from which tariffs can be taken. Such information is also contained in the telephone directory. Moreover, customers are informed via letters, press releases, articles in newspapers and magazines, radio and TV reports, etc.

*-Greece*

The existing national legislation does not make any distinction with regard to who is subject to the obligation of providing information to consumers.

The existing national legislation states that: "the telecommunications service provider is obliged to publish the technical specifications, the tariffs as well as the terms and conditions of the provided services and also the subscription procedures and the corresponding deadlines, the reparation time in case of malfunctions, the duration of the contract and the refund procedures".

The above-mentioned information has both to be published and be available on demand and is also available free of charge by calling a certain number. In the specific case of OTE (the PTO), tariff modifications are published in the Official Gazette.

The information for the consumers has to be fully up-to-date. The existing legislation imposes the condition that any modification to service specification or prices shall be made available to the public before coming into force. In the specific case of OTE, new tariffs shall be published at least two months in advance.

With regard to how NRAs intend to ensure that consumers are informed on tariffs related to different services identified by certain numbers (e.g. 00 for international calls; numbers identifying Premium Rate Services; prefixes for GSM networks), in Greece no policy has been yet defined for tariffs related to services provided under exclusive of special rights (voice telephony will be fully liberalised on 1 January 2000). With regard to information on tariffs for Premium Rate Services, these must be clearly indicated in all advertisements.

However, the NRA is at present further elaborating the issue.

*-Italy*

Each telecommunications organisation providing services accessible to the public through telecommunications networks or mobile communication systems is obliged to:

- a. provide, on request, complete and updated information with regard to access and use of the public fixed telephony network and of voice telephony services, in accordance with Annex I of the ONP/Voice Directive (95/62/EC); for mobile communication services the list of information contained in the Annex shall constitute a useful reference.

- b. communicate to users, at least one month in advance, information regarding modifications of existing service offerings and regarding new offerings;
- c. indicate, to the user who requested a connection to the public fixed telephone network, the date of service activation;
- d. to inform users, on request, about rules or technical specifications on the basis of which telecommunications services are provided;
- e. to inform users, in advance and through adequate means, about the periods when access to or use of the public telecommunications network can be limited or precluded due to planned maintenance interventions.

Other information to be provided to the subscribers must be included in the contract and will be treated in paragraph 3.2 dealing with "fair contracts".

#### *-Luxembourg*

Luxembourg has recently enacted a new framework legislation that opens its telecommunications market to competition. As of today (October 1997), secondary legislation still needs to be adopted before the new framework becomes fully operational. Although the framework provides for the basis of consumer protection regulation, the details will be worked out in the secondary legislation.

#### *-Malta*

TeleMalta Corporation is both the Telecommunications Regulator and the telecommunications operator (PTO). However, the Government is in the process of drafting new legislation which will separate the regulatory from the operational functions and establish an independent Regulatory Authority for Telecommunications. This Authority will be vested with the powers to administer specific regulation in telecommunications and will exercise its powers in a way that will balance the interests of divergent stakeholder groups (suppliers, customers, etc.).

The Authority will also deal with consumer issues e.g. consumer protection, complaint handling and advice and information to consumers.

In the meantime, consumer issues are dealt with in the "Customer Charter", a document established by TeleMalta, which tries to answer some of the more frequent user questions and to explain how TeleMalta deals with any problem which may arise. The document covers most of the consumer protection issues covered by the ETO survey.

When established, the Telecommunications Regulatory Authority will set the structure and related regulation on the same issues to a higher level than indicated in the TeleMalta Customer Charter.

The Customer Charter gives the users, in a very plain and easily understandable language, information on:

- TeleMalta services
- Basic telephone services (how to apply and other information)
- Other telephone services
- Operator service
- Fault repair

- Telephone bill
- Billing enquires
- Disconnection policy
- Malicious calls
- Services to customers with special needs
- Telephone directories
- Card-phones kiosks
- Complaints handling

The Customer Charter includes, in Annex 2, the “Customer Services Guarantee”, which has been developed to give TeleMalta customers the opportunity to claim compensation if the operator fails to provide service as guaranteed.

TeleMalta charges and price list are available on request.

TeleMalta has also set up a Customer Care Unit targeted to consumer needs and an Answer-line service to assist users with information or advice about any services.

#### *-The Netherlands*

Consumer protection in the telecommunications sector will be regulated in the Telecommunications Act only to a certain extent. This decision is based on the fact that in the Netherlands there already exist an important General Law - the Constitution and the Civil Code (General Administrative Law) -, which contains consumer protection regulation. This makes a telecommunication-specific legislation less necessary.

All obligations stemming from the EU-directives on ONP-voice telephony and concerning the processing of personal data and the protection of privacy in the telecommunications sector will of course be implemented in the Telecommunications Act, but no further obligations will be introduced.

First of all, the Constitution specifies “confidentiality of the telephone” as one of the civil rights. Beside the Constitution, the Civil Code lays down all kinds of general regulation with regard to products purchasing, contracts, liability, misleading advertisement, general agreements etc. These requirements are very detailed and are applicable to all sectors.

Beside this General Law, the Dutch incumbent operator has always negotiated the so-called “general agreement” within the Commission of Consumers of the Social-Economic Council. In this “general agreement” (which is available at every post office and PTT-shop) all specific details with regard to contract, numbering, changes of addresses, payment (and non-payment of bills), information, liability, appealing procedures, quality of service (installation time and repair time), etc. are dealt with. The “general agreement” is based upon the general legislation within the Civil Code and is not described in detail in the Telecommunications Act.

But beside the above mentioned detailed regulation, the Netherlands have other reasons for not imposing further regulation on consumer protection in the Telecommunications Act - one of them being the conviction that competition and

market demand will have a positive effect on the range of products, the quality and the prices.

Of course the basic requirements of the consumer need to be protected, but the existing legislation (especially the two mentioned EU-directives and the Dutch Civil Code) seem to fulfil these requirements.

*-Norway*

Section 2-11 of the "Provisional regulation on telecommunications networks and services which are subject to licensing", dealing with obligations of information, applies to organisations providing access to both fixed and mobile public telephone networks as well as to suppliers of leased lines which are subject to licensing, but it does not apply to service providers.

Section 2-11 of the "Provisional regulation on telecommunications networks and services which are subject to licensing" states that telecommunications operators shall ensure that any offer of telecommunications services mentions "all important information" regarding the particular telecommunications services which are subject to licensing, including the telephone service which is subject to licensing and the different kinds of leased lines. The information shall be made public. As any "important information", is considered, in particular, the following:

1. the geographical area where the service in question is offered;
2. the conditions for access and use, including possible model contracts;
3. any major capacity limitation regulating access;
4. prices and price elements, and the services covered by the separate price elements;
5. discounts and discount criteria;
6. methods of price estimations for offers with no fixed prices;
7. technical and physical characteristics, plus technical performance specifications at the network termination point, including which standards have been employed;
8. the conditions for connecting the equipment;
9. provisions regarding compensation/refund
10. connected services and degree of coverage.

Information about new services shall be published in the National Official Gazette (Norsk Lysingsblad). Otherwise, telecommunications organisations shall make information available in an appropriate manner, and ensure that it is easily accessible to the public. The same applies to Premium Rate Services providers.

In practice, the incumbent provider of fixed public telephone networks publishes this kind of information in the telephone directory, which is published annually, and makes it available on a free-phone number.

Telecommunications organisations shall publish an annual survey of information.

The above-mentioned provisions regarding information and publication do not specify how up-to-date the information to consumers should be. Customers shall be informed of changes in existing offers as soon as possible.

With regard to how NRAs intend to ensure that consumers are informed on tariffs related to different services identified by certain numbers (e.g. 00 for international calls; numbers identifying Premium Rate Services (PRS); prefixes for GSM networks), prices for international calls and for PRS are published in the telephone directory. In addition, regulation on PRS provides that telecommunications organisations and providers of PRS ensure that, inter alia, the price for these services is “made easily available to the general public by appropriate means”. In practice, advertisements for PRS mention the price per minute. Price information for PRS shall be given at the beginning of each call on “untaxed” time.

