



ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

Directorate for Science, Technology and Industry
Committee for Information, Computer and
Communications Policy



OECD Policy Guidance for Protecting and Empowering Consumers in Communication Services



**OECD Ministerial Meeting
on the Future of the Internet Economy**

Seoul, Korea, 17-18 June 2008

Hosted by



방송통신위원회
KOREA COMMUNICATIONS COMMISSION

OECD Policy Guidance for Protecting and Empowering Consumers in Communication¹ Services

Over the last decade, the communications sector has been subject to transformation with the development of competition and the diffusion of a range of new technologies and services. Competition has brought significant benefits to consumers with falling prices, better quality of services, a wider choice of service providers and access to new services. The technological and service developments have resulted in communications by electronic means becoming a central feature in OECD countries and this will become even more so as next generation communication infrastructures and services are put into place. The significant benefits to consumers in the development of new services and technologies has also had some costs as consumers have been faced with more complex choices, a range of offers sometimes with unclear pricing structures and contracts which at times limited the flexibility of consumers.

The emphasis on creating competition in communication markets has been mainly through supply side measures but, in recent years, there has been more recognition that informed and empowered consumers can, through demand-side choices, stimulate firms to innovate, improve quality and compete in pricing. By making well-informed choices between suppliers, consumers not only benefit from competition, but they drive and sustain it.

At the same time, as the use of communication services has increased, more emphasis is being placed on reviewing consumer policy relating to communication services by supplementing the range of consumer measures to provide better protection, more flexibility in the market for consumers, and better access to information.

It is in this context that OECD countries have developed a set of policy principles for ensuring that consumer interests in communication services are adequately protected. This guidance recognises that it is necessary to ensure transparent and effective consumer protection while maintaining an environment that provides incentives for investing in developing new communication services. In this respect, the principles in the present policy guidance should be read in conjunction with those in the 1999 *OECD Guidelines for Consumer Protection in the Context of Electronic Commerce*, the 2003 *OECD Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders*, and the 2007 *OECD Recommendation on Consumer Dispute Resolution and Redress*.

¹ By “communications,” this paper refers to telecommunication service providers, Internet access and telecommunication services provided by cable TV companies and Internet Service Providers.

The OECD policy guidance is aimed at:

1. Encouraging the development of services that provide consumers with a range of quality products at competitive prices.
2. Informing consumers about potential security and privacy risks in using communication services and available measures to limit these risks.
3. Enhancing consumer awareness of the availability and benefits of available services and suppliers, and consumer rights.
4. Improving the transparency of contracts and ensuring that they are not unfair to consumers.
5. Minimising the costs associated with switching services.
6. Facilitating timely, inexpensive, easy to use, effective and fair settlement of consumer complaints.
7. Ensuring that services be widely accessible to everyone, and, in particular, disadvantaged and vulnerable consumers.

In this context:

The complexity of communication services, the plethora of new services and the increasing purchase of bundled services through long term contracts have made it increasingly difficult to understand and compare services.

- *Consumers of communication services should be provided by service providers with clear and accurate information about the terms, conditions and costs associated with those services; the information should be easily accessible and sufficient to enable them to make informed decisions.*
- *Developing information resources that could help consumers make informed choices and increase awareness of their rights and relevant consumer protection measures would be beneficial. In developing such resources, attention should be given to the special needs that disadvantaged or vulnerable consumers may have.*
- *Independent third parties and consumer organisations should be encouraged to provide price/service-comparison information that will help consumers make informed choices.*

The technical quality of communication services provided to consumers can vary significantly and there is concern in some countries that some operators may degrade the quality of services provided to consumers to low levels and without the knowledge of the consumer.

- *In the interest of transparency, operators are encouraged to inform consumers of the quality of services including, where practical, information on the variability in the quality of such service, to enable informed consumer choice and facilitate decisions about switching.*

The availability of emergency numbers and emergency hotlines is sometimes limited; certain emergency numbers that may be available via traditional telephone services, for examples, are not available in some countries via VoIP.

