

Assessing consumer activity in the telecoms and Internet sectors in Africa





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FORWARD

The subject of this research study - looking at the role of consumers in the telecoms and Internet sectors - forced itself upon me through a peculiar combination of personal and professional circumstances:

- In the early days of running Balancing Act I suffered two problems in my dealings with the UK telco incumbent BT: there was a month-long break in service and the company “duplexed” my phone line in order to give me another phone line for a burgular alarm. The break in service was extremely annoying but I was eventually financially compensated under the terms of BT’s service level agreement. The “duplex” line meant that my Internet download capacity was halved. BT’s managers insisted that I had bought the line not the capacity. The issue was the subject of changed regulation and was precedent-making. Eventually the complaint went all the way to the Chairman’s office from whence I received an apology and the promise of an additional new line.
- In 2002 I attended a meeting of the Kenya Information Society in Nairobi. Part of the discussion on that evening was about how the telco incumbent Telkom Kenya had lowered its wholesale prices but that local ISPs had not lowered their prices in turn to the consumer. The ISPs were defending their decision by explaining how their business worked but there was no-one in that meeting presenting a coherent consumer viewpoint. Indeed Edith Adera of IDRC who was at the meeting said as much in her contributions to the debate. So I started to ask myself: who speaks for the consumer?
- In September 2003 the mobile phone users of Nigeria began in their own way to provide an answer to that question with the one-day boycott of phone use over high prices. It is impossible to know how many people participated in the boycott but the sheer novelty of the campaign ensured that it received plenty of publicity.

It should be stated at this early point that the purpose of this research is not to tarnish the reputation of the service operators. Any business that has many thousands or millions of customers is bound to experience complaints. Complaints are natural but are they effective both for consumers and companies involved? The point of the anecdote above about the UK telco incumbent BT is that the complaint was resolved and that there were processes for doing so. Information about what consumers complain about should (and often does) become vital intelligence for the development of a business.

It seemed to me that it would be interesting to discover how African consumers were faring in the telecoms and Internet sector: Who spoke up for them when they were buying new and often technologically unfamiliar services? Were there processes in place to answer their complaints? And how were they regarded by key stakeholders like Government, regulators and the service providers? So this study is an attempt to answer some of these broad questions in ways that will help illuminate how African consumers might find themselves a central part of any future discussions about policy, access, pricing and service and that expectations about all of these topics might be raised.

Russell Southwood CEO Balancing Act



INTRODUCTION

This research study - Assessing consumer activity in the telecoms and Internet sectors - seeks to answer three questions:

- 1 What consumer activity is happening in the internet and telecoms fields?
- 2 What impact are different types of consumer activity having upon key stakeholders?
- 3 How do key stakeholders view consumer activity?

The report has four main sections these are designed to answer the key questions about consumer activity:

Section 2 - Overview of Africa provides a summary of findings from thirty African countries (for a full list see Rationale for country choices below), including the three countries chosen for closer examination. It summarises this data under the following headings: number of consumers involved; legislative and self-regulatory frameworks; the level and type of complaints; the processes in place to resolve complaints; the role of the regulator; consumer organisations and related bodies; the role of the media; and policy and legislative input.

Sections 3 (Kenya), 4 (Senegal) and 5 (South Africa) look in three countries in detail providing data under the same headings used in section two.

Section 6 - Case studies from elsewhere seeks to make comparisons in a number of different ways: by looking at consumer action on internet and telecoms in developed countries and looking at consumer issues in developing countries.

The study concludes with a look at the implications of the research and recommendations (section 7). There are three appendices: A1 with bibliography of background reading; A2 with a list of generic and specialist consumer associations and A3 with a chart of key findings from an Africa-wide survey.

The research study seeks to examine a number of areas of consumer activity in relation to the Internet and telecoms sector. These are outlined below going from the “sharp end” (making and resolving complaints) to the broader areas like policy and legislative input:

Complaint resolution

Without an accepted and transparent procedure it is all too easy for less reputable operators to fob off complainants and hope that they will lose the will to pursue the complaint. We therefore examine both the level of complaints brought forward to the different stakeholders and the processes in place for dealing with them.

Information provision

The research study looks at what consumer information is available from different sources and how helpful it is for potential consumers. It looks at how widely distributed these materials are and based on the spread of distribution channels, who it is likely to be reaching. Given literacy levels, it looks at other channels used by key stakeholders to provide information of this sort.

Consumer campaigning

We explore how these consumer campaigns focused on the telecoms and Internet sector have arisen and the types of issues they have tackled.

Advocacy and policy/legislative input

On the legislative and policy side, it examines what consultation procedures regulators and government

have in place. It will seek to assess whether consumer input made during consultation procedures has an influence on the final shape of policy or legislation.

Definitions and methodology

The study looks at consumer complaints and this has been defined as where a consumer is “expressing a grievance” about price, service or the terms of the contract. Therefore it does not include the following: initial queries about a bill; instances where a service is not understood; or where a customer is simply seeking more information. It deals mainly with grievances expressed by the general public, although occasionally it touches on complaints from the industry where these have a bearing on service to individual customers.

It looks at both generic consumer organisations (that handle complaints from any quarter) and those focused on telecoms and Internet complaints.

The methodology has two key elements: what might be described as “cause and effect” and examining stakeholders views in relation to the consumer in the sector.

The “cause and effect” part is very simple: consumers make a complaint. For example: their bill is wrong. (*cause*). The bill is corrected or the consumer agrees a sum to pay (*effect*). Or if complainant is not satisfied, what happens? The consumer might go to law or to the media for redress (*effect*).

The examination of stakeholder’s views is carried out through a process of comparing the rhetorics adopted in relation to the consumer (for example, a regulator may say it is its role to protect the consumer) with the practice and processes that are in place to achieve the stated aim. Put simply, does the rhetoric match up to the reality?

Each of the country case study researchers interviewed all of the key stakeholders (except where they would not make themselves available) and used a common framework questionnaire. The results of the research were also presented to consultation meetings in each of the three countries looked at in greater detail.

Rationale for country case studies

Section 2 contains a survey of 30 countries including: Angola, Benin, Botswana, Burkina Faso, Cameroon, Cote d’Ivoire, Egypt, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mauritania, Morocco, Namibia, Nigeria, Rwanda, Senegal, South Africa, Sudan, Tanzania, Tunisia, Togo, Uganda Zambia and Zimbabwe.

These countries were chosen to reflect a mixture of the different circumstances found in a continent as diverse as Africa. It includes countries from all of the three main official language groupings (English, French and Portuguese) as well as a wide range of richer and poorer economies. It also includes very large countries and much smaller ones and a selection from each of Africa’s sub-regions.

Three countries - Kenya, Senegal and South Africa - were chosen because they represent a spread of relatively well-developed telecoms and Internet markets and again we have chosen a francophone country to examine whether different legal systems and cultural attitudes yield significant differences.

We would like to thank all of those people who gave generously of their time and ideas to us whilst making it clear that the views expressed in the study are our own. A particular thanks to Edith Adera of IDRC for her support and to our partner researchers for their professionalism and insights: James Nguo, ALIN (Kenya); Olivier Sagna, Osiris (Senegal) and Charley Lewis, Link Centre (South Africa).

Finally thanks to IDRC for the financial support that has made this study possible. IDRC is a Canadian public corporation that works in close collaboration with researchers from the developing world in their search for the means to build more equitable and more prosperous societies. IDRC was one of the first development agencies to embrace ICTs as a key means to foster development and alleviate poverty.



EXECUTIVE SUMMARY

Core findings:

Legislative and self-regulatory frameworks: There are four elements that safeguard consumer rights: consumer rights law, competition law, telecoms and Internet law that usually enables the setting up of an independent regulator and self-regulatory frameworks within the industry. The latter can either be put in place as part of the licence conditions for an operator or are self-imposed. Without these four elements, it is difficult for consumer complaints to be dealt with as there would be no framework for dealing with them and no recourse if operators (or others) failed to deal with them.

Some kind of functioning democracy is one absolute pre-condition for their effectiveness as it allows for dissenting positions. Another pre-condition is the transparent functioning of the rule of law without the ability of the executive of the Government to dictate the results reached in the Courts or for institutions or individuals to corruptly obtain a particular legal result.

By the most optimistic assessment only 21 (40%) out of the 53 independent countries on the continent are likely to have some form of consumer legislation in the next 2-3 years. Only 12 (23%) of Africa's 53 independent countries are covered by competition law and in most cases this legislation is only a few years old. And only a very small number of countries have practical experience of applying competition law and it has only been evoked in the telecoms and Internet sector in South Africa. In most cases, the monopoly of the telco incumbent is enshrined in law or it has been allowed to retain a de-facto monopoly after the ending of its formal monopoly. Therefore even when a competition law is in place, it does not yet have much practical effect.

Where either licence conditions or a Code of Conduct exist, they are no guarantee that the consumer interest in relation to the key issues of prices or quality of services will be addressed. Few regulators have taken on the task of improving quality of service from mobile operators either because they lack the will or the capacity to do so. To be fair, quality of service issues are often complex and the regulators may lack the resources to challenge a much better resourced operator.

Level and type of complaints: Voice service providers - whether fixed or mobile - were markedly reluctant to provide data on the level and type of complaints they receive. These operators view this complaints data as commercially sensitive information and are therefore reluctant to release it. Some regulators collect this information from operators but do not publish it. It is hard to believe that annually issued complaints data would be of tactical commercial use: arguably most of the short-term issues identified would be dealt within a twelve-month period. In contrast to the voice operators, ISPs were more willing to provide complaints data.

The main complaints for fixed and mobile services were: the price of services (particularly the high cost of local calls on fixed lines); network congestion; poor network coverage; failed calls (both not completed and cut-off); phone and handset-related; loss of pre-paid credit after loading, charges for SMS messages not delivered; calls directed to voice-mail when the network is congested; speed of maintenance and repairs; wrong billing (particularly with illegal use of lines); the quality of fixed lines;

The main complaints to ISPs were: slow speeds; frequent disconnections; slow responses to complaints; the high cost of ADSL; the frequency of "downtime; and the slow response to repair and maintenance problems.

Processes in place to resolve complaints: All voice operators have some form of customer care function in place to deal with complaints although it varies in size depending on the number of customers the company has. The task of dealing with customers will be split between a telephone (and sometimes web-based access) based call centre and the retail agencies appointed by the operators who sell phones and airtime, often referred to as "the channel".

ISPs have smaller customer care functions and often engineers double up as customer care staff. In cyber-

cafes, the only person able to deal with complaints is usually the Manager on duty, although that person may have access to a technical staff member or “double-up” in that role.

In some countries like South Africa, operators are compelled by their licence to have a consumer Code of Conduct but in the majority of countries this simply does not exist. But even where Codes of Conduct supply a framework for complaints from customers, they are often not prominently displayed or used to educate customers.

The role of the regulator: With the exception of Guinea, all countries we surveyed have in place an independent regulator. However Benin has recently (March 2005) put in place an independent regulator and Guinea has plans to follow suit. But at present those who complain in Guinea can only do so directly to the operators. Six out of the 30 countries surveyed made no mention of consumer interests in the summary of framing legislation that set them up or of consumer rights in any other context. Eight of the thirty countries surveyed had regulators with no public announcement about their complaints procedure on their web site.

Regulators themselves adopt two significantly different positions in relation to consumer complaints. Either they encourage complainants to come directly to them and take up these complaints with operators. Or they see themselves as a point of “last resort” that the complainant can come to once he or she has exhausted all other avenues.

Consumer organisations and related bodies: In our survey of 30 countries, we were unable to find active consumer organisations in four countries: Angola, Guinea, Mauritania and Rwanda. Most consumer organisations on the continent are less than ten years old.

Many of the consumer organisations involved do not get involved in consumer issues or case work in the telecoms and Internet sector. Those most likely to were those involved in working on basic services like water, electricity and telephony: ADETELS in Senegal is a good example of this type of organisation. Several consumer organisations made an input into telecoms and Internet pricing issues, notably Mauritius’ Association of Consumers of Mauritius and the Institute for Consumer Protection.

Only four countries out of the 30 we surveyed had consumer organisations that were specifically focused on the telecoms and Internet sector: Cote d’Ivoire, Nigeria, Senegal, and South Africa.

Few consumer organisations are involved with either the regulator or competition commissions. Therefore few have their voice directly heard in the governing body of a regulator and where it has occurred, their involvement has mainly been sought on the issue of resolving consumer complaints and not on policy or regulatory issues.

Recommendations:

Key issues from a consumer perspective: *From all the evidence gathered for this study it is clear that three broad issues affect consumers adversely: price of service, quality of service and access to service. As operators become more established, regulators need to shift their emphasis from the industry part of their mandate to addressing the consumer interest more directly under each of these three headings. A key area for concern affecting large numbers of consumers is the lack of price competition in most African mobile markets.*

A consumer framework - law, regulation and codes of conduct: *Where consumer and competition law exists, it is important to encourage the undertaking of test cases to demonstrate that these laws can operate and that the successful conclusion of test cases will help regulators support the consumer interest in their discussions with industry.*

Where it has not already occurred, regulators need to encourage competition (particularly in the services layer) to help address the issues of price and quality of service.

Complaint resolution: *Where it does not already occur, regulators need to ensure that a Code of Conduct (covering the rights and responsibilities of consumers) is a condition of licence for operators, along with*



the obligation to publicise the existence of the Code of Conduct.

Regulators need to publicise their own complaints procedures effectively and gather data from complaints made that can influence policy and regulation. Where it does not already occur, the Consumer function within the regulator needs to be: properly resourced, managed at a senior level and have direct access to senior management.

The informed consumer - the need for information to help choice:

Serious consideration should be given regulatory enforcement of compulsory disclosure by the operators of accurate, comparable statistical information relating to the numbers and breakdown of customer complaints. While this is likely to be resisted by the companies concerned, and although careful formulation is necessary to ensure comparability and comprehensiveness, it would greatly incentivise customer responsiveness on the part of the companies. It would act as a powerful tool to promote consumer empowerment and freedom of choice.

If compulsory disclosure proves impossible to implement then regulators should themselves initiate independent surveys that identify levels of consumer satisfaction.

As with the example from India given in Box 4, regulators need to set a simple “basket” of performance indicators on which operators can be judged and the results from these studies should be published at least on an annual basis. On a slightly broader front, regulators need to be more proactive in educating consumers about market issues like underlying mobile prices and consumer broadband and contention ratios.

If information is central to making informed choices, regulators need to develop effective communications strategies to talk directly to consumers and (as is already happening in some countries) these need to take account of the levels of education and literacy amongst consumers.

The role of the regulator: *Regulators need involve consumers in their work and ensure that their perspective is fed into their work. A number of different approaches are available to help bring this about.*

Regulators ought to seek to work closely with consumer bodies as a way of strengthening the consumer aspects of their mandates. Depending on the constitutional framework of the regulator, it may be possible to provide direct support for this kind of work. Particular emphasis might be given to supporting those complainants that lack the wealth and education to negotiate existing complaints processes.

An independent consumer movement - what role in the telecoms and internet sector?: *Consumer organisations should be encouraged to respond to consumer complaints in the telecoms and Internet sector and asked to make input into policy processes.*

1. OVERALL CONTEXT AND ISSUES

Some things happen by accident or chance but most things happen for a reason. Therefore this opening section seeks to tease out the factors that have raised the importance of consumer activity in general and its particular relevance to the operation of the telecoms and Internet sectors.

There is a clear relationship between citizens' rights within a democracy (however defined) and the development in parallel of those same citizens having consumer rights within the market. As we will see in section 2.4 below, Africa experienced its fastest growth in consumer organisations in the 1990s, the decade when democracy spread to a larger number of countries on the continent.

The definition of citizens' rights in relation to the State has a long and complicated history that is almost as various as the individual countries that have struggled with the question. In the post-war period, the United Nations sought through its Universal Declaration of Human Rights to identify a number of basic rights that should be common to all.

Not surprisingly given the circumstances, almost all of these rights relate to the behaviour of government to its citizens. Only one clause - stating that everyone has the right of equal access to public services - seems to have any direct bearing on the topic we are addressing .

But it is not hard to see that in the immediate post-war period when the Declaration was drafted, with starvation, disease and economic collapse pressing in from all sides, that it was difficult to envisage a world in which consumers might have the opportunity to make choices. Nor was it possible to foresee the extension of the role of the private sector in delivering services and that citizens would need their rights and responsibilities defined in that context.

For consumer rights and responsibilities flow from a world which is defined by economic theory (and its assumptions) rather than political theory. It is assumed that the market operates and therefore there must be countervailing protection for those who buy products or consume services in it. One of the underpinning assumptions of the operation of a "free market" is that there is "efficient" competition between different players that will ensure a downward pressure on prices and the need to offer improved services in order to better compete.

