International Best Practice: Consumer Protection Regulation in the ICT Sector

Introductory Workshop, Lusaka, 13 August 2009

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May 2009
Consumer Protection

Global Best Practices in the Telecomms Sector
Consumer Protection...

...requires an approach that is multi-faceted & integrated.
Consumer Protection

• Who are consumers?

• Consumer protection tools
  – Rules on pricing, QoS, safety standards, contract terms and conditions, pre- & post-purchase
  – Mechanisms for enforcement
  – Mechanisms for redress

• General vs telecomms law vs codes of practice?

• Consumer protection vs Consumer empowerment?

• Complaints & dispute resolution mechanisms
Foundations of consumer rights

• Constitution
• Consumer rights law
• Competition law
• Telecomms, Internet and ICT laws
• Regulatory interventions (regulatory directives, codes of conduct, etc)
• Industry self-regulation
OECD Consumer Protection Objectives

- Provide consumers with a range of quality products at competitive prices
- Inform consumers about potential security & privacy risks and available measures to limit risks
- Enhance consumer awareness
- Contracts - improve transparency & ensure fairness
- Minimise switching costs
- Facilitate timely, inexpensive, easy to use, effective and fair settlement of consumer complaints
- Ensure accessibility of services, especially to disadvantaged and vulnerable consumers

Source: OECD, 2008
UN Guidelines for Consumer Protection

• UN general principles for consumer protection & legitimate consumer needs to includes:
  - Protection of consumers from hazards to their health and safety
  - Promotion and protection of the economic interests of consumers
  - Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs
  - Consumer education, including education on the environmental, social and economic impacts of consumer choice
  - Availability of effective consumer redress
  - Freedom to form consumer and other relevant groups or organisations & opportunity to present their views in decision-making processes affecting them
  - Promotion of sustainable consumption patterns

OECD Consumer Protection Guidelines

- New and bundled services
  - Clear, accurate, accessible information about contract terms & costs
- Inform consumers about QoS & QoS variability
- Emergency numbers & hotlines
  - Ensure access
  - Inform of limitations
- Minimise switching costs
- Ensure number portability
- Increase interoperability of equipment
- Bundled services
  - Ensure unbundling remains possible
  - Retain access to emergency services
- Contracts
  - Clear terms & costs
  - No deceptive or fraudulent practices
  - Notice of modifications
- Complaints
  - Access to fair, easy-to-use, effective, inexpensive dispute resolution mechanisms
  - Independent dispute resolution bodies
  - Consumer representative bodies
  - Role of regulator
- Information about privacy & security issues

Source: OECD, 2008
Regulating to

Protect Consumers
Approaches to QoS regulation & consumer protection

• **Encouragement** - relies on publicity and effective in competitive environment

• **Enforcement** - penalties if targets not met
  - Fines vs customer compensation
  - Integrating QoS variable into price cap formula

• Other factors to consider:
  - Changing needs of consumers over time
  - Current consumer needs (quality) vs future consumers coming onto the network (affordability)
  - What you measure is what you get…
Consumer protection
Four roles for the regulator

- **Voice**
  - Allowing consumers to be heard, providing channels for complaint & mechanisms for redress

- **Choice**
  - Empowering consumers to exercise choice across range of services, selected according to user requirements, quality and price

- **Information**
  - Widely disseminated, allowing consumers to make well-informed choices

- **Representation**
  - Consultation with consumers via consumer councils or committees to counter-balance dominance of large industry interests
International Best Practice

Major themes that emerge

1. Knowing what consumers care about – surveys & complaints monitoring
2. Setting a rules framework – Codes of Conduct and standard setting and enforcement
3. Intervening on behalf of consumers in issues as they arise
4. Communicating with consumers, and the power of the media
5. Complaints processes – the regulator as referee of last resort
6. Scanning the horizon – spotting issues before they occur
7. Assessing the cost & effectiveness of different interventions
8. Promoting consumer access
1. Knowing what consumers care about – surveys and complaints monitoring

- Consumer representation on regulator (eg CAZ)
- Road shows (eg ICASA, KCC)
- Survey research (eg BTA)
  - Consumer perceptions of operators (eg DTI)
  - Consumer perception of regulator (eg Apoyo)
DTI’s Consumer Satisfaction Survey (2005)

Historical Trend: Overall SAS Index - Telecommunications

Source: Synovate (based on 1,669 Phone interviews)
2 Setting a rules framework – Codes of Conduct & standard-setting and enforcement