*-Portugal*

In accordance with the provisions of Decree-Law n.240/97 of 18 September concerning the regulation of the public telephone service, the consumer has the right to receive the following information from the operator:

Type and conditions of access to the fixed telephone service; standard contract; compensation or refund forms and conditions; types of maintenance service provided; conditions of connections to terminal equipment; conditions concerning access to and use of the fixed telephone service; indicators of the quality of the service, including its definition, measurement methods, defined objectives and reached values; service facilities and objectives concerning the introduction of additional facilities, functions and prices; special access conditions to the fixed telephone service; tariff list; fundamental elements of the numbering plan; procedures in case of non-payment of invoices amounts; procedures for conflict settlement.

*-Spain*

As of today (October 1997), only one operator (Telefónica) provides access to the fixed public telephone network. A second operator (Retevisión) has been granted a licence for telephony services and will start to operate within the end of the year. Telefónica and Retevisión will have the obligation to inform consumers, as soon as the national regulation on the subject is approved.

As of today, the list of information to be provided to consumers has not yet been set. The NRA has prepared many studies and drafted many rules on the matter, but none of them has been approved so far.

Information on basic conditions and standard terms for access and use of the public telephone network and services is given to consumers in the contract for any telecommunications service.

Tariffs of most services are published in the Official Gazette. Tariff changes or modifications have to be published.

As explained above, as of today information to consumers is not published anywhere, except tariffs. The consumer receives, together with the telephone book, a Regulation approved in 1982, which regulates the relation between Telefónica and the consumers. The text of this regulation is also published in the Official Gazette.

There is also a free-phone number (004) managed by Telefónica, which provides information about different services, prices and other facilities offered by the operator.

With regard to how NRAs intend to ensure that consumers are informed on tariffs related to different services identified by certain numbers (e.g. 00 for international calls; numbers identifying Premium Rate Services –PRS-; prefixes for GSM networks), as said above, information on tariffs, including different services identified with certain numbers, is made public by publishing it in the Official Gazette.

*-Sweden*

In Sweden, all issues related to consumer protection are regulated by the general consumer protection law. The telecommunications NRA of course considers it important that consumers are given appropriate information about the service (or product) they are offered. However, since telecommunications organisations are in general very concerned about their customer satisfaction, the NRA is of the opinion that information given to consumer is sufficient - otherwise consumers would move to another supplier providing better information.

Notwithstanding that, the NRA considers it important that all licensees provide customers with equally valuable basic information regarding prices, quality, etc. Therefore, some of these issues are regulated in the licence conditions and in the Telecommunications Act. The following is a description of those licensing conditions.

According to the Telecommunications Act, the licensee shall make tariffs publicly available.

Furthermore, licensing conditions shall include the obligation for the licensee to keep information about the provided telephone services easily available. Such information shall encompass:

- fees and charges;
- delivery period and terms of usage, with information about ordering procedures, contractual period, repair time and refund procedure;
- restrictions for access and usage;
- procedure in the event of a failure to pay.

## **2 – Survey on “fair contracts”**

*-Cyprus*

CYTA’s new customers are required to sign a Single Contract prior to the provision of any service.

Existing customers make use of the Single Contract whenever they apply and are offered new services.

The contract states that all services provided will be governed by and in accordance with the Telecommunications Service law, and all rules and regulations that may be enacted by the CYTA and approved by the Parliament.

The regulations describe in detail the rights and obligations of both the CYTA and the customer.



All regulations and contract details are in Greek.

*-Denmark*

All providers of public telecommunications networks/services, including the universal service provider and providers of public mobile telephone networks, are obliged to provide a contract. There are in principle no differences between mobile and fixed operators with regard to this obligations.

Service providers, when they are providers of public services, are also obliged to provide a contract.

There is no regulation on what a contract shall specify as a minimum. However, it is foreseen that some obligations will be put on the contract of the universal service provider.

The minimum contractual clauses which should be included in a contract are the following:

- if the customer agreement includes conditions under which security is provided, such conditions must be open, objective and non-discriminatory;

- even if the customer agreement includes conditions stating that the agreement is not terminable for a period of more than six months, the customer shall be entitled to terminate the agreement for the service at any time after 6 months, without further costs.

This is applicable only to customer agreements corresponding to consumer transactions (cf. section 4a of the Danish Sale of Goods Act).

A “model contract” to be used by operators as guidelines when drafting a contract, does not exist.

When a contract does not include information on compensation/refund arrangements, general law will apply. The customer will not be automatically informed about this.

*-Germany*

The obligation to conclude a contract basically ensues from the provisions of the Telecommunications Act on dominant network operators. These operators must allow users to access their networks. In addition, organisations which are explicitly required to provide universal service are obliged to provide a contract.

Service providers are obliged to provide customers with a contract only when they have a dominant position and contract denial would be discriminatory.

In accordance to the German law, the contract must contain all the regulations required to specify in detail the mutual service relationship. In respect to the contents of the contractual relations, the parties are also subject to the general legal restrictions. In addition, the telecommunication-specific regulations of the Telecommunications Customer Protection Ordinance must be respected. Divergence from the provisions of

the above-mentioned Ordinance is allowed only when it is in favour of the customers. Any divergence to the detriment of the customer results in the divergent condition to be ineffective.

There are no standard clauses prescribed in the NRA. However, as described above, parties may not diverge from the regulations of the Telecommunications Customer Protection Ordinance to the detriment of customers.

There is no "model contract", but providers have to respect general legal regulations and the provisions of the Telecommunications Customer Protection Ordinance. The standard contracts used by different operators are all quite similar to each other.

In accordance to the German law, contracts are supplemented by legal regulations, which means that general law applies where a contract does not contain a specific rule. This is the reason why far-reaching regulations are not required in contracts.

With regard to compensation and refund arrangements and methods for initiating procedures for the settlement of disputes, as far as a voice telephony contract is concerned, consumers may bring their cases before the NRA for conciliation procedures. Information about such proceedings is given in the general terms and conditions of the voice telephony provider. All other regulations are laid down in laws and ordinances all of which have been published. Moreover, there is extensive literature and consumer guidance available in the market. Customers may also contact a lawyer or consumer protection associations that will provide help. There are also various private organisations offering help to private customers in telecommunications matters.

#### *-Greece*

Although the obligation to provide a service contract is not as yet explicitly provided for in the existing legislation, in practice all service providers, including OTE and the two existing mobile operators, provide a contract.

OTE, having still exclusive rights to provide voice telephony, offers *non-negotiable contracts* to PSTN subscribers, while the mobile operators providers offer a choice among various types of contracts.

No rules have been yet officially set with regard to what a contract should contain as a minimum or with regard to minimum contractual clauses.

No model contract has been defined yet. However, the NRA is already working on the issue.

In the case that a contract is not provided, consumers can find information on refund/compensation arrangement in the published information, as described above. Although operators/service providers are not obliged to provide a contract, they usually do so and therefore a recourse to the NRA or to a law court is always possible.

*-Italy*

Each telecommunications organisation providing services accessible to the public through telecommunications networks or mobile communication systems is obliged to use suitable contractual schemes with clauses referring to:

- description of the specific services offered;
- levels of service quality to be respected;
- non-payment of bills and
- any consequent service interruption or disconnection;
- complaint procedures and complaint handling.

Each telecommunications organisation is obliged to include in the contractual schemes the clauses contained in the “Charter of services”<sup>3</sup> with regard to the minimum provided service and the procedures for compensation and reimbursement in the case of non-respect of the service quality levels established in the contract.

Contracts have to include indications regarding the ways for starting conciliation procedures for dispute resolution.

*-Luxembourg*

Although the new telecommunications framework-legislation provides for the basis of consumer protection regulation, the details will be worked out in the secondary legislation which is still under preparation.

*-Malta*

When a person decides to subscribe for a telephone line, he/she has to send a written application form to the operator, including a contact address and telephone number. The operator will then send back a notice by registered mail within 10 working days from the receipt of the application asking the applicant to call one of the operator’s offices for the signing of the relevant service agreement.

If the applicant fails to sign the service agreement within 15 working days from the date of the operator’s notice, the operator will cancel the application.

*-The Netherlands*

See description given under the paragraph dealing with “Information to consumers” and reference made to:

- national General Law (the Constitution and the Civil Code);
- EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy;
- general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council;
- competition’s effect and market demand.

---

<sup>3</sup> Each telecommunications organisation is obliged to respect the Directive of the President of the Council of Ministries of 27 January 1994 with regard to the adoption and publication of its own “Charter of services”.

*-Norway*

Organisations providing access to the public telephone networks are obliged to provide a contract, with no differences between mobile and fixed operators.