Three concepts are central to understanding how consumer rights have been defined and are particularly relevant to the telecoms and Internet sector. The first of these concepts is "market failure", an acknowledgement that for whatever reason the market does not operate freely or efficiently. Where there is market failure, Government in its role as the "referee" of a market economy, has the right to intervene or to appoint regulators to intervene . The second concept is the idea of a "natural monopoly": in other words, the provision of certain goods and services tends favour the development of a single supplier. So for example, it is argued that it makes little sense to build two water or electricity supply systems in a country as this would not be economically efficient. Because services like this are seen as a "natural monopoly" it is important that Government has the power to regulate its operation.

Therefore, irrespective of who delivers the service (the public or private sector), "natural monopoly" infrastructure that delivers basic services (water, power and telephony) to citizens is seen concomitantly as a "public good". The challenge from those favouring increased competition in the delivery of goods and services has been to extend the areas in which competition can function. Consumers in the UK have a choice of different electricity and gas suppliers whose prices and service quality vary: this is competition at the services level. But telecoms infrastructure poses a more substantial challenge to the idea of natural monopoly. It is possible in parts of the infrastructure - at the local, national and international levels - to introduce some level of competition that will benefit the consumer .

The third concept is "dominant market power" which is where a player in a market has the ability to skew the operation of that market because of its strong commercial position. This is something all-too-familiar to anyone doing business in Africa's telecoms and Internet markets where the historic position of the incumbent telephone company (hereafter referred to as the telco incumbent as an easier shorthand) still



casts a long shadow over how the market operates. But as we will also see, dominant market power can shift over time. Again where there is dominant market power, it is argued that there needs to be ways for Governments to control it

If these are the broad governing assumptions from within which consumer rights have emerged, what in broad terms have been the practical consequences in Africa? A number of broad economic shifts have taken place that play a key role in nurturing the ground within which African consumer rights developed.

There has been a shift from producer to service economies in large part bought about by the liberalisation of economies. Developed countries have gone from earning the majority of their export revenues from manufacturing to getting more of this income from services. At a domestic level, with the lowering of the barriers protecting “national industries”, few parts of the private sector could remain complacent about the need to keep their customers.

Whereas the state formerly used to favour “the producers” (particularly those in state-owned industries or Government), it now emphasised the perspective of “consumers”. The dilemmas posed by these choices are all-too-familiar to those African Governments grappling with reducing the workforces of incumbent telcos in order to deliver cheaper, better phone services to their citizens. So it is probably no coincidence that African consumer organisations grew fastest during the period when African governments began to liberalise their economies. And it is worth emphasising that both of these things are relatively recent phenomena.

Indeed the idea of a “customer care culture” is a relatively recent arrival on the continent⁵. And you do not need to be an economic determinist to believe that there is some connection between the shift to a competitive, service-based economy and the idea that customers might need to be treated better or they could go elsewhere.

As the Senegal case study highlights, issues around price and access have gone from being political issues raised by citizens with their political representatives to being consumer issues only when there is some genuine level of competition that allows consumers to make a choice.

In order to deal with the issues raised by “market failure” in this new world of the liberalised economy, African Governments set up independent telecoms regulators (as we will see in 2.4 these took several different forms) to carry the responsibilities of Government in relation to the operation of the sector. Almost without exception, these have been set up with a double-headed imperative:

- 1.1 To look after the interests of all consumers: providing lower prices, better service and extending service to more consumers (through universal access mechanisms).
- 1.2 To create an industry-friendly environment for the private sector: getting investment and defining markets that enable them to make a reasonable level of return.

Because the task was new, African regulators naturally spent most of the initial years focused on the issues raised by the second part of their overall mandate. And therefore for some, an interest in consumer issues has been a relatively recent development.

The regulator’s double-headed mandate is a balancing act between their two different interests. For example, there is a wireless standard being used by a number of ISPs that will give them the ability to offer IP mobile voice services. The service would be both innovative and probably allow them to offer cheaper mobile services to consumers.

What should the regulator do? The existing mobile companies (like the telco incumbents before them) will point to their considerable existing network investment and say that it should not be allowed or that they will need to be compensated if it does. Should they favour the consumer or industry?

As regulators, they act “on behalf” of the consumer and however closely they consult with them, they cannot alone represent the consumer. They are no substitute for consumers themselves having a voice. Likewise when the industry itself argues for greater competition, its interests coincide with those of consumers. But when individual companies or groups of companies resist increased competition or put forward

their own narrower interest, there is a clear parting of the ways between the interests of some parts of the industry and the consumer.

As we will see particularly in the case studies on Senegal and South Africa, the issue of who exactly these consumers are and who speaks for them is not necessarily a straightforward one. As the South African case study points up, the noisiest (and sometimes most effective) consumers are nearly always the better off and the better educated.

Often a very small group of technologically sophisticated users is as effective as a much wider group with less access to knowledge. At times, the burden of speaking for consumers may need to be carried by a small number of “selfinterested” users of this kind.

But in countries where literacy rates are low, the challenge is how to raise a voice for consumer interests in ways that do not require potential supporters to be able to read or write. If as everyone seems to agree, African consumers are largely unfamiliar with consumer rights and therefore need “consumer education programmes”, what form will this take in order to reach those who cannot read or write?

In most instances the consumers of voice services are a minority (even if a substantial minority) within their country and therefore the missing consumer voices are those people in communities where there is no opportunity to obtain this service. No-one who has been to these communities or attended meetings where their representatives have been present will see this as some luxury that is irrelevant to their lives. How these “missing consumers” are enfranchised is again a key challenge.

If consumer organisations can demonstrate that they can make a difference in a service-aware sector like telecoms and the Internet, then it will encourage a wider level of consumer rights awareness in other fields. In other words, it will encourage African consumers to become more demanding in other areas of their life. Many of the providers under discussion in this study already set high standards of service and it may be that the sector will become the pioneer for wider changes in African economies.



2. OVERVIEW OF AFRICA

Box 1: How many consumers are involved across Africa?

Total population: e900 million (2005)

Mobile subscribers: e113.55 million (2005)

Fixed line subscribers: 22 million (2003)

Operators: Main mobile operators include: Celtel, Millicom, MTN, Orange, Orascom, Vodacom. The majority of fixed voice operators have a presence in only a single country.

Internet subscribers (dial-up and other accounts): 4.473 million (2003)

Cyber-cafes and telecentres: Unknown

Internet users: e22.7 million* (2006)

Sources: US Department of Energy, Portio Research, ITU, Internet World Stats*

The summary of statistics in the box above show the level of consumers for voice and the Internet services in Africa with varying degrees of accuracy. Obviously there is some considerable degree of overlap between voice and Internet users but the figures give a broad picture of the numbers of consumers in each of the two categories.

Although the continent has made considerable progress towards liberalisation in a number of countries, there are still relatively low levels of competition in many countries for voice services. The majority of Africa's users of voice services are mobile users. But with some exceptions, each country usually has only two or three operators and there is almost no competition on the price for mobile voice services.

In terms of access, coverage in most countries means that around 60% of a country's population is covered by a mobile network. This will go up to between 65-70% of the population over the next three years; with a higher percentage of coverage in geographically compact countries with few physical barriers like Gambia, Senegal or small islands like Mauritius.

Private mobile operators have experienced such rapid growth because the incumbent telcos (which are in the main Government-owned) were not able to provide an equivalent service with fixed lines, leading to very long waiting times. This shortage of fixed lines has in a number of countries led to low-level corruption where users are forced to pay a bribe in order to secure a fixed line. In effect where this occurs company employees are selling the shortage of the service and it is notable that no consumer pays in this way to get mobile phone service. There is little competition for fixed line voice services but 8 countries have a Second National Operator. But with only two fixed line operators in a country, there is, as with mobile, very little competition on price.

Competition from mobile operators has led to a massive increase in the use of voice and begun to make the monopoly fixed voice operators somewhat more responsive to their customers particularly in terms of quality of service. However, the mobile operators now control the majority of the market by value and run the danger of themselves becoming the new incumbents: they are large operators with relatively low levels of price competition.

The majority of mobile operators in Africa are in the hands of a relatively small number of companies and further consolidation is likely to take place. By contrast, Internet services tend to operate only at a national level with only two providers (Africa Online and MWeb) having any claim to being regional operators. There are only a small number of national ISPs in multinational ownership. Although some ISPs have access to their own networks and international access using VSAT, many are dependent on the incumbent for the provision of the primary commodity they sell: bandwidth.

Often this puts Africa's ISPs in the frustrating position of having to explain to their customers that they do not always control the service they offer. If this is difficult for ISPs, the situation is even worse for cyber-café owners. But in both cases consumers rarely have the knowledge, technical understanding or time to discover whether the fault lies with their service provider or the company supplying it with bandwidth.

During a period of explosive growth, the shortcomings of Africa's voice and Internet providers have often been widely reported: service failures, network congestion, slow maintenance response times and disastrous billing platform implementations.

The section that follows summarises our findings from a survey of 30 African countries (for list see methodology section in the Introduction) and gathers other relevant data for the continent. It includes some of the findings from the three case study countries (Kenya, Senegal and South Africa) that are looked at in greater detail in sections 3, 4 and 5. This overview section and the three country case studies follow the same structure for ease of reference.

2.1 Legislative and self-regulatory frameworks

There are four elements that safeguard consumer rights: consumer rights law, competition law, telecoms and Internet law (that usually enables the setting up of an independent regulator and self-regulatory frameworks within the industry. The latter can either be put in place as part of the licence conditions for an operator or are self-imposed. Without these four elements, it is difficult for consumer complaints to be dealt with as there would be no framework for dealing with them and no recourse if operators (or others) failed to deal with them.

However, as we will see below, the existence of legal and regulatory frameworks do not by themselves safeguard the interests of consumers. For these elements have not only to exist but also to function effectively. And this will be a recurring theme in all elements of this overview.

Some kind of functioning democracy is one absolute pre-condition for their effectiveness as it allows for dissenting positions. Another pre-condition is the transparent functioning of the rule of law without the ability of the executive of the Government to dictate the results reached in the Courts or for institutions or individuals to corruptly obtain a particular legal result. Throughout the world, there is always some distance between how things ought to work and how they actually do work. In Africa, the greater the distance between these two positions in a country, the less likely it is that its citizens will have consumer rights that are worth the paper they are printed upon. Luckily for the continent - with certain very high profile exceptions - this gap has on balance been getting smaller rather than larger.

In its 2004 Annual Report, Consumers International noted that: "To date, only a few African countries have enacted consumer protection legislation. Four countries - Botswana, Malawi, Seychelles and Tunisia - have functioning consumer protection laws. Legislation has been drafted in Benin, Burkina Faso, Burundi, Chad, Ghana, Mozambique, Namibia, Niger, Rwanda, South Africa and Uganda. Legislation is in the process of being drafted in Ethiopia, Kenya, Nigeria, Zambia and Zimbabwe".

Therefore, by the most optimistic assessment only 21 (40%) out of the 53 independent countries on the continent are likely to have some form of consumer legislation in the next 2-3 years. The dependent territories of Reunion and Spanish North Africa are covered by the national law of their respective European Governments, France and Spain.

But even where consumer legislation exists, its operation is likely to differ depending on the legal tradition bequeathed by each country's former colonial rulers. On this basis, there are potentially four different ways of drafting and implementing laws: anglophone, francophone, lusophone or Hispanic. But the main divide is probably between Anglophone and francophone traditions of law-making.

Put simply, francophone law-making flows from a national constitution in which the State grants its citizens certain rights (see Senegal 4.1 below). Through a process of laws and administrative decrees, the Government then seeks to describe the circumstances in which these rights can be exercised. The Anglophone legal tradition operates in the absence of formal constitution and is built on challenges that



assert the rights of citizens within a framework of existing laws and past precedents.

However if you put together two sets of framing legislation alongside each other from an Anglophone and a francophone country, there is very little to tell them apart. One may be more detailed than the other but that is not a function of the origin of their legal tradition. For example, the framing telecoms law in Togo that created the regulator and its responsibility for telecoms and Internet consumers differs little in broad substance from that of its neighbour Ghana.

But although the means of expression used for defining consumers' rights within these legislative instruments may be very similar, there are quite distinct contrasts between both attitudes to law and recourse to the courts in pursuits of the rights enshrined in law under both traditions in Africa. Also, because as we can see from above, all consumer legislation is relatively recent, it has not yet been widely used or tested in court.

According to the Consumers International annual report for 2004 least 12 African governments have enacted national competition laws. In the South African Development Community (SADC), Namibia, South Africa, Zambia and Zimbabwe have practical experience in applying competition laws. The International Bar Association's Global Competition Forum has a slightly smaller number of countries adopting some form of competition law (11). But based based on both of these sources there are between 5-8 countries preparing legislation, although in some the pace of adoption is very slow.

This means that only 12 (23%) of Africa's 53 independent countries are covered by competition law and in most cases this legislation is only a few years old. The reality is that only a very small number of countries have practical experience of applying competition law and it has only been evoked in the telecoms and Internet sector in South Africa. In most cases, the monopoly of the telco incumbent is enshrined in law or it has been allowed to retain a de-facto monopoly after the ending of its formal monopoly.

Senegal is a good example of this as the incumbent could be described as having dominant market power in all but the mobile market. And the Senegalese Government's plans to put in place a greater level of competition with a third operator of some kind have taken some considerable time to put in place. Therefore even when a competition law is in place, as it is in Senegal¹², it may have very little practical effect. In Togo, the existence of competition law has not prevented the incumbent operator from denying another operator with a licence the right to interconnect to its network¹³. Recourse to law on competition issues is expensive and time-consuming and with so few cases on which to base the likelihood of success, not for the fainthearted or those of modest means. Where there is a relatively effective regulator in place, as in Kenya, it has often been quicker and more effective to pursue these issues within the regulatory framework.

Competition law is often a recourse that is not open to individual consumers. The Kenyan competition body excludes individual complaints and says it will forward them to appropriate bodies: the most likely of these is the national regulator. In 2004 the Zambian Competition Commission saw a four-fold increase in individual complaints but most were unsuccessful because the complainant had not understood the rigorous evidence gathering requirements of the law: it put this down to "consumer rights illiteracy".

COMESA's December 2004 Regional Competition Law includes a provision on consumer protection. UEMOA has adopted a Regional Competition and Anti-Dumping Law that sets up a redress mechanism for anticompetitive practices. Its Common Industrial Policy framework also has a regional mechanism for accreditation, standardisation and product quality. UEMOA recently formulated a regional consumer protection bill. In the SADC bloc, Article 25 of the SADC Protocol on Trade obligates its members to implement measures to prohibit unfair business practices and promote competition. But unlike the European Union, none of these regional bodies has in place the means for enforcing community-wide standards, or indeed mounting an individual challenge to a country on an issue.

Regulators can impose a code of conduct or suggest that operators abide by it on a voluntary basis. The South African regulator ICASA has made abiding by a Code of Conduct a condition of licence (see 5.1 below). The Botswana regulator BTA has sought to combine a regulatory "stick-and-carrot" approach. It is adding performance criteria on key areas like quality of service to the licences it has granted operators. It also advises but does not compel operators to abide by a Code of Conduct it issues. At first, operators were

reluctant to discuss consumer issues but over time all (except the incumbent BTC) have, according to the BTA, adopted a more co-operative approach.

However, where either licence conditions or a Code of Conduct exist, they are no guarantee that the consumer interest in relation to the key issues of prices or quality of services will be addressed. Few regulators have taken on the task of improving quality of service from mobile operators either because they lack the will or the capacity to do so. To be fair, quality of service issues are often complex and the regulators may lack the resources to challenge a much better resourced mobile operator. The number of regulators imposing sanctions in the form of fines on issues relating directly to consumer issues is extremely small. Fines tend to be issued over non-compliance on issues like interconnection and whilst this arguably has a consumer impact, the sanction is rarely driven directly by a consumer-interest motive.

Finally as we will see in section 2.3 below, whatever the virtues of the Code of Conduct, the regulator often stipulates that it is the last “port of call” after all other avenues for resolution have been exhausted. Not surprisingly, this limits the effectiveness of any Code of Conduct as it “raises the bar” in terms of the resources and capacity required by the individual complainant.

However whatever assessment is made of the success or otherwise of licence condition compliance and Codes of Conduct, operators in a majority of countries in Africa are not covered by any formal Code of Conduct¹⁴ even of their own devising or by enforced licence conditions on quality of service. (see Senegal, section 4.1 below).

2.2 Level and type of complaints

Voice service providers - whether fixed or mobile - were markedly reluctant to provide data on the level and type of complaints they receive. These operators view this complaints data as commercially sensitive information and are therefore reluctant to release it. Some regulators collect this information from operators but do not publish it. It is hard to believe that annually issued complaints data would be of tactical commercial use: arguably most of the short-term issues identified would be dealt within a twelve-month period. In contrast to the voice operators, ISPs were more willing to provide complaints data.

