



# CONSUMER BEST PRACTICES IN THE TELECOMMS SECTOR

By  
Isabelle Gross, Charley Lewis  
and Russell Southwood



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#### EXPLANATION OF COVER IMAGE

- The main image is that of the iconographic telephone, a universal symbol for communication. It is grandiose in scale, symbolising solidity and empowerment.
- Wrapped around the receiver is a measuring tape denoting the rules and regulations that the industry must adhere to in order to attain international best practices.
- On either end of the receiver are symbols pertaining to the positives and negatives of customer hotlines.
- In the circular shape of the dialling mechanism sits Africa, pivotal to the revolving avenues of information.
- At the base of the telephone are images of generic customers, who constitute the core of a successful industry. These figures are in the process of loudly communicating their issues and complaints and, in return, they are receiving information about empowerment and protection.



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## ACKNOWLEDGMENTS

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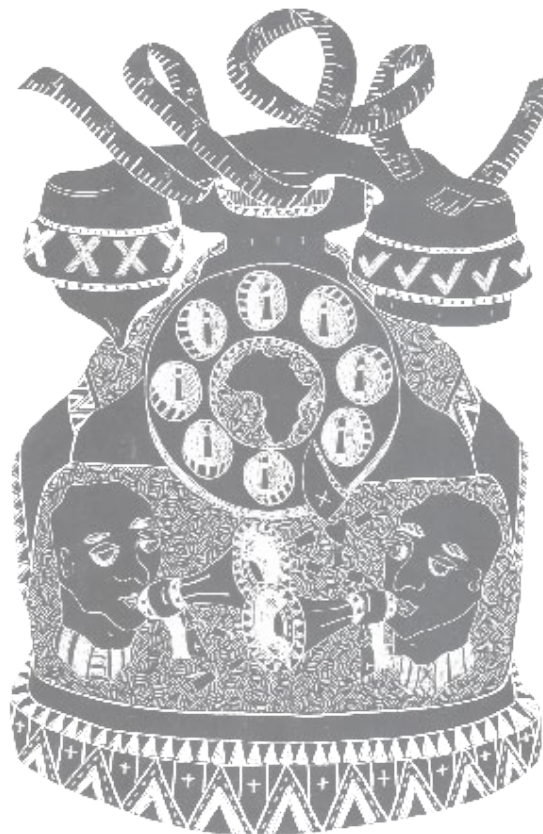
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# 1. OVERVIEW

A good ICT sector regulator needs to maintain a proportionate balance between protecting consumers and harnessing the creativity of the industry, while ensuring increased access to the service in a competitive market.

The ICT sector regulator should be concerned about:

- Consumer access;
- Consumer choice;
- Consumer empowerment;
- Consumer protection from unfair practices;
- Consumer redress.

This report looks at examples of best practice consumer protection regulation, and at how regulators can set up different ways of representing consumers' interests. The examples are drawn both from within Africa and from elsewhere around the world. Not all the examples given come from the telecomms and Internet sectors. However, irrespective of industry, they have a relevance to best practice for African ICT sector regulators.

Although consumer interventions by regulators can be enormously varied, they can perhaps be best understood by asking three broad questions:

- What do consumers feel about the services they receive and what are service providers doing to address any concerns they might have?
- What can the regulator do to address these concerns?
- And lastly, how does a regulator know whether its interventions have been effective?

In order for any of the regulator's interventions to have any impact, its existence and the services it offers must both be something of which consumers are aware.

Of course, in reality things are not so clear-cut. New issues arise once consumers are better informed, or through the launch of new services. The structure of this report thus seeks to provide headings for the range of best practice interventions a regulator might put in place. Issues of resourcing may affect a regulator's ability to do any or all of the suggested types of intervention, but careful prioritisation and management of resources will enable even a regulator with resource constraints and limited capacity to achieve much.

A number of the interventions cited in this report are taken from the European Union and this has been done deliberately. Regulation in Africa is very different from that in Europe, but there is a regional dimension; there are trading blocs like SADC and ECOWAS that offer common legal frameworks on particular issues. On a more pragmatic level, there are regional regulatory associations like COMESA (which is a partner for this study), CRASA and WATRA, through which regulators have often worked together to address common issues of concern.

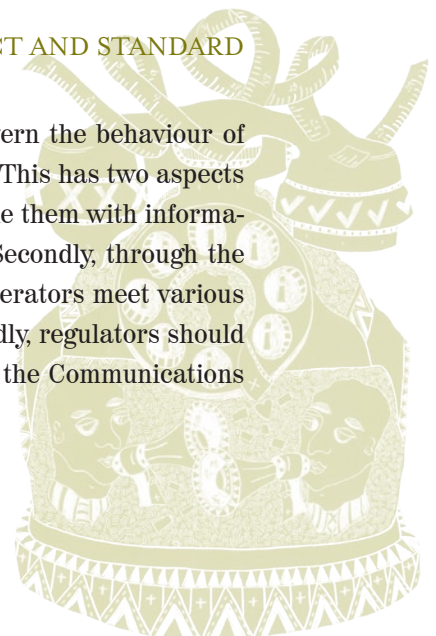
Potential interventions by regulators to protect consumer interests are examined under the following headings:

#### SECTION 1: KNOWING WHAT CONSUMERS CARE ABOUT – CONSULTATIONS, SURVEYS AND COMPLAINTS MONITORING

Research is a key tool for understanding what consumer priorities are in terms of which issues need to be addressed, and assessing consumers' views of the effectiveness of consumer protection interventions undertaken by the regulator. While price and quality may be obvious current issues, the areas of most concern will change once they have been addressed. Higher levels of competition may bring lower prices. Quality thresholds may drive better quality of service. So it may be that issues will change over time, and the use of survey work and consultation with consumer groups are two different ways of keeping in touch with these changes. This can be achieved through ensuring consumer representation on the board of the regulator or one of its sub-committees, consultation meetings and consumer surveys.

#### SECTION 2: SETTING A RULES FRAMEWORK – CODES OF CONDUCT AND STANDARD SETTING AND ENFORCEMENT

Regulators have the power to set down a framework of rules that will govern the behaviour of operators through legislation, regulatory frameworks and standard setting. This has two aspects that are relevant to consumers. Firstly, they can insist that operators provide them with information on which their performance in relation to consumers can be judged. Secondly, through the imposition of Codes of Conduct or Codes of Practice, they can insist that operators meet various criteria that can cover issues as diverse as pricing, quality and access. Thirdly, regulators should publish information about investigations into breaches of regulatory rules, the Communications Act, consumer protection and competition law, etc.





### SECTION 3: INTERVENING ON BEHALF OF CONSUMERS IN ISSUES AS THEY ARISE

Not all issues that affect consumers are as obvious as pricing and quality. Regulators have a responsibility to use their technical expertise to identify issues that arise from changes in things like the competitive landscape (in one of the examples given, through the introduction of number portability) and the introduction of new technologies and costs associated with services such as Internet access from mobile phones and bundled services (broadband, mobile, etc) from one provider. These issues (like handset subsidies) might not be immediately apparent to consumers, or even if they are, might not be easy for them to address.

### SECTION 4: COMMUNICATING WITH CONSUMERS AND THE POWER OF THE MEDIA

One of the strongest weapons a regulator can use to protect consumers is the power to communicate information that will educate and empower them. Whether this is to warn them of the dangers of something like spam or to “name and shame” operators that are offering low-quality services, the impact of a well thought-out media strategy is hard to underestimate. For those with fewer resources, it is always easier to rely on others like the media to carry a range of consumer-related messages. Even regulators whose powers are limited can help set an effective agenda through use of their own website and the media.

### SECTION 5: COMPLAINTS PROCESSES – THE REGULATOR AS REFEREE OF LAST RESORT

Any well-run company will have complaints processes. An unhappy customer who feels his or her complaint is not taken seriously is one who may leave to use a competitor’s service. But what happens if a customer feels that an operator has not taken their complaint seriously? Regulators have an obligation to ensure that channels for complaint are clearly specified and communicated to customers, include procedures for escalation, and specify the regulator as the referee of last resort, addressing and resolving only those individual cases that cannot be resolved with the operator concerned. As for the operators, the monitoring of complaints by regulators should help identify issues that need addressing at a more general level, and the publication of complaints information can keep operators focused on the customers they serve.

### SECTION 6: SCANNING THE HORIZON – SPOTTING ISSUES BEFORE THEY OCCUR

Over time, consumers become better educated about issues. However, the introduction of new services can raise fresh issues that affect them. For example, the introduction of M-Money services like M-Pesa in Kenya and elsewhere in Africa, or the bundling of services by one provider, can throw up new ranges of consumer protection issues. It is part of the regulator’s responsibility as the guardian of consumer interests to anticipate the kinds of issues that may become important in the future.

### SECTION 7: ASSESSING THE COST AND EFFECTIVENESS OF DIFFERENT INTERVENTIONS

No regulator has unlimited resources, so each needs to think hard about how, within a limited budget, it can act on behalf of consumers. But this task is also one of reviewing and evaluating what has already been done in order to fine-tune future action. Some regulators may choose to carry out a survey of consumer attitudes, while others may carry out a nationwide consultation process through meetings. But whatever is done, the question of assessing its effectiveness is central to the success of protecting consumers.





## 2. KNOWING WHAT CONSUMERS CARE ABOUT – CONSULTATIONS, SURVEYS AND COMPLAINTS MONITORING

A great many people in Africa are either telecomms consumers (and in all likelihood consumers of mobile telecomms services) or they personally know someone who is. It is easy to imagine that your own views as a consumer are as representative as the next person's. The most obvious concerns that were picked up in our initial study for IDRC were three-fold: price, quality of service and access to services (Southwood, Nguo, Sagna & Lewis, 2006, p. 96).

All of these are likely to reflect a particular stage of market development. As uptake of services burgeons in markets with levels of competition that are still limited, it is likely that consumers in many areas will complain about lack of access to services because of limited network coverage. Further, the limited degree of competition is likely to mean that prices remain relatively high and quality of service remains relatively low.

However, in a number of countries since the initial study, increased competition has meant that prices for consumers have continued to come down. In some places, the new operators have invested substantially in their networks and are promising to provide better quality. While price and quality may seem to be perennial African problems, these may in fact disappear or reduce in importance. In their place new consumer issues, consumer grievances and problem areas are likely to arise.

Not only that, there may be consumer issues specific to certain types of service or to particular service providers. It is, therefore, vital that the regulator meet its consumer protection obligations by checking on an ongoing basis what consumers feel about the services they are receiving, as well as the operators that are providing those services. In addition, a proactive regulator will check the perceptions of consumers regarding its own consumer protection and consumer empowerment interventions over time.

Prior to consultations, it is important that consumers are aware of the regulator's existence and of the services it offers. The regulator could improve visibility by means of a strategic media and publicity campaign via its website and the distribution of printed consumer leaflets and guides. A short guide on the regulator's role and its consumer protection services could be a useful marketing tool that will help educate consumers.

There are a number of different ways of getting to know about consumers' concerns. These include ensuring consumer representation on the board of the regulator or one of its sub-committees, consultation meetings and consumer surveys. As with any approach to these issues, each has its advantages and disadvantages.

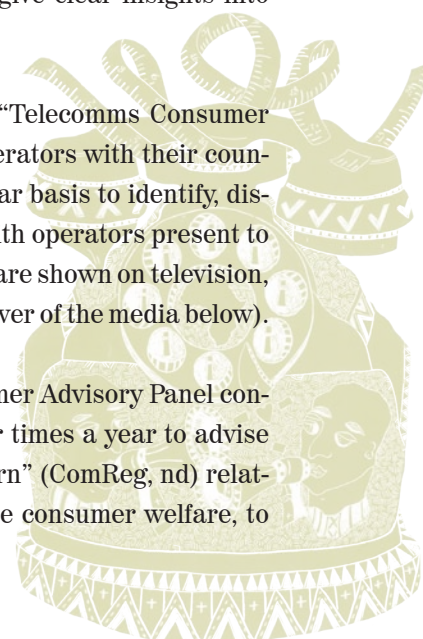
Consumer representation on the board of a regulator or of a specific consumer sub-committee may be an important way of representing the consumer viewpoint among the views of other stakeholders.

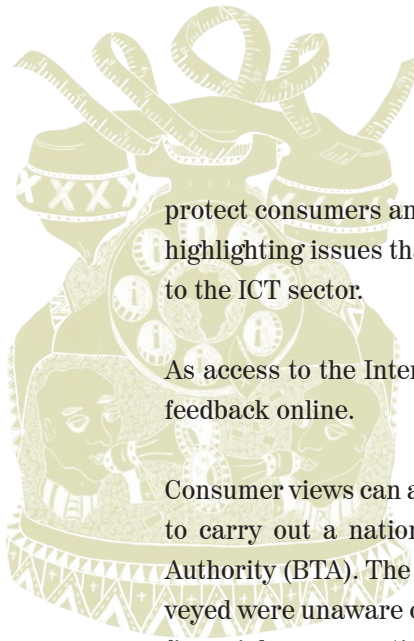
This representation might be an individual or several individuals - for example, some African regulators have advertised publicly (like the Zambian regulator, ZICTA) to fill these kinds of posts. They might be a representative from a consumer group, either with a generic focus on consumer issues or one focused more narrowly on telecomms and Internet. But while representation of this kind has a vital role to play in the month-to-month deliberations of the regulator, no single individual or set of individuals can really represent the full range and complexity of consumers' concerns.

Another way of engaging with consumers is through carrying out regular "road show" public meetings that focus particularly on areas outside the capital. Experience from several countries has shown that these are often well attended and generate discussions that give clear insights into issues that require attention.