Service providers are not obliged to provide a contract.

In the cases where the obligation of providing a contract exists, the contract shall contain, as a minimum, information regarding time-limit for delivery and fault repair, service quality, conditions for access to and use of the service.

There is no list of minimum contractual clauses which should be included in a contract.

There are no “model” contracts to be used by operators as guidelines when drafting a contract.

In the cases where the customer is not provided with a contract, he can find information on compensation/refund procedures and recourse procedures in the relevant legislation or by contacting the telecommunications NRA.

*-Portugal*

In accordance with the provisions of Decree-Law n.240/97 of 18 September concerning the regulation of the public telephone service, the provision of the fixed telephone service shall be the object of a written contract to be agreed upon by the operator and the subscriber.

The contract should include, among other things, clauses ensuring user's rights:

Access to the fixed telephone service on a continuous basis and with appropriate quality standards; explicit indication of the service facilities to be ensured by the operator, without prejudice of the possibility of a later access to other facilities; applicable prices; information on termination, suspension or limitation of the provision of the service, unless that is determined by an imperative reason or force majeure and, as such, it is not imputable to the operator; amount to be refunded in the case of non-fulfilment of the service quality standards specifically contracted, when applicable; dispute settlement procedures.

The contract should also include the following:

Warranty regime and form of provision, in accordance to the terms of article 25 - paragraph 2 – of Decree-Law n.240/97 of 18 September; specific indication of the subscriber's will concerning the inclusion or not of his personal data in the telephone directories and its disclosure through the information services, whether involving or not its transmission to third parties for the same or different purposes; specific indication of the subscriber's will concerning the utilisation or not of terminal equipment to be provided by the operator to access the fixed telephone service; specific indication of the subscriber's will concerning the access or not to the value added telecommunications services in a selective manner; mention that the contract was approved by the NRA (ICP); in the case of adhesion contracts, the operator should send the respective projects to the NRA (ICP) for approval, which should be preceded by a hearing of the Consumer Institute; in the case of a dispute between the operator and the interested party concerning the negotiation of special clauses, any of the parties

can request the NRA (ICP) to pronounce a decision, from which it can be appealed to the administrative court.

*-Spain*

Organisations providing access to the public telephone networks and organisations providing leased lines are obliged to provide a contract. As of today (October 1997), the NRA does not impose the obligation to provide a contract on service providers.

There are no general rules about the minimum content of a contract. However, each telecommunication service has its own specific regulation (usually a by-law) which in most cases contains the obligation to draft a contract with a specified content, as is the case for leased lines, mobile telephone and public telephone services. These can be considered to "model contracts".

All necessary information on compensation and refund arrangements and information on the method for initiating procedures for the settlement of disputes can be found in the regulation about consumers and users. Also, a procedure for solving these problems –the consumers arbitral system - has been established by law.

*-Sweden*

All issues related to contracts are regulated in the general consumer protection law and in agreements between the National Boards for Consumer Policies and the licensee.

### **3 – Survey on "itemised billing"**

*-Cyprus*

CYTA provides itemised bills for its mobile services customers (GSM and NMT900) free of charge.

There is only one type of itemised bill which contains the following information:

- destination of a call
- time and data of a call
- duration of a call
- cost of a call

Itemised billing for fixed telephony customers connected to digital exchanges is offered as a facility upon request with a monthly charge of CY£ 5  $\cong$  8.6 ECU.

Itemised billing may also be offered to customers, once again upon request, but for a specific period of 1-2 months only, for a charge of CY£ 3  $\cong$  5.2 ECU per bill.

*-Denmark*

All providers of public telecommunications networks and services, who have been assigned numbers in the Danish numbering plan for telephony, ISDN and mobile

communications (cf. Executive Order No.711 of 25 July 1996 on Administration and Assignments of Numbers, Number Series and Addresses for Use of Public Telecommunications Networks and Services), shall offer their customers the option of subscribing to the service "itemised billing".

There are no different obligations imposed on different operators/service providers with regard to itemised billing.

Itemised billing shall mean written specification of the invoiced calls. A sufficient level of detail in an itemised bill comprises date, time, called number, duration and price of the call. Calls which are free of charge shall not be specified in the bill.

*-Germany*

The obligation to provide itemised billing is imposed by law. It is not necessary for the NRA to designate individual operators to provide itemised billing (cf. §13 of the Telecommunications Customer Protection Ordinance). The customer may request any provider offering publicly available voice communications services to provide an itemised bill. Accordingly, fixed and mobile network operators as well as service providers are obliged to provide itemised billing.

Within the framework of data protection regulations, an itemised bill must show a sufficient level of detail to allow checking and verification of payable charges. Further details have not been prescribed, but will be based on the development of operations and practice of offerings. Courts will have to decide which requirements are sufficient. Requirements will, however, only be deemed met if each chargeable call is specified showing date, costs, time and (abbreviated) destination number. The standard form of itemised bill must be free of charge.

Deutsche Telekom is at present offering two types of itemised billing. The basic level contains the total of all local calls whereas the extended form also offers differentiated local calls. A further difference could consist of a print-out of the called numbers either completely or as abbreviated numbers, as far as this is permitted under data protection regulation.

From 1 January 1998 the standard form of itemised billing must be offered free of charge. It is uncertain whether or not there will be different forms of itemised bills at a later date.

Both types of itemised billing are at present available from Deutsche Telekom at the non-recurrent amount of 19 DM. No other charges have to be paid.

*-Greece*

Existing national legislation provides that all telecommunications providers have to offer the subscribers a sufficient analysis of the billed amount, so that the billing method becomes fully understandable. No specific operator has been designated yet, given that voice telephony will be liberalised on 1 January 2000.

OTE, upon request, provides itemised bills wherever possible (where digital exchanges are installed).

The NRA has not yet defined what is supposed to be the basic level of itemised billing, nor the additional level of detail.

The itemised bill provided by OTE on request is charged 160 GDR plus 20 GDR per printed page. Such a rate is based on administrative and printing cost.

*-Italy*

Each telecommunications organisation providing services accessible to the public through telecommunications networks or mobile communication systems is obliged to provide different analytical levels of itemised billing upon the user's request, taking into account the development of the telecommunications network or system and in accordance with the legislation in force.

Itemised bills have to contain an adequate indication of the charges composition. Calls which are free to the caller, including emergency calls, shall not appear in the bill.

*-Luxembourg*

Although the new telecommunications framework-legislation provides for the basis of consumer protection regulation, the details will be worked out in the secondary legislation which is still under preparation.

*-Malta*

TeleMalta normally sends a bill to the subscribers every two months. The bill includes:

- a. Charges for calls effected during a specified period separated into the following categories:
  - local calls effected towards the public telephone system, if any;
  - local calls effected towards the cellular mobile phone system, if any;
  - local calls effected towards the paging system, if any;
  - automatic overseas calls, if any;
  - itemised operator assisted overseas calls, if any.
- b. Rental charges for the telephone line covering an indicated period;
- c. Charges for any work performed in relation to installation upon subscriber request such as connection charges, if any;
- d. Charges for any additional services provided on the installation upon the subscriber request.

For a payment, the subscriber can request an itemised telephone bill listing automatic overseas telephone calls effected, calls effected towards the cellular mobile telephone system and calls effected towards the Paging Bureau service.

The itemised bill will indicate the date and number called, the time, duration and charge of each call.

*-The Netherlands*

See description given under the paragraph dealing with “Information to consumers” and reference made to:

- national General Law (the Constitution and the Civil Code);
- EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy;
- general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council;
- competition’s effect and market demand.

*-Norway*

Section 4-3 of the “Provisional regulation on telecommunications networks and services which are subject to licensing” stipulates that “telecommunications operators should, on demand, provide itemised bills to the extent that this is feasible”. The incumbent Telenor provides “rough” itemised bills to all users.

Section 15 of “Regulations relating to premium Rate Services” stipulates that “if technically feasible, payment for the use of each individual PRS category shall be itemised on the invoice”.

No operator has been designated by the NRA to provide itemised billing as a facility available on request, but all operators do offer this facility.

The basic level of itemised bill has not been defined by the NRA.

Users may request itemised billing free of charge, provided it is technically feasible.

*-Portugal*

An itemised bill consists of the indication, call by call, excluding calls which are free of charge, of the number of calls, their starting time and duration, and the respective number of impulses.