However, where data has been provided (except for that provided by Safaricom in section 5.2), complaints levels would appear to be understated but in the absence of more data it is hard to know what this means (see box 1 below). There may be two explanations for this discrepancy. Firstly, the data may understate levels of dissatisfaction: in other words, Africans (for whatever reasons) are less likely to complain. A researcher for a major European mobile operator told us that less developed markets in Eastern Europe registered consistently higher satisfaction levels: in other words, offered the same service, users in other European countries had higher expectation levels. Or secondly, the data - where provided - is impressionistic rather than accurate. Those talked to were often giving their impression of complaints levels and their subjective memory of complaint levels may understate them.

In the absence of operator information, there are a variety of other surveys conducted on the topic which we have detailed below or in the country case studies. None of them are entirely satisfactory for providing a benchmark of complaint levels but they do illustrate likely levels of dissatisfaction on some issues.

Where regulators do collect data on consumer complaints to them, they do not analyse the complaints made or really act upon the information gathered. Therefore for example, a regulator that has an extremely good reputation for publicising consumer issues has no data collected on complaints it receives. In its defence, it is fair to say that the larger headline issues (prices, poor network coverage) are all too obvious but it may be missing equally important but less obvious concerns. But the broader point remains true: if a regulator does not know what its consumers feel about the services they receive, how will they act on their behalf?

As noted in section 1, regulators' first priority has been to deal with industry issues in markets that they are liberalising. In most instances, this has meant that they have found themselves focused on the activities of the telco incumbent. In the last five years, it has been at the centre of most industry complaints.

But as regulators move beyond the initial stages of liberalisation, it will become clear that the mobile



operators in most instances are becoming the dominant players and in some instances are beginning to wield some of the same market power as the telco incumbents do. Tackling mobile operators on issues of price and quality of service is no easy task as they are often more knowledgeable and more adept at dealing with regulatory issues than the regulator itself.

In 2004, Consumers International carried out a survey of consumers in 16 African countries. Although the country samples were small, they were weighted to include a variety of different areas including peri-urban and rural. Their assessment of the telecoms regulatory agency or regulation of that area by Government was given a weighting from zero for not at all effective to 2 for very effective in the view of the consumers surveyed. The resulting index identifies five countries at the more effective end of the scale: Nigeria (1.27), Cote d'Ivoire (1.09), Mozambique (0.82), Ethiopia (0.79) and Zimbabwe (0.75). Five countries came out as having the least effective regulators from a consumer perspective: Benin (0.44), Malawi (0.48), Uganda (0.51), South Africa (0.62) and Zambia (0.63). Benin almost certainly scores lowest because at that point it lacked an independent regulatory body.

The same respondents were asked what they thought of the basic services provided (including electricity, water and telephone) and the separate results for telephone identified the following five countries as the worst providers: South Africa (0.29), Mozambique (0.4), Burundi (0.46), Cote d'Ivoire (0.47) and Uganda (0.48). Only the Seychelles (with 1.25) came anywhere near a satisfactory rating. In a majority of cases, those from rural areas were markedly less satisfied with basic telephone services provided. Consumers International concludes that: "In summary, the analysis indicates that existing regulation efforts are inadequate for bringing about improvements in the consumer quality of life".

One of the few regulators to carry out a consumer survey was Botswana Telecommunications Authority. 40.8% of those surveyed were unaware of operators' complaints procedures and 45% were not sure how to claim financial compensation they were entitled to for service failure. Also 55% thought consumer representation was either poor or fair.

Alongside survey findings, the numbers of complaints received by regulators themselves are relatively small in number. In 2005, the Botswana Telecommunications Authority received about 38 complaints related to the telecommunication sector.

Box 2: Benchmarking complaint levels - finding "metrics" for comparison

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 Ofcom reported that over 90% of all residential and business customers were happy with most services offered by providers. 96% said they were happy with broadband services. Another study from Ofcom noted that: "...results of tests suggest that more than 95% of call attempts are successful." In an Indian survey carried out by IDC Voice and Data Magazine in 2003, Operator BPL topped the GSM operators with 78.9%, Idea second with 78.9% and Hutch came third with 78.7%. Bharti and BSNL had 76.6% and 71.8% respectively. In the WLL/CDMA category, Tata Teleservices came top with 75.3% and 72.2%. Indian regulator TRAI (see Box 2) sets a 95% overall satisfaction rating as a benchmark.

By contrast, a survey of Gamcel mobile customers by its competitor Africell found that 76% of those surveyed had problems with Gamcel's network and 85% had network problems at night, the busiest time for the network. This implies an overall satisfaction rating as low as 25%. On a more optimistic note, the Synovate survey quoted in section 5.2 said that between 79.9% and 83.3% of all mobile customers were satisfied with the service offered by their provider. Using surveys to establish overall performance levels is one way of establishing benchmarks for operators.

Another way of getting at the same issue is to look at the percentage of complaints per thousand customers. In 2003 Ofcom published complaints data from mobile operators: the most successful company in terms of complaints was Virgin Mobile with 0.1% complaints per 1000 customers. So it is possible to establish a performance benchmark based on complaints per 1000 customers. A Government policy paper in Senegal (see section 4.1) established that call completion rates for local and trunk calls were in 2003 68% and 58% respectively. It expressed the view that the operators should be achieving 80% and 70% respectively by 2008.

For ISPs, the issue is even more difficult. Many are not large companies and have relatively small customer bases. The only point of comparison we have been able to find relates to a corporate ISP in one of the case study countries. It has between 1-1.5 “tickets” (issued when a complaint arises) per month per customer: in other words 750 to 1125 complaints per month. Although corporate customers are probably considerably more demanding than individual customers, the figures still imply that where ISP complaints data has been provided that it understates customer complaint levels. Or that customers are so used to certain problems occurring that they have ceased to complain about them.

In parallel BTA has received over 100 complaints in relation to ISPs/internet services. Most of the complaints about telcos are in relation to the service provided by the fixed line operator (quality of service; delayed connection). On average it takes 2 weeks to solve a complaint but it can take longer depending on the type of complaint.

The Ivorian regulator ATCI has collected individual complaints statistics and analysed them since it was launched and the analysis appears on its web site. However since the number of complaints has only ever been between 4 to 26, it is hard to draw any wider conclusions from the analysis. Indeed only a handful of complaints are ever deemed sufficiently well founded to be taken up with the operators. Likewise Madagascar’s OMERT dealt with a tiny number of complaints. In 2004 it received seven complaints, five of which it accepted and resolved. 80% of these complaints concerned billing issues and 20% network quality issues.

The main complaints for fixed and mobile services were: the price of services (particularly the high cost of local calls on fixed lines); network congestion; poor network coverage; failed calls (both not completed and cut-off); phone and handset-related; loss of pre-paid credit after loading, charges for SMS messages not delivered; calls directed to voice-mail when the network is congested; speed of maintenance and repairs; wrong billing (particularly with illegal use of lines); the quality of fixed lines;

The main complaints to ISPs were: slow speeds; frequent disconnections; slow responses to complaints; the high cost of ADSL; the frequency of “downtime; and the slow response to repair and maintenance problems.

One difficult area of complaints is handset-related complaints. Based on the data supplied by a mobile operator for table 2 below, these form between 4250% of all complaints on a monthly basis. Handsets are often purchased by third-party resellers or in the “black-market” and may therefore not directly be the responsibility of the operators.

However, although these form the bulk of complaints regulators receive, it is worth noting that new categories of complaints are always occurring. The Sudanese regulator described to us problems with children using premium services for things like music news and downloads. Parents found themselves being faced with large bills after the event. The regulator has now insisted that the operators put in a “trip point” that generates a contract the parent has to sign to authorise the additional spending.

2.3 Processes in place to resolve complaints

All voice operators have some form of customer care function in place to deal with complaints although it varies in size depending on the number of customers the company has. The task of dealing with customers will be split between a telephone (and sometimes web-based access) based call centre and the retail agencies appointed by the operators who sell phones and airtime, often referred to as “the channel”. One of the smaller mobile operators we spoke to deals with customers almost exclusively through its dealer network. In most of the larger markets, the customer care function works around the clock.

Across Africa, the mobile operators sell a part of their services through retail channels that are not directly owned by them. Whilst their agreements with their resellers cover the treatment of consumers, it is simply not possible to oversee all of these resellers. Whilst some are established businesses operating as clear legal entities, others are the plentiful informal pre-paid card sellers found in most African cities.

If these resellers were to treat their customers badly consistently then they would obviously lose business.



But whether or not they respond well to most individual complaints is more of an open question. From interviews with industry figures, it is clear that the quality of resellers varies as in any industry.

ISPs have smaller customer care functions and often engineers double up as customer care staff. In cyber-cafes, the only person able to deal with complaints is usually the Manager on duty, although that person may have access to a technical staff member or “double-up” in that role.

In some countries like South Africa, operators are compelled by their licence to have a consumer Code of Conduct but in the majority of countries this simply does not exist. But even where Codes of Conduct supply a framework for complaints from customers, they are often not prominently displayed or used to educate customers. For example in Angola there is currently no framework in place with operators to receive and resolve customer complaints. The absence of such a framework makes it extremely hard for consumers to receive satisfaction and to do so within a reasonable period of time.

With the exception of Guinea, all countries we surveyed have in place an independent regulator. However Benin has recently (March 2005) put in place an independent regulator and Guinea has plans to follow suit. But at present those who complain in Guinea can only do so directly to the operators.

Six out of the 30 countries surveyed made no mention of consumer interests in the summary of framing legislation that set them up or of consumer rights in any other context. For example, Morocco’s ANRT talks only of disputes between operators. Tunisia’s Instance Nationale des Telecommunications de Tunisie (INTT) has no formal responsibility for consumers and referred us to a Tunisian consumer body.

Eight of the thirty countries surveyed had regulators with no public announcement about their complaints procedure on their web site. Some like Ethiopia’s ETA do state that “one of its missions is to protect customers through the consistent enforcement of appropriate legal instrument...” but offers no complaints procedure to follow on its website. Although it would offer those who telephone advice on the procedure.

Regulators themselves adopt two significantly different positions in relation to consumer complaints. Either they encourage complainants to come directly to them and take up these complaints with operators. Or they see themselves as a point of “last resort” that the complainant can come to once he or she has exhausted all other avenues.

An example of the latter is Botswana where the BTA’s department of Compliance and Consumer Affairs is mandated to protect consumers of telecommunication service by investigate their complaints and resolving them where possible. But “consumers should exhaust all of the operators’ internal complaint procedures before seeking recourse from BTA’s Department of Compliance and Consumer Affairs”.

Consumers are advised to produce a detailed written record of these interactions with the provider. It promises to make “an independent assessment of the complaint” and that the complaint will be dealt with within two days of its receipt. But the latter actually represents “acknowledging receipt of the correspondence.” 90% of complaints handled by the BTA are resolved satisfactorily. The minimum response time at the Uganda Communications Commission (UCC) is ten days. The Mauritian regulator ICTA compels operators to reply to complaints it forwards within a week.

Complaints are only accepted in a written form by Uganda’s UCC. In the case of relatively straightforward complaints, the UCC will get back to complainants within two days but more complex complaints may take longer and UCC will keep the complainant updated. The easiest complaints to deal with are those where the operator has “breached (the) terms of its contract with the consumer, or acted contrary to its license and or UCC regulations.” It advises against legal action: “UCC is working out an acceptable arbitration framework, which will facilitate an amicable resolution of differences and disputes between service providers and consumers”.

UCC clearly identifies areas where complaints are welcome including: “wrong bills, arbitrary disconnection of lines, nonchalant attitude towards genuine complaints, poor services delivery, untruthful and deceptive advertisements, supply of sub-standard equipment, bare-face exploitation and invasion of privacy, violation or non delivery of mail, delayed restoration of service, unreliable service, etc”. It also points out that

consumers have responsibilities as well as rights and that one such responsibility is “prompt payment of phone bills.” A Customer Affairs department has yet to be established.

The framing legislation in some countries clearly limits the areas in which complaints can be dealt with. For example in Zambia, the Telecommunications and Radio communications Acts means that the Communications Authority of Zambia (CAZ) “can only attend to complaints relating to the following; Quality and level of service delivered by operators, variety of services and apparatus supplied for purposes of such services, operators ability to meet reasonable demand for services such as emergency services, directory information services and maritime services”.

CAZ has the authority “to request the service provider to do such other things as deemed necessary to establish the extent of the complaint such as to release any useful information, in any format required by the Authority, to that effect”. Once it has gathered all the necessary information, it makes a “determination” and informs the complainant.

By contrast, Egypt’s NTRA has Contact Centre working 24 hours a day to receive complaints and queries. It also offers hearings when appropriate and a formal dispute resolution system.

Obviously the resourcing for the complaints processes of regulators are heavily dependent upon the size of market they operate in and the amount of money they raise from Government and the sector to finance their work.

Another issue which raises its head at several points is whether the current basis of operator and regulator complaints procedures are “fit-for-purpose”, particularly for voice services. Only a small minority of people in any of the countries surveyed have access to the Internet through which they can reach operator or regulator web sites. Furthermore, the (understandable) requirement for written complaints excludes those who lack literacy skills or do not have access to help from those that do.

2.4 The role of the regulator

As we have seen from the survey results outlined in the previous section, most (but by no means all) regulators in Africa have been set up with a consumer responsibility contained within their top-level objectives. Therefore this section looks at how regulators translate legal commitments into practical action.

In terms of broad responsibilities, the 1996 Telecommunications Act that set up Botswana’s BTA makes the protection of consumers and users one of seven broad functions to be carried out by the regulator. Likewise Egypt’s National Telecommunications Regulatory Authority established under Law No 10 in 2003 has, along with “considering transparency, (and) open competition”, the protection of user rights.

Ghana’s National Communications Authority has three objectives that mention consumer interests in a slightly less straightforward form. It will “protect operators and consumers from unfair conduct (from) other operators with regard to quality of communications services and payment of tariffs in respect of the services”; “protect the interest of the consumers”; “facilitate the availability of quality equipment to consumers and operators.”

Some regulatory agencies have inherited the mantle for their work from the telco incumbent. The Malawi Communications Regulatory Authority (MACRA) was established under Section 3 of the Communications Act, 1998 to assume the regulatory functions of the communications sector that had previously been performed by the incumbent telco, the Malawi Telecommunications Corporation Limited. MACRA works closely with an external consumer body on issues of consumer rights. And like MACRA, the Tanzania Communications Regulatory Authority has responsibility for broadcasting as it absorbed the Tanzania Broadcasting Commission. Other regulators also cover postal services mirroring the former structure of Government services that grouped post and telecommunications. In at least three cases (Gambia, Niger and Rwanda), the regulators have “horizontal” responsibilities for regulating the activities of public utilities including water and electricity.

Whatever the virtues of these different ways of defining regulatory responsibilities, from the consumer point-of-view, it may make it more difficult for consumers to understand where they take their complaints



and the relatively smaller size of staffs within “horizontal” agencies may make it more difficult for them to get their complaints dealt with.

Concerns with consumer rights are expressed in both Anglophone and Francophone framing legislation. Created in December 1998 (through Act 051/98/AN), Burkina Faso’s L’Autorité Nationale de Régulation des Télécommunications (ANRT) has its responsibilities spread across several parts of the law that set it up. Its top-level objective is to provide conciliation and resolution of customer complaints prior to legal action. According to article 17 of the decree 99-419/PRES/MCC, ANRT is in charge of dealing with customers complaints against telecommunication operators and services providers. Article 17 mentions the interests of the customers with regards to new services and the organisation of customer surveys regarding service satisfaction and the need of new services. Article 16 also mentions that the ANRT has a mission to provide the framework to help the development of the telecommunication sector in the best interest of the economy and by taking account of customers’ needs and technical changes.

But not all regulators have this formal protection of consumer and user rights enshrined in their framing legislation. Cote d’Ivoire’s ATCI has no mention of consumers in its current legal framework but has in place a complaints procedure. It offers advice to operators on consumer matters: for example, it persuaded mobile operators to increase the number of rings to 5 before switching to voice mail. It also runs awareness campaigns (les journées des consommateurs telecoms) and works in collaboration with a telecoms-focused consumer body called Association des Consommateurs des Télécommunications de Cote d’Ivoire (Acotelci) and the media on raising awareness.

In a similar way, the Lesotho Telecommunications Agency (LTA) was set up in 2000 without any explicit mention of consumer rights but has added them “in an effort to balance the interests of the three main stakeholders (customers, operators and the State)”. The LTA’s CEO also thinks that more competition in the sector will favour consumer rights. Likewise Sudan’s regulatory body, the National Telecommunications Corporation (NTC) was set up in 2001 without any formal mention of consumer interests. Nevertheless it has in place a complaints procedure and has done work in this area. Also the country’s Ministry of Justice has a section dealing with consumer issues.

With the consumer interest acknowledged in some form, the regulatory agency then has to turn the commitment into a functional service. Different approaches emerge at this point that vary according to the resources of the regulator and its actual commitment. In some cases, the responsibility for consumer affairs is taken very seriously indeed and plays a central part in the activities of the regulator.

