

Annex F

Consumer Protection Regulation (Specific Rules on Consumer Protection in the Electronic Communications Sector)

**Recommendation of the Electronic Communications Authority
(ECTEL)**

To the National Electronic Regulatory Commissions

To consult on a Draft

***Consumer Protection Regulation
(Specific Rules on Consumer Protection in the Electronic
Communications Sector)***

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PART I
PRELIMINARY PROVISIONS

Citation and commencement

1. (1) These Regulations may be cited as, 20[●]
- (2) These Regulations shall come into operation on [Date].

Interpretation

2. (1) In these Regulations unless the context otherwise requires –

“Act” means the Electronic Communications Act, 20[●]

“consumer” means a consumer of a Licensee to whom these Regulations apply and includes its customers, and subscribers;

“customer” means a consumer who subscribes to a public electronic communications service by entering into a contract with a Licensee and includes a retail customer;

“net neutrality” means the principle that service providers are obliged to treat all data on the internet the same, not intercepting, interrupting, blocking, degrading, discriminating or charging differentially, by user, content, site, platform, application, type of attached equipment, mode of communication or source or destination of communication;

"included value plan" means a mobile post-paid service plan under which the customer receives a larger amount of monthly included value than the minimum monthly charge he pays (e.g. for \$50 per month, receive \$500 included value), to use on a combination of eligible services across standard national mobile calls, standard national mobile SMS and national data usage, and the use of any of these three eligible services is not unlimited;

“over the top” refers to voice, video, television and other applications and services, which are accessible over the internet and transmitted over a telecommunications network;

“pre-paid mobile phone service” means a type of mobile phone account that requires its owner to purchase credit before services can be used;

"post-paid service" means an electronic communications product that can be used fully or in part prior to being paid for by the consumer;

“Regulations” means these Regulations unless otherwise stated;

"single price" means the minimum quantifiable price for the supply of the electronic communications services or goods at the time of the representation;

"small online advertising" means an online strip, a banner or tile advertising or the equivalent;

"special promotion" means an offer of limited duration, limited quantity or offered to a limited sub-set of consumers, such as discounts off electronic communications goods or components of electronic communications services.

"text advertising" means-

- (a) a Licensee-placed advertisement in newspapers, magazines and press inserts and service provider-generated flyers, leaflets, brochures and catalogues.
 - (b) service provider-placed outdoor static large format advertising, including advertisements displayed upon:
 - (i) public transport panels;
 - (ii) outdoor street furniture; or
 - (iii) billboards;
 - (c) online advertisements on a service provider's own website and service provider-placed advertising on other online sites, other than online strip, banner or tile advertising or the equivalent.
- (2) A word or expression that is used in these Regulations and is also used in the Act shall have in these Regulations the same meaning as it has in the Act unless the contrary intention appears.

Objectives

3. The objectives of these Regulations are to-

- (a) ensure reasonable quality of service regardless of geographical location;
- (b) ensure access to free emergency telephone calls and to enable persons with disabilities or specific needs to access electronic communications services;
- (c) ensure net neutrality so that consumers are able to access and disseminate any content which does not contravene public policy or fundamental rights, as well as to access applications and services of their choice;
- (d) ensure that persons who use electronic communication services receive a written contract, which shall include specific details of tariffs and costs, and the manner in which the contract may be terminated if the Licensee changes its terms;
- (e) ensure that each customer can reasonably and reliably have access to information and receive assistance with regard to queries relating to the Licensee's services;
- (f) ensure the implementation by the Licensee of efficient procedures for the resolution of complaints and disputes with customers;
- (g) avoid abusive solicitations and misleading advertising by Licensees;
- (h) prevent unfair restrictions on customer choice and unduly burdensome customer contract terms and conditions;
- (i) ensure high standards of privacy and confidentiality for personal data stored or transmitted over the electronic communication network.

Guiding principles

4. These Regulations are based on the following principles—
- (a) promoting the consumer as an active, well-informed and rational agent in the marketplace;
 - (b) promoting the conscientious provision of service by Licensees;
 - (c) ensuring transparency in the operations of Licensees, while equipping consumers with the information needed to make reasonably informed transactional decisions;
 - (d) maximizing the socio-economic benefits to all stakeholders in the sector, while respecting and guarding consumers' rights and privacy; and
 - (e) facilitating and promoting a regulatory environment in which all stakeholders, including consumers, are able to adapt to changing market conditions.