Decree-Law n.240/97 of 18 September states that, at the subscriber’s request, the operator should provide an itemised bill, unless it is not possible due to technical limitations, acknowledged at such by the NRA (ICP). The last four digits of the called numbers should be suppressed and replaced with alphabet letters.

The itemised bill shall be supplied free of charge when the user of the fixed telephone service is an individual considered as a consumer under the terms of Law n.24/96 of 31 July, and under the following circumstances: -whenever a non-itemised bill is the object of a complaint: through a written request made by the subscriber, valid for one year period.

Furthermore, whenever there is an invoice complaint, the operator is obliged to have a record of the itemised information concerning the billing of the previous three months, so as to make it possible to clarify any problem concerning the invoice sent to the subscriber. In the case of complaint of an itemised bill, the operator shall provide an alternative control means, namely through operator assisted calls, for a minimum period of 30 days.



*-Spain*

In 1993 the NRA decided that Telefónica should extend the facility of itemised billing in a gradual, progressive way, so that in 1997 all consumers could be offered it.

In accordance with the regulation on itemised billing, an itemised bill comprises two levels:

-The first level, free of charge for the consumers, includes information about the called number in long-distance calls, international calls and 0XY-numbers if they are free of charge.

-The second level, upon payment of a certain tariff, includes information on local calls. Such a tariff must be laid down by the Government and must be published in the Official Gazette. Consumers interested in this level of itemisation should contact Telefónica.

*-Sweden*

There are no regulatory obligations in Sweden to provide consumers with itemised bills. This is considered a commercial issue and each telecommunications operator is free to decide whether or not to provide its customers with such a service.

**4 – Survey on “non-abusive disconnection”***-Cyprus*

According to CYTA’s regulations, temporary disconnection of a service, as a result of the customer’s failure to settle bill account, is activated round about a week after the last payment date, which is stated on the bill.

If the settlement of the bill is made within a month following the disconnection date, then the service is re-connected with a surcharge of CY£ 1  $\cong$  1.7 ECU. If, however, the bill settlement is not made within this period, then a registered letter is dispatched to the customer informing him/her that, if the bill payment is not settled within a prescribed period of time (usually a month), all his/her services will be disconnected with no further notice.

*-Denmark*

As of today (October 1997), only the universal service (US) provider has specific obligations with regard to abusive disconnection. However, it is foreseen that in the near future some limited obligations will also be imposed on all providers of public telecommunications networks and services.

Where the customer is in gross breach of his obligations under the subscription agreement, the US provider is entitled to close the customer’s connection to the telephone service.

The subscription agreement is normally irrevocable on the part of the US provider, however the US provider is entitled to terminate the subscription agreement upon at least one-month notice if the customer's connection is disconnected due to gross breaches.

If the US provider stops providing the service, it may terminate the subscription agreement at 6 months notice.

The US provider needs to notify the customer of the disconnection, but the notification does not need to be communicated in writing. However, if doubt arises whether the customer has received the notification or not, the US provider may have to prove that the notification was given to the customer.

As said above, the US provider is entitled to disconnect where the customer is in gross breach of his obligations under the subscription agreement, that is when:

- the customer omits to comply on time with the US provider's requirements for security;
- the invoice for installation charges has not been paid on time;
- the invoice for subscription and usage charges, etc. is not settled after the forwarding of a reminder;
- after forwarding a request, the customer omits to disconnect equipment or internal networks causing disturbance;
- after forwarding a request, the customer omits to take measures to alleviate disturbance, etc. of the traffic;
- the connected equipment has not been approved;
- the US provider is denied access to its own systems and installations in connection with fault location;
- the connection is used in an unlawful way which affects the US provider;
- the customer fails to give notice of change of address.

The US provider does not have any obligation of maintaining any restricted service for a certain period of time.

#### *-Germany*

Providers of general access to public fixed telecommunications networks and providers of voice telephony have obligations with regard to non-abusive disconnection in accordance to the Telecommunications Customer Protection Ordinance. With regard to all other providers –e.g. providers of services non-publicly available or mobile operators – the general regulation of the German Civil Code on rights to refuse performance apply. Accordingly, interruption or discontinuation of a service by a service provider is one of the justified sanctions in the case of non-payment of a bill by the customer.

Providers of general access to public fixed telecommunications networks and providers of voice telephony are entitled to refuse provision of such services in total or in part (barring) if:

1. The customer fails to pay at least 150 DM out of the volume of his bill and the lodged guarantee has been used up;
2. There exists a reason for barring.

Barring may not be implemented sooner than two weeks after written notice and after the customer has been informed of his right to appeal to court. Written notice of call barring may be sent in conjunction with the demand for payment. Barring without previous announcement and observance of the prescribed waiting time shall only be permitted when:

1. The customer has given the operator reasons to terminate the contractual relation without notice, or
2. Harm to the operator's facilities, notably to the network, is imminent as a result of the interaction with terminal equipment, or public safety is at risk, or
3. The volume of charges rises to such an extent that there is reason to believe that if barring was implemented at a later date, the customer would not pay, would not pay fully or would not pay on time charges for services provided in the meantime, and the lodged guarantee has been used up and barring is not unreasonable.

As far as technically feasible, barring shall be restricted to the service concerned and the service shall be restored without delay once the reason for such a measure no longer exists. Full barring of general network access can only be implemented after outgoing traffic has been barred for at least one week. This means that customers can be called but cannot make chargeable calls.

Customers always have to be informed in writing of the discontinuation of the service offerings in general and of barring in particular and a reasonable time must be given before implementation of the measures.

Customers may raise objections, conclude an agreement extending the term for payment or pay the average amount of disputed telephone bills in order to be reconnected. In addition, they may bring their cases before the NRA for conciliation or before the courts with the request for an immediate judicial order.

The measures available are based on the general German legal system and the possibilities offered to the customers are so many that they cannot be listed in detail here.

Organisations required to provide Universal Service may disconnect the service only on the ground of essential requirements.

*-Greece*

Existing legislation provides that: a telecommunication provider may interrupt or cease the provision of the service only in case of a breach of the contract terms by the subscriber (in particular in the case of non-payment within the set deadlines), in case of destruction or malfunctioning of the telecommunications network, or in case of force majeure. In the case of non-payment, the telecommunications provider is obliged to notify the subscriber in writing on future interruption of the service provision, allowing a minimum of a 30-day period for the subscriber to make the payment. Only after this 30-day period is the telecommunications provider entitled to interrupt the service provision.

It has not been defined yet which operator, if any, has to continue to provide the service for a reasonable period of time before termination.

There is no specific obligation on the Universal Service provider with regard to non-abusive disconnection.

With regard to consumers rights in the case of disconnection, with specific reference to OTE, “in the case that an interruption of service provision continues for more than 48 hours after written notification from the user, the fixed charges have to be reduced proportionally to the duration of the interruption”. This rule does not apply if the interruption is caused by the use of non-certified terminals.

In the case of mobile telephony providers, “if service provision is interrupted for more than 4 hours continuously or for 12 hours within a 30-day period, the service provider reimburses the user the proportion of the fixed charges corresponding to the interruption period, even if the cause of the interruption is beyond the control of the service provider”.

*-Italy*

All operators providing voice telephony services on fixed public networks are subject to specific obligations with regard to non-abusive disconnection.

The following is the list of cases in which the voice telephony operator is allowed to disconnect or suspend the service:

- In the case of non-payment, within 15 days from receipt of the bill, of the initial access fee by the subscriber, the operator shall suspend the provision of the service in total, including incoming calls;
- If the subscriber opens, disassembles or tampers with the operator’s equipment, the operator may, after giving notice, suspend the service;
- If the subscriber, who has received a written previous notice, does not allow the operator’s employees to access his premises for technical checks of the equipment, the operator can suspend the service;
- The operator can immediately suspend the service without notice when the subscriber uses the services for non-legal purposes;
- If the subscriber refuses to lodge the required guarantee as an advanced payment for long-distance calls, the operator shall suspend the service in total, including incoming calls. If the subscriber persist in not lodging the guarantee within 60 days, the operator can rescind the contract;
- The operator can suspend the subscriber’s outgoing calls if he does not pay the telephone bill within 45 days from the payment deadline or anyway after 15 days from receipt of a written reminder sent after the bill’s deadline. The suspension of the service, if technically possible, is limited only to the services subject to dispute.
- In the case that the subscriber had been more than 30 days late in paying one of the previous six bills and for a following bill he is more than 30 days late a second time, the operator can suspend immediately, after written communication, the outgoing calls.
- After 15 days from the date of suspension of the service for any of the mentioned reasons, the operator can rescind the contract, after sending the subscriber a 10-days notice by registered letter with return-receipt.