The Nigerian regulator, NCC, has formalised this process by creating a "Telecomms Consumer Parliament" (Gwandu, 2006) that brings together representatives from operators with their counterparts from consumer groups and other stakeholders to meet on a regular basis to identify, discuss and address consumer issues. Its proceedings are widely attended, with operators present to answer questions and respond to the debate. Furthermore, its proceedings are shown on television, giving it a wider impact beyond those who attended (see Section 4 on the power of the media below).

In similar vein, the regulator in Ireland, ComReg, has established a Consumer Advisory Panel consisting of six members appointed by the Commission, who meet some four times a year to advise the regulator on "developments, innovations and areas of consumer concern" (ComReg, nd) relating to the three key areas of the regulator's consumer policy (to maximise consumer welfare, to





protect consumers and to raise consumer awareness). This advisory panel is thus responsible for highlighting issues that can assist the regulator's understanding of consumer concerns in relation to the ICT sector.

As access to the Internet improves, the regulator's website can also be used to gather consumer feedback online.

Consumer views can also be sought by carrying out survey work. One of the first African regulators to carry out a nationally representative consumer survey was Botswana Telecommunications Authority (BTA). The results of its 2006 survey are quite revealing. For example, 41% of those surveyed were unaware of operators' complaints procedures, and 45% were not sure how to claim the financial compensation they were entitled to for service failure, with 55% thinking consumer representation was either poor or fair (BTA, 2006).

Alongside survey findings, the numbers of complaints received by regulators themselves are relatively small, especially in jurisdictions where clear and effective complaints channels make the regulator the last port of call. This does, correctly, reduce the burden of regulation, but it means that complaints received by the regulator are a limited source of information. For example, in 2005 the Botswana Telecommunications Authority received only about 38 complaints related to the telecommunications sector.

Whereas those making complaints to a regulator are generally self-selecting and small in number, the survey respondents' views can lay some claim to being much more representative. There could be arguments about the sample size and whether the sample covered rural as well as urban areas, but if these criteria are met, then the survey provides a fairly clear view about what consumers feel.

By contrast, the strengths of the consumer consultation road shows are that they allow arguments, engagement and ultimately education. The relatively small number of people attending will take their newfound understanding out into their communities. The arguments can help explore consumer issues in greater depth and detail, and help clarify what might be the best priorities for regulators to adopt. In many ways, these strengths are similar to those that can be seen in qualitative research with smaller groups.

Similarly, consumers can be surveyed as to the effectiveness of the regulator in protecting their interests and in addressing their issues. A pioneering global study in this area (Cannock, 2002) produced results that were both valuable and surprising in that they revealed a considerable gap between the perceptions of regulators as to their effectiveness and the perceptions of consumers, who almost invariably felt the regulators were doing a far less effective job. A similar poll into its regulatory effectiveness and transparency in the eyes of both consumers and service providers was conducted in 2006 by the Nigerian regulator, NCC (NCC, 2006).

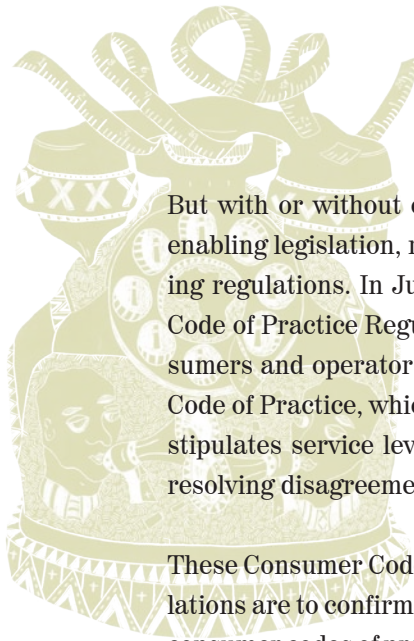
However, although the results of such surveys provide valuable information to guide regulatory intervention, it is essential that they are published and widely disseminated, via the regulator's website and in the media. This is important not only to inform consumers, but to ensure that the resultant publicity acts as an incentive to operators to improve their services and to remain focused on customer satisfaction and consumer needs.



### 3. SETTING A RULE FRAMEWORK – CODES OF CONDUCT, STANDARD SETTING AND ENFORCEMENT

Once the concerns of the consumer have been established, the focus of attention for best practice moves to setting a rules framework that allows consumers to understand their rights and responsibilities. In broad terms, there are three tools that can be used to set rules: legislation, regulatory frameworks and standard setting.

Depending on the country, consumers may be covered by generic consumer legislation. If this exists, the regulator can draw upon the framework of rights and responsibilities that it lays out. In its absence, a regulator will probably seek to become one of several voices recommending that consumer legislation be put in place. However, this is a time-consuming process and may take two to three years or more. In a number of jurisdictions the legislation establishing the regulator and setting forth its mandate may contain a number of consumer protection provisions that empower the regulator to protect and empower consumers. For example, South Africa’s 2005 Electronic Communications Act contains an entire chapter devoted to “Consumer Issues”, dealing with a “code of conduct, an end-user and subscriber service charter”, “people with disabilities” and the establishment of a “Consumer Advisory Panel” (RSA, 2005, chapter 12).



But with or without consumer legislation, and depending on the extent of their mandate in the enabling legislation, regulators have the power to create their own consumer frameworks by issuing regulations. In July 2007, the Nigerian Communications Commission gazetted the Consumer Code of Practice Regulation (NCC, 2007), which has become the reference document for both consumers and operators. In terms of it, each licensed operator is required to produce and submit a Code of Practice, which has to be reviewed and approved by the Commission. The Code of Practice stipulates service level agreements, responsibilities and rights of each party, and procedure for resolving disagreements whenever they arise between parties.

These Consumer Code of Practice Regulations stipulate that the “specific objectives of these Regulations are to confirm and clarify the procedures to be followed by Licensees in preparing approved consumer codes of practice in accordance with section 106 of the Act; and to determine and describe the required contents and features of any consumer code prepared by, or otherwise applicable to, Licensees” (NCC, 2007, p. 2).

The consumer code is divided into seven parts requiring telecommunications licensees to ensure:

- Provision of information to consumers;
- Advertisement and representation of services;
- Consumer billing, charging, collection and credit practices;
- Consumer obligations;
- Protection of consumer information;
- Complaints handling;
- Code compliance.

It is useful to have Codes of Practice of this kind in place, as they set a starting position for other actions regulators might take to protect consumers. However, a Code of Practice does not by itself lead to changes in actual practice unless it is both widely publicised and effectively enforced.

If consumers are not aware of the existence of the Code of Practice, it may have little or no impact. Regulators therefore need to place a great deal of emphasis on the processes that will communicate their existence and function to consumers. This includes ensuring that the Code is readily available publicly on the websites of both regulator and operators - this may also include requiring operators to provide customers with copies of these charters or codes at the point of sale when a contract is entered into or a starter pack sold.

As with law, Codes of Practice also become effective when a regulator demonstrates that they are indeed binding and that it will make enforcement a priority. This is most visibly demonstrated by taking action on “sample” cases that will show that a change of behaviour is required from operators. Depending on the attitude and co-operation from operators, the penalties may range from simply a publicised judgement to fines for non-compliance.

One area where a number of African regulators have started to take this kind of action has been over quality of service. In Mauritania, the law defining the regulator’s structure and mission sets out one of the objectives of the “Autorité de Régulation” as being to protect the interests of users and operators and to take any steps necessary to ensure a competitive environment (Mauritania, 2001).

Despite the existence of three mobile operators in the market (Mauritel, Mattel and Chinguitel), the quality of services offered to consumers has remained a serious concern for the regulator.

Since 2002, the regulator has carried out regular quality control assessments, measuring each mobile operator's rate of lost and disconnected calls in an attempt to improve service delivery. The quality threshold rate for each criterion was respectively set at 5% for lost calls and 3% for disconnected calls.<sup>1</sup>

Following three assessments in 2002, another assessment in 2003 and a further two in 2004, the regulator acknowledged that mobile operators were still not meeting the required criteria. The level of lost calls, for example, varied between 13% and 92% depending on the geographic location. So in September 2004, the regulator fined Mauritel and Mattel USD141 776 for these service shortfalls.

The Mauritanian regulator believed that financial penalties were the only tool that it could use with mobile operators to get them seriously to tackle quality of service issues. Since 2004, the regulator has continued to carry out regular quality control assessments and has continued to use fines as a sanction to enforce quality improvements. An assessment in November 2005 found that the level of disconnected calls had improved and was under 3%, but that the average level of lost calls was still around 27%. In this instance, the regulator did not fine Mauritel and Mattel, because it took the view that by lowering the level of lost calls the operators had met one of the quality criteria.

There are also other examples in Africa where regulators have taken action against operators over quality of service issues:

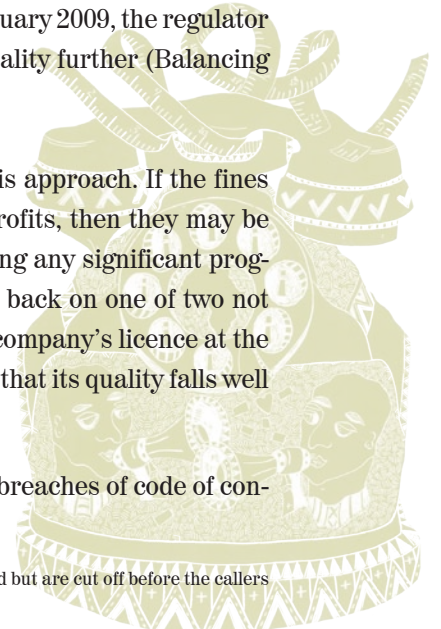
- Ghana: NCA threatened to fine operators over network service quality issues but did not follow through on this threat;
- Nigeria: NCC asked mobile operators to reimburse customers because of bad service quality (May-June 2008);
- Senegal: the ARTP fined Sonatel (now branded Orange) for a major service disruption in 2007.

The Mauritanian regulator has used a combination “carrot and stick” approach with the operators - the stick being the fines and the carrot the withholding of fines for lost calls as an acknowledgement of the progress that had been made with disconnected calls. However, by February 2009, the regulator was publicly expressing frustration at the operators' inability to improve quality further (Balancing Act, 2009).

All these cases raise a number of issues that illustrate the limitations of this approach. If the fines given to operators are relatively modest in relation to their turnover and profits, then they may be willing to bear them simply as another cost of doing business, without making any significant progress on the quality issue. If this is the case, the regulator can then only fall back on one of two not necessarily mutually exclusive approaches: it can threaten to withdraw the company's licence at the end of its due date, or, and probably more effectively, publicise widely the fact that its quality falls well below the established threshold.

It is important that regulators publish information about investigations into breaches of code of conduct by providers and the penalties levied.

<sup>1</sup> Lost calls are those that are made and never connect. Disconnected calls are those that have connected but are cut off before the callers finish their conversation.





## 4. INTERVENING ON BEHALF OF CONSUMERS IN ISSUES AS THEY ARISE

Issues often arise out of changes to market regulations and the ensuing implications for consumers. It is essential that the sector regulator remains aware of these issues and keeps abreast of them as they arise, so that consumer protection regulation can be as proactive as possible. This includes keeping track of the sector and the market as these change and evolve, so that consumer protection regulations can cater for new technologies and innovative services.

For example, in seeking to introduce number portability, the South African regulator ICASA realised that it would have to address the issue of handset subsidies. It believed that there was a potential situation where pre-paid customers were actually subsidising post-paid customers.

South African regulator ICASA derives its mandate principally from the ICASA Act of 2000 (RSA,2000), in conjunction with the Electronic Communications Act of 2005 and the Broadcasting Act of 1999.<sup>2</sup> (RSA1999), Among ICASA's functions is the objective to “promote the interests of consumers with regard to the price, quality and the variety of electronic communications services” (RSA, 2005, Section 2(n)).

In mid-2005, ICASA issued a discussion document that identified handset subsidies as a “potential problem for subscribers” (ICASA, 2005, p. 5) when it was investigating number portability, as people were locked into two-year contracts and thus unable to take advantage of mobile number portability.

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<sup>2</sup> It is important that the mandate of the regulator covers all the products and services of the industry. In the UK, the telecomms regulator will not deal with complaints about international voice phone cards, which sometimes give less airtime than is stated. The regulator will only log complaints and will not take action against providers.

ICASA concluded further that there was “a lack of transparency about the cost of the various handsets offered in various packages, which limits the customer’s ability to make informed choices”, and suggested that “regulations will be developed that will require the network operators to ensure their agents and service providers provide customers with all relevant information” for customers to make decisions (Monteiro, 2006).

ICASA further believes that there is “potential cross-subsidisation of the post-paid customers by other services”, and suggests that regulations will be made to ensure transparency on where the financing of the free handsets comes from, and the value of the various offerings, so that “other customers are not unnecessarily burdened with costs of acquiring post-paid customers that account for a major part of the operators’ revenue from calls made” (Monteiro, 2006).

In June 2008, ICASA published a regulation on handset subsidies (ICASA, 2008) that applies to any “licensee, its agents and/or reseller, in terms of a contract concluded with a subscriber”, which provides that:

Post-paid and pre-paid offerings or packages that include handset subsidies must clearly indicate the subsidy and the monetary value of the services offered by a licensee, its agent or a reseller.

A post-paid contract may be concluded for periods ranging from six, 12 or 18 months but not more than 24 months.