PART II
PROVISION OF INFORMATION

Disclosure and publication of information

5. A Licensee shall-
- (a) provide or make available to consumers information on its products and services that is clear, accurate, free of material omissions, relevant, current, comprehensive and where required, is delivered in a timely manner;
 - (b) communicate with a consumer in a manner that is appropriate to the consumer's communications needs including those with special needs; and
 - (c) provide consumers with the ability to receive all relevant terms and conditions of its electronic communications services and products at no charge prior to concluding a contract by -
 - i. viewing and downloading them from a public website;
 - ii. accessing them in a physical format.

Publication of tariffs

6. (1) In accordance with section 68 (3) of the Act, a Licensee shall publish the tariffs for its electronic communications services by –
- a) the format of a directory, if appropriate;
 - b) publishing current tariffs on the Licensee's website;
 - c) sending or providing a copy of the tariffs or any part of the tariffs to any customer or group of customers who requests such a copy at no charge; and
 - d) placing a copy of the tariffs in every registered office and place of business owned or controlled by the Licensee.
- (2) Tariffs shall be published to allow consumers the ability to review all applicable tiers of costs associated with the provision of the electronic communications services and product, having regard to the needs of the consumer.

Disclosure of other information

7. A Licensee shall publish the following -

- (a) description of the services;
- (b) standard rates;
- (c) details of standard discounts and special and targeted tariff schemes in respect of –
 - i. access,
 - ii. where any subscription or periodic rental charge is applicable, details of which electronic communication services are included within such charges;
 - iii. all types of usage charges, and
 - iv. any maintenance service; and
- (d) quality of service commitments and details on any compensation or refund policy, and
- (e) installation and maintenance policy.

Hot Line

8. (1) A Licensee shall provide a dedicated telephone line for the purpose of allowing persons to submit complaints.

(2) A Licensee shall not impose a surcharge on calls made to the dedicated telephone line provided pursuant to sub-regulation (1).

(3) A Licensee shall, in relation to calls made to it by persons about its electronic communications services and products:

- (a) cause its operators to provide information on all offers, electronic communications services and products relevant to the person's request;
- (b) create a charging mechanism that:
 - i. prohibits 900 type charges (e.g. surcharges imposed for access to information services) or provides the ability to disconnect the call; or
 - ii. prohibits the imposition of any charges for calls made to the operator.

(4) Each Licensee shall establish a call centre that is fully accessible via telephone and online and free of charge pursuant to quality of service parameters.

PART III

CUSTOMER CONTRACTS

Approval of customer contracts

9. (1) The Commission may require a Licensee to submit draft terms of service to it for approval, and may prescribe a timetable for review, approval and implementation of the terms of service.

(2) Terms of service shall describe the basic terms of the relationship between the Licensee and its customers with respect to the provision and use of electronic communications services.

- (3) The Commission shall, acting on the recommendation of ECTEL, approve draft terms of service, and may require changes that it considers appropriate.
- (4) Approved terms of service shall replace existing terms used by a Licensee.
- (5) A Licensee shall not disclose personal information about a customer unless the customer consents to the disclosure.

Customer Contracts

10. (1) A Licensee shall-

- (a) make its standard form customer contracts available and provide a copy to the customer upon request at no charge;
 - (b) retain the sections of its standard form customer contracts that contain the terms of offers which are withdrawn by the Licensee after the date that these Regulations come into force, for as long as customers continue to receive electronic communications services pursuant to the offers, to enable a response to consumer queries about offers which are no longer current; and
 - (c) make available information about the activation and expiry date of any current customer contract that the customer has with the Licensee for an electronic communications service upon the customer's request for this information from the Licensee.
- (2) A Licensee shall not:
- 1. require a customer to pay a fee for electronic communications services or products that the customer has not ordered;
 - 2. charge a customer except for the charges specified by the Licensee for the provision of electronic communications services or products and agreed to by the customer.

Clear Contractual Terms

11. (1) A contract between a Licensee and customers for the provision of electronic communications services shall specify the following minimum requirements in a clear, easily understandable and easily accessible form-

- (a) a description of the service to be provided;
- (b) description of the commitment period, the minimum service period, if any, and any minimum notice period to be given by the customer prior to terminating the contract outside of the commitment period;
- (c) the detailed charges applicable to the service, including-
 - i. any fixed recurring charges;
 - ii. any one-time charges; and
 - iii. usage charges (for voice calls, sms messages, data download and upload, and all other usage-based services and applications);
- (d) a description of the circumstances in which the customer may be disconnected by the Licensee;
- (e) any charges that apply upon termination of the contract, whether within or outside of the minimum service period;
- (f) details of the minimum service quality standards for the service and any applicable

- compensation arrangements which shall apply if quality service levels are not met;
- (g) a description of the Licensee's written complaints code and the dispute resolution process, including details of how a customer may lodge a complaint;
- (h) a clause stating the terms applicable to payment for the services; and
- (i) a clause disclosing the maximum period of time between issue of the bill and payment, and any fees for late payment.