The suspension of the service, for any reasons decided upon by the operator, will leave the subscriber with the possibility to use emergency numbers and to receive calls in all cases where this is technically possible.

*-Luxembourg*

Although the new telecommunications framework-legislation provides for the basis of consumer protection regulation, the details will be worked out in the secondary legislation which is still under preparation.

*-Malta*

Telephone bills should be paid within the time prescribed therein. If a subscriber fails to pay the bill within such a time, he/she will receive a notice warning him/her that the service will be disconnected for non-payment. If the subscriber does not regularise his/her position immediately, he/she will receive a second and final notice informing him that TeleMalta intends to disconnect and, eventually, remove the service.

Failure on the subscriber's part to pay any amount due within the time given in any bill or notice may also entail the disconnection and removal of any other telephone services registered in the subscriber's name.

*-The Netherlands*

See description given under the paragraph dealing with "Information to consumers" and reference made to:

- national General Law (the Constitution and the Civil Code);
- EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy;
- general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council;
- competition's effect and market demand.

*-Norway*

Organisations providing fixed or mobile public telecommunications services in certain circumstances may alter or close public telecommunications services no earlier than two months after giving notice of the alteration or closure of the service (six months in the case of leased lines).

The Telecommunications Act does not specify whether the communication of disconnection has to be in writing.

A list of possible situations in which the telecommunications organisation can disconnect does not exist.

Telenor, the provider of Universal service, is allowed to disconnect following the same rules described above. It is not obliged to maintain any restricted service for a certain period of time.

*-Portugal*

The contract for the provision of the telephone service shall expire:

- at the end of the period established in a contract with a fixed non-renewable period;
- due to the death of the subscriber or extinction of the corporate body, as long as those facts are communicated to the operator and excluding cases of contract alteration.

The subscriber can terminate the contract at the end of its contractual period or its renewal, through a written communication sent to the operator with a minimum advanced notice of 15 days.

In the case of serious or repeated non-fulfilment of the access and utilisation conditions by the subscriber, and after a prior authorisation of the NRA (ICP), the operator can terminate the contract through a notification sent to the subscriber with a minimum advanced notice of 8 days, through registered letter with acknowledgement of receipt and without prejudice of any possible responsibility of the subscriber; in the referred cases, the subscriber can make use of dispute settlement procedures.

*-Spain*

Teléfono has specific duties and obligations with regard to non-abusive disconnection.

Teléfono may interrupt or disconnect the telephone service when there is a delay in the payment of the telephone bill of at least twenty days from when the bill is presented to the subscriber. The disconnection should not be made during holidays or on the eve of a holiday.

Twenty days after service disconnection and following a request for payment sent to the subscriber by registered letter giving the subscriber ten days to pay the bill, Teléfono may rescind the contract.

An exhaustive list of operators' and consumers' rights and obligations with regard to disconnection does not exist. In addition to the above-mentioned situation of non-payment, Teléfono can disconnect in the case of a certain and immediate situation of danger for the public network.

*-Sweden*

The licence conditions state that information on restriction of access and use shall be kept easily available by the licensee. Furthermore, information shall be made available regarding the procedure in the event of failing to pay the bill.

Furthermore, the service quality requirements in the licence conditions state that:

- the supply time for initial network connection with only main circuits to permanent residences and to regular business locations shall, except in special cases, not exceed 17 days, counted from receipt of order;
- for network connection with only one main circuit to permanent residences and to regular business locations, the time between fault complaint and fault repair shall

- only in special cases exceed 2 working days. 55% of the faults shall be repaired within 8 hours counted from fault complaint;
- The accessibility measured as the rate of successful connections for domestic calls during business hours shall only in special cases be lower than 98%. To and from a single local exchange area the accessibility rate shall never be lower than 96%;
  - The rate of service reliability shall not exceed 160 fault complaints per 100 terminal points annually. Fault complaints for single local exchange areas shall not exceed 600 per 1000 terminal points annually.

## **5 – Survey on “complaint and recourse procedures”**

### *-Cyprus*

According to CYTA’s regulations, all customers are to be treated on an equal and non-discriminatory basis. There are no specific complaint handling procedures outlined in the Law or the regulations.

However, there are internal procedures designed by CYTA to deal with customers and citizens complaints.

### *-Denmark*

All providers of public telecommunications networks or services have the obligation to set up a service for consumer complaints.

The above-mentioned organisations shall appoint a special internal investigation unit to make investigations and give opinions in connection with complaints concerning the amount in the bills.

The obligation is rather new and it is still too soon to know whether it works in practice.

The NRA has asked all relevant providers to provide information regarding the practical aspects of setting up such a service.

Complaint handling procedures shall be ISO9002-certified or certified according to similar standards.

When receiving a complaint, operators/service providers shall make a decision no later than three months after the date on which the complaint was lodged.

If the consideration of a complaint requires the establishment of special recording or monitoring of usage, billing, etc. for a certain period with the purpose of detecting possible sources of errors, the time limit for deciding on a complaint shall be extended to six months.

It is not mandatory to communicate the decision in writing, but it is the NRA’s endeavour that in practice all decisions are communicated in writing.

In Denmark telecommunications complaints shall be directed to the National Telecommunications Agency. The decision of the Agency can be appealed to the Telecommunications Consumer Board.

Next to this specific telecommunications procedure, the general framework of recourse procedures apply.

The procedures described apply, with no distinction, to all operators/service providers.

The above-mentioned bodies may issue orders to all operators/service providers. In the case that the given orders are not complied with, the bodies issuing the orders may impose daily penalties on the operator/service provider.

*-Germany*

The law does not foresee any obligations for telecommunications organisations to set up a service for consumers' complaints. However, companies offer these services themselves both at their branch offices and via central call numbers (care-lines; service-lines). The provision of such service offices or lines is legally advisable as companies should, in their own interest, clear faults quickly where complaints are justified or faults reported in order to avoid possible recourse claims.

Complaint handling procedures may be agreed upon by the parties (telecommunication organisations and customers) between themselves as they deem it appropriate depending on the case. There are no legal requirements to have these procedures approved by or agreed upon with other bodies.

The actual conciliation proceedings are carried out by the NRA following rules of procedures agreed upon with the telecommunications organisations.

When the parties do not want to use conciliation proceedings but agree on arbitration proceedings, different rules apply. In Germany arbitration, which is not a court procedure, can be initiated with respect to all disputes and is generally regulated in the Code of Civil Procedure. An agreement reached through an arbitration means that subsequent recourses to courts are excluded.

Operators do not have a fixed period of time within which to take a decision on a customer's complaint. If the customer is of the opinion that the decision-making process is taking too long, he can bring the case before the courts or the NRA at any time.

The telecommunications organisation informs the customer in writing of its position on the complaint, except when the matter can be settled by discussion on site.

Both general complaint procedures and telecommunication-specific procedures are available to customers.

As from 1 January 1998 providers of publicly available voice communications services must include in their contracts/general terms & conditions a reference to the possibility of initiating special conciliation proceedings.

Arbitration proceedings are not restricted to telecommunications contracts since, in accordance with the Code of Civil Procedure, such proceedings can be initiated with respect to all contracts and contracting parties in Germany.

In addition, the German Law Governing Standard Business Conditions offers other possibilities to object to contractual clauses –irrespective of legal actions that can be taken against an individual contract. Basically this also applies to all types of contracts and is therefore not limited to telecommunications contracts.



Conciliation proceedings in accordance with the Telecommunications Customer Protection Ordinance apply to organisations offering access to public telecommunications networks and providers of voice telephony (which could also be just service providers).

Depending of the type of procedure chosen, customer complaints can be processed by the following bodies:

- Conciliators/Arbitrators
- Consumer Associations
- NRA
- Courts.

A decision taken in arbitration proceedings is binding and it excludes the courts' jurisdiction. Likewise, a court's decision is binding. Consumer Associations can seek judicial decisions.

The conciliation proceedings of the NRA are only binding when parties (are willing to) reach an agreement. Customers may have recourse to courts in order to object to the NRA's decision within the framework of the legal regulatory functions and not in its capacity as a voluntary conciliation body.