Two examples of how to approach this process of embedding consumer rights in a regulatory body stand out: Egypt’s NTRA and Nigeria’s National Communications Commission (NCC). The NTRA set up the “Telecom Consumers’ Rights Protection Committee” in 2004 and it is only one of a few examples where representation from outside the regulator is involved. It has 13 individuals from different backgrounds and is chaired by the Executive President of the NTRA.

It meets regularly to discuss consumers’ concerns and set policies and strategic plans to fulfill their work including: consumer awareness campaigns (including a telecoms consumer’s guide), conducting market research work, checking quality of service offered and gathering and disseminating relevant information. Whatever assessment might be made of its effectiveness, its existence ensures that consumer interests are seen as important across the NTRA. And it is perhaps no coincidence that the NTRA produced the first study of roaming charges in the region in defence of consumer interests .

Nigeria’s NCC set itself the ambitious task of creating “a visible and credible Consumer Affairs Bureau that would serve as a ‘one-stop-shop’ which stakeholders can rely upon for information on the telecommunications industry in Nigeria”. It sought not just to be a passive recipient of complaints “after the fact” but to “generate an unmatched awareness of consumer rights in Nigeria by establishing a strong bureau that would monitor and control telecommunications operators in Nigeria in order to protect consumers from unscrupulous practices in the industry”.

Like Egypt’s NTRA, the NCC has set up a call centre managed by Consumer help-desk Specialists, “who will courteously respond to inquiries, investigate and solve complaints in a professional and efficient man-

ner”. If the help-desk specialists are not able to solve the complaint, the consumer may be requested to make a formal complaint in writing, which would then be assigned to an officer of the Consumer Affairs Department who would contact the service provider and resolve the problem. Overall the Bureau deals with 20-30 complaints a month.

Box 3: Defining basic consumer rights

According to the NTRA, the following basic consumer rights criteria should be addressed:

- **Disclosure:** Providers must disclose to consumers, in advance of the purchase, the price and associated terms governing the provision of telecommunication services and equipment.
- **Choice:** Consumers have a right to select their services and vendors and to have those choices respected by industry.
- **Privacy:** Consumers have a right to personal privacy, to have protection from unauthorized use of their records and personal information, and to reject intrusive communications and technology; providers should be required to disclose these rights to consumers.
- **Public Participation and Enforcement:** Consumers have a right to participate in public regulatory proceedings, to be informed of their rights and of what agencies enforce those rights, and to have effective recourse if their rights are violated.
- **Accurate Bills and Redress:** Consumers have a right to accurate and understandable bills for products and services they authorize or purchase, and to fair, prompt and courteous redress for problems they encounter.
- **Right to Withhold Payment:** The customer must pay the undisputed amount of a bill, but must not be required to pay any reasonably disputed amounts pending the resolution of the dispute.
- **Non-Discrimination:** A licensed provider must provide telecommunication services to users at prices, terms and conditions that are non-discriminatory.
- **Safety:** Consumers have a right to personal safety and security and of their property in the use of services or equipment provided.

Source: NTRA website

The Consumers Affairs Department also works with other organisation such as the Consumer Parliament, the Consumers Protection Council, the National Association of Telecommunications Subscribers. However, the NCC feels that the existence of so many bodies means that there are almost too many channels for complaints and that this undermines the position of the NCC in this area.

It is worth noting that these two examples are from countries that have major telecommunications markets and are therefore able to deploy a scale of resources not available to other countries. In the case of countries with smaller markets, the nature and purpose of the Department where the consumer services function is located varies.

Botswana’s BTA set up a Department of Compliance and Consumer Affairs: its main purpose is to ensure compliance by telecommunications service providers with the provisions of relevant statutory instruments and conditions of their respective Licences as well as to “promote synergy between BTA and operators in order to optimise benefits to consumers of telecommunications services”.

It is also in the process of drafting guidelines to measure the quality of the service provided by the operators (“definition of parameters to set up a monitoring system to measure the quality of service provided by the operators”). Alongside this measure, it has plans for more consumer awareness campaigns and the setting up of a consumer forum with external members.

In the case of Madagascar’s OMERT, it is the Direction des Réseaux et Services that deals with price and quality of service issues and the Direction des Etudes et des Relations Extérieures that communicates information to consumers and acts as their interface to operators.



The Mauritius regulator, the Information and Telecommunications Authority (ICTA) has set up a Department of Communication, Consumer Affairs and International Relations that puts the communication function in the same department as that dealing directly with customer complaints. By contrast, Zambia's CAZ has a consumer affairs department that forms part of its legal department.

Lesotho's LTA "wants to play a more preventive role in terms of consumer rights protections" by ensuring that operators report on the various quality issues which are part of the requirements imposed by the licence (or they get fined) and by running a consumers rights awareness campaign.

But the point cannot be made too strongly that although structures and consumer awareness campaigns may be in place, it is sometimes those regulators that shout least about it that are actually getting to grips with the issue. For example, Mauritania's Autorité de Regulation has little to say about protecting consumer rights in any formal sense on its website. But its activity report for 2004 shows that it carries out regular quality surveys of telecoms services and has even issued fines to telcos for poor quality of service.

But whilst action rather than words is laudable, it would be helpful to consumers to have access to information themselves rather than just relying on the regulator to do it on their behalf. So for example, a new voice service was launched by the new SNO in Sudan during the period of this research. It claims to be cheaper than the telco incumbent at 3 rather than 4 dinars a minute. However once the monthly rental charges are included the call costs are (according to the regulator) almost completely identical. This kind of information is frequently gathered as a matter of course by regulators and needs to be publicised by them.

Box 4: Creating performance indicators using operator data

The Indian regulator TRAI¹⁹ takes data supplied by operators against a series of performance benchmarks and reports the results every quarter. The summary for the quarter ending December 2005 showed that:

- Provision of telephone within 7 days for exchange areas declared "On Demand" (Performance indicator: 100% in <7 days). 60 out of 71 licences failed to meet this parameter.
- Faults per month per 100 telephones (Performance indicator: Should be less than 5 faults per 100 phones per month.) Mixed results but of private operators only Bharti Tele-Ventures, Kolkata and Reliance Infocom failed to meet it.
- Percentage of faults repaired by the next working day (Performance indicator: Should be 90%). Tata Teleservices failed to meet this indicator anywhere.
- Mean time to repair (Performance indicator: Should be 8 hours) Only 8 out of 26 geographic areas met this benchmark. One operator in Mumbai took an average of 27 hours.
- Call completion rate in local network (Performance indicator: Should be >55%). Mixed results with Reliance Infocom not reporting data for this parameter.
- Metering and billing credibility (Performance indicator: Not more than 0.1% of bills should be disputed over a billing cycle). Only 1 out of 26 service areas of BSNL failed to meet this benchmark.

The number of service providers who reported Quality of Service data increased from 123 to 128 in this quarter.

In a similar way, the continent's mobile operators offer consumers a bewildering number of tactical, time-limited marketing offers. These offers make it extremely difficult to compare prices between service providers and cover the fact that in a considerable number of countries there is little or no price competition between mobile providers. Regulators often have the information to help consumers make choices but do not issue it publicly.

They often oversee quality of service issues but also do not issue this information publicly, which would allow both consumers and other regulators to benchmark performance. In at least one country, the Service Level Agreement reached with the incumbent telco was described as a commercially confidential document.

Regulators should also try and set standards in the way that services are described. Although defining what

is a broadband service is a complex minefield, there can be few parts of the world where service providers are able to describe a 64K download service as “broadband”. Likewise because broadband is a new service, few companies are publishing the contention ratios²⁰ on these services. The same is also true where VSAT satellite services are widely sold and customers are sometimes shocked to discover that services are considerably slower than the headline figure advertised. Even if the regulator cannot impose a standard on all operators, it can assist consumers by drawing attention to these issues.

2.5 Consumer organisations and related bodies

This section looks at both generic consumer bodies tackle issues irrespective of which industries they arise in and specialised consumer bodies focused either or both the telecoms and Internet industries.

In terms of generic consumer bodies, the first consumer union was created in the United States in 1936 and the Organisation of Consumers Unions (now Consumers International), the first international federation of consumer organisations, started in the 1960s. Africa experienced the fastest growth of consumer groups in the early 1990s. Consumer International’s membership grew from 21 groups in 1991 to 82 in October 1995. By 2000, 45 countries out of 53 in Africa had one or more consumer organisation with a total of 120 groups in existence.

But as a Consumers International report noted in 2004: “Although some countries - Kenya, Mauritius, South Africa, Tunisia and Zimbabwe - have strong organisations that were established 20 ago, the median age of a consumer group in Africa is less than 10 years²¹ old. This means although there is a great deal of potential, there is also a great deal of inexperience.”

In our survey of 30 countries, we were unable to find active consumer organisations in four countries: Angola, Guinea, Mauritania and Rwanda. Indeed in a presentation at the end of 2004 by Fidèle Masengo Conseiller Juridique de l’Agence de Régulation des Services d’Utilité Publique he noted the lack²² of consumer organisations in the country, as well as either policy or legislation to protect consumers.

But even where generic consumer organisations exist, they are often small-scale and fragmented. For example an article in Egypt’s Al-Ahram Weekly Online noted that no less than 66 consumer organisations were launched in the country during the 1990s. In the Senegalese case study below, there are no less than five consumer organisations in that country. Likewise in Madagascar there are four consumer organisations: FIMZOMPAM (Fikambanana Miaro ny Zon’ny Mpanjifa Malagasy); FIMPAMA (Fikambanana Miaro ny Mpanjifa Malagasy); ASCOMA (Association pour la défense des Consommateurs Malgaches) and PLADIC (Plate forme pour la Défense des Intérêts des Consommateurs). And Togo has two consumer associations: l’Association Togolaise pour la Défense des intérêts des Consommateurs (ASTODEC) and l’Association Togolaise des Consommateurs (ATC). However an equally common pattern is that there is only one organisation per country with only a small staff and few resources.

Many of the consumer organisations involved do not get involved in consumer issues or case work in the telecoms and Internet sector. Those most likely to were those involved in working on basic services like water, electricity and telephony: ADETELS in Senegal is a good example of this type of organisation. Several consumer organisations made an input into telecoms and Internet pricing issues, notably Mauritius’ Association of Consumers of Mauritius and the Institute for Consumer Protection.

Only four countries out of the 30 we surveyed had consumer organisations that were specifically focused on the telecoms and Internet sector: Cote d’Ivoire, Nigeria, Senegal, and South Africa. The activities of one of these Nigerian organisations is described in the boxed section below and those in Senegal and South Africa are described in detail in the case studies below.

Another significant group of organisations involved in consumer issues in the Internet field are the ISOC chapters. ISOC describes itself as a professional membership organisation concerned with the development of the internet. In 2000 it claimed to have chapters in 35 African countries. These vary enormously from the very active (for example, Senegal, South Africa and Sudan) to the almost dormant. ISOC has recently decided to set up a Regional Policy Advisory Group and appointed a Regional Manager for Africa. Often its



members are the Internet activists who raise policy issues or campaign on issues of price and access.

Beyond the ISOC chapters, there are a range of trade associations that because of their role in opening up competition, take on a number of consumer issues as part of demonstrating the wider benefits of their work.

The Consumers International Annual Report for 2004 found that consumer organisations do not belong to and are rarely consulted by national competition commissions. Neither are consumers regularly informed of commission decisions. However, consumer organisations' participation in regulatory agencies is increasing. From our own survey we were only able to identify a handful of instances where the telecoms regulator is working actively with consumer bodies in any way .

The Ligue pour la Défense des Consommateurs au Benin (LDCB) is particularly active in the telecoms and Internet fields and its activities. Its activities ranges from “awareness campaign regarding the selection of your mobile phone provider” to “a peaceful demonstration in 2003 against the bad quality and the high prices of the service offered by the telco operators “. Mobile prices were revised downwards a year later in March 2004.

On the 15th December 2004 it called a press conference to present the results of a comparison between the different pre-paid cards on the market and to call for the setting up of an independent regulator. Most recently it organised two marches in October and November 2005 to protest current standard of living shortfalls in the country and service and price issues in telephony formed a significant part of its submission to the Government.

Box 5: Mauritius - Consumer bodies making an input

According to L'Express, at the end of August 2003 Mauritian consumer associations protested to the regulator ICTA about the new tariff rises. “This rise is exaggerated. If you calculate it on the former ready reckoner for four minutes, it comes out at a rise of 104%,” said Mosadeq Sahebodin of the Institute for Consumer Protection. For Jayen Chellum, Director of the Association of Consumers of Mauritius, the rise is “an aberration”.

Costs have also gone up for fixed line subscribers: from Rs75 to Rs90 for domestic subscribers and from Rs210 to Rs225 for companies and these were also criticised as being excessive. Nevertheless the introduction of per second billing drew praise from these organisations.

In June 2005 the Institute for Consumer Protection welcomed the announcement that a Competition Act would soon be implemented.

2.6 The role of the media

Our survey of 30 African countries looked at whether the media covered consumer issues in relation to telecoms and the Internet. Whilst this is obviously a subjective measure, our assessment was that only one country - Mauritania - failed to provide sustained coverage and that three countries (Ethiopia, Rwanda and Sudan) did not provide much coverage²⁴. All other countries provided fairly regular coverage of the sector and through this coverage touched on a range of consumer issues, either directly or indirectly.

The media often functions as the “Court of last resort” for consumers who feel they have not been able to obtain satisfaction through any other route. However whether the media takes up these kinds of issues is a function of several different factors.

The effectiveness of the media depends on the political climate prevailing in a country and whether it allows dissent. The increasing number of democracies on the continent open up the space in which the media can operate even if it continues to be under a number of other constraints. But even where democracy operates at a formal level, often there is considerable pressure to avoid certain issues: those we spoke to in Angola told us that the press were (as one person put it) “too shy” to tackle these kinds of issues.

Whereas the telecoms and Internet sectors have begun to be liberalised, the process of media liberalisation has been much slower to take off. Although there are now more diverse media - including FM radio stations, community radio stations and privately-owned TV stations - there is still much media that is directly in Government hands and as a result is somewhat wary of taking up consumer complaints particularly against another Government-owned entity like the incumbent telco. In turn, readers may be more reluctant to complain about service from a Government-owned entity in a Government-owned paper.

Finally voice service providers have been an extremely dynamic part of the economy and as a result they have nearly always been one of the largest spenders on media advertising, whether in broadcast or printed media. A significant number of journalists have mentioned the implicit pressure this places on them in relation to raising consumer issues, particularly in relation to mobile operators.

But it would be wrong to see this as a clear-cut issue as media may often take up individual customer complaints (in places like Benin) even if they do not champion consumer rights in other ways. Kenya in particular has a number of lively consumer columns and quite a lot of press discussion of consumer issues even though telecoms operators are leading advertisers. Likewise in Madagascar, the press and TV take up consumer complaints from across the island. Often an issue is such a cause of public concern that they cannot afford to ignore it, whatever other pressures they labour under.

For example in Burkina Faso in 2002, two newspapers (Le Pays and Sidwaya) were among those who reported public outrage when the telco incumbent Onatel decided to unilaterally increase the cost of a call to Telmob subscribers without first submitting the increase proposal to the regulator. Likewise the press provided a lot of coverage when Onatel decided to carry out maintenance on the equipment providing the country's international Internet service without warning anyone and in so doing, bringing it practically to a halt.²⁵ They were also among papers that covered an interconnection dispute between France Telecom and Onatel that disrupted service between the two countries. As Burkina Faso has a large diaspora community in France, the loss of the international voice service to the country for a time was a "bread-and-butter" issue.

In broad terms, coverage can be broken down into three areas: significant political issues (like privatisation of the telco incumbent and ensuing job losses); industry sector coverage (the launch of new services, disputes between operators); and "bread-and-butter" issues affecting large numbers of people.

In many countries, the national telco incumbent is regarded as a national asset and therefore its future management and ownership are constantly in the public eye with different groups arguing for and against privatisation. Likewise, the media tends to be the mirror for industry disputes between companies or as in the recent period with the regulator and the telco incumbent. Both of these tangentially raise consumer issues but neither really addresses them head on.

But where the African media comes into its own is over large-scale events that affect many consumers. For example, newspapers are usually quick to cover moments when mobile operators' networks collapse under high customer use or are consistently congested. A typical example of this type of coverage is Gabon News' coverage of the billing problems of the incumbent telco, Gabon Telecom. Customers in Port Gentil found that their phone bills were abnormally high. They complained that compared with the pattern of the previous 24 months their phone bills had gone up ten-fold. Piracy of domestic fixed lines was suspected as the cause for these increased bills. Customers in the capital Libreville had experienced a similar pattern of over-charging but noted that when they complained, their bills went back to a lower level the following month. Similarly robust coverage of the shortcomings of the voice service providers can be found in Guinea on websites like Animata and Boubah.