12. Protection against anti-competitive customer lock-in

(1) A contract between a Licensee and customers for the provision of electronic communications services shall not -

- (a) include terms with the effect that at the end of a customer's commitment period, the contract can be automatically renewed for a further commitment period without the Licensee first obtaining the customer's express consent; or
- (b) enable the Licensee to impose a charge on a customer for termination of a contract within the minimum service period if that charge is disproportionate in relation to the payments that are still to be paid by the customer for the remainder of the commitment period.

(2) A Licensee shall-

- (a) provide a customer at least 21 days written notice, or such other notice as specified by the Commission, of any contractual service changes that are likely to-
 - i. substantially reduce the benefit of the contract or service to the customer;
 - ii. substantially increase the burden of the customer under the contract or service; or
 - iii. in relation to the customer, make the benefit or burden of the contract or service substantially different from that previously represented or contracted for;
- (b) allow a customer to withdraw from the contract without penalty upon receipt of the notice specified in paragraph (a); and
- (c) at the same time as the notice given in paragraph (a), inform the customer of the customer's ability to terminate the contract without penalty if the proposed change is not acceptable to the customer.

(3) A Licensee shall not-

- (a) tie services together in such a manner that a customer is required when purchasing one service to purchase another service that the customer does not require;
- (b) provide to a group of customers more favourable tariffs that are not justified by differences in cost, if that customer acquires another service that it does not require;

Cancellation of contracts by customer - Minimum terms

13. (1) A customer may cancel his contract at any time by notifying the Licensee.
- (2) A cancellation shall take effect a minimum of one day following the date on which the Licensee receives notice of the cancellation or on the date requested by the customer.

- (3) Where a customer cancels a contract before the end of the commitment period, the Licensee shall not charge the customer a fee or penalty other than the early cancellation fee specified in sub-regulation ** (12).
- (4) When a subsidized device is provided as part of-
 - (a) a fixed-term contract, the early cancellation fee shall –
 - i. not exceed the remaining value of the device subsidy that has not yet been reimbursed; and
 - ii. be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract term, such that the early cancellation fee is reduced to \$0 by the end of the period.
 - (b) an indeterminate contract, the early cancellation fee shall-
 - i. not exceed the remaining value of the device subsidy that has not yet been reimbursed; and
 - ii. be reduced by an equal amount each month, over a maximum of 24 months, such that the early cancellation fee is reduced to \$0 by the end of the period.
- (5) When calculating the early cancellation fee, the value of the device subsidy shall be the lesser of-
 - (a) the retail price of the device minus the amount that the customer paid for the device when the contract was agreed to; and
 - (b) the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the Licensee without a contract.
- (6) Where a subsidized device is not provided as part of a fixed term contract, the early cancellation fee shall-
 - (a) not exceed the lesser of \$50 or 10 percent of the minimum monthly charge for the remaining months of the contract, up to a maximum of 24 months; and
 - (b) be reduced to \$0 by the end of the period.
- (7) A Licensee shall not charge an early cancellation fee for indeterminate contracts other than as specified in subsection 4(b).
- (8) Where a customer agrees to a contract which is subject to an early cancellation fee, a Licensee shall offer the customer a trial period lasting a minimum of 15 calendar days to enable the customer to determine whether the service meets his needs.
- (9) The trial period under sub-regulation (8) shall start on the date on which the service begins.
- (10) A Licensee may establish reasonable limits on the use of voice, text, and data services for the trial period.
- (11) During the trial period, customers may cancel their contract without penalty or early cancellation fee if they have –
 - (a) used less than the permitted usage; and

- (b) returned any device provided by the Licensee, in near-new condition, including the original packaging.
- (12) Where a customer self-identifies as a person with a disability, the Licensee shall extend the trial period to at least 30 calendar days, and the permitted usage limits shall be at least double the Licensee's general usage limits for the trial period.
- (13) A Licensee shall notify a customer on a fixed-term contract at least 90 calendar days before the end of the initial commitment period whether or not the contract will be automatically extended.
- (14) Where a Licensee offers a customer a device upgrade, the Licensee shall clearly explain to the customer any changes to the existing contract terms caused by accepting the new device, including any extension to the commitment period.