#### *-Greece*

Existing legislation does not provide for specific arrangements related to complaint handling at telecommunications providers level.

Users may file complaints to the NRA regarding cases falling within its jurisdiction and that includes most if not all of the issues related to consumer protection.

#### *-Italy*

The following provisions apply to operators providing voice telephony services over public fixed networks.

Complaints about the amount of the telephone bill have to be sent, in writing, to the competent operator's branch in the territory, within the deadline date of the contested bill.

The result of the complaint will be communicated to the subscriber in writing within 30 days from receipt of the complaint.

The operator is obliged to set up, in its regional branches, a free-phone service for collecting complaints about unresolved faulty services and suggestions on how to improve services. The operator is obliged to transmit to the Ministry of Communications copies of those received complaints which could not be solved.

In any case, the subscriber can send a written complaint directly to the operator's competent branches on the territory. The operator has to give an answer within 30 days from receiving the complaint.

For each dispute procedure about the subscription contract, the competent court is chosen on the basis of the territorial branch of the operator involved in the contract.

*-Luxembourg*

Although the new telecommunications framework-legislation provides for the basis of consumer protection regulation, the details will be worked out in the secondary legislation which is still under preparation.

*-Malta*

If there is something unclear in the bill or something that the subscriber disputes, the subscriber should first contact the Billing Enquiries Section of TeleMalta. If this first step is not satisfactory, the subscriber is offered the option of lodging a contestation, at a charge. Subscribers are allowed to contest the latest telephone bill issued and the contestation must be recorded with TeleMalta 15 days from when the telephone bill is confirmed by TeleMalta after their initial enquiries. Eventually, if the dispute remains unresolved, the case will be forwarded to the Billing Contestation Board, which is an internal body set-up within TeleMalta to deal with such disputes.

If, after the Billing Contestation Board has decided, the subscriber is still not satisfied, the case is referred to the Appeals Contestation Board, which is an independent body set up by TeleMalta. The Appeals Board's decision is final.

For complaints other than billing complaints, consumers should call the appropriate number in TeleMalta or contact the Customer Service Unit and the complaint will be addressed to the competent person in the Corporation.

TeleMalta's target is to complete the investigations centred on complaints within a maximum period of 20 working days from the date the complaint is acknowledged and received. If the result is not satisfactory, the complainant can write to the Complaints Review Board, a board composed of three independent persons with the authority to direct TeleMalta to rectify any shortcomings following a customer's complaint.

*-The Netherlands*

See description given under the paragraph dealing with "Information to consumers" and reference made to:

- national General Law (the Constitution and the Civil Code);
- EU Directives on ONP-Voice telephony and processing of personal data and the protection of privacy;
- general agreement of the incumbent operator within the Commission of Consumers of the Social-Economic Council;
- competition's effect and market demand.

Specifically, in the case of complaints the procedure for consumers is the following. The consumer should first address the director of his telephone area (the name and address is on the bill), otherwise contact OPTA (the NRA), the "Consumentenbond", the "Stichting Geschillencommissie voor Consumentenzaken" or finally go through Court procedures.

*-Norway*

Organisations providing fixed public telephone networks are not obliged to set up a service for consumer complaints – this is a voluntary arrangements. On the other hand, organisations providing mobile telephone networks have such an obligation.

The procedure is different for fixed and mobile networks.

For the handling of complaints regarding the fixed public telephone networks there is a board of three people – one judge, one representative of the incumbent operator, and one of a consumer protection agency.

Complaints regarding mobile telephone networks are handled by the operators themselves.

These procedures are, however, being revised, with the intention of establishing a common procedure for mobile and fixed networks.

Complaint handling procedures of telecommunications organisations have to be formally agreed with the NRA.

Telecommunications operators have to communicate their decision on a consumer complaint in writing, but they do not have a limited period of time in which to answer the complaint.

It is yet unclear whether the general framework on recourse procedures apply to some categories of operators/service providers while telecommunications-specific recourse procedures apply to some other categories because the procedures are being revised.

The bodies responsible for handling consumer complaints are the Board of Telecommunication Complaints (*Teleklagenemnden*), the Consumer Protection Agency (*Forbrukerrådet*) and the telecommunications NRA.

In the ordinary course of the events, these bodies' decisions will be respected.

*-Portugal*

In accordance to Article 44 of Decree-Law n.240/97 of 18 September, without prejudice to the appeal to either the judicial or the arbitration courts under the terms of general law, the user can forward complaints to the operator concerning acts or omissions that violates the provisions of the applicable legislation.

The user shall file his complaint within 30 days from the knowledge of the fact.

The operator shall make a decision on the complaint within 30 days from the date the complaint is acknowledged and received and shall notify the interested party of the decision within 5 days.

In the cases where the decision does not, either partially or in full, accept the complaint, the interested party may request the NRA (ICP) to make an appreciation and decision on the object of the dispute within 30 days after the notification referred above.

Within the scope of the dispute settlement procedure, the operator should provide the NRA (ICP) within 10 days with all information requested for the decision, which should be pronounced within 30 days.

The decision of the NRA can be appealed before administrative courts.

*-Spain*

Complaints against Telefónica with regard to its telephone service may be solved in several ways:

- The first step is to appeal directly to the Public Commercial Office in Telefónica, within two months of the occurrence of the fact causing the disagreement.
- If the consumer is not satisfied with the first-step decision, he can appeal to the “Delegación del Gobierno en Telefónica”, within one month. The decision of this Unit may be brought to the Administrative Court of Justice.
- Alternatively, the consumer can go to the National Arbitral Procedure to obtain satisfaction. The implementation of such a decision is voluntary on the part of the operator.

*-Sweden*

According to the Telecommunications Act, the NRA is obliged to report annually to the Government about consumer complaints that have been reported to the licensee. Consequently, licensees have to collect and forward to the NRA the consumer complaints reported to them.

The body responsible for handling consumer complaints is the Swedish Consumer Agency. This body can force an organisation/company to stop its abusive consumer behaviour through fines.

Individual consumer complaints are dealt with by the Regional Consumer Guidance. For issues related to recourse procedures, general consumer protection rules apply.

## ANNEX 5 – PROVISIONS IN COMMUNITY LAW

### - Information to consumers

#### Article 11 of the new ONP –Voice Directive:

1. Member States shall ensure that all organisations providing fixed public telephone networks and mobile telephone networks or publicly available telephone services publish adequate and up-to-date information for consumers on their standard terms and conditions with regard to access to and use of the public telephone networks and/or publicly available telephone services. In particular, NRAs shall ensure that tariffs for end-users, any minimum contractual period, if relevant, and conditions of renewal of the contracts, are presented clearly and accurately.
2. NRAs shall ensure that organisations providing fixed public telephone networks provide them with details of the technical interface specifications for network access, as identified in **Annex II, part 1**, to be made available in accordance with paragraph 4. Changes in existing network interface specifications shall be communicated to the NRA in advance of implementation. The NRA may lay down a suitable period of notice.
3. Where and for as long as the provision of fixed public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State, NRAs shall ensure that adequate and up-to-date information on access and use of the fixed public telephone networks and publicly available telephone services is published in accordance to the list of headings given in **Annex II, part 2** in the manner laid down in paragraph 4.
4. NRAs shall ensure that the information is made available in an appropriate manner in order to provide easy access to that information for interested parties. Reference shall be made in the National Official Gazette of the Member State concerned to the manner in which this information is published.
5. NRAs shall notify to the Commission no later than [1 July 1997] the manner in which the information referred to in paragraph 2 and 3 is made available. The Commission shall regularly publish a reference to such notification in the Official Journal of the European Communities. Any change shall be immediately notified.

**Annex II (summary)** - Headings for information to be published in accordance with Art. 11

**Part 1** - Information to be supplied to the NRA in accordance with article 11(2)

**Organisations providing fixed public telephone networks** shall provide NRAs with details of:

- technical characteristics of network interfaces
  - a) for analogue and/or digital presented networks
  - b) for ISDN (when provided)
  - c) for any other interfaces commonly provided

**Part 2** - Information to be published in accordance with article 11(3)

**Organisations providing fixed public telecommunications networks and voice telephony services under special or exclusive rights** shall publish the following information: -

1. Name and address of organisation
2. Telephone services offered
  - 2.1. Scope of the basic service
  - 2.2. Tariffs
  - 2.3. Compensation/refund policy
  - 2.4. Types of maintenance service offered
  - 2.5. Standard contract conditions
3. Conditions for attachment of terminal equipment
4. Restrictions on access and use

### ***-Fair contracts***

#### **Article 10 of the new ONP-Voice Directive:**

NRAs shall ensure that organisations providing access to fixed public telephone networks and mobile public telephone networks provide a contract. The contract shall specify the service to be provided or shall make reference to publicly available terms and conditions. The contract or the public available terms and conditions shall at least specify the supply time for initial connection and the types of maintenance service offered, the compensation and/or refund arrangements for subscribers that apply if the contracted service is not met, and a summary of the method of initiating procedures for the settlement of disputes in accordance with article 26.