Journalists themselves are often in a tricky position because the issues are sometimes technical and they rely upon information provided by a limited number of people. In one country a journalist told us that even the regulator was markedly unhelpful and failed to provide information that would help readers understand what was at issue.

In the smaller countries or those places where there are very few operators, there is much less news to report and therefore coverage only appears from time to time. With only sporadic coverage, consumers are much less likely to build up a sense of what is really happening in the industry. Also if there are few



operators, consumers are much less likely to get a grasp of what is happening in terms of the key issues of price and quality of service.

2.7 Policy and legislative input

As noted above, few consumer organisations are involved with either the regulator or competition commissions. Therefore few have their voice directly heard in the governing body of a regulator and where it has occurred, their involvement has mainly been sought on the issue of resolving consumer complaints.

Only a minority of countries involve consumer organisations directly in the process of formulating policy and legislation in the sector. These countries include those selected for our detailed case studies and a much smaller number outside of that group. In Kenya, the involvement of KICTANET - which is not strictly speaking a consumer organisation²⁶ - in the policy process is a relatively recent development: the whole policy process has taken twelve years and KICTANET has only become closely involved in the last two years.

In 2005, Botswana's BTA ran a consultation event on its future regulatory plans to which were invited several hundred people including MPs, local councillors, civil society representatives as well as industry figures. Again whatever the effectiveness of these types of consultation events, it certainly made a difference as the concerns of the industry were widened to include a range of different consumer concerns.

Consumer associations in Senegal are regularly invited to policy consultations but it would be difficult to identify changes in policy or legislation that Government or regulator had made after receiving their input. The same is also true for South Africa where there is a great deal of consultation but again there are few subsequent changes that can be attributed directly to consumer organisations.

The bodies that play a much more dynamic role in the policy formulation process are trade and professional associations like TESPOK in Kenya and CUASA in South Africa. And in order not to be seen as simply representing a narrow commercial interest, these bodies have in the main sought to demonstrate that what they are arguing for is in the broader national interest: either that it benefits the economy or is good for the individual consumer.

That said, representation in the policy process by trade associations is no substitute for getting the voice of the consumer directly heard in the process. In the opening phases of liberalisation, there are many instances where the interests of the new operators coincide with those of consumers. There is clearly a shared agenda around greater competition, bringing lower prices and improvements in service.

However, as the later phases of liberalisation unfold, those with existing licences will often resist new entrants (with cheaper technological solutions) who might undercut the prevailing market prices. In instances like these, it is important that there is an independent consumer voice that can continue to argue for wider access, lower prices and greater choice.



3. COUNTRY CASE STUDY – KENYA

Box 6: How many consumers are involved?

Total population: 31.5 million (2002)

Mobile subscribers: 4.6 million (June 2005)

Fixed line subscribers: 240,000 (2004)

Operators: Celtel, Safaricom, Telkom Kenya

Internet subscribers (dial-up and other accounts): 46,000 (2003)

Cyber-cafes and telecentres: 900 (2004)

Internet users: 200,000

Sources: CCK, James Nguo, *Balancing Act*, CCK

The telecommunication and Internet sectors in Kenya have witnessed a rapid growth since the mid 1990s. The first ISP started operations in 1995 and two years later the first mobile operator was in business. Before this, there had been only one provider, the Government-owned the Kenya Posts and Telecommunications Corporation (KPTC). In 1999, the post and telecommunications functions were separated and the current incumbent telco -Telkom Kenya - was formed.

Where there was once only one provider, there are now two mobile companies and many ISPs. But Telkom Kenya, the fixed line provider, was given a monopoly that expired in 2005.

Whilst the situation has changed over time, different parts of the incumbent's network have been the subject of "quality of service" issues affecting consumers, including: the fixed line network and international access for both voice calls and the Internet. These issues have directly affected Internet users with their own computers and in cyber-cafes.²⁷ And over the last five years, both mobile operators have suffered network congestion issues .

3.1 Legislative and self-regulatory frameworks

The framing legislation for the regulator, the Communications Commission of Kenya, the Kenya Communications Act 1998²⁸ states that it will: "protect the interests of all users of telecommunication services in Kenya with respect to the prices charged for and the quality and variety of such services." This is only reference to the consumer in the Act.

As regulator, the Communication Commission of Kenya (CCK) is charged with overseeing the implementation of the Act. In collaboration with the providers, it sets parameters for provision of telecom services which it says are "based on the standards of International Telecommunications Union (ITU)".

All operators are asked to supply performance statistics annually: something that all of the fixed and mobile operators supply but far less of the ISPs and public data network operators do. These performance statistics are not made publicly available. However there is a provision in the Act that allows CCK to investigate the accuracy of the performance returns if it has doubts about the data being provided.

The Commissioner of Monopolies and Prices²⁹ is empowered to "maximise consumer welfare in the long term, and to protect the interests of vulnerable consumers by:

- empowering consumers through information and redress.
- protecting them by preventing abuse.
- promoting competitive and responsible supply".



However the Commissioner has no powers to help individual consumers in their disputes with traders but the legislation suggests rather vaguely “he may be able to suggest who would be in the best position to help”.

A Voluntary Peer Review of Competition Policy in Kenya carried out by UNCTAD in 2005 tactfully noted that:”Although favoured by most stakeholders, the actual need for comprehensive consumer legislation is still the subject of debate....However although consumer protection is one of the principal objectives of competition policy, the right mix to use in apply the combination of both competition and consumer principles still needs to be found.”

The Kenya Bureau of Standards investigates consumer complaints and gives assistance in resolving them, in collaboration with manufacturers. It is responsible for ISO standards 33 (Telecommunications) and 35 (Information Technology). Consumer complaints are also taken into account when developing new Kenya Standards and also during the revision and amendment of the existing national standards. Whilst this might obviously cover equipment like a consumer’s telephone, it is not designed to be of help with complaints about service.

3.2 Level and type of complaints

But even with this relatively low level of individual consumer protection in law, most consumers are not aware of what rights they have and the channels of complaints through which they can complain. And this is particularly true of those buying telecoms and Internet services as these are a relatively recent phenomenon within the country.

All telcom and Internet providers describe the consumer as their key focus and that they have provided channels for consumers to interact with them; both in terms of consumers getting information and making complaints. However the numbers of complaints are relatively low. The average numbers of complaints made to providers are as follows:

Table 1: Level of annual complaints

Mobile companies:	200+ a year
Fixed line company:	500+ a year
ISPs:	25-30 a year

At the consultation meeting on the draft research findings, both mobile operators promised to provide a detailed breakdown of the type of enquiries made to their call centres. Below is a breakdown for two months of Safaricom’s call centre traffic:

Table 2: Safaricom call-centre traffic

	November 2005	December 2005
Network-related issues	4449	4571
Tariff/billing issues	42,153	37,787
Phone/handset related	107,419	113,800
General enquiries	257,554	228,231

Although we made a number of reminder follow-ups, Celtel did not provide equivalent data.

For mobile subscribers, there were a number of recurrent complaints including: loss of pre-paid credit after

loading it; customers being charged for SMS messages that were not delivered; and calls directed to voice mail when the network is congested. The latter was a particular cause for annoyance as in the past one of the mobile companies had charged customers when this occurred.

For fixed line subscribers, the main areas of complaint were: the maintenance of fixed lines (particularly the speed of repair when a line goes out of service); the quality of calling on fixed lines and wrong billing. The latter is common when individual lines are ‘tapped’ into illegally and used by others to make calls that then appeared on an innocent customer’s bill.

The most common complaints regarding ISPs were: slow speeds; frequent disconnection or not getting a connection at all due to poorly-maintained lines or bad-quality copper lines; and slow response times to complaints by ISPs whenever there is a problem. The latter was a particular cause of customer anger.

3.3 Processes in place to resolve complaints

Most of the service providers have set up customer service departments to handle complaints and educate the consumers about their services. As a Government-owned entity (which until recently had a monopoly on the provision of fixed lines), it would not be unfair to say that Kenya Telkom’s record of customer responsiveness was much lower than that of the mobile operators. Those of its customers we have spoken to seem to have a low expectation that their complaints will be dealt with quickly or effectively.

Telkom Kenya has established procedures for solving complaints. Consumers of services such as fixed lines know where to report faults or issues related to services. There are several outlets for reporting complaints such as:

- All Telkom Kenya sales outlets -consumers can walk in and lodge a complaint in person;
- An international call center -by phone;
- A maintenance center by calling 997.

When consumers report a complaint, it may be solved on the spot or logged on to the system for follow up or the consumer is referred to the relevant office for attention. In most cases, a consumer is given reference number.

Both mobile providers have customer call centres run by their Customer Services departments that deal with a high volume of customer enquiries as well as complaints. These call centres operate around the clock. They also operate their own sales outlets which have a Customer Service function. Some customers sign a contract that outlines the service provider’s responsibility to them and the providers’ responsibility to them appears in a small typeface on the back of this contract.

The ISPs also have customer service departments but the number of staff dedicated to this function is lower than for the voice operators because the customer base is smaller. Information about what consumers can expect is provided in a Service Level Agreement given to each customer. A certain amount of information is provided by the ISP in leaflet or information pack form at points of sale. Obviously “deliverables” for larger corporate clients are defined in quite detailed service level agreements that specify particular service levels.

The difficulty before the end of the monopoly was that Telkom Kenya (as the only supplier of international bandwidth) was ultimately responsible for the level of service available. So as elsewhere, ISPs blamed it for service shortfalls and it in turn blamed ISPs for things it felt were their responsibility, like overloading the bandwidth bought with too many customers.

Whether it is dial-up or broadband service, the same issue exists even in a more competitive market because whether it is dial-up or broadband, most ISPs still rely on another supplier for their national backbone and international bandwidth. For consumers anxious to find answers to access problems, this dual responsibility can be extremely frustrating.



As providers, cyber-cafes vary from the well-organised business to operations where a couple of computers are a marginal add-on to another business.

Again the issue is often the degree to which each café dilutes the bandwidth it offers customers. The slower the access speed, the more the customer pays but if it is too slow a customer will go elsewhere. Although customers buy on price, only the more sophisticated user will know that there is a trade-off between cost and download speeds.

Cafes are often run by individuals with low levels of technical expertise and staffed by young managers whose skills are again at best variable. Although someone is always present to receive customer complaints, their ability to respond to customer complaints about download speeds is limited.

The regulator CCK has a complaints procedure that is described on its web site. This points out that: "Every consumer of communications service(s) has the right to seek redress from their service provider whenever they are aggrieved by the actions of the provider or when they receive poor quality of service". It points out that it is a condition of operators' licences that they "provide effective mechanisms for addressing complaints raised by their clients." CCK invites consumers to contact them if the providers' complaints procedure does not provide them with satisfaction. These complaints (with all relevant correspondence) need to be made in writing.

3.4 The role of the regulator

The Communications Commission of Kenya (CCK) is the regulatory body that encourages private investment in the sector and provides for the rights and obligations of both operators and consumers. As the body that links the two, CCK sees itself as liaising with consumers, operators and service providers to ensure a level playing field in the sector. CCK describes itself as the "watchdog" for the consumer; making sure that standards of quality are maintained in both service and equipment provided. It sets out to ensure that public service obligations are carried out while, at the same time, guaranteeing the protection of both consumer and investor interest. (http://www.cck.go.ke/role_of_cck/)

As the regulator it is responsible for two key elements of what consumers receive: pricing and service levels. On the key issue of pricing, it is carrying out a study that will look at the overall cost of fixed and mobile prices in the context of interconnection pricing.

At present, it provides information on consumer issues largely through its web site. As elsewhere, consumers' ability to access this information is largely limited by the low level of Internet usage. In response, CCK is planning a consumer rights awareness campaign using radio and newspaper advertisements.

As part of promoting this consumer awareness role, CCK encourages consumers to write a letters of complaint when consumers feel they have not had a satisfactory answer from the providers. Once such complaints are received, they are followed up with the provider. One example is the loss of credit for pre-paid minutes. CCK established what was happening and asked providers to adjust their policy in relation to the time given for minutes to be used.

In another case, CCK discovered that calls made were being directed to voice-mail after a very short period and the operators were charging the consumer for the voice-mail. In the event, it emerged that the providers were using this as a way of overcoming their network congestion problems and consumers were unaware that this was the reason it was happening. CCK asked providers not to charge for accessing voice-mail calls diverted because of congestion issues.

The regulator has over the last period placed most of its emphasis on opening up competition in the telecoms and Internet sectors. Although at the time of writing, the impact of these changes were only just beginning to be felt, they will undoubtedly deliver positive changes in terms of pricing and service levels for the consumer.

However until recently, the Consumer Affairs Division was run by a relatively junior member of staff. This has now changed and the person responsible is now at a more senior level. CCK does not currently work with external generic consumer bodies but says it plans to do so in the future.

3.5 Consumer organisations and related bodies

There is only one generic consumer organisation in Kenya: Consumer Information Network. It seeks to empower consumers by helping them know their rights and responsibilities and how to exercise them. It also lobbies the government to ensure that appropriate mechanisms are in place for effective handling of consumer complaints.

It sees itself as a consumer watchdog with a bias for information dissemination. CIN views consumer rights as fundamental human rights that must be promoted and protected by all in society including Government, civil society organizations, industry and individuals. It believes that consumers must also be critically aware and exercise to the fullest not only their rights but also their responsibilities.

CIN's approach is to empower individual consumers to take on complaints themselves. It envisages a society where consumer rights are respected and guaranteed and where consumers are aware of their rights and how to seek redress and a society where appropriate redress mechanisms are available and accessible to all.

After a complaint has been filed at CIN offices, the provider of the service or product is contacted and the complaint and its potential redress is discussed. CIN also tries to verify the complaint to establish whether it is a genuine. All necessary documentation is also attached and any possible proofs sought.

Failure to reach an agreement will mean that CIN then contacts the appropriate regulator of the sector for further action. Other organizations to be contacted in the process would include industry associations, legal aid organizations and other Government agencies that could offer support in whatever way to ensure redress. CIN may also take up the matter with the media.

CIN has dealt with a number of Internet and telecoms consumer complaints but the majority have related to telephone services. Most have related to poor service and pricing issues including: poor network coverage; high charges to ring out to other mobile networks; and wrong billing and maintenance issues on fixed lines.

Kenya has a very active trade association - the Telecommunications Service Providers Association of Kenya (TESPOK) - that campaigns on behalf of its members to ensure that there is a level playing field in terms of competition. Beyond lobbying, it has also been involved in a number of practical projects including the setting up of the local Internet Exchange Point and the creation of a local association to manage the Kenyan domain name. As an association, it is committed to addressing issues of "professional conduct and standards of service."

Less well-resourced and slightly less active is the Cyber-Café Owners Association of Kenya (CCOAK). Its inception underlines how particular sectional interests in the industry can easily move in a separate direction from the interests of consumers. It was formed out of the economic pressures cyber-café owners found themselves under when a price war broke out in Nairobi. Therefore its first move was to try and persuade its members to keep their prices up. After a short period of time it retreated from this position and has subsequently played a more low-key role as a trade body.

KICTANET is a multi-stakeholder network that was actively involved in development of and advocacy around the Kenya ICT policy. Cabinet approved the ICT policy on 12 January 2006 and government has already begun implementing aspects of the policy. Recently it has initiated and begun to implement a consumer awareness campaign.

3.6 The role of the media

Kenya's media rightly has a high reputation for its independence and outspokenness and this is reflected in some very effective campaigning coverage on consumer issues. However most of Kenya's media companies do not have a clear policy on consumer issues. They take the traditional view that they are interested in news and entertainment that either sells papers or gets listeners or viewers.

Events in the telecoms and Internet sector receive fairly well-informed coverage but this is largely confined to business reporting, either in the business pages of newspapers or in the business section of TV news.



Obviously stories about things like the privatisation of Telkom Kenya (which affects a lot of jobs and is a deeply political issue) and the sell-off of the Government share in Safaricom feature as main news items in all media.

The following media organisations have regular consumer coverage or columns responding to consumer complaints:

- Two newspapers stand out for their consumer coverage: The Standard with its “Face the Facts” column and “Interactive” pages and the Nation with its “Watchman” and “Consumer Write” columns. Both have covered issues such as disconnected phones and the difficulty of getting new lines.
- In the broadcast media, Radio Citizen’s “Wembe Wa Citizen” stands out among several radio programmes but on television there is only NTV’s “Consumer Watch”.

Examples of coverage in the period under review have included everything from policy concerns that affect consumers to pricing and provide an insight into topics of interest:

- Celtel blames the regulator for high mobile tariffs (The Standard, 8 March 2005)
- TESPOK complains about VOIP liberalization (The Standard, 11 July 2005).
- Delay in ICT reforms worries operators (The Financial Standard 12th June 2005).

3.7 Policy and legislative input

Until the recent involvement of policy network KICTANET in consumer issues, there has been little or no input from bodies whose primary responsibility is to represent the consumer. But KICATANET has been closely involved in the formulation of Kenya’s recently approved ICT policy.