A potential subscriber will not be regarded as being in a position to make an informed decision, unless a licensee, its agents or reseller:

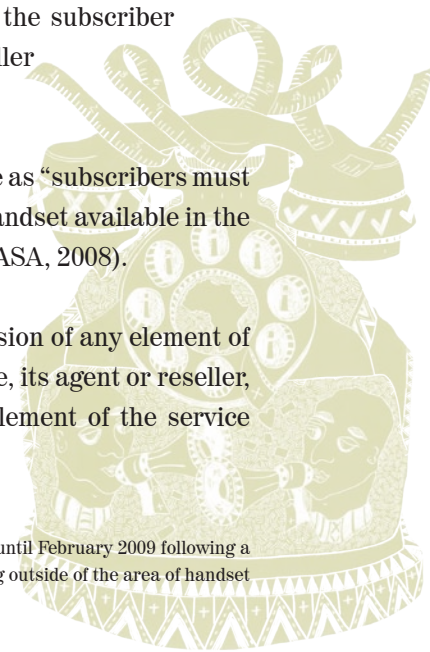
- explains in clear details and makes reasonable efforts to interact with the subscriber in the subscriber’s preferred language, and makes available in writing, the terms and conditions and consequences of each offering to the potential subscriber;
- specifically points out to a post-paid subscriber the consequences arising from a breach or early termination of the contract by such a subscriber, and penalties payable in respect of such a breach or early termination;
- clearly states in writing the actual charges or penalty in respect of the services and/or handset, and how the licensee, its agent or reseller intends to recoup them from the post- paid subscriber, in the event of a breach or early termination of the contract. A written statement to this effect should be made to the subscriber before a contract is concluded with the licensee, its agent or reseller

(ICASA, 2008).

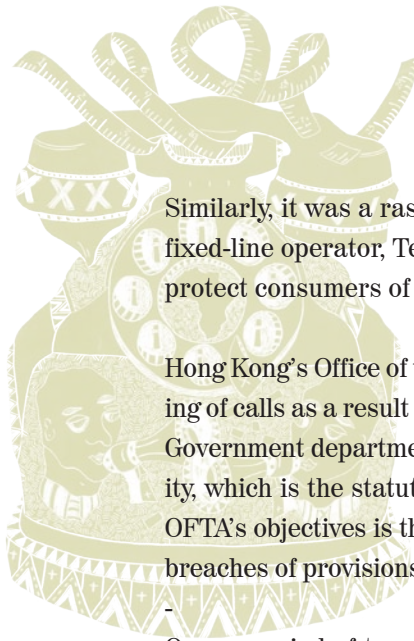
ICASA’s regulation also affirms the “freedom to purchase a handset” principle as “subscribers must have the option to use telecommunication services in conjunction with any handset available in the market provided that such a handset is type approved by the Authority” (ICASA, 2008).

“A licence, its agent or reseller must not make it a prerequisite for the provision of any element of the service that a customer must acquire a handset offered by such a licensee, its agent or reseller, unless it is technically not possible to provide to such a subscriber the element of the service required by him or her without such a handset” (ICASA, 2008).<sup>3</sup>

<sup>3</sup> The regulation on handset subsidy should have come into force on 17 August 2008, but was postponed until February 2009 following a legal application by mobile operator Vodacom on the grounds that the regulation dealt with issues falling outside of the area of handset subsidies.







Similarly, it was a rash of consumer complaints about the ADSL service offered by the incumbent fixed-line operator, Telkom, that led ICASA to investigate whether regulations should be issued to protect consumers of ADSL services.

Hong Kong's Office of the Telecommunications Authority (OFTA) tackled the issue of integrity of billing of calls as a result of a high level of complaints about it. OFTA was established as an independent Government department on 1 July 1993 and is the executive arm of the Telecommunications Authority, which is the statutory body responsible for regulating the telecommunications industry. Among OFTA's objectives is the handling and investigating of consumer complaints pertaining to suspected breaches of provisions in the Telecommunications Ordinance and Licence conditions.

Over a period of two years OFTA dealt with many complaints relating to misleading information about calling rate, length of promotion and call billing. For example, in January 2002 OFTA investigated the complaint of a customer against Pacific Long Distance Telephone Corp. Ltd (Pacific1636) on the basis that the company "failed to provide the amount of usable minutes as advertised" (OFTA, 2002).

The advertisement that was the subject of the complaint made the following claims:

**Paraiso Calling Card**  
**Buy 4 Get 1 Free**  
**Everyday 24 hrs**  
**Landline & Mobile**  
**Manila 63 mins**  
**Pangasinan 58 mins**  
**Other Provinces 53 mins**

source: (OFTA, 2002, p1)

The customer's complaint alleged that the advertisement was misleading, and significantly overstated the number of usable minutes on the calling card: "the usable minutes (32 minutes) of Parariso calling card she bought were much less than that stated (63 minutes) in the advertisement. The complainant said that when she made an enquiry with Pacific1636's hotline about this, she was told that an additional charge of USD2 per minute was required for calls made to the Philippines" (OFTA, 2002, p. 2).

In this case, OFTA found that "Pacific1636's failure to provide the amount of usable minutes as advertised [was] unfair" (OFTA, 2002, p. 2) and ruled that Pacific1636 had violated Hong Kong's Telecommunications Ordinance and the Advertising Code, and issued a written warning to the company to amend the offending advertisement.

In order to address these issues, OFTA launched the Billing and Metering Integrity Scheme (BMIS) on 1 January 2003. OFTA announced as its main objective enhancing "consumer confidence in the billing and metering accuracy of the public telecommunications services including international direct dial (IDD) services, mobile services and dial-up Internet services" (OFTA, nd).

OFTA noted that “under the then implementation arrangements, fixed network operators, mobile network operators and mobile virtual network operators (MVNOs) were required to participate in BMIS on a mandatory basis while dial-up Internet service providers, international value-added network services operators and external telecommunications services operators participated in the scheme on a voluntary basis” (OFTA, nd).

In November 2005, OFTA decided to “extend the voluntary participation in the scheme to all fixed network operators, mobile network operators, MVNOs and public non-exclusive telecommunications service (PNETS) operators, starting from 1 January 2006. Since that day, all fixed network operators, mobile network operators, MVNOs and PNETS operators may voluntarily participate in BMIS if they offer services (such as IDD services, mobile services and dial-up Internet services) that are charged on the basis of time of usage” (OFTA, nd).

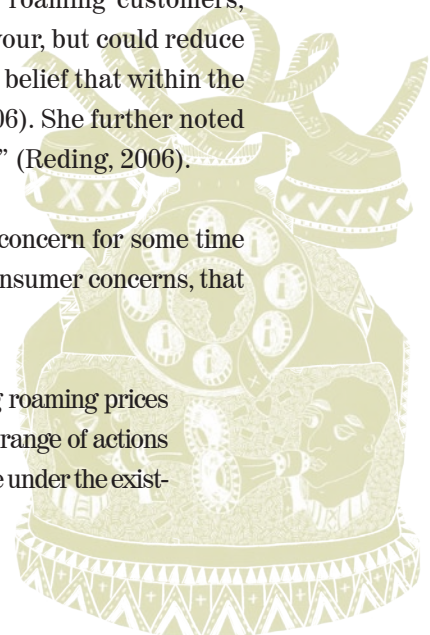
As with the voice call standard setting cited in the previous section, the Billing and Metering Integrity Scheme is a “set of testing criteria and quality assurance procedures based on relevant international standards to check the accuracy in measuring call duration and billing the calls made. The BMIS criteria specify that the number of inaccurately metered calls shall not exceed 0,01% of total calls and the error of billed amount shall not exceed 0,01% of the total billed amount in a single bill” (OFTA, nd). According to OFTA, operators joining the scheme have to follow the quality assurance procedures prescribed by the regulator in order routinely to check their internal processes and to ensure that the required accuracy criteria are met (OFTA, nd).

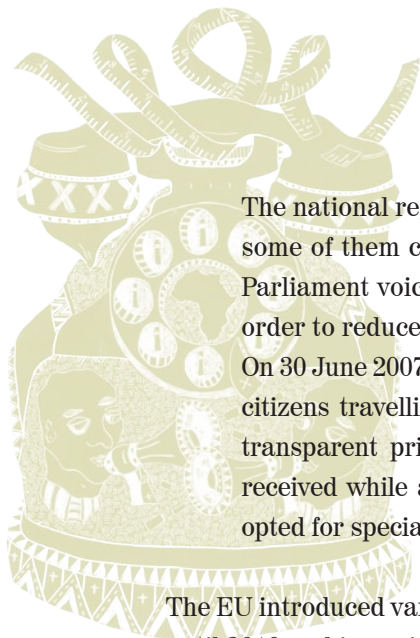
According to OFTA’s website, more than 10 operators have voluntarily participated in the Billing and Metering Integrity Scheme. “Starting from August 2006, the test results of the billing and metering systems as well as compliance status of these operators are published on a half-yearly basis” (OFTA, nd). Customers can also identify these operators by the BMIS-compliant label, which participating operators can use on their invoices and marketing materials.

It was also international call charging that attracted the interest of the European Union. International roaming charges had long been a source of irritation to holidaymakers, but it took the European Union in its regulatory role to address the issue. In June 2006 Viviane Reding, Commissioner for Information Society and Media, made a speech in which she said: “I personally believe that by making the European internal market a true European Home Market for roaming customers, whether private or business customers, we could not only do consumers a favour, but could reduce considerably the cost for doing business cross-border in the EU. It is my firm belief that within the EU, borders must not be any longer a cost factor for businesses” (Reding, 2006). She further noted that “the problem of high charges for international roaming is not a new one” (Reding, 2006).

The EU statement on the issue shows that roaming prices had been an issue of concern for some time and that it was the intervention of regulators and policy-makers, responding to consumer concerns, that led to effective regulatory intervention to protect those consumers:

Over a number of years, the telecommunications industry has failed to bring roaming prices down to the level that reflects the underlying costs of providing this service. A range of actions has been taken in recent years to address this issue. However, the tools available under the existing legal framework have not proved effective to tackle the roaming problem.





The national regulatory authorities drew the Commission's attention to this fact, and some of them called for action at EU level to solve the problem. Also the European Parliament voiced concerns and asked the Commission to develop new initiatives in order to reduce the high costs of cross-border mobile telephone traffic.

On 30 June 2007, the new EU rules on roaming (roaming regulation) entered into force: citizens travelling within the EU could now phone across borders at affordable and transparent prices. The Eurotariff set maximum prices for phone calls made and received while abroad. These maximum prices applied to all consumers unless they opted for special packages offered by operators (EU, nd).

The EU introduced various forms of price capping to control these charges, fixing wholesale prices until 2010 and imposing a three year "glide path" of staggered retail price reductions. Further, in order to ensure transparency, operators were required to inform customers crossing EU borders via SMS of the applicable tariffs and to set up a voice and SMS help facility (EU, nd).

In 2006 the Arab Regulators Network published a study on international roaming rates in the region conducted on their behalf by the Egyptian regulator NTRA. In April 2008 AREGNET members agreed to recommendations on these charges. Implementation of the recommendation over three years would lead to a 36% decrease in average roaming rates for consumers in the third year of regulation. The implementation of the recommendation would also result in more than USD115 million in annual savings for Arab consumers and at least 14% of added growth in roaming traffic as a result of reduced prices for consumers (ITU, nd).

These are all useful examples of regulators responding to consumer issues as they arise, and developing appropriate regulatory interventions as a result.




## 5. COMMUNICATING WITH CONSUMERS AND THE POWER OF THE MEDIA

A key element in consumer best practice for telecomms regulators is to find ways of communicating with consumers so that they themselves become better informed, and thus empowered to make more discerning market choices. Also in policy terms, it is important that consumers or their representatives can understand changes in market practice and the influence of policy on the market. In this way, as citizens, they can influence the political processes through which these things occur.

By their very nature, these communications processes can be quite complex and multi-layered. But it is probably easiest to think about these communications processes in terms of the different audiences with whom regulators are trying to communicate:

- Policymakers and those who contribute to policy-making, so that consumer issues are well understood and are kept at the forefront of their minds;
- Specialist and generic consumer representatives and organisations, who will in turn take up the information provided and pass it along to their members and to consumers themselves, either through their case work or their own media campaigns;
- Telecomms operators and their staff at all levels, since what might be understood in terms of consumer issues at senior management level may not be so clear to, for example, call centre staff members;
- Consumers of all types, whether directly through things like press advertisements or indirectly through media coverage.



As with any communications campaign, there is a need for clear, overriding themes or headline issues to be addressed, with specific messages and detail varying according to the audience. For example, the Indian regulator TRAI uses its quality threshold monitoring announcements as a way of raising the general discussion about quality and informing consumers as to which operators provide better service. But not all communication takes the form of direct media work. Sometimes putting in place processes for communication with consumer representatives may play a role.

In South Africa, for example, the mandate of the National Energy Regulator (NERSA) is to regulate the electricity, piped-gas and petroleum pipeline industries.<sup>4</sup> Besides NERSA's traditional regulatory functions, like issuing licences, the South African energy regulator is also responsible for handling and settling customer disputes.

NERSA saw that customers were complaining about service and quality levels, but played no role in influencing them. It felt that it would be helpful to set up a mechanism to facilitate communication between electricity distributors and their customers. NERSA worked with consumer groups to create "Customer Communications Forums". These were intended "to strengthen the relationship between the suppliers and customers by providing a platform from where information can be shared and exchanged and customer concerns can be discussed and resolved" (NERSA, nd).

Among the key areas of concern raised by NERSA were:

- Discussion of unresolved customer complaints;
- Identification of customer needs;
- Education of customers;
- Concerns about payments of accounts and arrears;
- Exchange of information on tariffs and pricing or any other issue (NERSA, nd, p. 2).

Bodies such as these undoubtedly play a valuable role in creating new channels through which operators can receive information directly from consumer representatives. In dealing with issues brought to these forums, operators will need to prepare and understand some of their own shortcomings. Each side also begins to understand the difficulties they operate under. However, there are some dangers in that if they come to understand each other too well, they may no longer create the necessary impetus for change.

Regulators can compel operators to communicate with their consumers, particularly over issues that might be hard to understand.