**Council Directive 93/13/EEC** on unfair terms in consumer contracts, applicable also to telecommunications contracts, includes the definition of unfair terms and in annex a non-exhaustive list of unfair terms:

#### **Article 3:**

1. A contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations arising under the contract to the detriment of the consumer.

**-Itemised billing****Article 14 New ONP-Voice Directive:**

1. In order to ensure that users have access over fixed public telephone networks, as early as possible, to the facilities of:
  - tone dialling
  - itemised billing and selective call barringas facilities available on request.

Member States may designate one or more operators to provide these facilities to most telephone users before [31 December 1998], and to ensure they are generally available before [21 December 2001].

A Member State may authorise its NRA not to apply the requirements of this paragraph in all or part of its territory if it is satisfied that these facilities are widely available.

2. Subject to the requirements of relevant legislation on the protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/..../EC, itemised bills shall show a sufficient level of detail to allow verification and control of the charges incurred in using the fixed public telephone network and/or the fixed public telephone services.

A basic level of itemised billing shall be available at no extra charge to the user. Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or at no charge. NRAs may lay down the basic level of itemised bill.

Calls which are free of charge to the calling subscriber, including calls to help-lines, shall not be identified in the calling subscriber's itemised bill.

## **- Non-abusive disconnection**

### **New ONP-Voice Directive:**

#### **Article 21 - Non payment of bills**

Member States shall authorise specified measures, which shall be proportionate, non discriminatory and published in the manner laid down in Article 11(4), to cover non-payment of telephone bills for use of the fixed public telephone network. These measures shall ensure that due warning is given to the subscriber beforehand of any consequent service interruption or disconnection.

Except in cases of fraud, persistent late or non-payment, these measures shall ensure, as far as is technically feasible, that any service interruption is confined to the service concerned. Member States may decide that, where appropriate, complete disconnection takes place only after a stated period during which calls are permitted that do not incur a charge to that subscriber.

#### **Article 22 - Conditions for termination of offerings**

1. The provision of this article shall apply where and as long as the provision of public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State.
2. NRAs shall ensure that service offerings of organisations with such special or exclusive rights continue for a reasonable period of time and that termination of an offering, or a change that materially alters the use that can be made of it, can be done only after consultation with users affected and an appropriate public notice period set by the NRA.
3. Without prejudice to other rights of appeal provided for by national law, Member States shall ensure that users, and where national law so provides, organisations representing user and/or consumer interests, can bring before the NRA cases where the users affected do not agree with the termination date envisaged by the organisation concerned.



## **- Recourse procedures**

### **New ONP-Voice Directive Chapter IV - Procedural provisions:**

#### **Article 21 – Non-payment of bills**

Member States shall authorise specified measures, which shall be proportionate, non-discriminatory and published in the manner laid down in Article 11(4), to cover non-payment of telephone bills for use of the fixed public telephone network. These measures shall ensure that due warning is given to the subscriber beforehand of any consequent service interruption or disconnection.

Except in cases of fraud, persistent late or non-payment, these measures shall ensure, as far as is technically feasible, that any service interruption is confined to the service concerned. Member States may decide that, where appropriate, complete disconnection takes place only after a stated period during which calls are permitted that do not incur a charge to that subscriber.

#### **Article 22 - Conditions for termination of offerings**

1. The provision of this article shall apply where and as long as the provision of public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State.
2. NRAs shall ensure that service offerings of organisations with such special or exclusive rights continue for a reasonable period of time and that termination of an offering, or a change that materially alters the use that can be made of it, can be done only after consultation with users affected and an appropriate public notice period set by the NRA.
3. Without prejudice to other rights of appeal provided for by national law, Member States shall ensure that users, and where national law so provides, organisations representing user and/or consumer interests, can bring before the NRA cases where the users affected do not agree with the termination date envisaged by the organisation concerned.

#### **Article 24 - Discussions with interested parties**

Member States shall take into account, in accordance with national procedure, the views of the representatives of organisations providing public telecommunications networks, users, consumers, manufacturers and service providers regarding issues related to the scope, affordability and quality of publicly available telephone services.

#### **Article 25 - Notification and reporting**

- 1.....
- 2.....

3. Where a Member State maintains special or exclusive rights for the provision of public telecommunications services and voice telephony services, NRAs shall keep available and submit to the Commission on request details of individual cases brought before them, other than those covered by Article 21, where access to or use of the fixed public telephone network or voice telephony service has been restricted or denied, including the measures taken and their justifications.

#### **Article 26- Conciliation and national dispute resolution**

Without prejudice to:

- (a) ....
- (b).....
- (c).....

the following procedures shall be available:

(1) Member States shall ensure that any party, including for example users, service providers, consumers, or other organisations having an unresolved dispute with an organisation providing fixed public telephone networks and/or publicly available telephone services concerning an alleged infringement of the provisions of this Directive, shall have the right to bring cases before the national regulatory authority or another independent body. Easily accessible and in principle inexpensive procedures shall be available at a national level to resolve such disputes in a fair, transparent and timely manner. These procedures shall in particular apply in cases where users are in dispute with an organisation about their telephone bills, or the terms and conditions under which telephone service is provided.

Organisations representing user and/or consumer interests may bring to the attention of the NRA or another independent body cases where terms and conditions under which telephone service provided are deemed to be unsatisfactory for users.

(2) A user or an organisation may, where the dispute involves organisations in more than one Member State, invoke the conciliation procedure provided for in paragraphs 3 and 4 by means of a written notification to the NRA and to the Commission. Member States may also allow their national regulatory authority to invoke the conciliation procedure.

(3) Where the NRA or the Commission finds that there is a case for further examination, following a notification based on paragraph 2, it can refer the matter to the Chairman of the ONP Committee.

(4) In the circumstances referred to in paragraph 3, the Chairman of the ONP Committee shall initiate the procedure described below if satisfied that all reasonable steps have been taken at the national level:

- I. The Chairman of the ONP Committee shall convene as soon as possible a working group including at least two members of the ONP Committee and one representative of the NRA concerned, and the Chairman of the ONP Committee or another official of the Commission appointed by him. The working group shall be chaired by the representative of the Commission and shall normally meet within ten days of having been convened. The Chairman of the working group may decide, upon proposal by any of the members of the working group, to invite a maximum of two other persons as experts to advise it;
- II. The working group shall give the party invoking this procedure, the NRA of the Member State involved and the organisations involved the opportunity to present their opinions in oral or written form;
- III. The working group shall endeavour to reach agreement between the parties involved within three months of the date of receipt of the notification referred to in paragraph 2. The Chairman of the ONP Committee shall inform the Committee of the results of the procedure so that it may express its views.

(5) The party invoking the procedure shall bear its own costs of participating in this procedure.