TESPOK and CCOAK have argued forcefully (and on many occasions successfully) that greater competition would benefit the consumer.



4. COUNTRY CASE STUDY - SENEGAL

Box 7: How many consumers are involved?

Total population: 10.3 million (2003)

Mobile subscribers: 1.7 million (November 2005)

Fixed line subscribers: 275,000 (November 2005)

Operators: Sentel, Sonatel Internet subscribers (dial-up and other accounts): 20,000 (November 2005)

Internet users: 200,000

Cyber-cafes and telecentres: 22,000

Sources: *Osiris*

Senegal possesses one of the best telecommunications infrastructures in Africa. As a relatively compact country, there is mobile coverage for most of the population even in its rural areas. It is connected to two international fibre cables and has cross-border fibre connections to two of its three neighbours (Mali and Mauritania). Therefore in technical terms, it has been able to offer a range of services (for example piloting IP-TV) that might be considered unusual in most other African countries.

Following privatisation in 1997, the situation hardly changed since Sonatel retained a “de jure” monopoly on fixed lines, the international gateway and data traffic whilst also enjoying a “de facto” monopoly on mobile telephony. Furthermore, the fact that it retains its old name and the Government retains a third of its shares does not help citizens understand that things have changed and that this company is a company like any other. Moreover, many Senegalese, including those responsible for Government policy, continue to make the mistake of speaking about Sonatel as a national company, or more precisely as a public company, when it is a private company in which the Government is only a minority shareholder without the power to block management actions as its shareholding is only 27.62%.

It was not until the end of 1998, with the arrival of the second operator Sentel, that the telecoms landscape of telecoms evolved in any significant way, opening up the possibility of the citizen-consumer, capable of playing the competition between the two. Certainly there was a robust level of activity in the “value-added” services sector such as ISPs but the numbers involved were only in the thousands, numbers that were nowhere near as large as for fixed and mobile services.

Therefore the problem from the consumers’ point of view is the absence of choice in terms of service providers. The incumbent Sonatel controls around 80% of most of the key markets except for mobile where the second mobile operator Sentel is catching up with it. Although the bidding process for a third operator (with what is assumed will be an SNO-style, ‘vertical’ licence) is due to be announced, this is a relatively recent development and it will be some time before the full effects of competition and choice are felt by consumers. Also though there is an excellent infrastructure, it means that consumers do have many of the same price and service issues found elsewhere in Africa.

4.1 Legislative and self-regulatory frameworks?

Section II of the country’s Constitution deals with “Individual human rights, economic rights and collective rights”, the issue of consumer rights is only addressed in an indirect way and more from the point of view of the fundamental rights of citizens:

- Article 8 recognizes rights of association.
- Article 13 states that “The secrecy of correspondance, postal, telegraphic, telephonic and electronic is inviolable”.



In the “Code des telecommunications”, Section 1 treats consumer issues in a general way, identifying them most clearly in Article 33. It fixes the objectives of the re-organisation of the telecommunications sector as being:

- To equip the telecommunications sector with an effective and transparent legal framework that favours fair competition for the benefit of users of the network and services of telecommunications.
- To furnish a public service both to all parts of the country and to all social classes in the population and to do this from a perspective of economic and social development.

In section V which deals with the framework for setting up of the Senegalese regulator l’Agence de Régulation des Télécommunications (ART) article 44 stipulates that it is given particular responsibility for “investigating the complaints of consumer organisations and following up on their treatment by the operators of networks and services.” Article 55 also mentions that:” L’Agence de Régulation des Télécommunications can thus be authorised to deal with the demands of a professional organisation, an agreed association of users or anyone physically or morally concerned with sanctioning breaches that it notes on the part of the operators of the telecommunications networks and services.

Section V stipulates that l’Agence de Régulation des Télécommunications (ART) “is charged with investigating complaints from consumer organisations and following them up with network and service providers.” Article 55 also mentions that:” L’Agence de Régulation des Télécommunications can either take on its own authority, or at the request of an association recognised by users or a physical or moral individual, to sanction breaches that it has noted on the part of the network and service providers, in relation to the laws and regulations covering their activities or in relation decisions taken to ensure their implementation”.

The use of telecommunications networks and services is governed by a legal and regulatory environment defined by the Code des telecommunications that was adopted in December 2001 and recently modified in December 2005 to enlarge it to include the powers the regulator now has over the postal sector.

In commercial matters, it is the Minister of Commerce who is in overall control of all questions of interest to consumers. Among the Ministry’s objectives is ensuring:”the protection of the consumer” and “to promote the expansion of the consumer movement.” But for questions directly relating to Internet or telecoms services, it is the Ministère des Postes, des télécommunications et des NTIC and above all the regulator ART that are directly responsible.

The Senegalese Government made its own assessment of the quality and price of Internet and telecoms service in a recent analysis published in January 2005 as part of a letter on policy in the telecoms sector. In terms of quality of service, the diagnosis made was that there had been an improvement in the quality of service since the opening up of the 1800 Mhz band in the region of Dakar. With regard to availability and affordability of telecoms and Internet services, the Government drew up a critical “charge-sheet” which noted in evidence:

- Insufficient penetration of fixed and mobile telephony and the Internet, particularly in rural areas.
- Limited access to telecoms services in those layers of the population where there were low incomes, with a penetration of 10% or below, and thus limited access to “value-added” services like the Internet.
- Prices that were insufficiently low to respond to latent demand.
- The absence of effective regulation between the service providers and telecom operators.
- A monopoly which was only weakly regulated.
- Weak competition in the area of mobile telephony.
- A lack of transparency in the granting of licences and the attribution of frequencies.
- Insufficient investment for financing universal service.

Among the priorities Government has set for itself in the period 2005-2010 are the following:

- The growth of services offered and facilitating access to telecoms and information services to a much greater number of users, particularly in the rural areas;
- The improvement of the quality and range of services offered, encouraging innovation in services for satisfying the needs of all users (particularly companies and management);
- Improving the quality of service of calling for local and trunk calls completed. In 2003 this was respectively 68% and 58% rising to 80% and 70% in 2008;
- To share in a more equitable manner the value generated by the sector between the users, the producers and the Government with a view to optimising the growth of the sector and to encourage the development of better services at competitive prices.
- Optimising the use and management of scarce resources (frequencies and numbers).

The action plan also identifies the need for reinforcing and developing the capacity of the regulator, putting in place procedures for a dialogue between Government, the players in the market and consumer associations for the development of universal service and mechanisms that encourage access to telecoms services for people on low incomes.

4.2 Level and type of complaints

Both of the two main telephony operators expressed a willingness to provide information on the level of complaints each received but despite repeated efforts to obtain the information, none was forthcoming.

The main areas of complaints to the fixed operator were: the high price of the monthly subscription (FCFA43,900 in urban areas) and the high cost of local calls (FCFA60 for 2 mins).

The main areas of complaints to the mobile operators were: the high cost of mobile calling (on Tigo a minute costs FCFA120); network congestion; poor network coverage; and failed calls (both not completed and cut off).

The main areas of complaints to the ISPs were: the high cost of ADSL subscriptions; the high cost of leased lines, particularly in relation to their capacity; the frequency of “down-time” on leased lines; and the slow response times to fix leased line problems.

4.3 Processes in place to resolve complaints

In the absence of any response from the telecoms and Internet operators, it is impossible to know their official position on questions relating to consumers. Following the dispatch of the questionnaire used for the research to Sonatel’s public relations department, it responded immediately that it had forwarded the document to the right person and that he would respond in due course.

Several months later (and despite a reminder) we have not received a response which translates in reality into the fact that Sonatel has refused to collaborate. In the same way, Sentel, following receipt of the same questionnaire, agreed in principle to respond but again despite several reminders, has not filled in the questionnaire or responded in any way.

Therefore we have searched the web sites of both operators to see whether each has a particular approach in anticipating or dealing with complaints.

On the Sonatel web site under the link “General Public”, there exists another link titled “Espace Agence”. Through this link it is possible to contact customer services locally by clicking on the area of a map in which the customer lives. However it does not have a charter laying out rights and responsibilities in terms of quality of service for its customers. Under the link, “Infos Pratiques”, it provides a description of its different services but no information is given about the steps taken in the case of a problem or a dispute with Sonatel.



On the Sentel site, there is link called “Contact” accessible directly from the Home Page which opens a window that allows the user to send an e-mail to an address that starts “dc” and corresponds presumably with “Direction de la clientele” (customer services). However, as with Sonatel’s site, there is not a customer charter or examples of quality of service to be expected by consumers.

When we talked to Internet Service Providers (ISPs) about these issues, the most common reaction was to say that they also consider themselves as customers of Sonatel and that the source of most problems is generally the service provided to them by the incumbent Sonatel. But as with the web sites of the two telcos, the main ISPs do not have a customer charter or any content giving information on the procedure to be followed in case of complaint.

4.4 The role of the regulator

The notification of the Conseil de Régulation of ART on 17 December 2004, which the Director-General of ART signed on the 24th of that month, put in place two decisions fixing the procedure for the treatment of litigation and complaints by consumers.

The decision deals mainly with the procedures for disputes between network operators and service providers. But in relation to complaints from consumer organisations against network operators and service providers it foresees the implementation of a conciliation process in which the ART would help find a resolution on the condition that an attempt at agreed resolution between the parties by themselves had already been undertaken. In the case of the resolution procedure failing to produce a resolution, both parties can take their case to law.

As such, the ART does not have a specific policy towards individual consumers if they are not involved in the meetings held to discuss important policy issues in the sector. However during disputes over payments for SMS messages, ART played an important role in setting the rules for the dispute by organising a dialogue between the telecoms operators and consumer organisations.

In the same way, it helped to improve relations between the telecentre operators and the incumbent SONATEL. In working with the latter, ART has been able to produce specifications for telecentres in order to reduce what the telecentre association UNETTS sees as the “anarchic proliferation” of their numbers. This proliferation has led to a price war developing over the sale of telephone time to customers and this has undercut the margins of telecentres. In the ensuing price war, a number of telecentres had to close down. It was through this process that managers of telecentres were able to obtain from SONATEL a moratorium on new telecentres opening and demand that from that point onwards secondary activities (like the sale of goods) would be forbidden.

4.5 Consumer organisations and related bodies

The Senegalese consumer movement is relatively young. The first association - l’Association des consommateurs sénégalais (ASCOSÉN) - was only launched in 1989.

Since that date however, the consumer movement has grown considerably and there are no less than five separate consumer organisations:

- L’Association de défense des usagers de l’eau, de l’électricité, des télécommunications et des services (ADEETELS) was launched in 1990;
- L’Association pour la défense de l’environnement et des consommateurs (ADEC) ;
- L’Association sénégalaise pour la défense de l’environnement et des consommateurs (ASDEC);
- SOS Consommateurs ;
- L’Union nationale des consommateurs du Sénégal (UNCS).

To these six organisations, must be added the NGO Enda Tiers-Monde which has been a member of Consumers International since 1987 and is very involved in the defence of citizens' fundamental rights, notably in the area of access to drinking water and electricity.

In order to add greater weight to their activities, three of these organisations - ADEC, ADETELS and ASDEC - have come together under the umbrella of the Coordination nationale des associations de consommateurs (CONAC), which like Enda Tiers-Monde is a member of Consumer International.

Of all of these consumer associations, l'ASCOSÉN is the most largest with 28,000 members, 15,746 of whom have a membership card. It is the only association with its own web site Web (<http://www.ascosen.sn/>) and it publishes an online journal called "Le tri du consommateur". This provides a press review of items of interest to consumers and offers an online discussion forum. The latter has a dozen subject area headings, of which two are specifically dedicated to telecoms and the Internet. The summary of the messages under the heading covering the Internet can be summarised under four headings:

- Internet and e-mail scams;
- The supply of ADSL service by operators other than the Internet subsidiary of the incumbent telco;
- The price of ADSL;
- Service breakdowns of Sentoo (the internet subsidiary of the incumbent).

Under the heading "Le téléphone au Sénégal" there are three major themes:

- A petition against Sonatel's mobile subsidiary;
- Telecentres;
- Discussion about the incumbent Sonatel.

These forums are not particularly active since there were only a total of 24 contributions when we visited but these were read by 679 people up to 28 June 2005.

To overcome the difficulties of communicating with potential audiences, another of the consumer organisations UNCS took the decision to affiliate with the Confédération des syndicats autonomes (CSA) in order to help get its message across.

In addition to these consumer associations, there are a number of civil society organisations that participate regularly in consumer issues in the telecoms and Internet fields such as ISOC-Sénégal, the Senegalese chapter of the Internet Society and l'Observatoire sur les systèmes d'informations, les réseaux et les inforoutes au Sénégal (Osiris).

There are also a number of organisations which touch on consumer issues but are really more professional associations than consumer organisations. But since their members use telecoms and Internet services a great deal, they have an important role to play in raising certain issues:

- L'Organisation des professionnels des technologies de l'information et de la communication (OPTIC) created in 2003 which is a member of the Conseil national du patronat (CNP);
- La Senegalese Information Technology Association (SITSA) also started in 2003 ;
- L'Union nationale des exploitants de télécentres et de téléservices du Sénégal (UNETTS);
- Le Forum des cybercentres du Sénégal (FOCYS) launched in 2004.

These different associations correspond to different sectors found in the ICT sector in Senegal. Thus OPTIC brings together SMEs specialising in the sale of products and above all services in computing. SITSA is in the same sector but brings together companies which refused to be in OPTIC like Sonatel. UNETTS for its part has as its members all those who operate telecentres, whilst FOCYS has as its members those who



operate cyber-cafes. However with the exception of UNETTS and FOCYS which have memberships in the hundreds, the other associations have only a small number of members from their respective sub-sectors which diminishes their capacity to negotiate with Government or telecoms operators of which their members are customers.

Outside of consumer organisations or professional organisations, individuals or ad hoc coalitions have from time to time raised problems associated with telecoms or Internet service.

Box 8: The early days of consumer action in the internet sector

From the launch of the Internet in 1996 to November 2002, Michel Mavros, the owner of Métissacana cyber-café and an ISP of the same name led a fierce battle against the rates charged by Sonatel for leased lines.

In March 2001 Métissacana scored another first by launching an online petition in Senegal, which was signed by nearly 2650 people, demanding the lowering of prices of leased lines. It demanded that these prices be aligned with those charged by France Télécom and denounced the way Sonatel treated independent ISPs. However this campaign had relatively little impact because it was never carried out in the name of all ISPs. And to this day, there is no association of ISPs as there is for example in Mali with the l'Association des fournisseurs d'accès Internet du Mali (AFIM).

There also existed the Collectif des Opérateurs Privés de Terminaison d'Appels (COPTA) which came about when Sonatel decided to "do business" with a set of "grey market" VoIP operators. Formed in November 2002, it disappeared because the activity was no longer profitable under the tariff and terms of payment imposed by Sonatel.

Essentially the demands of the Senegalese consumer movement are mainly concerned with the price of essential products like rice, oil, sugar, vegetables and bread rather than basic services like water, electricity and telephone. Generally consumer campaigns take the form of protests in the press or on FM radio stations. On rare occasions demonstrations are organised but when they are, they are generally poorly attended. Even more infrequently product or service boycotts are organised but again when there are, they are not widely observed.

Therefore the consumer movement is not really anchored in the wider population and remains a rather elitist movement in the sense that it is hardly able to mobilise the more well-off who are those most likely to be aware of consumer rights.

Over the last few years, the large mobilizations have been around protesting over the privatisation of public services like electricity, telephone and water as well as repeated power failures in Dakar and the service breakdowns of the mobile operators.

When telecommunications was a sector managed by the Government (Sonatel stands for Société nationale des télécommunications du Sénégal) which had a monopoly over all telecommunications services, it was the citizen that existed rather than the consumer. In effect, all the grievances that were being expressed were directed against the Government and more precisely against the political regime that was responsible for its direction. Questions of price, quality of service, the length of the waiting list to obtain a phone and national phone coverage were treated as essentially political questions.

The first and most important consumer movement addressing questions about the use of Internet and telecommunications services took place in 2002. It was ignited by Sonatel Mobiles' unilateral decision to charge FCFA65 per SMS, a service which had previously been free since 1998. A vast protest movement was launched by young people, the main users of this means of communication.

Demonstrations were organised in Saint-Louis in front of l'Université Gaston Berger and on one occasion the student protestors stopped traffic on 'route nationale n° 2', one of the main transport arteries of the country, serving the Fleuve region. As a result one of the consumer organisations, UNCS created a 'mobile commission' to look at the issue and an Internet discussion forum was launched on the subject.

The regulator ART which had only just been put in place in January 2002 made its first public appearance in organising a conciliation initiative between on the one hand, the two mobile operators (Sonatel Mobiles and Sentel) and on the other, the consumer associations (ASCOSÉN, ADEETELS, UNCS, ASDEC et SOS consommateur). Finally, the dispute was resolved in November 2002 with the agreement that SMS would remain a “pay-for” service but that its price would be reduced to FCFA48 per message in peak hours and to FCFA30 for those using the Diamono Jeunes pre-paid card.