Billing

14. (1) A Licensee shall provide a bill to a customer, with regards to the provision of electronic communications service or products, which accurately represents and does not exceed the true extent of the amounts due for the service or products that are actually provided to the customer.
- (2) A Licensee who offers a direct debit facility shall ensure that its customers are able, on request, to verify all charges and direct debit authorization details.
- (3) A Licensee shall provide customers with bills-
- (a) at least once every three months at no charge;
 - (b) in paper form, or in electronic form if the customer consents;
 - (c) that are in a plain, simple and easy-to-understand format; and
 - (d) that provide accurate information on the services provided, the amounts due for each service and the method of calculation or tariffs for any service on which bills are based, including the number, location, and duration of calls, number of SMS text messages, amount of data transmission, or other relevant measures of usage.
- (4) Where a customer has chosen to receive electronic bills, a Licensee shall ensure that electronic bills are accessible by that customer on request, for a minimum of at least the preceding twelve months of the billing cycle.
- (5) A bill shall-
- (a) acknowledge payments made on the previous bill; and
 - (b) state any deadline by which non-payment may result in disconnection.

Plan with set included value

15. (1) A Licensee shall provide electronic notification to a customer who has subscribed to a plan with a pre-set included usage or value (such as an allowance for calls, SMS, or data), when the customer reaches 80% and 100% of the usage measure, monthly expenditure or other allowance permitted under that plan.
- (2) A notification under sub-regulation (1) shall-

- (a) be provided within 24 hours of reaching the allowance;
 - (b) be provided electronically, by email, SMS or other application; and
 - (c) clearly inform the customer that the limit of the relevant allowance has been reached and the implications for continued use of the service (including charges that will then apply or will apply to future usage).
- (3) A Licensee shall provide retail customers with the ability to prevent the limit of the relevant allowance from being exceeded, including through automatic restriction of service upon reaching the relevant allowance.

Sales by phone and internet

- 16. (1) A Licensee may, in relation to sales conducted through the telephone or internet, impose upon customers a usage charge billed per minute commencing after the first minute of the call.
- (2) A Licensee shall cause to be provided to customers who conduct sales by phone or internet information on the rate of charges and the ability to disconnect from the service before any charge is imposed.
- (3) A Licensee may impose a usage charge for value added services.
- (4) A Licensee may collect charges on behalf of another Licensee, for any goods and services provided by that other Licensee.

PART IV PRE-PAID

Terms and conditions

- 17. Every Licensee shall publish on its website the terms and conditions of a pre-paid electronic communications service provided, sold, resold, issued, or distributed by such Licensee or its distributor.

Prohibited actions

- 18. A Licensee that provides a pre-paid electronic communications service shall not to do any of the following-
 - (1) assess or deduct from the balance of a pre-paid electronic communications service card or pre-paid electronic communications service account any fee or other amount for use of the pre-paid electronic communications service, except—
 - (a) the per minute rate or value for each particular destination called by the consumer;
 - (b) the rate for the amount of data sent or received; and
 - (b) fees that are disclosed under its Terms and Conditions.
 - (2) provide less data transmitted than promoted or advertised or to provide fewer minutes than the number of minutes promoted or advertised, or to charge a higher per megabit rate for

data than the rate promoted or advertised or to charge a higher per minute rate to a specific destination than the per minute rate to that specific destination promoted or advertised, on—

- (a) the pre-paid electronic communications service card;
 - (b) any point-of-sale material relating to the pre-paid electronic communications service;
 - (c) any other advertising related to the pre-paid electronic communications service.
- (3) provide fewer minutes than the number of minutes announced, promoted, or advertised through any voice prompt or text message given by the Licensee to a consumer at the time the consumer places a call to a dialed destination with a pre-paid telephone calling card or pre-paid telephone service.
- (4) Provide, sell, resell, issue, or distribute a pre-paid electronic communications service card or pre-paid electronic communications service that expires—
- (a) before the date that is 3 months after the date on which such card or service is first used;
 - (b) in the case of a pre-paid electronic communications service card or pre-paid electronic communications service that permits a consumer to purchase additional usage minutes or add additional value to the card or service, before the date that is 6 months after the date on which the consumer last purchased additional usage minutes or added additional value to the card or service.

PART V

ADVERTISING AND PROMOTIONS

Unfair commercial practices

19. (1) A Licensee shall include all important conditions, limitations, qualifications or restrictions about an offer when advertising the offer in order to allow consumers to make informed choices and to avoid consumers being misled.
- (2) Notwithstanding the generality of sub-regulation (1), a Licensee shall not engage in the following practices –
- (a) use of headline representations as to a price or offer in circumstances where the overall impression of the price or offer is subsequently qualified by fine print terms and conditions that make it unlikely or impossible that a consumer, by the ordinary use of the service, could reasonably achieve the price or benefits offered in the headline representation;
 - (b) use of the term ‘unlimited’ or an equivalent term in an unqualified manner when referring to usage, unless the ordinary use of the service in [Member State] is genuinely unlimited and not subject to exclusions, including exclusions for various types of calls or usage, or selected parts of the network;
 - (c) use of the terms ‘no exceptions’, ‘no exclusions’ or ‘no catches’ or equivalent terms without sufficient disclosure when referring to a price or service offer, unless there are genuinely no exceptions to the offer;