## **ANNEX 6 -COMMENTS TO THE STUDY ON “CONSUMER PROTECTION” EXPRESSED DURING A WORKSHOP HELD IN BRUSSELS ON 21 OCTOBER 1997**

### **I - Comments on ETO’s proposals**

#### **1) Information to consumers**

- An incumbent operator emphasised the suitability of services and tariffs differentiation in a competitive environment. It might in fact be tempting to ask for transparency and simplicity that allows users to make comparisons between tariffs, but the problem with this is its feasibility, since the different tariffs and the different services are designed to better fit the different needs of different kinds of users. The opinion of this operator implies no support to ETO’s proposal of transparency of tariffs, which seems to be made for the past world when there was monopolistic provision of services.
- Another incumbent operator pointed out that both detailed and transparent price information seem to be eminently sensible, but the thing that seems difficult is the clause about the information being “easily comparable”. That suggests some level of details that could tend to set, in practice, a level or type of service in order to be able to compare across the many operators in the market. Telling operators how they have to offer services is the only way to make prices comparable. And that does not seem to be very sensible. Nor does it seem to be very sensible to regulate in an area where one cannot see a way of de-regulating later on. Because regulation has this habit of not going away - just the opposite in fact. And thinking about general competitive markets, nobody tells consumers and nobody makes a nice easy comparison for consumers of supermarket prices; they do it themselves. Prices are published, clear and transparent, but nobody compares them for the consumer, because comparison carries with it an implication that there is a right answer, a best answer and consumers are entitled to know what it is.
- The Commission added a comment, on the subject of tariff transparency. One of the conditions that can also be found in economic theory is that, in order to have a competitive market, the market also has to be transparent. And normally the competitive nature of the market supplies the transparency that ensures a balance between the consumers and the suppliers. But the problem is exactly there: if a market is competitive, it is transparent and the market mechanisms themselves will provide the transparency required by consumers for the protection of their legitimate interests. If the market is not yet competitive, the lack of transparency may prevent this market for becoming competitive. A number of issues related to consumer protection are intimately related to the fact that when the market is not yet open to genuinely competition, the consumer protection issues have to be addressed taking into account the specificity of the market situation. Once the market has demonstrated its efficiency, these same issues are likely to loose their relevance.
- A consultant disagreed with the position expressed by the Commission, since a world of perfect information does not exist. An operative competitive market does not mean that perfect information is available. In the opinion of the consultant, the representative of the

Commission is going quite far by presenting transparency and a competitive market as an automatic result one of the other.

## 2) Fair contracts

- ETNO agrees with the ETO's proposal regarding fair contracts. The proposed Voice Telephony Directive already sets out some provisions and ETNO is perhaps not sure that it is necessary to develop these provisions further; but, if it is the case, operators would be ready to discuss it with consumer organisations and other user organisations, within a suitable framework (EIF is a possibility, ONP-CCP could be another one).
- With reference to contracts, a consultant touched a very interesting question that has arisen a number of times through the introduction of carrier selection. In the case of France, for example, one-digit carrier selection has been introduced. Now, it is easy to imagine that if a consumer is walking in the street and sees a poster that says "dial 9 to use a new operator", the consumer might want to do that in his next telephone call. But if the company in question tells him that first they have to send him a contract, he has to sign it and then send it back and the service will be initiated in two weeks, that could be a problem. This raises the question whether, once carrier selection has been introduced (and maybe specially this one-digit carrier selection), it is useful to sign a contract before starting to use such a service or whether other arrangements can be made. An example of this problem can be given with reference to France. The French regulator has very clearly left the issue open, meaning that it is not mandatory that a contract must pre-exist. The regulator has allowed an interconnection agreement between a new entrant and France Télécom to take place where it is said that the price of a call performed through the new entrant is accounted for through interconnection and therefore the customer does not have to have a pre-existing contract with the new entrant. Some operators are finding a way out of this contractual issue. What they do is that the first time a consumer dials XXXX as a carrier selection code, their database detects that the caller is not one of their customers. The caller is then routed to a call centre where the procedure and the contractual arrangements are explained to him. It seems that some more modern practical steps can be taken in order to avoid problems of consumers finding themselves using an alternative operator who charges them three times more than the incumbent. There are ways to divert the call and then have a serious procedure informing the consumer before he takes the actual step of making a call with the other operator. Another solution could indeed be that there is an interconnection agreement between the new entrant and the incumbent that addresses that issue. And so one might wish to consider that the regulatory regime forces the Reference Interconnection Offer to include or the operator with significant market power to provide a service whereby this facility of making call-by-call carrier selection is a possibility, through interconnection and without a contract between the carrier and the users.
- A German new entrant explained that the problem of carrier selection with or without contract exists also in Germany, where the issue is not regulated. It is crucial that the conditions for making a call-by-call pre-selection are not too restrictive and burdensome, otherwise they create a barrier against changing the operator. It would be therefore very useful to study ways by which written contracts may be made redundant.

- An incumbent operator, while agreeing that any requirement for contracts should not prevent a customer from shifting to a new entrant, pointed out that the problem arose also with regard to customers using Premium Rate Services. In those case it would be preferable if there had been some transparent contracts, so that consumers were aware of what they were doing, before they did it. If it is too easy to take up services from any kind of service providers or new entrants, people might run a risk of getting high bills. Consumer protection is meant to protect consumers and not to prevent new entrants from entering the market.
- Another incumbent operator explained that, at a practical level, being able to chose any carrier at any time is really a problem of billing more than anything else -that's why a contract is needed. The kind of flexibility to allow what was suggested can be built in, but that would make the implementation of carrier selection much more expensive because the exchanges of the software have to be able to deal with many more variations that it would otherwise be the case.

### **3) Itemised billing**

- ETNO agrees on ETO conclusions with regard to itemised billing.

### **4) Non-abusive disconnection**

- ETNO pointed out that with regard to disconnection it might be useful to have a common approach in Europe, but it has to be taken into account that, in this area, conditions, penetration rates and the amount of money that people have to spend differ very much from country to country. So, to come up with an harmonised solution here might not be very useful. It should be kept in mind that as long as one protects customers when they are not paying their bill, the bill has to be paid by other customers. Of course people with specific social needs should be protected, to a certain degree, but this should not be detrimental to the rest of the customers.
- An incumbent operator showed a degree of surprise on reading that ETO's report states that some issues can be satisfied and ensured correctly by competition. The operator specially referred to disconnection. As an example, the operator explained that the experience of operators is that when they make an investment for creating a connection to a user and then this user turns to be unable to pay his bill any longer, if this user is disconnected, the operator won't get any more revenue from this line. Whereas, when restricting the service to outgoing calls, the operator still gets revenue from incoming calls. The competition, the market itself, will realise that there is an interest in not disconnecting the user completely.  
In ETO's opinion, the example given above by the operator confirms the conclusion of the report –that competition mechanisms ensure a sufficient level of consumer protection against abusive disconnection.
- A consultant pointed out that in the UK it is quite a well-know fact that the cable operators are picking up quite a few customers that BT has disconnected, as they have a less restrictive disconnection policy than BT. It seems that 10% of Telewest's customers are customers rejected by BT.

## 5) Recourse and complaint procedures

- A consultant pointed out that in his experience, and contrary to the results of the ETO study, it is not so common in Europe that all telecommunications operators and service providers in every country have to establish consumer complaint procedures.

## II- General comments

- ETNO expressed the general remark that, if it is accepted that introduction of competition is for the benefit of consumers -in terms of wider range of services, new offerings, different prices, etc. -these benefits are closely linked to the possibility for the operators to behave in a flexible and responsive way. Therefore a too detailed and too specific regulation of the area “consumer protection” might be in contradiction to the benefits that we all probably expect from competition.
- As a general comment to the ETO report on “Consumer Protection” ETNO underlined, first and foremost, that they have noticed that the ETO study, apparently, takes a slightly different approach to the question of consumer protection compared to the Voice Telephony Directive. The ETO approach is that the benefits of consumer protection should, so to say, be for all users regardless of what kind of organisation they are served by, whereas the Voice Telephony Directive imposes certain consumer-related aspects on certain organisations. There are obligations imposed on USO providers, operators with significant market power, etc. ETNO thinks that the position of the ETO study is actually more beneficial for the consumers. If the rights of the consumers should be safeguarded, it should be regardless of what organisations they are served by. It would not be desirable that only customers of large operators with significant market power have the right, for example, to receive an itemised bill.

## II- Conclusions of the Workshop

- The opinion of many participants in the Workshop was that the ETO’s proposal on the publication of easily comparable tariffs is not feasible. ETO recognises that consumer protection measures cannot consist in imposing obligations on telecommunications operators which could hinder competition, but at the same time considers the publication of comparable tariffs as a necessary measure for protecting consumers, at least in the transitional period towards a fully competitive market.
- With regard to the issue of “fair contracts”, ETO recognises the importance of the comments made by those participants in the Workshop who fear that the obligation to provide a contract could sometimes slow down or create a barrier against changing the operator. Nevertheless, ETO underlines that, whenever a contract exists, the provisions on the protection of consumers in respect to distance selling should be applied to all telecommunications operators and service providers; and a possibility should be given to consumer’s associations to be involved in the process of drafting contracts.
- With regard to itemised billing, non-abusive disconnection and recourse/complaint procedures, the comments of the participants in the Workshop were considered very



useful and interesting by ETO, but none of them seem to lead to any change in the ETO study.