2002 was also an eventful year as in August of that year, l'Association pour la Défense des usagers de l'eau, de l'électricité, des télécommunications et de services (ADEETELS), held a press conference to denounce Sonatel's behaviour on a wide range of issues including:

- The non-repayment of the interest from customer deposits in the bank as is customary in the USA and Canada;
- The high cost of getting a phone line re-instated after it had been cut off for non-payment of a bill;
- The high cost of leased lines;
- The lack of transparency of tariffs in general and in particular with the amount of basic tax levied.

As Sonatel did not (and still does not) have a corporate culture of dialogue with its consumer critics, these criticisms went unanswered.

In June 2003, UNETTS launched a campaign aimed at getting ART to draft regulations to cover the supply and specification of services for telecentres. Following the success of this campaign, Sonatel ceased to apply its own rule which imposed a minimum distance between telecentres in much the same as exists between pharmacies.

As a result, the number of telecentres grew very rapidly in all urban areas, bringing about high levels of competition and an ensuing price war. For a long time previously telecentres had marked up the unit they bought for FCFA50 to FCFA100 for consumers. As a result of the price war, the unit price to the consumer fell to FCFA90 in some places and then went all the way down to FCFA65. As a result, a number of telecentres ceased to be profitable and went out of business.

In August 2003, there was a new and not wholly welcome development with a unilateral decision by Sonatel to go over from bi-monthly to monthly billing for companies. In the absence of any organised response from its telecentre customers, the only noise raised against the move was an article in the newspaper Wal Fadjri, bemoaning the rather cavalier means of its introduction!

At the beginning of 2005, a major loss of service on the network of Sonatel Mobiles, the mobile subsidiary of the incumbent, let loose another important protest movement by consumers and their associations. Alizé (the brand of Sonatel Mobiles) had launched a pre-paid customer offer that doubled the amount of credit they bought. Thus a customer who bought pre-paid credit to the value of FCFA5,000 was entitled to credit to the sum of FCFA10,000. This led to a rush to purchase Diamono pre-paid cards, leading to a steep rise in recharges and more importantly an increase in the volume of communications that caused network congestion for 2-3 days. Exasperated, consumers rang FM radio stations to complain, wrote articles to newspapers and were all ears when the consumer organisations denounced what they described as a failure to meet the contract for services between user and supplier and demanded compensation.

Sonatel's only response was to say that it was not going to compensate its customers and laid the blame for the mess at the feet of the customers who had all chosen to use their phones at the same time. But it is difficult to see how phone users could programme the time they used the phone to avoid this!

ART, which might reasonably be expected to come to the defense of these consumers, in accordance with its mandate, contented itself with calling Sonatel to order, calling on it to address the problem and to ensure that the circumstances were not repeated.

A short time afterwards, at the presentation of the sectoral policy by the Minister of Post, Telecoms and



ICT, the President of ASCOSEN Momar Ndao gave an interview to the newspaper *Le Quotidien* calling for the Government to listen to the voice of the consumer. He demanded a lowering of mobile tariff and the extension of ADSL coverage but above all increasing competition that would see consumers benefit from lower prices and better service.

In the same interview, he asked that ART's powers be strengthened so that it could become "a tribunal for consumers". He also said that the new licensee announced by the Government should provide a precise rate card of charges and that he was against the total disengagement of the Government from its shareholding in the incumbent Sonatel.

In March 2005, during the major religious festival of Magal, with several million of the faithful gathered in the town of Touba, Alizé again experienced network congestion, although for a much shorter period than in January 2005, lasting only several hours. A new round of protests broke out and in the face of hostile briefing by anonymous government spokespersons, Sonatel this time expressed its regrets and indicated that the Government and ART would receive a detailed report on the situation. ART did not immediately make its position clear on these incidents but several weeks later, in the margins of an international conference organised in Dakar on the theme "Telecommunications as the infrastructure of development", its Director-General announced a campaign aimed at measuring the quality of service of the mobile operators and expressing the intention that it would propose to the Government "to reinforce the obligations written into the Terms and Conditions (of its licence) in terms of service and force the operators to scrupulously abide by these obligations."

Finally in December 2005 UNCS called a press conference to criticise the lack of ADSL access in certain parts of the country.

Overall the protests of Senegalese consumer associations and individual consumers themselves have been focused principally on the following four themes:

- Water-supply cut-offs;
- Cut-off of electricity supply (blackouts, etc)
- Loss of service on the mobile network
- The cost of communications.

In a less visible manner but also as frequently, there have been protests from professional users of telecoms and Internet services (including cyber-cafes, telecentres, SMEs, professional organisations that have complained about:

- The high cost of services.
- Bad quality performance of services.
- The speed with which maintenance calls for service breakdown are attended.
- The unilateral decisions made by the incumbent.
- The fact that the legal and regulatory environment forbids innovative solutions (VoIP, Wi-Fi, etc).

The work of UNETTS is particularly interesting because it brings together individuals who are both providers and consumers of a service. Telecentres provide essential service giving access to telephony and the Internet to consumers whilst at the same time being dependent as customers on the telecoms operators and in particular Sonatel for accessing the fixed network for Internet services.

The 22,000 telecentre lines play an important role in generating FCFA55 billion worth of turnover a year for Sonatel. Each year UNETTS receives around 30 complaints a year from consumers who clearly see it as an association that defends consumer rights. This is because it often protests against the bad quality service provided by Sonatel (maintenance delays in case of breakdowns, bad quality voice service, defective cov-

erage, etc) and increases in price. That said, the majority of complaints from their members (about 100 a year) and are principally concerned with:

- Certain telecentres not respecting the terms and conditions laid down by Sonatel.
- The changing of telecentres into shops which allows them to lower their costs and to compete in a way that is judged to be “disloyal” by “real” telecentres.
- Breakdowns on the telephone network and delays in re-establishing the connection which can last up to 15 days which means providers incur heavy losses.
- Problems with defective Digital Net meters used by telecentres having a connection via the GSM operators.

Among this hundred complaints from members, about thirty originate with women who are often to be found as providers of telecentres, either as managers or owners.

The task of UNETTS is difficult because it does not have a great deal of resources. It has an office with a dozen employees but the main part of the work falls on the shoulders of the President and Secretary of the Association. No member of the association has ever been elected to the National Assembly and it does not have any representation on the Conseil de la République pour les Affaires économiques et Sociales (CRAES).

Considering the complexity of the problems facing it, the members of UNETTS are conscious that they need more expertise, notably in the legal field but also in the technical area. The latter is needed in order to be able to better appreciate the problems that their members face and to discuss responses and proposals to the incumbent. It would like to have the means to make its voice heard in the formulation of national policy but equally in international forums. However in reality when UNETTS is faced with complex problems, it calls on national experts with either legal or technical expertise to get its point of view across.

Overall UNETTS thinks, as do a number of the key players, that rights of Senegalese consumers are not well respected. Tariffs are high, consumer associations are not consulted about the level of prices, and there is little information targeted at consumers explaining the realities of telecoms and Internet services. In order to overcome this lack of information UNETTS has taken the initiative in collaboration with the radio station Dunya FM which goes out across the country on 32 frequencies to put out a weekly programme entitled “Listening to telecentres” which goes out on Saturday between 16-17 hours. In this setting, it invited ART to talk about questions of regulation.

However UNETTS deplores the big divisions that exist between the many consumer associations and their lack of the knowledge needed to respond to questions around ICT issues. Having said that, UNETTS regularly provides them with briefing documents on certain questions in order to increase their ability to defend consumer rights.

If UNETTS has a problem with the incumbent the following steps are taken: a letter is sent explaining the problem which generally leads to a meeting with the person in charge of telecentres. If UNETTS does not get a satisfactory result from this meeting, then it engages in a media campaign on the radio and in printed media.

At present, civil society organisations such as ISOC-Sénégal and OSIRIS frequently become the relay point for user protests around issues of price and quality of service and for the improvement of infrastructure and of the legal and regulatory framework. They lobby through interventions targeted at the media or in certain circles whereas wider consumer protest targets the general public.

At present, the activities of the Senegalese consumer movement focused on telecoms and Internet services are very limited. But in a country where the consumer movement started only very recently, where its efforts are fragmented between half a dozen different organisations, where its ideas have barely been introduced to the population at large and where less than 10% of the population are telephone subscribers, this is easily understandable.



4.6 The role of the media

Our interviews with different media (newspapers, radio and television) show that questions linked to the consumer movement are judged important by all forms of media but that they are not the object of special treatment by any of them. No Senegalese newspaper has a column dedicated to these questions and there are no journalists that focus specifically on these kinds of questions. As a general rule, they are covered on the inside pages under the heading Economy, particularly in *Le Soleil*, *Sud Quotidien*, *Le Quotidien* and *Wal Fadjri*.

With regard to radio, the situation is identical at both the public broadcaster RTS and the private radio stations *Sud FM* and *Walf FM* which respectively belong to the *Groupe Sud* communications group which also publishes *Sud Quotidien* and to *Groupe Wal Fadjri* which publishes the newspaper of the same name. Finally the national television broadcaster has no coverage devoted to consumer questions.

Returning to print media, *Le Soleil* has had in the past a column called “Echos des marches” and it published (often a day or more later) the price of meat, fish, fruit and vegetables in the larger markets in Dakar. Today with the interesting problems posed by the consumer movement, the approach is to ask questions or give a quote from the consumer association rather than have a journalist who specialises in these issues. This attitude is justified in part by the fact that *Le Soleil* receives very few letters of protest from consumers.

The reason for this may lie in its status as a national newspaper and therefore perceived as being in the service of Government, and thus not the best way to relay protests or complaints of this kind. However the newspaper considers the question of the defense of consumer rights important and it tries to publish the problems raised by the fact that consumers are badly defended and relatively lacking in power in the face of providers of products and services of all types, not just telephony and the Internet.

In the absence of law and other mechanisms that might really allow consumers a means of recourse, *Le Soleil* believes that it has an important role to play in this field. That said, the newspaper does not really have an editorial policy for reporting them and the decision to cover this or that issue is taken on a “one-by-one” basis.

By contrast, the newspaper *Sud Quotidien* receives close to a hundred complaint letters a year covering all types of products and services and about 10% of these are related to telecoms and Internet services. In terms of editorial line however, the editorial staff tend to see the issues in terms of citizens’ rights and the “national interest” rather than consumer rights.

In terms of the printed media aimed at a wider readership, the general editorial line translates into an attitude of caution, being mistrustful of anyone who appears to be a source of opposition. For this reason, consumer protests are rarely covered in the columns of the printed press, on the radio airwaves or in television broadcasts. But privately-owned media are more attentive to the complaints of consumers but the declarations of principle on the importance accorded to these questions are still a long way from translating in practical terms to the place given to consumerism in different media.

4.7 Policy and legislative input

The telecentres association UNETTS is regularly consulted by Government and the regulator when they are drafting documents covering the telecoms sector. It also has regular contacts with the operators and the Government frequently sends its delegations of visitors to Senegal that are also seeing telecom operators and Government representatives. Also UNETTS has signed an MOU with ART that allows it to have a level of financial and logistical support.

However when it fixes telecommunications tariffs, neither UNETTS nor the other other consumer associations are consulted about the price levels. Therefore in a general way, UNETTS’ views are heard and seen as credible but when it comes to implementation, their submissions are consigned to the bottom drawer.

In July 2004, following a decision by the Government to completely liberalise the sector, ART invited a range of organisations to a consultation meeting including: the principal consumer organisations (ASCOSÉN,



ADEETELS, UNCS, SOS Consommateurs et UNETTS), the professional organisations (OPTIC and SITSa) and civil society organisations such as OSIRIS were invited. But although they were able to get their points of view heard at this meeting, this was not a great achievement as there were no conclusions from the day other than a consensus on a liberalised future for the sector.



5. COUNTRY CASE STUDY – SOUTH AFRICA

Box 9: How many consumers are involved?

Total population: 46,888,200 (31 May 2005)

Mobile subscribers: 23,139,000 (2005)

Fixed line subscribers: 4,726,000 (31 March 2005)

Mobile operators: Cell-C, MTN and Vodacom

Fixed operators: Telkom and the SNO in mid-2006

Dial-up subscribers: 1,080,000 (31 December 2005)

Broadband subscribers: 165,290 (31 December 2005)

Internet users (dial-up and broadband): 3,608,932 (31 December 2005)

Sources: *South African Government, Telkom and mobile operator annual reports, World Wide Worx*

South Africa's fixed line communications is dominated by the de facto monopoly of the incumbent Telkom. Although its monopoly formally ended in 2002, a second network operator only received its licence in December 2005 and is not expected to serve customers before mid-2006.

Having experienced dramatic levels of growth in recent years, the mobile market in South Africa is substantially larger than that for fixed line services. There are three providers of mobile communications services operating in the South African market as at the end of 2005, two of which have been in operation since 1993 (Vodacom and MTN), with the third (Cell C) having been in operation since 2001. Vodacom and MTN have the largest market shares of 55% and 25% respectively, leaving Cell C a relatively distant third at 10%. However, the official subscriber numbers given above may overstate overall customer numbers of as there is a high level of turnover in the pre-paid sector, which forms the majority of subscribers for each of the three operators.

South Africa is the largest Internet market on the continent, although as elsewhere it has far fewer users than those for voice services. Of the estimated total subscribers shown above, the majority are corporate users (52%), with a further 30% being dial-up subscribers. The sector is serviced by an estimated 355 Internet service or access providers, the majority of which are "corporate ISPs".

The actual number of consumers exceeds the number of subscribers by a considerable margin (estimates range from double upwards) due to the sharing of accounts by both domestic and business users.

Finally, there is likely to be a considerable overlap between the three groups of consumers identified above (fixed telephony, mobile telephony, Internet). For example, a significant proportion of Internet users (100% in the case of dial-up and ADSL users) will also be fixed-line telephony customers. Although there are no recent figures, in 2001 Statistics South Africa reported that nearly 60% of fixed-line telephony users also had mobile telephony access.

5.1 Legislative and self-regulatory frameworks

In contrast to the other two country case studies, South Africa is covered by a considerable body of law: some parts of which are very general and other parts are highly specific. There are also a range of regulatory and self-regulatory structures and frameworks created by this complex legal framework.

The foundation of the South African legislative and regulatory regime is the national constitution. South Africa has a constitution with an entrenched Bill of Rights providing an extensive range of protections but without the inclusion of any special protections for consumers.

There are several current pieces of legislation that have some bearing on South African consumer issues: the Consumer Affairs (Unfair Business Practices) Act; provincial consumer law; the Competition Act; telecoms law; the existing ECT Act and the Regulation of Interception of Communications and Provision of Communication-Related Information Act. Two further forthcoming pieces of law will further transform the consumer framework: the Electronic Communications Bill and the Consumer Act.

The **Consumer Affairs (Unfair Business Practices) Act** covers business practices in all sectors of the economy. It establishes the powers and functions of a Consumer Affairs Committee (CAFCOM) to prohibit and control any “unfair business practice”, including those “unreasonably prejudicing” or “deceiving” or “unfairly affecting” any consumer. CAFCOM enjoys wide investigative powers, of both an informal and formal nature, dealing with a specific unfair practice or more generalised classes of practice, with the authority to impose formal orders with legal force.

The law has been described as “enabling rather than prescriptive”³⁰ as it focuses on the structure, functions and powers of the committee, enabling the establishment of an unfolding body of precedent within broad general principles³¹. The dti sees its role as being to “balance the interests of consumers with (its) mission to promote business”.

South Africa’s Constitution makes consumer protection a matter for concurrent national and provincial jurisdictions. In consequence, each of South Africa’s nine provinces has enacted consumer protection legislation allowing for the appointment of a consumer protector and the establishment of a Consumer Court. The dti concedes that this overlapping of functions has created difficulties in the past - “some duplication and divergent approaches” -but points out that joint committees and new agreements are now paving the way for a more harmonised approach.

Although the **Competition Act** does include consumer protection as part of its rationale, there is little that provides specific direct protection. The Act identifies the need “to provide consumers with competitive prices and product choices” and lists a range of prohibited practices relating to horizontal and vertical integration, and abuse of dominance, which includes “charg[ing] an excessive price to the detriment of consumers”.

The act also deals with mergers and acquisitions, but undoubtedly its primary impact has been through the establishment of a Competition Commission, Competition Tribunal, and a Competition Appeal Court. However, none of these structures provide a ready channel for complaints from individual consumers. Most of the issues it has dealt with have been complaints of “antin-competitive behaviour” from one company against another³². They are functions, nonetheless, that impact indirectly on consumers in terms of choice and pricing of goods and services in a competitive environment.