- (d) use of the term ‘free’ or an equivalent term to promote or advertise a handset or other hardware product or service unless the cost of the handset or other hardware product or service is not recovered from the consumer over the life of the contract by way of higher charges, including by way of higher call charges, higher recurring charges, higher early cancellation fees, or similar charges, compared to the costs that will be payable by the consumer over the life of the contract where the handset or other hardware product or service are not provided free of charge;
 - (e) use of headline representations as to the price for a particular product or service, unless that product or service is available for purchase at the advertised price without being part of a bundled product or service, or the advertised price is clearly identified as the price for that product or service when purchased as part of a bundled product or service;
 - (f) use of headline representations as to prices for an offer, unless exclusions are prominently displayed;
 - (g) use of unqualified headline representations as to ongoing prices for specified data usage allowances in circumstances where the price for the data usage is likely to increase within a reasonable period of use;
 - (h) advertise or promote network coverage unless the network coverage is generally available to consumers in the claimed coverage area;
 - (i) advertise or promote a periodic price to be paid for an electronic communications service without also prominently displaying (but not necessarily as prominent as the periodic price) the “single price”; and
 - (j) make claims in advertising in relation to broadband speed, network coverage and other performance characteristics of an electronic communications service unless the Licensee is able to substantiate the claims.
- (3) A Licensee shall publish on its website its Fair Usage Policy intended to assure that all broadband customers enjoy the same experience and have access to a quick and reliable service at all times.

Clarity in advertisements

20. (1) A Licensee shall provide a level of detail in its advertising that is appropriate to the manner in which the advertising is displayed to consumers.
- (2) Pursuant to sub-regulation (1), a Licensee shall take the following actions -
- (a) cause the principal message and the main terms to be clearly captured in the body of the advertising;
 - (b) ensure that use of any disclaimers does not negate the principal message and main terms of the advertising; and
 - (c) take into account the typical amount of time that consumers are able to view or hear, or both view and hear, the particular advertising in deciding how much information to include in the advertising.

Special promotions

21. (1) A Licensee shall communicate important limitations -
- (a) which apply to its special promotions to inform consumers of the limitations;
 - (b) in a manner that will most directly be communicated to and received by consumers.

(2) Pursuant to sub-regulation (1), a Licensee shall take the following actions -

- (a) disclose the terms of the special promotion and any limitations on availability, quantities, or other constraints;
- (b) disclose the end date for the special promotion; and
- (c) where there are special eligibility requirements, such as the provision of coupons, bundling with other products and services, or restrictions on a specific class of customers, the Licensee shall disclose each requirement of the special promotion in a clear and easily visible manner.

Standard Charges for text advertising

22. (1) A Licensee, when advertising the price or dollar value of either an included value plan or a post-paid tariff for mobile telephone service using text advertising, shall-

- (a) prominently display the following three standard pricing elements when advertising an included value plan-
 - i. the price (prior to any discounts being applied) of making a one minute standard national mobile call;
 - ii. the price (prior to any discounts being applied) of sending a standard national mobile SMS; and
 - iii. the price (prior to any discounts being applied) of using one megabyte of data within (Member State);

provided that if any of the above usages are unlimited, the Licensee is not required to quote a standard price for the type of usage that is unlimited in the text advertising;

(2) In the case of post-paid data plans with an included data allowance, the Licensee shall prominently display the following standard pricing element when advertising the price or dollar value of a post-paid service the price (prior to any discounts being applied) of using one megabyte of data within (Member State), provided that if the usage is unlimited, the Licensee is not required to quote a price for the data usage that is unlimited in the text advertising.

Standard charges for brief online advertising

23. When advertising using brief online advertising the price or dollar value of either an included value plan or a post-paid tariff for mobile telephone service, a Licensee shall ensure that the page to which the small online advertising links, displays more detailed pricing information and the standard pricing elements as described in this regulation.

Disclaimers

24. (1) A Licensee shall ensure that disclaimers are clear and understandable, having regard to the type of advertising.

(2) Pursuant to sub-regulation (1), a Licensee shall take the following actions -

- (a) ensure that a disclaimer does not negate the principal messages of advertising; and
- (b) ensure that a disclaimer is clear and understandable, having regard to the type of advertising, including the medium or format used and its intended audience.