In the UK, for instance, Ofgem (Office of Gas and Electricity sector) is the regulator of the electricity and gas sectors.<sup>5</sup> Since the late 1990s domestic gas and electricity customers in the UK have been free to choose who supplies their gas and electricity. Before the domestic retail market opened to competition, suppliers could not offer both gas and electricity. Market liberalisation has now allowed incumbent electricity suppliers to compete for gas customers and vice versa, and has allowed new entrants to sell both. However, less well-off customers still pay significantly more (through pre-paid meters) than those with post-paid accounts. In some ways there are parallels with the higher charges levied on pre-paid mobile phone users in Africa.

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<sup>4</sup> NERSA's mandate derives from a slew of legislation, including RSA, 2001; RSA, 2003; RSA, 2006

<sup>5</sup> Ofgem derives its mandate and powers from several statutes, specifically the Gas Act of 1986 (UK, 1986), the Electricity Act 1989 (UK, 1989), the Utilities Act of 2000 (UK, 2000), the Competition Act of 1998 (UK, 1998) and the Enterprise Act of 2002 (UK, 2002).

In the UK context, nearly half of all energy customers are on post-paid accounts with just over 12% on pre-paid meters (PPM). The latter pay on average between GBP50 and GBP120 more for their combined electricity and gas bills than direct debit or post-paid customers. Energy suppliers justified this disparity in two ways: firstly pre-payment meters are themselves more expensive to buy and to service; and secondly, they require a specialised back-office administration system (Ofgem, 2007). The parallel with pre-paid mobile charging is interesting, as these arguments perhaps have less force in that context.

After a compliance review by OFGEM in March 2008, in which the service providers fell short in a number of areas, Ofgem asked them to provide their customers with clear information in relation to paying by PPM. This information needed to cover, among other things, the advantages and disadvantages of PPM payment; where help might be sought if the PPM device was not working properly; and the procedures for removing or resetting the PPM device (Ofgem, 2007).

The general difficulty raised by the imposition of information requirements like this is whether the information provided is a fair representation of the facts and whether it is easy to comprehend. Often information of this kind is treated as a regulatory obligation that meets the letter but not the spirit of the regulator's intent. Also in the African context, written information is not very useful when dealing with less well-educated or illiterate consumers or with those in far-off rural areas.

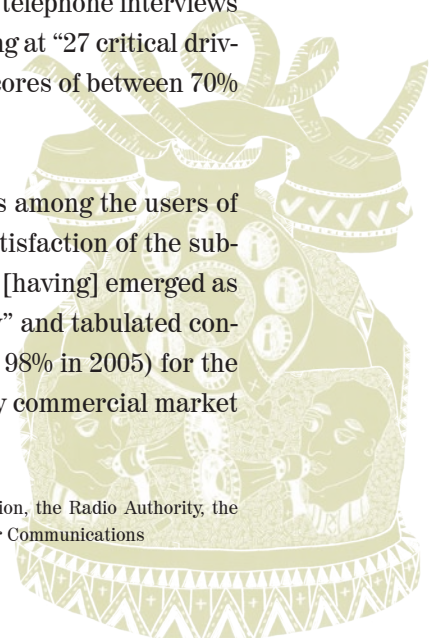
Some regulators – like Ofcom in the UK and India's TRAI – collect data on user satisfaction levels and use the data gathered to put pressure on operators to improve their services. However, regulators in many developing countries either do not gather complaints data systematically, or do not analyse the complaints made or really act upon the information gathered.

Although there appear to be no universally accepted international benchmark figures for complaint levels, it is possible to identify some “metrics” that are helpful. In its 2003 annual report, the UK's Oftel<sup>6</sup> reported that the overwhelming majority (over 90%) of all residential and business customers were happy with most services offered by providers. Almost all (96%) said they were happy with broadband services (Oftel, 2003a).

Similarly, South Africa's Department of Trade and Industry conducts regular consumer satisfaction surveys in a number of market segments, including telecommunications. Using telephone interviews and a sample of some 400 customers of each of the major telecomms, and looking at “27 critical drivers of customer satisfaction”, the operators surveyed achieved satisfaction scores of between 70% and 86% over a four-year period (Synovate, 2005, p. 4).

India's IDC Voice and Data magazine carries out regular satisfaction surveys among the users of mobile services. In 2006, for example, they reported a “large-scale drop in satisfaction of the subscribers with respect to most service providers [with] Bharti Airtel and Nokia [having] emerged as the top of the mind brands for subscribers in operators and handset category” and tabulated consumer satisfaction levels ranging between 86% and 90% (down from highs of 98% in 2005) for the various operators in 2006 (Prashant, 2007). Similar surveys are carried out by commercial market research companies in the region.

6 Oftel, the Office for Telecommunications, was later merged with the Independent Television Commission, the Radio Authority, the Broadcasting Standards Commission and the Radiocommunications Agency to form Ofcom, the Office for Communications





Indian regulator TRAI, for example, sets an overall satisfaction rating of 95% as a benchmark for mobile operators, and gathers statistics for comparison against this benchmark every year (TRAI, 2006, p. 8). The publication of these results always attracts regular media attention, while allowing consumers to shape their future purchasing choices.

What is further important is to ensure that the publication of such QoS statistics is widespread and readily accessible publicly, both to empower consumers and to stimulate public debate on the issues. TRAI publishes a number of ICT sector statistics regularly on its website, as do a number of regulators in other jurisdictions.

Another possible consumer satisfaction benchmark is to track the level of complaints received by the regulator. Ofcom, for example, used to monitor and report on the percentage of complaints per 1 000 customers in the fixed and mobile sectors (Ofcom, 2003b). Of course this statistic tracks only those complaints escalated to the regulator (see next section). A better benchmark might be to report on complaints registered with the operators themselves, although regulators in many jurisdictions lack the authority to force operators to disclose these figures - regarded as competitive and confidential information.

It can further be useful for regulators to require operators to provide their customers with information about their rights as consumers and the channels for laying and escalating complaints. For example, the 30 or more radio and television stations in South Africa that have signed up to the code of conduct of the Broadcasting Complaints Commission of South Africa (BCCSA, a self-regulatory body established by the National Association of Broadcasters of South Africa) are required regularly to advertise to their listeners of the existence of the BCCSA's Code of Conduct and how to complain in case of broadcasts that they believe are in violation of that code.



## 6. CONSUMER REDRESS- COMPLAINTS PROCESSES AND THE REGULATOR AS REFEREE OF LAST RESORT

All operators have complaints processes in place. The majority of complaints to reputable operators are handled in a way that gives sufficient satisfaction to the vast majority of consumers such that they are not inclined to take their complaints into the law courts. If a disreputable operator did not have an effective complaints process in place, it is likely that over time this would become apparent to the regulator.

Nevertheless, for regulators there may be a relatively small number of complainants who do not feel they have received satisfaction from the operators. These may include people who might have taken the complaints to law but have not done so for reasons of cost or because they do not believe that recourse to law will secure them satisfaction.

In these instances, the regulator can act as the referee of last resort. It can look at the merits of the complaint and enforce a settlement on the operator if the merits of the case justify it. Some of the better-resourced regulators have set up their own consumer complaints channels, which can obviously lay claim to a greater degree of independence than the operators. However, the process of dealing with day-to-day complaints of no great complexity is almost certainly best left to the operators themselves. This is partly because of the cost and resource requirements in the establishment of a call centre of sufficient capacity to handle the necessary volumes, but also because complaints handling is a natural extension of the operators' standard help-line function.



It is important that the regulator’s authority to oversee the processes for the lodging, processing, resolution and escalation of complaints be clearly based on a sound legal footing. For example, Zambia’s 2009 ICT Act requires the regulator to “establish guidelines for the making, receipt and handling of complaints of consumers”. The law gives some detail as to what the guidelines may contain, including procedures for dealing with complaints, compensating consumers, the protection of privacy, the provision of information, advertising, charging and billing (Zambia, 2009, Section 68). The website of the regulator provides some detail on consumer rights and channels of complaint and, importantly, makes it clear that “before you complain to the [regulator], complain to your service provider first” (ZICTA, nd).

A further example of this approach can be seen in the case of the Egyptian Electric Utility and Consumer Protection Regulatory Agency (EEUCPRA), which was established in 2001 to “regulate, supervise, and control all matters related to the electric power activities, whether in generation, transmission, distribution, or consumption, in a way that ensures availability and continuity of supply so as to satisfy consideration of environmental protection, the interests of the electric power consumers as well as the interest of the producers, transmitters and distributors” (EEUCPRA, nd, a).

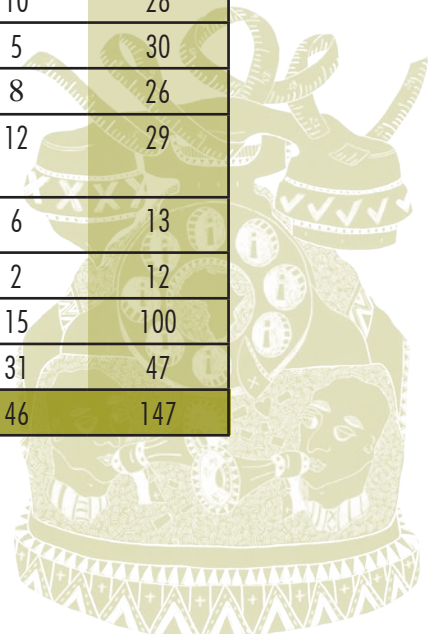
EEUCPRA has set up a complaints procedure which can be activated either by coming to the regulator’s office and submitting a form or by downloading the form from the web and sending it to the regulator by registered mail, e-mail, fax or delivery by hand to the agency’s office. It considers both individual and corporate customer complaints against the electricity distribution companies.

Further, EEUCPRA tracks and publishes on its website information about the complaints it has received (see below, (EEUCPRA, nd, b)). As can be seen, about two-thirds of complaints have been resolved over the five-year period covered.

TABLE 1: COMPLAINTS STATISTICS IN EGYPT’S ELECTRICITY SECTOR

Complaints subject	Total no of complaints					
	2002	2003	2004	2005	2006	Total
Faults	-	-	-	6	3	9
Cost	-	3	4	11	10	28
Connection	3	9	4	9	5	30
Estimated charge	-	-	7	11	8	26
Voltage reduction or oscillation	-	3	1	13	12	29
Readings	1	1	1	4	6	13
Other	-	4	2	4	2	12
Resolved	3	19	17	46	15	100
Not yet resolved	1	1	2	12	31	47
Total	4	20	19	58	46	147

Source EEUCPRA, nd, b





A similar approach is adopted by OFTA, the regulator in Hong Kong (OFTA, nd, b). The publicity generated through the monitoring and publication of such information about complaints can serve as a powerful incentive to operators to ensure that they deal with consumer complaints quickly and effectively and to the satisfaction of the complainants, so that no such escalation to the regulator and ensuing bad publicity results. It is therefore better to ensure that this information is available on the regulator’s website and regularly updated, rather than allowing it to languish in the depths of annual reports.

It is important to give consumers a clear and readily accessible space on the regulatory website that may also contain many other things that have little or no relevance to them. Hong Kong’s OFTA provides a separate Consumer Focus section on its website (OFTA, nd, c), with links to a number of sections of specific interest to consumers, such as “The Smart Consumer’s Corner”, which offers a combination of information on consumer programmes on television and radio and a selection of e-games including online quizzes.

OFTA also provides a full listing of operators’ customer charters, all on a single page. It carries a listing of complaints, the details comprising the substance of each complaint (including supporting documentation) and its outcomes. For example, in July 2010 it concluded a complaint against the Hutchison Telephone Company Limited, in terms of which it was alleged that a “newspaper advertisement of HTCL promoting iPhone 3GS” was “misleading or deceptive”, and imposed a fine of HKD100 000 on the operator concerned (OFTA, nd, d).

Similarly, South Africa’s self-regulatory body dealing with mobile value-added content and applications, the Wireless Applications Service Providers’ Association (WASPA), publishes on its website an archive of details of all the complaints it has received, along with their outcomes and adjudication reports (WASPA, nd).

Publicising the details and outcome of complaints allows consumers to see what can result from making a complaint, and uses the threat of negative publicity to ensure operators improve both their services and their handling of customer complaints.



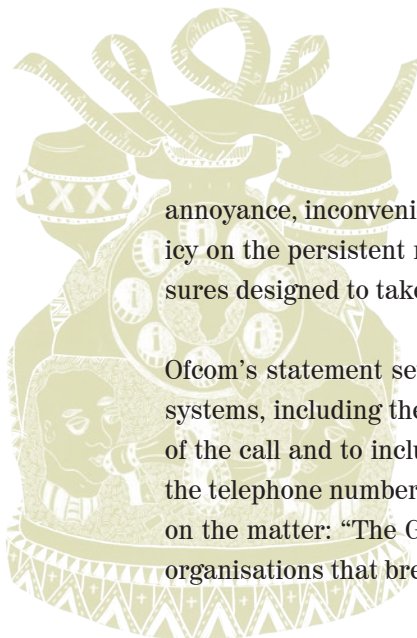
## 7. SCANNING THE HORIZON - SPOTTING ISSUES BEFORE THEY OCCUR

Regulators will often be in a better position than the average consumer to act as radar in order to be able to spot issues that will be of relevance in the future, before they become troublesome. In the first instance, this may involve little more than warning consumers to watch out for different types of scams.

For example, telesales are widely used in the UK by companies wishing to sell their services or products to residential customers. Banks, among other service companies, use this “cold-calling” sales method to attract new customers. Such calls frequently attract the ire of consumers due to their unsolicited nature and, occasionally, for other reasons. In June 2006, the UK’s communications regulator Ofcom initiated an investigation into “persons or organisations causing annoyance to consumers through the making of silent or abandoned calls” (Ofcom, 2006).

Silent calls come from the use of automated calling systems, which are widely used for telemarketing, market research and debt collection. When the latter generate more calls than the available call centre agents can handle, a number of people receive calls where there is nothing but silence when they pick up their phone, because the automated calling system has ended the call.