- Consumer Codes of Practice / Subscriber Service Charters (eg NCC, ICASA)
- Codes must be well publicised & easy for consumers to access
- Self-regulatory codes of conduct (eg WASPA, BCC)
- Cases & outcomes must be publicised
Codes of Conduct

- WASPA (Wireless Application Service Providers’ Association)
  - 15 page Code of Conduct (June 2005)
  - mandatory for all members
  - on WASPA and member web sites
  - both a detailed code of conduct (e.g., competitions, adult content) and complaint structure & procedures
  - mobile operators require WASPA membership via IRB Code of Conduct (signed Nov 2005)

- ISPA (103 member ISPs)
  - 14 clause self-regulatory code of conduct
  - mandatory for all members
  - in line with ECT Act requirements
3 Intervening on behalf of consumers in issues as they arise

• Quality of service enforcement through sanctions & incentives
  – Mauritania - dropped calls

• Regulatory investigations leading to regulation & directives
  – ICASA - handset subsidies, ADSL
  – OFTA - misleading advertising
  – EU - mobile roaming price regulations
Cost vs quality

Importance for consumers...

Figure 9: Importance placed on cost and quality when choosing a new supplier

Total mentions of cost and quality

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<th>Quality</th>
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<tr>
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<td>69%</td>
<td>34%</td>
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<td>Internet</td>
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Most important aspect

<table>
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<tr>
<th></th>
<th>1st cost</th>
<th>1st quality</th>
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</thead>
<tbody>
<tr>
<td>Fixed</td>
<td>49%</td>
<td>19%</td>
</tr>
<tr>
<td>Mobile</td>
<td>55%</td>
<td>18%</td>
</tr>
<tr>
<td>Internet</td>
<td>50%</td>
<td>17%</td>
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</table>

Source: ITU, 2007

4 Communicating with consumers & the power of the media

- Publicising operator statistics
  - eg TRAI QoS indicators
- Requiring operators to communicate with customers
  - eg Ofgem - prepaid energy meters
- Publication of consumer satisfaction data
  - eg TRAI, DTI
- Comparative operator data
  - Eg Ofcomm price & QoS web sites
- Role of radio & television journalism
5 Complaints processes – the regulator as referee of last resort

• Establishing clear complaints procedures & channels for escalation
  – eg Egyptian Electric Utility and Consumer Protection Regulatory Agency

• Publication of operator complaints data & outcomes
  – eg OFTA & WASPA web sites
Consumer Complaints Procedures in Nigeria

Diagram:

Start

Consumer Compliant

Type

Operator Specific

Operator’s Customer Care Centre

Regulator Specific

Operator’s Customer Affairs Manager (Highest Authority)

Complaint Resolved

Yes

Operator’s Customer Care Centre

Regulator’s Customer Care Centre

Complaint Resolved

No

Regulator’s Higher Authority

Complaint Resolved

Yes

End

Judicial Intervention

Fig. 2

Relationship & Procedure to Deal with Consumer Complaints
6 Scanning the horizon – spotting issues before they occur

• Proactive investigations
  – eg Ofcom on silent and abandoned calls
  – Eg Safaricom & M-Pesa
  – Eg Mxit
Assessing the cost & effectiveness of different interventions

FEEDBACK TO REGULATORS FROM CONSUMERS

Figure 4:

Rights effectively enforced

- Regulator perception
- Users' perceptions

a. Quality of residential service
b. Dissemination of relevant information for better consumer choices
c. Consumers are educated on rights and duties
d. Client orientation service by the Operator
e. Client orientation service by the Regulator
f. Complaint resolution by the operator
g. Complaint and appeal resolution by the Regulator
h. Oversight of consumer rights by the Regulator
i. Fines imposed on companies
j. Consumer participation
k. Consumer representation
l. Research conducted by the Regulator

Source: Protection of Telecommunication Consumers Rights Survey, APOYO Consultoría.
Concluding Thoughts

• Wide range of consumer protection regulatory best practices
• Each has strengths and weaknesses
• No one-size-fits-all magic silver bullet - consider in your country:
  - National economic, social & cultural environment
  - Level of sector development
  - Mandate (& limitations) of enabling legislation
  - Capacity of national regulator
• Deploy an appropriate combination of interventions
Thank you...

...questions????

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