Fair sales practices

25. (1) A Licensee shall-

- (a) ensure that its sales representatives are appropriately trained to promote and sell its electronic communications services in a fair and accurate manner to assist consumers in making informed purchasing decisions;
- (b) ensure that the conduct of its sales representatives is monitored periodically to assess the manner in which they interact with consumers, and take steps to address emerging or systemic deficiencies in the sales conduct; and
- (c) monitor complaints about the sales conduct of the Licensee's sales representatives and take steps to address areas of conduct generating multiple, repeated complaints.

Emergency calls

26. A Licensee shall provide free of charge access to emergency services [in accordance with the Numbering Plan].

Access for persons with specific needs

27. (1) A Licensee shall make information available about electronic communications products and services offered by the Licensee specifically for consumers with physical disabilities or other special needs and the manner in which the products and services operate.

(2) A Licensee shall-

- (a) provide training to its sales representatives on the manner of interacting with disadvantaged or vulnerable consumers appropriately; and
 - (b) take appropriate measures to ensure that persons with physical disabilities or other special need groups are able to access their premises and complaint handling processes.
- (3) A customer with a physical disability or other special needs shall be able to nominate or rescind the nomination of an individual who may engage with the Licensee in respect of the customer's account, including with respect to the nominee -
- (a) receiving the customer's telephone bill;
 - (b) paying the customer's bill on the customer's behalf; and
 - (c) making enquiries about the customer's account on behalf of the customer.
- (4) For the avoidance of doubt, the nominated individual referred to sub-regulation (3) shall not be required to enter into a contract with the Licensee and shall not be held legally liable by the Licensee for the individual's actions on behalf of the customer.

Protection of consumer data

28. (1) A Licensee shall be responsible for protecting information it holds relating to its customers and their communications, and shall not collect, use, retain or advertise any customer information unless the customer's prior written approval is obtained or as permitted by law.

(2) A Licensee shall ensure that all customer information submitted to it is accurate, complete and valid for use.

(3) Customers shall have the right to review any of their information held by or on behalf of the Licensee, and to require the Licensee to correct any mistaken information.

Privacy and confidentiality

29. A Licensee-

- 1) shall take all reasonable steps to ensure the confidentiality of customer communications, and shall not intercept, monitor or alter the content of a customer communication, except with the explicit consent of the customer or as permitted or required by applicable laws of [Member State];
- 2) shall identify the purposes for which customer information is collected at or before collection and shall not, unless permitted or required by law or with the consent of the person to whom the information relates, collect, use, maintain or disclose customer information for undisclosed or unauthorized purposes;
- 3) shall be responsible for customer information and customer communications records which are under its control or in its custody or that of its agents;
- 4) shall ensure that customer information and communications records are protected by security and technical safeguards that are appropriate to their sensitivity;
- 5) shall not disclose customer information to any person without the customer's consent unless disclosure is lawfully required or permitted under the laws of [Member State]; shall retain and use all customer-specific information only for purposes specifically set out in the Licensee's terms, or in accordance with rules or orders made by the Commission or in accordance with applicable laws; and
- 6) shall ensure that customers' information is accurate, complete and updated regularly for the purposes for which it is to be used.

Net neutrality

- 30.(1) A Licensee shall comply with the principles of net neutrality that requires electronic communications providers to enable access to all content and applications regardless of the source and without favouring, degrading, interrupting, intercepting, blocking access or throttling speeds to websites or content.
- (2) A Licensee shall apply non-discriminatory practices, between electronic communications services providers to the public for traffic routing and access to its services.
- (3) A Licensee shall ensure that its customers have the ability to access and disseminate information as well as access applications and services of their choice, thus facilitating the use of over the top services (OTT).

PART VI COMPLAINTS HANDLING

Right to submit complaints

31. (1) The customer has a right to communicate with the Licensee regarding queries about its services or products or to complain about its services, products or any related matter.
- (2) A customer complaint or query may be made via customer assistance telephone numbers, email to a customer service email address, fax or posted letters, or using a complaint form available at all places of business or customer service centres of the Licensee.

- (3) A Licensee shall make available copies of their complaint forms together with a receptacle for its submission at all places of business and customer service centres.

Toll free customer services

32. (1) Every Licensee shall implement toll-free customer care service telephone lines for all categories of services provided that at a minimum—

- (a) they are available for a minimum of eighteen hours a day; and
- (b) customer care and assistance services, which include fault clearance assistance, are provided.

- (2) A Licensee shall bear all costs associated with its provision of the toll-free service, including any interconnection costs.

Complaint handling procedure

33. (1) This regulation shall not apply to-

- (a) complaints or specific consumer issues that are the subject of legal action; or
- (b) complaints made in respect of, or on behalf of consumers by entities levying fees or charges for their services, other than legal practitioners.