On 01 March 2006, as a result of its investigation, derived from its authority under the 2003 Communications Act to “take action against persons or companies who persistently misuse an electronic communications network(s) or service(s) in any way that causes or is likely to cause unnecessary



annoyance, inconvenience or anxiety” (Ofcom, 2006), Ofcom published a revised statement of policy on the persistent misuse of an electronic communications network or service, with new measures designed to take action against silent calls.

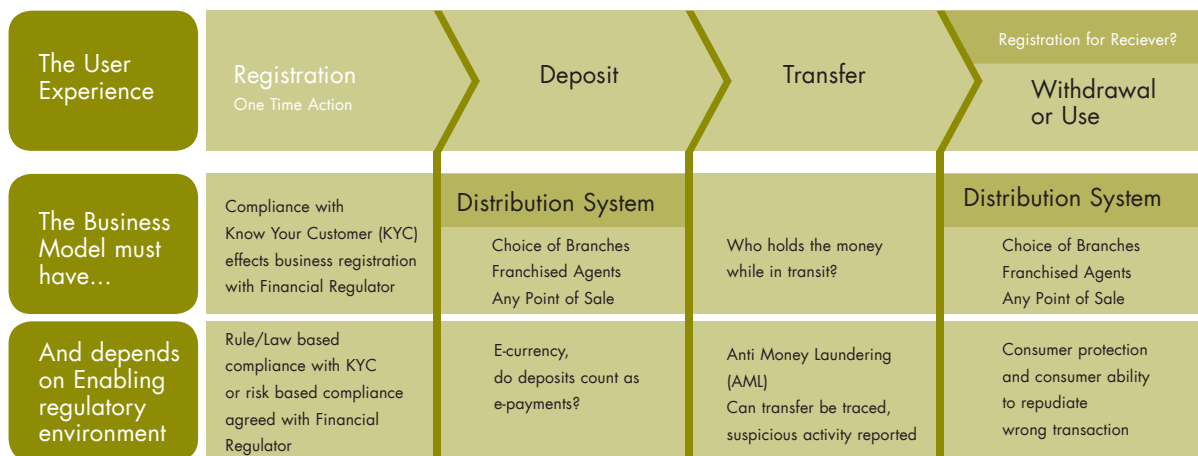
Ofcom’s statement sets out a number of requirements for organisations using automated calling systems, including the need to carry a recorded information message which identifies the source of the call and to include Calling Line Identification, which allows people to dial 1471 and access the telephone number of the person or organisation calling them. According to Ofcom’s statement on the matter: “The Government has increased the maximum penalty that Ofcom can impose on organisations that breach Sections 128 to 130 of the Act from £5 000 to £50 000” (Ofcom, 2006).

Since 2006 Ofcom has investigated a number of companies in relation to silent or abandoned calls, including Carphone Warehouse, Brakenbay Kitchens, Space Kitchens, IDT Direct / Toucan, Abbey National, Complete Credit Management, Ultimate Credit Services and Barclays Bank. All of these companies were fined, with the fine amounts ranging from GBP5 000 to GBP50 000. Barclays Bank, for example, received a GBP50 000 fine because Ofcom ruled that it had reasonable grounds for believing that between October 2006 and May 2007, Barclaycard persistently misused the telephone network by virtue of its use of automated calling systems (Ofcom, 2006). The Ofcom investigation has led the UK’s Market Research Society to issue a set of regulations to guide its members’ use of automatic dialling services (MRS, 2011).

A similar future issue coming into view is M-Money services and their financial and telecomms regulatory implications. In Africa, such services are currently available in only a small number of countries, but over the next three years they will be available in most countries, in some form. The consumer implications are both interesting and complex, as such services fall under the concurrent jurisdiction of both telecomms and banking regulators.

The diagram below, taken from a recent Balancing Act report (Balancing Act, 2008), shows the various commercial and regulatory implications of M-Money services like M-Pesa in Kenya:

FIGURE 1: USING M-MONEY: COMMERCIAL & REGULATORY REQUIREMENTS



Source Balancing Act, 2008

Many of the existing M-Money services either adhere to existing regulation by alliance with a banking institution or have had special dispensation from the regulator. It is clear from recent studies that regulators are not sure what to make of this emerging cluster of services and how they can facilitate its development while simultaneously protecting their country's financial systems and the consumer. There are many issues involved, each of which has to be dealt with by a different regulator. There are as many as five regulators involved: banks supervisor, payments regulator, telecomms regulator, competition regulator and anti-money laundering authority.

One regulatory issue affecting this type of service will illustrate some of the complexities and how they might be tackled. If, after registration, deposits can be made with an agent, the user needs to know that the agent who is handling the cash is 100% trustworthy and that the deposit will be entered on the system.

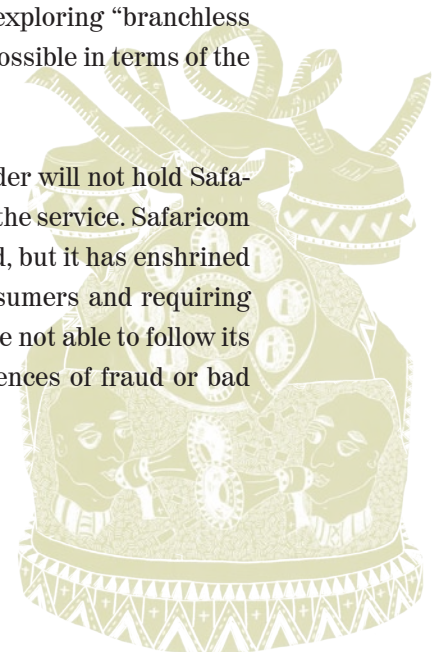
In Kenya, Safaricom has over 8 000 agents who handle airtime sales throughout the country, but to date they have only 850 M-Pesa agents. The reason for this is that Safaricom are undertaking a due diligence exercise to ensure that M-Pesa agents have been checked and verified. In addition, they are trained in registration and cash handling procedures.

Agents like this could potentially be at a considerable distance from the head office of the operator. If a dispute arises, there need to be procedures in place so that a consumer with a complaint can take it to the operator who is responsible for managing the agent network. Clearly the operator also needs to be responsible for the agent network. However, as a general principle, since the user can hand over "cash in" at the same time as verifying that the agent has made an electronic entry of cash in on their account, the possibilities of money being misplaced are far fewer than in traditional paper-based systems. Therefore, regulators could relax some of the rules on who may or may not become an agent for deposit taking, while still maintaining protection for the user.

There is also the possibility that unscrupulous agents might add unauthorised charges. It will be important that the operator issues clear and transparent prices and that these are well publicised to users. These will need to detail some of the "hidden" costs, such as the charges for SMS messages, and the commissions paid to the agents.

This question of agents is the one that most exercises regulators who are exploring "branchless banking". The response to this issue can make a huge difference to what is possible in terms of the business model.

In Kenya, the small print of the M-Pesa contract states that the account holder will not hold Safaricom responsible for default or negligence on the part of the agent providing the service. Safaricom may well honour repudiated transactions in order to keep its brand unsullied, but it has enshrined a "side-step" clause in its agent contract, possibly to the detriment of consumers and requiring regulatory attention to ensure that others less scrupulous than Safaricom are not able to follow its lightly regulated path, but with considerably less attention to the consequences of fraud or bad management for their customers.





This issue is only one of half a dozen that the well-informed regulator will need to be on top of, if it is to encourage these new services whilst simultaneously protecting the consumer. It is therefore essential that regulators devote resources to scanning and monitoring ongoing developments in the broad ICT sector in order to recognise and identify issues and trends that may impact negatively on the consumers of ICT goods and services, and thus act accordingly and proactively.



## 8. ASSESSING THE COST AND EFFECTIVENESS OF DIFFERENT INTERVENTIONS

From compiling this review of global consumer best practice for regulators, it has become clear that there has been little or no formal assessment or evaluation of different consumer interventions anywhere in the world. Some consumer survey data deals with whether consumers are aware of the regulator's existence, and their view of its performance (Cannock, 2002). But there is not much beyond these few clues.

To be fair, some regulators are relatively recent and therefore the argument might be made that it is too early to have carried out this kind of work. Similarly, some African regulators are in the early stages of carrying out consumer interventions and cannot really be expected to have had sufficient time to evaluate them.

Some regulators, particularly those in smaller countries, are not particularly resource-rich, whereas for those in larger markets, issues of resourcing are less problematic. Nevertheless, all have to justify their spending in some way. In terms of spending on consumer interventions, these might be judged against the objective of having a better informed and more empowered set of consumers. It is worth repeating the obvious for emphasis: the more consumers know, the better the choices they will make. The more empowered consumers feel, the better they will be able to make complaints and receive satisfaction.

Against these broad objectives, and in the absence of the undertaking of a full-scale regulatory impact assessment (Radaelli & de Francesco, 2010), it is perhaps worth while trying to outline some

common sense ways of looking at how to assess whether the kind of consumer interventions a regulator might make are effective.

Before looking at ways to assess consumer interventions, it is worth distinguishing between three different parts of those interventions: outputs, impacts and outcomes. An output might be building a website area for consumers and conducting a media campaign to inform consumers about different issues. By itself, this output does nothing; it results in an activity or a product that may or may not change the situation for consumers.

Assessing its impact might involve identifying changes in behaviour in response to the specific output. In this case, it might be measured in terms of identifying how many people accessed the consumer protection section of the website or how many people saw different elements of the media campaign. But again, these do not necessarily mean anything. Consumers access many websites and encounter many media campaigns, but do not necessarily act upon them. Therefore, there needs to be an outcome from these two elements: what did these consumers do as a result of these interactions with your activities and how did their behaviour change?

In terms of the website, for example, the consumer might choose to register a specific complaint. Or through the media campaign, he/she might choose to complain to operators about a specific issue and obtain satisfaction from that complaint - better information would empower them to address what they felt was wrong with the service they were receiving. In addition, they might also be offered the chance to complete an online survey on consumer issues.

Alternatively, the regulator might undertake a more formal national survey, on an annual or periodic basis, of the kind referred to earlier in this section (Cannock, 2002), in order to establish its effectiveness in the protection and empowerment of consumers, to identify its level of consumer protection profile, and ascertain the impact of any specific campaigns or interventions it has undertaken in this area over the recent past.

In order to ensure that its resources are wisely used to protect and empower the consumers of goods and services in the ICT sector, it is thus important for the sector regulator to identify and track both the impact of its interventions and their more long-term outcomes. Such analysis can only serve to strengthen the effectiveness of consumer protection interventions across the board.







## 9. CONCLUSION

What we have attempted to do in this analysis of international and regional practice in respect of consumer protection regulation is to: identify a number of examples of regulatory intervention that have proved effective in a range of different jurisdictions; describe what has been done to protect and empower the consumers of ICT goods and services; and assess the effectiveness of the differing interventions.

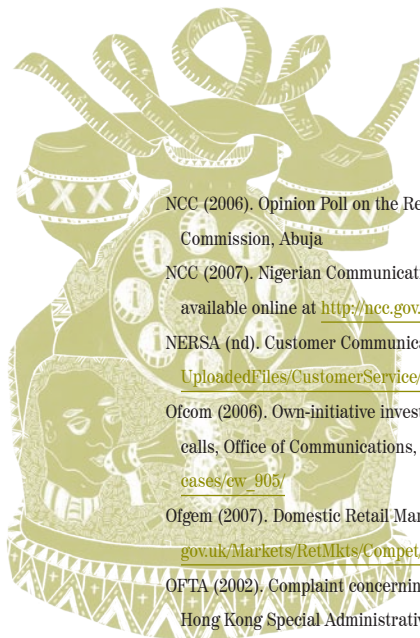
We believe that this assessment of global best practice, along with its categorisation under a number of broad headings, will assist regulators and regulatory bodies in Africa to evaluate their own interventions in support of ICT consumers and plan and structure a more effective consumer protection regulatory intervention in the future - one that is both appropriate to the ICT environment in their respective countries, and can be implemented within their budgetary and resource constraints.

As regulators, the protection and empowerment of consumers within our sphere of competence are core aspects of our mandate. It is our hope that this small document will assist in the fulfilment of that mandate.



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E-REPRINT

# Global Consumer Survey on Broadband

JEREMY MALCOLM AND ELYSE CORLESS



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# 3 Global Consumer Survey on Broadband

*By Jeremy Malcolm and Elyse Corless*

**ABSTRACT** A global survey on broadband Internet was administered to consumers in 40 countries, in 5 languages, drawing over 9,000 responses. The survey sought to elicit information about the biggest problems that faced consumers of broadband Internet services. This would guide the development of a global campaign to hold broadband service providers to account for their observance of consumer rights and broader human rights online.

The results of the survey indicate that home broadband Internet access has become by far the dominant method of Internet access for respondents to the survey, but three broad areas of concern stand out.

First, is that Internet speeds are often slower than advertised, and in many cases unpredictable.

Second, is the excessive cost of Internet access in locations that are not well served by a number of competing broadband providers. Even in locations where competition does exist, consumers are kept from taking advantage of it by lock-in provisions in their service contracts.

Finally, when consumers complain to their Internet providers about speed or service problems, a majority are unsatisfied with the handling of their complaints.

This paper presents highlights of the research, and concludes by outlining a possible global campaign through which Consumers International would lead its members in addressing each of the three problems that the research has uncovered.

## 1 Introduction

BROADBAND NETWORK ACCESS is a technology that has already had far-reaching effects, but is likely to be even more significant for consumers into the future as it becomes ubiquitous. Broadband is indeed becoming not simply a communications tool, but a prerequisite for consumers' full participation in civic and cultural life.