- *Access to emergency services and to emergency hotlines should be ensured without respect to the type of communication service involved. This provision should take into consideration the technical difficulties of providing such services and the limitation of services not meant to be substitute for basic voice products. The provision should not constitute an excessive burden or obstacle to the development of innovative services and applications. Any limitations in the emergency services provided should be clearly and conspicuously disclosed.*

The ability of consumers to switch service providers is often discouraged because of the time and costs involved. Lower switching costs may benefit consumers and provide a greater stimulus to operators to charge competitive prices and improve the quality of service.

- *The time and costs associated with switching services by consumers should be minimised. For example, the notice periods for ending contracts, or the "lock in" period for mobile phone handsets could be limited in order to facilitate switching.*

Number portability plays an important role in the promotion of competition by removing the cost and inconvenience of having to change telephone numbers when switching providers. It also reduces barriers for adoption of competitive offerings.

- *Number portability should be ensured and be carried out expeditiously when consumers switch providers in accordance with the numbering policy of the country.*

An absence of interoperability such that consumers need to buy new equipment to utilise another provider's service can inhibit the switching process.

- *Ways to increase interoperability, balancing this need against the need to stimulate business innovation, should be explored by stakeholders.*

Bundling can be beneficial to consumers and, indeed, an increasing number of consumers are subscribing to bundled service plans. But bundling can also be restrictive if the consumer wishes to change service provider for one service (e.g. voice or Internet) which would necessitate changing the provider for all services.

- *The provision of unbundled services should be considered, when necessary, to protect competition, or to preserve consumer choice, recognising that the differences in price between bundled offerings and stand-alone services are often efficient and beneficial to consumers.*
- *Access to emergency communication services should be ensured in the event that other bundled services are interrupted for non-payment.*

Communication service providers can use selling techniques that are fraudulent and misleading. Sales have, for example, been pursued through slamming; contracts can contain restrictive conditions and exemptions (download limits, restrictions to access content) that are otherwise not clearly indicated in promotional literature. Further, advertising and marketing campaigns that exaggerate or distort claims can be particularly harmful to certain categories of consumers, such as children or other

disadvantaged or vulnerable consumers who may not have the capability to fully understand the information presented.

Consistent with the 1999 OECD Guidelines for Consumer Protection in the Context of Electronic Commerce and the 2003 OECD Guidelines for protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders:

- *Businesses should provide consumers with clear descriptions of the details and costs of contracts.*
- *Businesses should be prohibited from engaging in any practice that is fraudulent or deceptive.*

Consumer contracts are often renewed automatically in a number of OECD countries without the explicit approval of consumers, and sometimes modification of contractual conditions are made without sufficient notice and without informing consumers about their right of withdrawal in such cases.

- *Communication service providers should be encouraged to limit initial contracts, after which a reasonable time period of notice to end the contract should be provided.*
- *The implications for consumers of “opt-in” and “opt-out” default provisions at the time of contract renewal should be further examined by stakeholders.*
- *Consumers should receive adequate notice of any intention to modify contractual conditions and about their right of withdrawal in such cases.*

Despite technological advances, inaccurate billing continues to be a major cause of consumer complaint.

- *The use of self-regulation and industry codes of practice concerning billing is encouraged.*
- *Regulatory monitoring and/or intervention may be required, in appropriate cases, to enforce consumer protections.*

Consumers may be reluctant to take legal action when they have serious disputes with their service provider, either because of the time and expense involved and/or because they find the judicial process intimidating.

- *As provided for in the 2007 OECD Consumer Dispute Resolution and Redress Recommendation, consumers should have access to fair, easy-to-use, timely, effective and inexpensive dispute resolution and redress mechanisms, including, where possible, alternative dispute resolution services.*
- *Establishing independent dispute resolution bodies dealing with communication service issues should be encouraged.*
- *Voluntary consumer representation agencies, whose functions could include assisting consumers with dispute resolution, could be encouraged.*
- *The role of regulators in dispute settlement should be made clear. The functions of regulators need to be well publicised.*

New communication services have also led to increased risks for consumers in terms of privacy and security when using networks and services. Consumers need to

be aware of these risks and of the available measures that may be available to protect themselves.

Communication service providers and governments should inform consumers of both the potential security and privacy challenges they may face when using communication networks and services and the available measures which can be used to limit these risks.

- *Communication service providers should implement data security policies and measures to prevent unauthorized transactions and data breaches.*
- *Security precautions and built-in security features should be developed.*