(2) A Licensee shall implement a complaint handling process that-

- (a) is consumer focused and easy to use;
- (b) is free of charge, except for-

- i. any relevant call costs;
- ii. the provision of information where -

A. a consumer or former customer requests access to information held by the Licensee about the consumer or former customer which was collected by the Licensee more than 2 years prior to the date of the request, unless the complaint relates to an interference with the privacy of the consumer by the Licensee; or

B. the free provision of the information in the form or quantities requested is inconsistent with the Licensee's standard form customer contract unless the complaint relates to an interference with the privacy of the consumer by the Licensee;

in which circumstances, the Licensee may levy a charge to recover its costs;

- (c) is approved by, and provides that the Chief Executive Officer or the designate of the Licensee is responsible for ensuring its implementation, operation and compliance in accordance with the requirements of this regulation;
- (d) is under the direction of a senior manager who is responsible for maintaining its regulation;
- (e) clearly states that consumers or former customers have a right to make a complaint and that a proposed resolution of the complaint shall be accepted by a consumer or former customer before a Licensee is required to implement it; and
- (f) specifies the response times for individual steps in the management of complaints.

(3) A complaint handling process under this regulation shall include-

- (a) providing a number which is free, local or at low cost when accessed from the service provided by the Licensee;
- (b) setting out how, when and where a consumer or former customer can make and monitor the progress of a complaint;
- (c) allowing a complaint to be made by letter, telephone, fax, online or email;
- (d) where a Licensee has retail operations, allowing a complaint to be made in person in store;
- (e) providing assistance to a consumer or former customer to formulate, lodge and progress a complaint including to consumers or former customers with disabilities, consumers or former customers suffering hardship and consumers or former customers from non-English speaking backgrounds;
- (f) allowing consumers or former customer to use an authorised representative or an advocate to make a complaint; and
- (g) setting out the circumstances in which a complaint shall be treated as urgent and how the management of urgent complaints differs from other complaints.

(4) Pursuant to sub-regulation (2) (b) (ii), the Licensee shall inform the consumer or former customer of -

- (a) the proposed charge and notify the consumer or former customer of the option to pursue the complaint and pay the charge or to discontinue the complaint;
- (b) the options for external dispute resolution before levying any charge under this regulation.

(5) A Licensee shall not cancel a consumer's telecommunications service solely because, being unable to resolve a complaint with the Licensee, the consumer pursued his options for external dispute resolution.

Complaint management

34. (1) Consumers or former customers who make a complaint to a Licensee shall be treated with fairness and courtesy, and their complaint shall be dealt with objectively and efficiently by the Licensee.

(2) A Licensee shall demonstrate fairness, courtesy, objectivity and efficiency by:-

(a) acknowledging a complaint-

- i. immediately where the complaint is made in person or by telephone;
- ii. within 2 working days of receipt where the complaint is made by email or fax;
- iii. that is submitted via the Licensee's website or another website endorsed by the Licensee for that purpose.

(b) post;

(c) telephone and providing a recorded message without the need for direct contact with a staff member of the Licensee;

(d) where possible, seeking to resolve a complaint on first contact;

(e) implementing a process for the identification and management of urgent complaints;

(f) requiring the appropriate resolution of complaints including:

- i. ensuring relevant staff are aware of the potential remedies available to resolve a complaint;
 - ii. tailoring any remedy offered to address the root cause of the complaint and to address the individual circumstances of the consumer or former customer where these have been advised to the Licensee;
 - iii. where the complaints are indicative of a wider problem or issue, addressing the root cause of the problem or issue; and
 - iv. resolving billing errors in current bills;
 - v. delaying commencement of any legal proceedings while a complaint is being handled internally and for 7 working days after a consumer or former customer is advised of the outcome of their complaint;
 - vi. advising the consumer or former customer of the proposed resolution of their complaint within 15 working days from the date the complaint is received in accordance with sub-regulation (2) (a); and
 - vii. for urgent complaints, providing confirmation of the proposed resolution of the urgent aspects of the complaint and, if accepted by the consumer, implementing the urgent aspects of the resolution within 2 working days the date the complaint is received.
- (3) Where a Licensee does not believe that the complaint can be resolved in 15 working days, or within 2 working days for the urgent aspects of an urgent complaint, the Licensee shall advise the consumer or former customer before working day 15 or working day 2 for urgent complaints, of-
- (a) the reasons for the delay;
 - (b) the specific timeframe for completion of the resolution;
 - (c) if the anticipated delay is a further 10 working days or more and is not the result of a declared mass service disruption, advising the consumer or former customer of their options for external dispute resolution;
 - (d) advising consumers or former customers of any delays to promised timeframes;
 - (e) providing a means for the consumer or former customer to monitor the complaint's progress;
 - (f) advising consumers or former customers of the resolution of their complaint, as soon as practicable after the Licensee completes its investigation of the complaint;
 - (g) days of the consumer's or former customer's acceptance of that resolution unless:
 - i. otherwise agreed with the consumer or former customer; or
 - ii. the actions are contingent on actions by the consumer or former customer that have not been completed;
 - (h) only closing a complaint with the consent of the consumer or former customer or if sub-regulations (4) or (5) have been complied with; and
 - (i) where a complaint is closed with the consent of the consumer or former customer, at the consumer's or former customer's requests, providing a written confirmation of the resolution of that complaint to be sent to the consumer or former customer within 5 working days.
- (4) Where a consumer informs the Licensee that he is dissatisfied with the timeframes that apply to the management of a complaint or seek to have a complaint treated as an urgent complaint, the Licensee shall -
- (a) inform the consumer of the Licensee's internal prioritisation and internal escalation processes;