For example, in many countries, a range of government services are geared primarily towards those with Internet access, and are relatively inaccessible or inconvenient for those without. In commerce, often the lowest prices for items such as airline tickets are only available for online purchases. Telephone call centres and counter staff are



being replaced by online support centres. Students are assumed to have broadband at home for completion of school assignments. And new forms of cultural dissemination such as streaming video are accessible only through broadband Internet.

In the future, we cannot even predict how much more intrinsic broadband access will be to everyday life. It is fast becoming an essential service, like access to electricity and water. Consumers worldwide are even coming to regard broadband access as a fundamental right.<sup>1</sup>

Accordingly in 2011, Consumers International commenced a new global programme titled "Holding Broadband Service Providers to Account," aiming to empower consumer organisations around the world to demand more equitable and accessible broadband service offerings, respecting consumers' rights and broader human rights, as a necessary condition of achieving a socially-inclusive information society.

The first phase of this programme, conducted during 2011, was aimed at discovering exactly what are the most problematic issues that confront consumers in their access to and use of broadband networks. The results of this research will feed into the second phase of the programme in 2012, when Consumers International will develop and pilot a global campaign to address the issues that we had uncovered.

Drawing from CI's experience in conducting a global survey on access to knowledge in 2009-2010,<sup>2</sup> a hybrid method for conducting the research was adopted. This gave members a choice of gathering data using an online survey of broadband users, or face-to-face interviews or focus group meetings with users, or by compiling existing survey data on broadband issues from third-party sources. Each member was required to use at least two of these approaches, and some used all three. In addition, all members were asked to provide a research report on the legal and regulatory environment around broadband in their country.

This interim report covers the results of the online survey only. The results of the interviews, focus group meetings and research reports will be presented at the meeting "Consumers in the Information Society" at which this report is launched, as well as being incorporated into later outputs of the broadband programme, including a forthcoming broadband advocacy manual.

As such, the results of this report are biased towards those countries that emphasised the online survey in their research plans: in particular, the United States, Brazil and the United Kingdom. They are also biased towards those countries in whose languages the online survey was available (English, French, Spanish, Portuguese and Indonesian). Even so, enough responses were obtained from all world regions, including developing countries such as India, Kenya and Indonesia, and least developed countries such as Bangladesh and Nepal, to provide a sound preliminary indication of the appropriate focus areas for our upcoming global campaign.

Whilst this interim report is not intended, and should not be taken, as a reliable statistical picture of broadband access and usage worldwide, there are nevertheless already some very clear findings that deserve attention. An outline of some of these, emphasising global and regional trends, is presented below.

<sup>1</sup> British Broadcasting Corporation. "Four in five regard internet access as a fundamental right: Global poll, 2010" (2010), [http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/08\\_03\\_10\\_BBC\\_internet\\_poll.pdf](http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/08_03_10_BBC_internet_poll.pdf).

<sup>2</sup> Consumers International. *Access to Knowledge for Consumers: Reports of Campaigns and Research 2008-2010*. Kuala Lumpur, 2010, part I, available from <http://A2Knetwork.org/survey>.

## 2 Highlights

All around the world, more consumers connect to the Internet at home than anywhere else, and most of those connections are broadband. As many as 97% of our respondents had access to the Internet at home, and 83% of those home connections were at broadband speeds. These consumers are also remarkably well-informed, with only 2% of them uncertain about whether their home connection was broadband or not.

The biggest complaint that consumers have with their broadband providers is that the speed of their connection is either consistently or inconsistently slow – and often they were not clearly informed of the real speed of their connection when they signed up. The most vociferous complaints come from the customers of two of Brazil’s largest ISPs, Telefónica and Oi Velox, who were also reported as providing the world’s most unreliable Internet connections.

Moreover, lack of competition has driven up the prices of Internet services, particularly in North and Latin America, where users pay almost 50% more for their monthly Internet access than those in the other regions. Even where adequate competition does exist, users are often impeded from switching to a more affordable broadband plan because they are locked in to their current provider by contract. Over 40% of consumers are prevented from switching providers either by lack of competition or lock-in.

Our survey shows that consumers are not shy to complain when their Internet connection is not up to scratch. But unfortunately, those complaints are very badly handled on average. No less than three quarters of those who complained about speed ended up dissatisfied or very dissatisfied with how their complaints were dealt with. Almost as badly handled were complaints about technical problems and billing.

## 3 Detailed results

As at close of the online survey on 31 December 2011, there were 9,092 total responses, 6,995 of which had been completed in full, and the remainder of which only partially completed. Typically, those who did not finish the survey completed about half of it before giving up, which suggests that it was too long to sustain their attention. Nonetheless, over three-quarters of respondents did persevere to the end, and this was more than sufficient to provide some useful results.

Except where otherwise noted, we have omitted incomplete results from the statistics reported here. Some additional questions were asked of UK-based respondents only, at the request of our participating UK member, but these are not analysed here either. We have also omitted “outlying” or implausibly extreme responses. In some cases – such as the respondent who claimed to be 0 years of age, and another who claimed to be 89,770,000 – these outlying responses were probably given to protect their privacy. Others – such as those who claimed to be paying thousands of dollars per month for their Internet access – likely misunderstood the question (in that case, that we had asked for the amount to be expressed in US currency).

The results were analysed using R, which is an open source statistical environment and programming language. The source data is available from CI on request to facilitate further analysis.

### 3.1 *Demographics*

23 CI members agreed to participate in the first phase of the project. In the end due to the general availability of this survey online, responses were received from consumers in 40 countries, though only 14 of these drew more than a hundred responses. Overseeing the work across the world were three regional coordinators drawn from across CI's membership: Veridiana Alimonti of IDEC for the Americas, Marzena Kisielowska-Lipman of Consumer Focus for Europe and Africa, and Jonathan Gadir from ACCAN for the Asia Pacific and Middle East region.

The results were reasonably evenly spread across those regions, except that there were so many results from the Americas that we have split that region back into two for analysis. Amongst those who specified their location, 32% of the completed responses were from North America, 31% from Latin America and the Caribbean, 16% from Europe and Africa, and the remaining 21% from Asia Pacific and the Middle East.

Most respondents chose to reveal their gender: 70% were male, 30% female. Their average age was 45 years. From this it can be seen that the survey was not, nor was expected to be, a representative sample of the general population. As with our 2009-2010 survey on access to knowledge, the survey was undertaken by our member organisations, most of them without the assistance of a specialised survey firm. Participants were gathered by a variety of means: some drew from their own mailing lists, while others used the Web, Twitter or word of mouth.

But despite the limitations of this method of surveying, the main countervailing benefit is that it simultaneously builds the capacity of our members on broadband issues, particularly for those who also engaged in face-to-face interviews and focus groups with consumers. This will stand these members in better stead to contribute to our our global campaign when it is piloted at a national level in 2012.

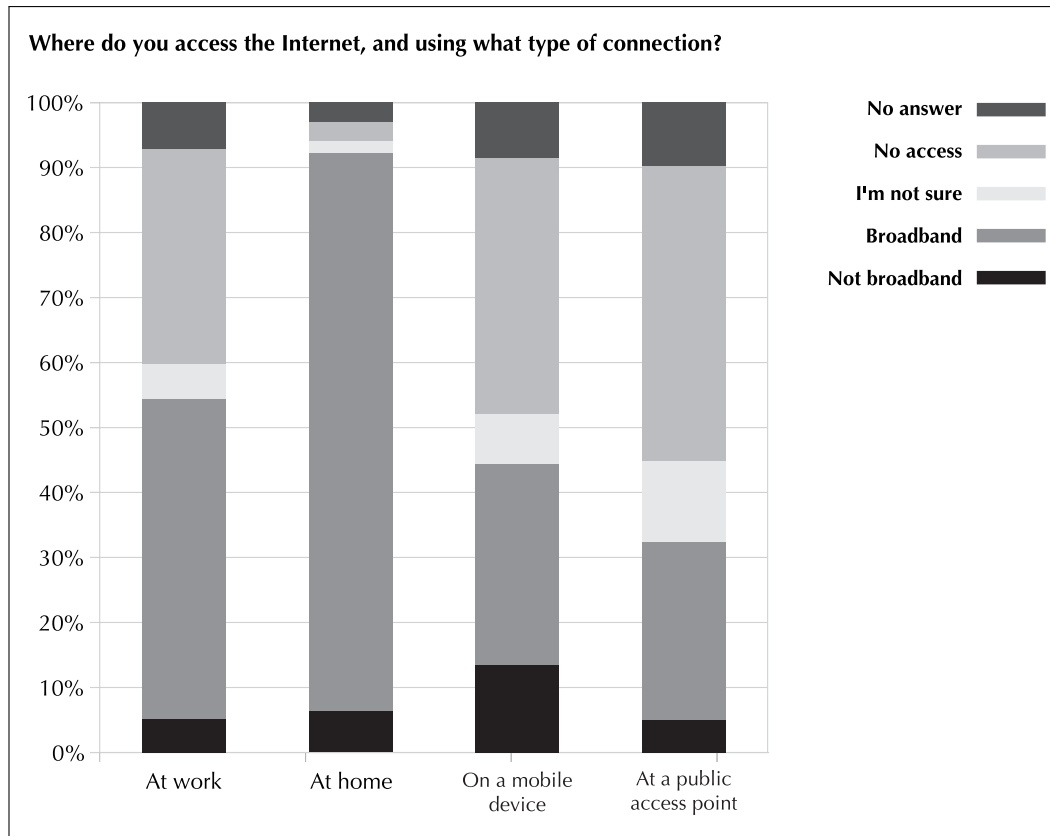
### 3.2 *Internet access*

As noted above, one of the clearest findings from the survey was that for the members we surveyed, there is no substitute for broadband Internet access at home. As the figure overleaf shows, for the consumers surveyed, substantially more – about 97% – access the Internet at home rather than at work (64%), on a mobile device (57%) or at a public access point such as an Internet café, library, telecentre or the like (50%).

Furthermore, from amongst the consumers who had access to the Internet by more than one means (for example, both at home and at work), 72% reported that their primary access was at home.

Tellingly, although half of respondents had access to the Internet through a public access point, less than 2% of those who also had the ability to access the Internet by any other method chose the public access point as their primary Internet access. This illustrates that although public access points are a vital lifeline for those without any other means of accessing the Internet, for most consumers they are exactly that – a last resort. Nonetheless, they are the cheapest way of connecting to the Internet, at only about 30% of the average monthly cost (\$15) of access at home (\$49).

Another striking result illustrated by the figure is the extent to which broadband connections are now the dominant class of Internet access for consumers in whatever setting. The proportion of broadband connections is the highest at home – in fact 83% of those who accessed the Internet at home did so over broadband, averaged over all regions. But even amongst those who accessed the Internet on mobile devices, well



over twice as many did so at broadband speeds than at lesser speeds.

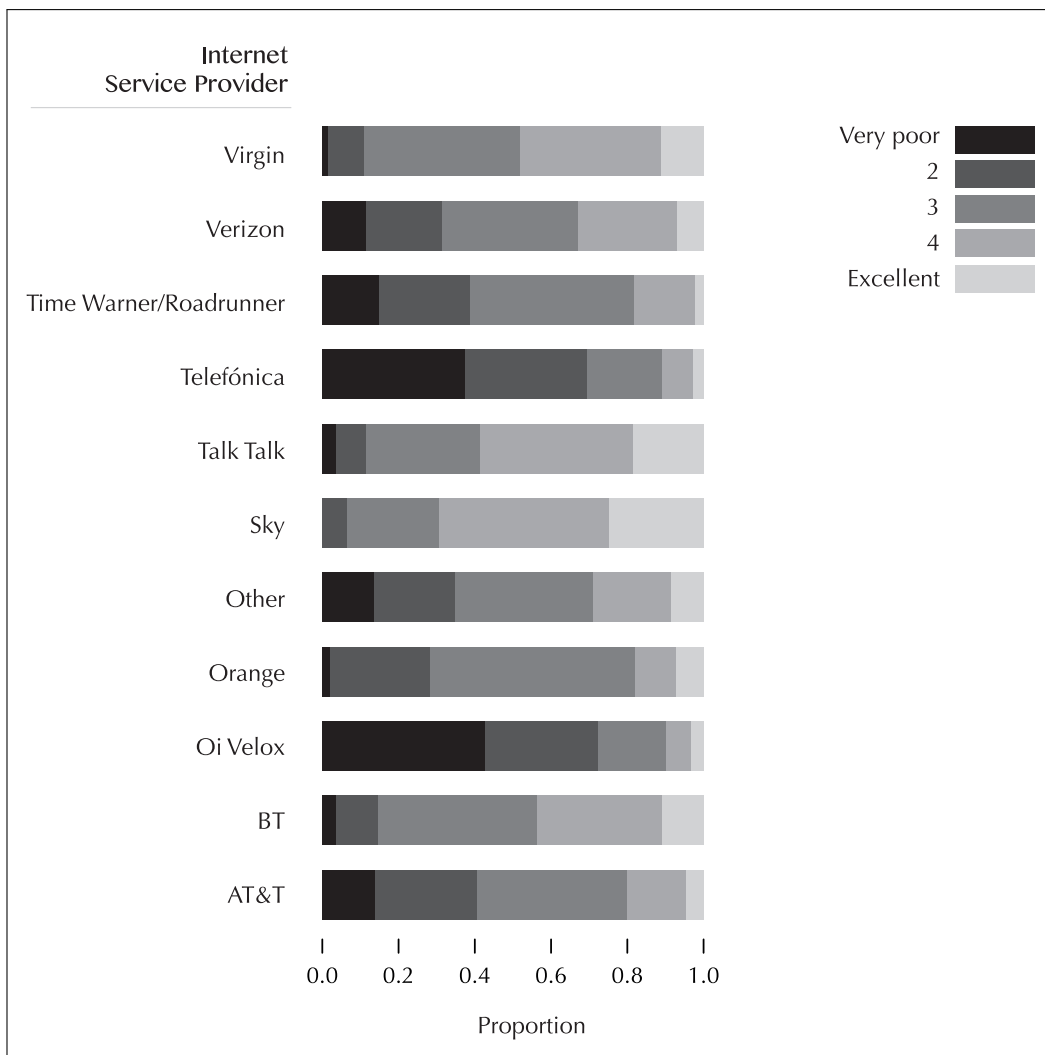
Also importantly, consumers in general seem to be well informed about whether their home Internet connections are broadband or not; only 2% of home Internet users were in any doubt about this. For users of mobile devices however, this figure rose substantially to 14%, perhaps indicating that mobile phone companies are not advertising the properties of their Internet packages as well as home Internet Service Providers (ISPs) are.