- (b) if, after internal prioritisation and internal escalation the consumer remains dissatisfied, inform the consumer of the options for external dispute resolution.

(5) Where a consumer or former customer informs the Licensee that he is dissatisfied with the progress or resolution of a complaint or asks about his options to pursue a complaint further, the Licensee shall inform the customer or former consumer of-

- (a) the Licensee's internal escalation process; and
- (b) the options for external dispute resolution.

Complaint analysis

35. (1) A Licensee shall implement processes and undertake analysis of its complaint information to identify and prevent the recurrence of complaints arising from systemic issues.

(2) Pursuant to sub-regulation (1), a Licensee shall take the following actions -

- (a) classify and analyse complaints at least every 6 months to identify recurring problems and issues including areas of non-compliance with these Regulations;
 - (b) monitor complaints to identify emerging issues requiring specific attention and address those as soon as practicable; and
 - (c) monitor and record progress to address areas requiring attention.
- (3) Licensees shall ensure there is a process for the rapid and effective management of, and notification to appropriately senior management of any significant complaints or complaint issues.

Record keeping

36. (1) Licensees shall keep records of complaints which include identification of the consumer or former customer making the complaint, the nature of the complaint, the steps taken to address the complaint and the resolution, if any, of the complaint.

(2) Pursuant to sub-regulation (1), a Licensee shall take the following actions -

- (a) make and keep systematic records of complaints including -
 - i. a unique reference number or such other means that will ensure the Licensee's ability to subsequently identify the complaint and its subject matter;
 - ii. the issues raised as part of the complaint;
 - iii. the requested resolution;
 - iv. the due date for a response;
 - v. the results of an investigation;
 - vi. the proposed resolution of the complaint including any associated commitments and the date this is communicated to the consumer or former customer;
 - vii. the Licensee's reasons for proposing its resolution;
 - viii. the consumer's or former customer's response to the proposed resolution of the complaint, any reasons given by the consumer or former customer and if he has requested the resolution in writing, that this request has been made;
 - ix. the implementation of any required actions;
 - x. the underlying cause of the complaint; and
 - xi. copies of any correspondence sent by or to the consumer or former customer;

- (b) monitor the progress of a complaint and any commitments made to the consumer or former customer in relation to a complaint.
- (3) Without limiting the Licensee's obligations under any other law, the Licensee shall retain the information under sub-regulation (2) for at least two years.
- (4) A Licensee shall ensure that personal information concerning a complaint is not disclosed except as required to manage a complaint with any relevant authorities or with the express consent of the consumer.

PART VII

MISCELLANEOUS

Compliance

- 37. (1) The Commission may issue written orders or directions to a Licensee for the purposes of compelling compliance with these Regulations and a Licensee shall comply with the orders or directions once issued.
- (2) Where a Licensee refuses to obey an order, a decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the Licensee to comply with the order, decision or direction and for such costs and other relief as the Court may allow.
- (3) A Licensee that breaches or fails to comply with the provisions of these Regulations, or any order or direction of the Commission under these Regulations, shall be in breach of the terms and conditions of its licence.
- (5) A person who fails to provide any information requested by the Commission pursuant to these Regulations, commits an offence under section [●] of the Act.

Publications

- 38. Unless otherwise specified, the Commission shall ensure that any orders, decisions or directions of the Commission made under these Regulations shall be published on its website.

Amendment of the Telecommunications (Dispute Resolution) Regulations

- 39. The Telecommunications (Dispute Resolution) Regulations are amended-
 - (a) in regulation 4 –
 - (i) by deleting the words "between a retail customer and telecommunications provider, or";
 - (ii) by deleting sub-section (3)
 - and
 - (b) in regulation 6 by inserting after the words or “ pursuant to regulation 4” insert the words “ or under section 29 of the Consumer Protection Regulations”.