When we focus on developing countries rather than the global set of respondents, the picture is a little different. For example, the proportion of respondents who depended upon mobile devices or public access points as their primary Internet access were highest respectively in Kenya (at 25%) and Vietnam (at 21%). The region with the lowest penetration of home Internet access (81%) was also that with the highest proportion of responses from developing countries, namely Asia Pacific and the Middle East. Additionally, Internet connections were shared amongst more people in that region than any other. For example in North America, only 8% of connections are shared with more than four people, but 21% in Asia Pacific and the Middle East. Nonetheless even in this region – where the proportion of home broadband access is lowest at 73% – this still amounts to a sizeable margin over slower forms of access.

Overall, then, it can be concluded from this section of the survey that the dominance of home broadband as a method of Internet access validates Consumers International’s choice of focus for our campaign, “Holding broadband service providers to account.”

### 3.3 Competition and choice

Overall, users in North and Latin America paid almost 50% more for their monthly Internet access than those in the other regions. For example, an average United States Internet user paid about \$62 per month, and an Argentinian \$39, whilst a Briton paid \$29, and an Indian only \$21. The figure below shows only the ten most popular ISPs recorded in our survey, along with the respondents' ratings of how much value for money they provided, ranging from "very poor" (on the left) to "excellent" (on the right). There is also an "other" result that aggregates the ratings given to all other ISPs. Consistently with the survey's quantitative results, all of the ISPs rated as providing poorer value for money than "other" are North or Latin American. All those rated better are European. (Although not shown on the chart, major Asian and African ISPs such as Airtel (India), SK Broadband (Korea) and Access Kenya also fared somewhat better than their American counterparts.)



This seems to be attributable in part to a serious lack of effective competition in many American broadband markets. Over a third of North American and Latin American users reported that they were impeded from changing their Internet provider because of a lack of competitors offering equivalent services. This compares to only 14% who made the same complaint in Europe and Africa, and 19% in Asia Pacific and

the Middle East. Although not reported here, the preliminary results of our member survey on broadband will bear out this observation of lack of effective competition, particularly outside of urban areas.

Offsetting this however, consumers in Europe and Africa, and Asia Pacific and the Middle East, were more likely than their American counterparts to be locked in to their Internet provider by a fixed-term contract. 30% of consumers in the former regions reported that fixed contract terms prevented them from shifting ISPs, which is almost twice as many as those from the Americas who made such a complaint. Interestingly, only 7% of consumers were affected by both lack of competition *and* contractual lock-in, indicating that most ISPs will only bother locking their customers in to long-term contracts if competitors exist to tempt those customers away. Together, these two factors affected over 40% of consumers.

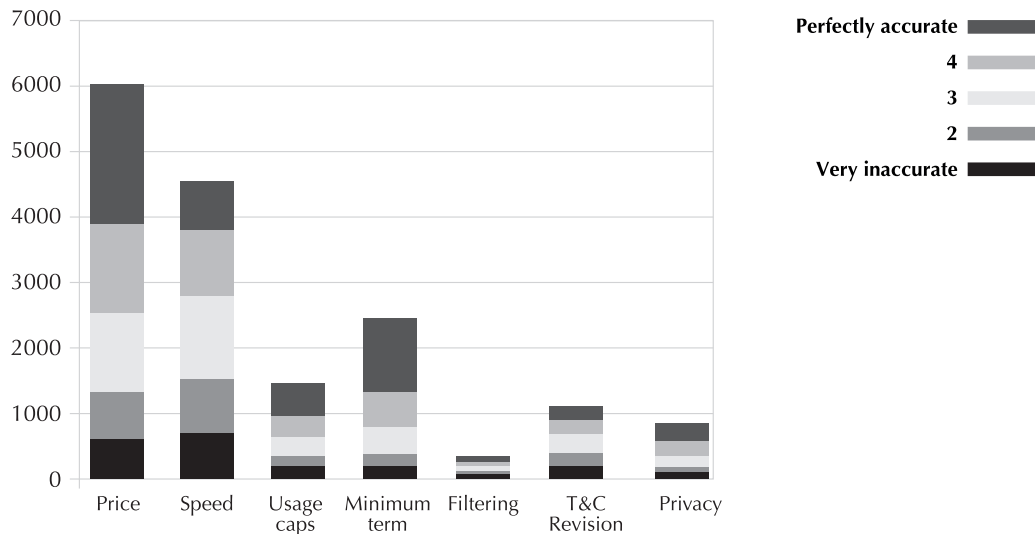
The next most important factor that impeded consumers from switching Internet provider, quite consistently across all regions, was the bundling of several services together. Easily the most common bundle worldwide is phone line rental, which about 30% of consumers pay together with their Internet service; unsurprisingly, given that Internet services were traditionally delivered over telephone lines. Also very popular in Latin America is the inclusion of a pay television service – with more than one in five consumers subscribing to such a bundle, which is almost twice as many as in the other regions. In Asia Pacific and the Middle East, almost 16% of consumers were renting or paying off an access device such as a handset as part of their subscription, which is again almost twice as many as in the other regions.

Fewer than one in ten consumers was affected by the locking of their access device to a single provider, but more than half of those who were affected were those who accessed the Internet through a mobile device, and North America was the region most affected by this practice. One consumer burned by this made the very apt comment, “The vendor locked device works only with their network whereas they charged *full* cost of the device while purchasing the connection”.

### **3.4 Information and service quality**

Our survey next asked respondents about what information they received when signing up for their Internet service, and how accurate that information was in the light of their subsequent experience using the service. As might have been expected, most consumers who answered this question had received information about the cost of the service (70%) and its speed (54%), with little variation from one region to another. A decreasing minority of consumers were notified about other issues concerning their Internet service, such as any applicable minimum contract term (28%), any usage caps or excess charges (17%), how changes could be made to their terms and conditions of service (14%), how their personal data would be used by the company (10%), and finally about any Internet services that would be subject to differential treatment by the ISP (4%).

As can be seen from the figure overleaf, the information given about the speed of the service tended to be less accurate than that about the other topics, though only 16% described it as “very inaccurate”. However this did vary by region, with about 20% of consumers from the largely developing regions of Latin America and Asia Pacific and the Middle East complaining of very inaccurate claims about speed. This is as against only 7% of consumers across Europe and Africa who were dissatisfied for the same reason.

**How accurate was the information you received?**

Corresponding to this result, the survey also found slow Internet speeds to be one of the major problems suffered by Internet users from the affected regions. Looking at the major ISPs that were earlier listed in our figure, extremely high levels of dissatisfaction exist with the speeds provided by the Brazilian broadband ISPs Telefônica and Oi Velox – reported as a “serious problem” by no fewer than 39% of Telefônica’s subscriber respondents, and 44% of Oi’s. A separate question asking for respondents to rate their ISP on the speed of their connection returned a similar result, with 36% and 41% respectively rating Telefônica and Oi Velox “very poor”. No other ISPs in our survey, small or large, received such strong condemnation as these.

The travails of Telefônica and Oi Velox customers don’t end with their complaints about speed. These two ISPs also stand out as giving their customers the most trouble in establishing a connection to the Internet in the first place (respectively for 30% and 34% of respondents, against an industry average of only 13%). With surprising restraint, only 21% and 27% of their long-suffering customers gave Telefônica and Oi Velox a “very poor” rating for “reliability of connection” in response to this, but that was still 2.7 times worse than the industry average!

Other than speed and connection issues, most other technical problems created less concern for most. A majority reported few or no problems in accessing particular sites and services – which was a question intended to cover the mysterious failures caused by blocking or filtering (discussed in section 3.7). Fewer still had trouble using Internet software (though some complained that their ISPs did not support software for operating systems besides Microsoft Windows, such as Linux and Mac OS X).

From this section of the survey, then, we drew a very clear message that customers are concerned that the speed of their Internet connection is described accurately, and that it is delivered reliably. Consumers can be very unforgiving to ISPs who do not deliver on this basic promise.

### 3.5 Complaint handling

Consumers were not taking these problems with speed and reliability lying down. In the first instance, more than two-thirds of consumers who encountered problems

sought technical support from their Internet provider. When this failed – only a quarter of consumers were completely or substantially satisfied with the technical support they received – many went further and lodged a complaint.

The top ground of complaint was about slow speed – either in general, for 28% of those who complained, or for another 13% the slowing of access at certain times or where the user’s download allowance had been exceeded. The second most common ground of complaint, made by 20%, was over other technical problems that could not be resolved through technical support. In fact, more than half of those who reported a problem or a serious problem with Internet speed or in connecting to the Internet followed up with a complaint to their ISP. Typical comments included:

- “Installation of my ADSL connection was a nightmare, and I was provided contradictory information on several occasions, had to wait on several occasions for workmen, and could not get reasonable answers from service staff”.
- “They tried troubleshooting my computer settings, rather than admitting that many customers in our area had also lost connections”.
- “It seems about useless to talk to their technical support staff. They aren’t given the tools that real technicians would be given to resolve issues. And customers are not given access to real technicians so that we could adequately describe the issues”.

The third main area of complaint, affecting 16% of respondents, was billing. Typical complaints were as to the calculation of usage charges. One respondent complained of “charges for use of ‘excessive’ data consumption (I had no idea that was their policy, much less how it worked)”. Another very reasonably asked, “My connection is a volume based connection hence I want to know and check how my balance is being consumed”. It is surprising how few ISPs offer such information to their customers.

Smaller numbers of complaints were recorded about changes to terms and conditions (8%), blocking access to content or services (4%) and a variety of other issues including Internet call quality, “ping times” for gamers, difficulties in understanding foreign support staff, and the ISP’s refusal to suspend service during a vacation.

Whilst it is heartening to see consumers exercising their rights, it is disappointing to see how poorly those complaints were dealt with. Across all regions and ISPs, three quarters of those who complained about speed ended up dissatisfied or very dissatisfied with how their complaints were dealt with. For those who complained about technical problems, 62% remained dissatisfied or very dissatisfied with how these complaints were resolved. For billing complaints, the figure was 54%.

This does not mean that consumers are unhappy with customer service in general. Overall, their satisfaction is actually rather evenly distributed, with as many rating it badly as rated it well, and most rating it in the middle (this notwithstanding the dreadful results for the two large ISPs from Brazil, where 27% of consumers rated their ISP’s customer service as very poor). Rather, the customer service problems seems to be fairly specific to complaint handling.

In some countries, it is possible to take complaints further, for example to a government regulator (which was the most popular option for our survey respondents), an independent ombudsman, or some other dispute resolution body. But the majority of consumers, asked where they took their complaint further, gave an answer such as “do not know where to complain”, or “no redress avenues, one reaches a dead end”. A minority of consumers were even forced to take the costly option of going to court.

Amongst those respondents with a happier story to tell were those from Australia,

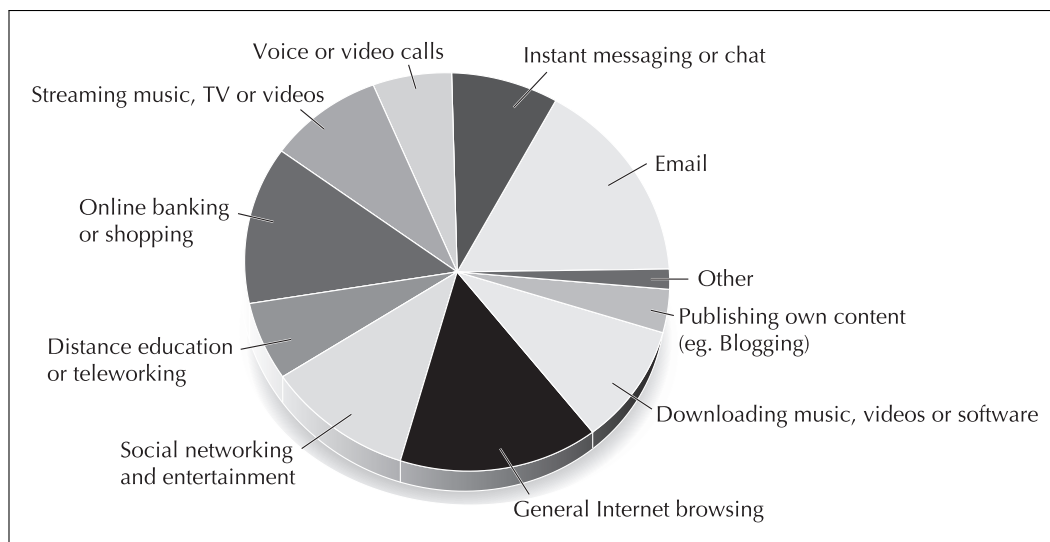


where most who took their complaint further did so to the independent Telecommunications Industry Ombudsman. CI believes that this kind of mechanism for quick, inexpensive resolution of Internet service disputes should be available to consumers around the world.

In any case, something we can easily take-away from this section of the survey is that complaint handling is an area that ISPs in general need to improve.

### 3.6 Use of the Internet

What are the main uses that consumers make of the Internet? Knowing the answer to this question was important so that we could tailor the objectives of our broadband campaign to meet consumers' real needs. A summary of the results is presented in the next figure. It is little surprise that email and general Internet browsing were respectively the most and second-most popular applications of the Internet. Interestingly, online banking and shopping came third, which shows that consumers are justified in their concern about access difficulties, as these can significantly disrupt their daily lives. Least common was publishing one's own content to the Internet, for example through a blog or by sharing personal photos and videos.



There were few significant differences between males and females for any of these uses; the biggest being that the number of males who used the Internet for downloading music, videos or software was eight percentage points higher than for females. Age was a much more significant determinant of use, with younger users (under 30s) more likely than older users to use the Internet for chat, streaming, downloading, social networking and blogging. Remembering that the average age of our respondents was 45, most likely the prevalence of these activities amongst the general population is understated by our survey. For older users, the Internet was a functional way of communicating and accessing information, rather than a leisure or social activity.

We also find some differences between regions. For example, online shopping and banking is very popular in Europe and Latin America, with almost three-quarters of consumers in those regions participating, but only 43% in Asia. The reason is not immediately clear: perhaps fewer online retailers ship to Asia? This deserves further study. North Americans are the world's most avid contributors of their own content to the Internet, according to our survey: more than one in five uses the Internet in

this way, almost twice as many as in Europe or Latin America. Equally interesting are some of the areas in which no significant differences between regions were found: most notably, all regions reported a similar incidence of downloading music, videos and software online, by between 40-50% of online users.

Those who reported that their home Internet connections were not up to broadband speed were about 10% less likely to use the Internet for low-bandwidth applications such as email, and even less likely to make use of high-bandwidth applications such as making voice or video calls (13% less likely), and streaming music or video (15% less likely). Whilst in some cases this may be by choice, it is important that broadband is made available at an affordable price for all, in order that the inequalities of the offline world are not simply replicated online.

Most users reported little difficulty in using the Internet effectively, though 11% said that they could do with more training, and 6% wanted to see more content available in their native languages, including Kiswahili and Bangla. Only 3% were impeded in their use of the Internet by a disability, ranging from vision problems which make it difficult to read, to lack of dexterity that impedes typing, and physical weakness that prevents the user from diagnosing connection problems by checking cable connections and the like.

### 3.7 *Net neutrality*

One of the emerging issues on which our survey focussed was on net neutrality – the general principle that ISPs should not interfere with the content that they deliver over the Internet, by giving some types or uses of content priority over others for commercial reasons. After all, the success of the Internet has largely arisen from its capacity to democratise communications, allowing anyone to publish and receive information at low cost. Closely related to the preservation of net neutrality is the need to ensure that ISPs do not engage in unjustified blocking or filtering of Internet content, unless required by law or consented to by the consumer.

Only 4% of users were informed that some content could be blocked, filtered, prioritised, or slowed down by their Internet Service Providers. Another 7% believed that content or services had in fact been blocked or filtered, and another 8% felt that it had been slowed down or prioritised. Another 40% weren't sure. But only 9% of users reported that the lack of access to particular sites and services – a symptom of blocking and filtering – was a serious problem for them. ISPs were rated well on “access to services and content of your choice” by 32% more respondents than rated them poorly. This suggests that network neutrality, blocking and filtering issues are not yet strongly impacting most of the consumers who responded to our survey.

Nevertheless, some respondents did report that blocking (which is a blanket ban on certain content, applications or services) was being conducted by some ISPs to prevent:

- The use of peer-to-peer filesharing software (in Argentina, Brazil, the Philippines and the United Kingdom);
- Access to Usenet news groups (in the United States);
- Use of Internet phone services (in South Korea and the United States);
- Access to pornography (in Indonesia, Malaysia and Nepal); and even
- Access to certain news and political sites (in Fiji and Nepal).

As for filtering, which is the more selective removal of content based on keywords or patterns, there were reports from several countries that this was being used to weed out spam email. So long as the consumer is informed of such filtering, and preferably given the capacity to opt out from it, this particular application of filtering can be benign and even beneficial to the consumer. By the same token, an Australian respondent reported that his ISP prevents his connection being used to send email through third-party servers, as compromised computers are often used to send spam in this way – but that the block will be removed on request.

Finally, we asked about consumers' experiences of certain Internet content or services being either slowed down, or conversely, prioritised so as to deliver it faster or more cheaply than other such content or services. Although this question was directed at the selective slowing of particular content or services, some consumers took the opportunity to complain about their entire Internet connection being slowed down once they had reached a usage limit. One said, "I unknowingly went over my bandwidth limit. I'd no idea there was a limit. They stopped all access and sent me an email entitled 'Wildblue Abuse'." Others reported that this practice was being used selectively against the use of peer-to-peer filesharing software – most notoriously by US ISP Comcast, which was sued by the US Federal Communications Commission in 2008 for doing exactly this.

As to the prioritisation of content, it was reported that ISPs were providing preferential access to their own FTP and gaming servers and their own branded IPTV services (such as British Telecom's BT Vision TV Service). Debate exists as to how much of a concern this practice is, but proponents of net neutrality argue that it creates a "walled garden" in which users are discouraged from accessing content other than the provider's own, thereby raising barriers for other content providers. In some cases ISPs were also prioritising particular third-party services – including social networking services such as Facebook, LinkedIn, Hi-5 and Twitter, and catch-up TV services such as Australia's ABC iView. The commercial terms, if any, behind these preferential arrangements are not revealed to the consumer, which raises potential competition issues.

From this section of the survey we must conclude that net neutrality, blocking and filtering are not yet areas of prime concern to most consumers and will therefore not be a focus of our upcoming campaigning activities. However, they do remain areas for us to monitor carefully going forward.

### **3.8 Internet content**

Some of the content users encounter on the Internet is annoying, offensive, or even dangerous. Whilst it can be persuasively argued that dangerous content or content that transgresses international legal norms should be removed from the Internet at source, for content about which values or preferences may reasonably differ, the better approach is to allow individual users and their families to control what content they do or do not encounter online.

The table summarises some of the types of content that users found most problematic, and how they dealt with it:

- The left column describes the types of content about which the survey asked: advertising (including both Web and email-based), frauds and scams, offensive content (however defined by the respondent), and malware such as viruses and spyware.

	How serious a problem?					User filtering			Provider filtering
	SP	2	3	4	NP	I do	I can't	I don't want	
Advertising	20%	25%	25%	14%	15%	36%	28%	12%	15%
Frauds and scams	24%	20%	20%	16%	19%	46%	28%	12%	15%
Offensive content	14%	15%	19%	20%	30%	33%	28%	25%	13%
Malware	27%	19%	19%	18%	15%	62%	19%	8%	14%

- The next major column shows how many respondents described the content in question as a serious problem (SP), no problem (NP), or somewhere in between (most of these total slightly under 100%, due to rounding).
- The next major column shows what percentage of users filter out this content with their own software or device, those who don't know how to filter it out, and those who may know how but choose not to do so.
- The final column indicates the respondents whose ISPs offer filtering of the content in question – this is not exclusive with the previous column, as some users filter out unwanted content that their provider also filters.

The results reveal that with one exception, most Internet content is not filtered, either by users or by their providers. That one important exception is malware, which 62% of consumers do filter out using their own Internet security software. This class of unwanted content also poses a serious problem for more consumers than any other, and is the type of content that fewest consumers claim not to want filtered.

Offensive content was a problem for the fewest users, with half of all users claiming that it presented them with little or no problem at all, and a quarter explicitly stating that they had chosen not to filter it – more than twice the number who had chosen not to filter any other class of problem content. Nonetheless, a third of users did voluntarily filter offensive content out from their Internet connections, perhaps because their connection was shared by younger family members.

### 3.9 Monitoring and enforcement

Our consumer survey on broadband mainly concerns the behaviour of Internet Service Providers, rather than that of third-party content hosts or advertisers, or the policies of governments, both of which lie outside the scope of our campaign. But there is one area in which all three of these actors have a major part to play, and that is in monitoring of Internet users' behaviour online. The Internet Service Provider is an important intermediary in monitoring Internet users for law enforcement purposes in particular, so it is on this that our survey focussed.

Only 17% of consumers surveyed believed that their communications over the Internet were being monitored by their service provider, the government, or a third party. 28% didn't think so, and the remainder weren't sure. A typical comment made by one of those who believed they were being monitored was "I simply live under the assumption that I'm being monitored. And I don't like that!"

This result varied by country and region: most notably, in communist Vietnam, 38% of users believed their communications to be monitored. In Fiji, which is currently under an interim military government, one respondent wrote "There was one time when instead of loading the website I had clicked, a page loaded with a message from my provider informing me that my internet activity is being monitored". A number of US-based respondents were concerned about their communications being intercepted by the NSA's signals intelligence programme, ECHELON, or by the FBI's Carnivore software.

Others were worried not so much about government surveillance as about tracking by advertisers. One wrote, "Many of the ads that appear on random pages seem to be targeted based on other pages I've navigated to. So if I'm shopping for mower parts, suddenly riding mower ads populate the Yahoo Sports pages". This respondent blamed his service provider for passing on his browsing details, but most likely the ISP is innocent, and it is third-party websites that are to blame for leaking his browsing habits. Whilst this takes the problem outside the scope of our broadband campaign, CI is separately working with the World Wide Web Consortium (W3C) on a new standard called "Do Not Track" to regulate the intrusive tracking of consumers by online advertisers.

Consumers are also being monitored online by copyright owners seeking evidence of copyright infringement, and in some countries through a cooperative or co-regulatory arrangement with ISPs, the latter will pass allegations of infringement onto their users. In our survey, as many as 12% of respondents declared that they had received a warning about having accessed copyright-infringing content online. One of them wrote, "I was sent a letter informing me that 'someone' at my IP address had seeded a torrent. Apparently one of my children downloaded an old TV show".

In some countries that participated in this survey, such as South Korea and New Zealand, users' Internet connections can be suspended as a penalty for repeated alleged copyright infringement, though thankfully none of our respondents reported having yet suffered that fate.

Similarly, 7% of respondents had received a take-down notice for allegedly hosting copyright-infringing content online. Typically this was something as innocent as uploading a YouTube home movie, or even in one case a slide presentation, with copyrighted background music. In a few more cases (6%), content was taken down for infringing other laws or policies. One respondent wrote, "I once posted on Photobucket a rear view of a 3D nude figure I'd done. Didn't know rear-views were a big no-no". Once again, nobody reported actually having had their Internet connection suspended as a penalty for their alleged misuse.

Whilst laws and policies that allow intermediaries such as ISPs to monitor and act upon consumers' behaviour online are potentially worrying, the evidence from our survey does not reveal the impacts of those policies to be so serious or widespread that they should be a focus of our global broadband campaign. Nonetheless, we will continue to assess the effect of these laws and policies as time goes on, and collaborate with other public interest voices in bringing to light any instances of their abuse.

## 4 *Conclusions*

CI's global consumer survey on broadband was a broad-ranging investigation of a large number of areas of potential concern for consumers of Internet access services.

These included traditional consumer protection issues such as misleading advertising and complaint handling, human rights issues such as freedom of expression and privacy, security issues such as spam and cybercrime, accessibility issues such as multilingualism and disability, and infrastructure issues such as access to broadband and network neutrality.

The aim of this research was to identify which of these issues affected consumers around the world the most acutely, in order to inform the development of a global campaign targetted at broadband service providers, that would focus on these problem issues. Additionally, our research would reveal which countries suffered most seriously from the identified issues, so that our global campaign could be piloted in these countries at first.

Based on the results of our online consumer survey, we can be confident that we have achieved those aims. The research clearly lays out three main issues around which our future campaign could be based:

1. Internet connection speeds are unreliable, and claims made about speed are frequently inaccurate.
2. Consumers are forced into paying excessive prices, by lack of effective competition or by contractual lock-in.
3. Broadband providers do not provide a satisfactory complaint handling mechanism for consumers.

From these three points, we can identify the possible themes of a global campaign to be developed by CI and its members to be piloted by selected members during 2012.

To address the speed complaints, at our meeting "Consumers in the Information Society" we will be promoting the idea of a "broadband nutrition label", based on the New America Foundation's "Broadband Truth-in-Labeling" campaign of 2009. This label, which, as the name implies, somewhat resembles the nutrition label on prepacked foods, would disclose the actual Internet speeds that broadband users can expect in a simple, hype-free format, and would encourage ISPs to back this up with a service guarantee. Based on feedback from our members at the meeting, and drawing from other best practices such as Ofcom's Voluntary Code of Practice on Broadband Speeds, Consumers International plans to present a template broadband nutrition label as a cornerstone of our global broadband campaign later in 2012.

The broadband nutrition label will address the pricing problem too, by increasing pricing transparency. The underlying lack of competition will be more difficult to address, but thankfully there is a well-resourced UN Broadband Commission whose mandate is to stimulate private-sector investment and to encourage governments to provide an enabling environment for investment in broadband infrastructure.<sup>3</sup> CI will not attempt to duplicate the Commission's important work. What we can do, however, is to focus this part of our campaign upon the other main issue that prevents consumers from shopping around for the most competitive broadband deal: contractual lock-in. We plan to develop a series of online and off-line campaigning materials on the theme, "Don't Lock Me In!" to express consumers' desire to freely choose between competing broadband providers, without being tied into long-term contracts.

Finally, to address the grave deficiencies of the industry's complaint handling procedures, we plan to support selected members in countries that are badly affected by

<sup>3</sup> See <http://www.broadbandcommission.org/>.

Internet service complaints, and that do not already have an accessible venue for alternative dispute resolution of broadband complaints, to campaign for the introduction of an ombudsman service for their Internet industry, such as those that operate in the United Kingdom and Australia. This will provide an independent, low or no-cost method for the resolution of complaints against broadband service providers; a task that the providers themselves have proven incapable of adequately fulfilling.