South Africa’s current **telecommunications legislation** does contain a few provisions of benefit to consumers. Its objects include promoting the “development of telecommunication services which are responsive to the needs of users and consumers” and “protect[ing] the interests of telecommunications users and consumers”. However, it contains little further that is specific beyond empowering the sector regulator to “make regulations to ensure efficient and effective monitoring and investigation of uncompetitive actions, ensuring protection of consumer interests and for the speedy resolutions of complaints”. From these aspirations have come the Consumer Protection section at ICASA that is described below along with Codes of Practice imposed through licensing.

Legislation protecting consumers in relation to the Internet is of rather more recent lineage. Two separate pieces of legislation were passed in 2002.

The first of these, the ECT Act, lists consumer protection amongst its objects. It seeks to create a “secure and effective environment for the consumer... to conduct and use electronic transactions” and seeks to ensure the development of “electronic transactions services that are responsive to the needs of users and consumers”.

The act also has an entire chapter devoted to consumer protection in relation to all “electronic transactions” although these are not specifically defined. These protections include requirements to provide



extensive details about the supplier and the transaction, to ensure secure online payment facilities and to give the customer a final opportunity to review and cancel the transaction, as well as a 'cooling off' period during which the transactions may be cancelled in certain cases.

The ECT Act provides the framework for the appointment of the dti's Consumer Affairs Committee, rather than the sector regulator, as the channel through which consumer complaints relating to electronic transactions are to be directed.

The ECT Act also provides extensively for the protection of personal information obtained through electronic transactions and empowers the Domain Name Authority that it establishes as the body responsible for all .za domains, to regulate to protect consumers.

The act further provides for the recognition by the Minister of an Industry Representative Body to develop and implement a code of conduct, which limits the liability of Internet Service Providers in respect of a range of transgressions enabled by their online infrastructure. This code is discussed in more detail below.

The second piece of legislation to emerge from the e-commerce policy process has the cumbersome title of Regulation of Interception of Communications and Provision of Communication-Related Information Act³³. Although it starts with a general prohibition on the intentional interception of electronic communications, its general import is to provide for and control the conditions under which lawful interception of communications may take place. Despite imposing considerable burdens on ISPs, it is unlikely to have much direct impact on the average (lawful) consumer, apart from the obligation that full personal details must be provided in respect of anyone acquiring a mobile phone or SIM card, and making it an offence for any to fail to report the "loss, theft or destruction" of a phone or SIM card.

There are a number of forthcoming pieces of legislation that are likely to change the country's legal framework. For example, the Electronic Communications Bill, expected to become law early in 2006, has an entire chapter dealing with "Consumer Issues". This chapter requires the sector regulator to "establish a consumer advisory panel" and to "prescribe regulations setting out a code of conduct for licensees" as well as a "code on people with disabilities".

The regulator is also required to "prescribe regulations setting out the minimum standards for and [sic] end-user and subscriber service charters", including requirements in respect of pricing and services, billing, privacy, and complaints procedures. Elsewhere in the same bill the regulator is also given the option of including certain consumer protection provisions in licences for the "protection of the interests of the subscribers and end-users". Licences may therefore include provisions requiring operators to provide customers with information about their rights, the services and tariffs available to them, and to adhere to certain complaints procedures and standards, as well as "any other matter the Authority determines to be necessary in order to achieve the effective protection subscribers [sic]".

It is likely to be signed into law alongside another bill amending the powers of the regulator. This bill will establish a "Complaints and Compliance Committee", whose functions will exist largely in relation to transgressions of licence conditions by operators, but do potentially extend to protecting consumers in respect of any "breach by a licensee of an agreement between such licensee and its subscribers".

Broader consumer legislation changes are also due. A consumer policy green paper was published in September 2004, with legislation likely to follow towards the end of 2006. The Draft Green Paper seeks a balance between the need to promote economic performance through stimulating markets, and the need to provide protections for consumers. It argues for a "single, comprehensive consumer law" and the establishment of a "national consumer commission" and "consumer tribunal" (along the lines of the Competition Act). The national consumer commission is envisaged as a body "effectively [to] champion consumer protection", inter alia, through the establishment of a national "help line", promoting "awareness and education" and undertaking "research and advocacy". The proposed consumer tribunal, on the other hand, is viewed as a structure for the resolution of complaints and the enforcement of penalties. The bill currently being drafted, is viewed as "prescriptive rather than enabling" with detailed sector-specific sections, including one on telecommunications and the Internet

From the above, it is clear that South African consumers enjoy a relatively wide range of protections under the law. With the additional legislation in the pipeline, these protections are likely to be further strengthened. However, it is a legislative framework that is complex, and which creates a wide range of structures at different levels and with different competencies and powers. It is hardly surprising therefore that a national consumer survey conducted by the dti in 2003 on a representative sample, found that the majority of South Africans (55%) were unable to mention spontaneously a single consumer right and that 79% were unable to spontaneously think of a single consumer rights organisation.

A number of **codes of conduct and practice** exist in relation to the legislation outlined above or as industry initiatives. The licences of all the fixed and mobile operators provide for the establishment of what are variously referred to as a “code of practice for consumer affairs” or a “customer service code of conduct”, with differing degrees of regulatory oversight ranging from “consultation” to “approval”. The requirements of such codes are also specified in differing degrees of detail: all of them are required to cover complaints and disputes, but some also include billing issues and service procedures.

The licence of incumbent fixed line operator Telkom, for example, requires the publication of a “Code of Practice for Consumer Affairs” giving “guidance” to customers about complaints. This code is published in each of Telkom’s telephone directories but not on its web site. It covers issues such as paying one’s account, protection of privacy, information about pricing, special needs customers and how to complain.

Similar codes of conduct are also available on the web sites of mobile operators Cell C and Vodacom. Both codes are primarily focused on the services offered to subscribers and how to access these, but also include contact information and complaint procedures. Whilst they both cover similar ground, each code bears the distinctive stamp of the branding of the respective operators. One assumes that MTN, which declined to participate in this research, has a similar code of conduct, but it is not available on their web site.

South Africa’s Internet Service Providers Association (ISPA), which claims a membership of 103 ISPs, has developed a self-regulatory code of conduct, largely in response to those provisions of the ECT Act that makes ISPs liable for the content they provide. This code is mandatory on all members, who are also required to reflect it on their own web sites. It also features prominently on the ISPA web site, which, in addition, provides online facilities for the registering of complaints in terms of the code. The 14 clauses in the code govern complaints procedures, consumer privacy, protection from spam, from unlawful content and activity, and from access by minors to adult content

Likewise the Wireless Application Service Providers’ Association (WASPA), which brings together the various companies providing content such as downloadable ringtones and adult text messaging content, has developed a code of conduct in response to the provisions of the ECT ACT. This code is described as “representing the interests of [both WASPA’s] members and consumers” was formally adopted by WASPA 30 June 2005 . The impetus behind the code was at least partly the large number of complaints received by mobile operators about minors having access to “pornographic” mobile content.

The codes of conduct and good practice described above, taken together with the wide variety of legislated consumer protection provisions described earlier create a complex environment with a plethora of channels for the aggrieved consumer to seek redress. Arguably this is likely to create considerable confusion, especially amongst less literate or articulate consumers about how to pursue consumer complaints,³⁴ and may account for the low awareness of consumer rights organisations found in the research of the dti .

5.2 Level and type of complaints

Cell C considers this information highly “confidential” and “strategic”³⁵ . It conducts strategic analysis of complaints and this work is supported by commissioned, externally-conducted customer service and satisfaction surveys³⁶.

MTN: The second largest mobile operator, declined to participate in this research project. Therefore again there is no information available on the level or type of complaints the company receives.

Telkom undertakes comprehensive tracking of consumer complaints (an “extensive breakdown of who com-



plaints about what”³⁷), analyses this in detail at weekly meetings, and uses it to strategic effect. However, the data is regarded as “highly confidential... competitive information”³⁸.

Vodacom receives large numbers of calls daily to its Customer Care Line, most of which are dealt with on a self-help basis via interactive voice response technology³⁹, with only a small percentage comprising genuine complaints. As the highest proportion of these complainants come from the post-paid market, it seems clear that the more well-off are likely to complain more.

In some cases the resolution of customer complaints by operators is dictated by the need to strike a balance between retaining customer goodwill and going into a protracted, resource-intensive dispute based on the actual merits of the case.

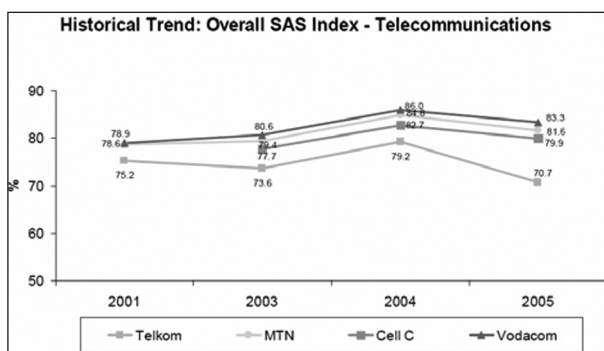
Complaints data has proved hard to obtain as operators in all companies interviewed view this as confidential commercial data that would be of advantage to their competitors. Also neither law nor regulation compels the operators to publish this data.

Where data exists, it is at best partial but it does at least give a visible tip to the iceberg below the surface. A consumer site like helloworld.com does give some insight into levels of customer complaints and consumer satisfaction. But being a web site, it is accessible to only a small percentage of consumers. There is also some data on complaints from the sector regulator, ICASA, but the number suggests only a very small percentage of complaints follow this route, far fewer, for example, than the number logged via helloworld.com. ICASA itself seems to lack any capacity to analyse the data at hand.

It is therefore impossible to give any accurate or statistically generalisable picture of what percentage of consumers is complaining, what the central complaint issues are, and whether different providers or different sectors provide differing levels of customer service.

In the absence of such data, an examination of the converse -consumer satisfaction -may provide some insight. The South African Satisfaction Index survey conducted on behalf of the dti by market research multinational Synovate⁴⁰. Based on telephone interviews with a sample of approximately 400 customers of each of the telecommunications operators, the survey aims to derive a “consumer-driven, objective and neutral measure of competitiveness” based on “27 critical drivers of customer satisfaction”⁴¹.

It ranks Vodacom as the top-performing telecoms provider (“56,2% of their customers rated Vodacom as Excellent”⁴²), with Telkom consistently ranked worst.



Synovate notes that sector reflects high levels of customer satisfaction, partly because “expectations within the telecommunication industry were the lowest of the industries / sectors measured”⁴³.

Noting an overall sector-wide decline in the level of customer satisfaction between 2004 and 2005, Synovate suggests “the primary culprit is dissatisfaction with the costs associated with the telecommunications”⁴⁴. Other causes of decreased customer satisfaction cited by Synovate include:

deteriorating satisfaction with the staff customers have to deal with; declining satisfaction with the amount of “time taken from signing a contract to being able to make the first call”; and a low “proportion of delighted customers” around issues of “network reliability” and the “ability to use a phone anywhere”⁴⁵.

ICASA’s 2004/5 outreach programme revealed the following areas of complaint: the absence of Public Pay Phones and Community Service Phones; delays in installation of telephone services; the absence of signal distribution and television services; and the absence of network services for mobile telephones⁴⁶.

Cell-C type of complaints: Cell C finds that the majority of complaints come from its literate, comparatively well-resourced post-paid subscribers rather than from its prepaid customers⁴⁷. They claim that they prefer to “deal with” complaints rather than placate customers with an account credit⁴⁸.



They are reluctant to be drawn on trends in the substance of customer complaints, agreeing with Vodacom, that a number of complaints relate to handsets rather than to their mobile service⁴⁹. They have also received complaints in some areas relating to roaming problems on Vodacom's network⁵⁰. There was an issue with customer billing but the company says that this has now been fixed,

Telkom type of complaints: The main complaints to Telkom include: the requirement for customer deposits before receiving services; delays in the installation of services; the refusal to provide services in certain areas; the failure of technicians to make or keep service appointments; challenges to billing (“I never made that call”); and poor treatment by call centre staff. Customers complain most about a lack of feedback on their original complaint and the failure to provide regular updates and credible information.

Telkom accepts that the public arguments over pricing have had an impact. A combination of pressures including competition and government and regulatory pressures led to a reduction of prices but consumer activism also played its part.

Vodacom type of complaints: The majority of complaints that are hard to resolve relate to lack of knowledge about the contracts individual consumers have entered into. The implications of the subscriber contract -particularly over the length of contract the consumer has signed up to - are not always appreciated.

Another source of complaints is a failure to “understand the complexity of the mobile environment”, where the distinction between the service provider (Vodacom) and the manufacturer of the consumer's handset is blurred”. Because customers buy the handset from a Vodacom outlet, together with a contract or prepaid starter pack, they tend to blame Vodacom for any problems with the handset.

In addition to monitoring its customer services traffic, Vodacom commissions an “extensive and detailed” customer satisfaction survey on a quarterly basis that is used to determine company strategy. Unfortunately the findings of this survey are considered to be highly confidential. Vodacom does not believe that there ought to be an obligation on operators to publish complaints data.

5.3 Processes in place to resolve complaints

All the major telecommunications and Internet service providers provide customer help lines to call centre staff to deal with consumer issues, queries and complaints. On the company web sites most can be found via a home page “Contact us” link. In addition, the major operators such as Telkom, Vodacom, MTN, Cell-C and M-Web provide online forms for customer interaction, and the mobile operators publicise their call centre short code numbers (084-140 for Cell-C, 083-173 in the case of MTN, and, less prominently, 082-111 for Vodacom) on their web sites.

Cell C: It claims a good track record, citing awards for “best customer service” in 2001 and 2002, and a call centre award in 2003, citing discussions with disabled associations regarding improved services⁵⁰ to that constituency, and pointing out they were the first mobile operator to blacklist stolen handsets⁵¹.

Like the other operators, Cell C runs a substantial customer service call centre on 084 140 with agents centred in Johannesburg, Durban and Cape Town. They note that nuisance calls are a significant problem, citing a rate of 25% of “prank calls” and a further 25% for “error calls”⁵¹. Similar rates of up to 60% “hoax or abuse” calls are claimed for the standard emergency service number, 112⁵².

Although the primary role of the call centre is the provision of customer services, for which an upgrade to the interactive voice response system is currently⁵³ planned to improve the level of “self-service”, it is also the primary channel for customer complaints⁵⁴. According to Cell C, when complaints are logged, they are “usually solved during the first call”⁵⁴, although escalation procedures through the call centre supervisor up to the Head of Customer Services are available. As with the other operators, data on customer complaints is extensively analysed, and reported on in detail at the level of Executive Committee, where it is used to inform “customer strategy”⁵⁵.

MTN: It declined to participate in this research project. There is, therefore, no information available on how they interface with and respond to consumer issues and complaints.



Telkom: Like the other telephony service providers, the fixed-line incumbent Telkom has a substantial customer services function. Not only does it operate a number of call centres, but it has a number of senior staff whose core functions relate to the escalation of customer complaints, as well as the provision of an interface between Telkom and both the dti's Consumer Affairs Committee and ICASA's Consumer Protection Unit. Therefore the existence of its National Customer Care Centre devoted to "fault handling" suggests that it does take this role very seriously.

For complaints that cannot be resolved immediately on contact, there is an escalation procedure: from call centre agent to supervisor to manager to National Customer Care. At the national level, much of the work involves responding to complaints raised through ICASA's Consumer Protection Unit, or escalated internally through Telkom itself. Alongside the customer care function, its Knowledge Information Management division analyses the data and monitors the trends.

Telkom's management expects that every Telkom employee should be actively involved in building relationships with customers⁵⁶. However this can go wrong when staff are not able to "go beyond the script". This may also be part of a wider problem: South Africa (like the other countries under review) lacks a culture of good customer service. The problem can be exacerbated by the fact that business and ADSL customers are "highly sophisticated and incredibly demanding"⁵⁷.

Part of the work done by Telkom's National Customer Care involves monitoring and responding to a range of less formal channels through which consumer complaints are raised. This includes letters and articles in the press, as well as web sites like complaints platform HelloPeter and broadband activist forum MyADSL⁵⁸. Its Senior Regulatory Manager describes the latter as "one of the best things that happened to Telkom", seeing it as a valuable channel to learn what is frustrating broadband customers, and to gain an insight into "what they really want".

Horton concedes there is a popular perception of poor customer service from Telkom, something she personally finds "upsetting". She suggests that this is due to the prominence given to complaints, coupled with a failure to report their resolution: "the way consumer lobbyists portray [Telkom] is incredibly unfair" and "creates an unfair perception of how [Telkom] handles complaints"⁵⁹.

Vodacom: Its call centre operations fall under their Customer Services division, whose managing executive reports directly to the company's Chief Operating Officer. Complaints logged with call centre agents can be escalated through the normal channels to the call centre team leader, the team's supervisor, and thence to the call centre manager. However, a separate department deals with complaints that have been escalated outside normal customer services channels, usually via ICASA's Consumer Protection Unit or directly to the office of the Chief Operating Officer. The two departments meet regularly⁶⁰ to discuss issues and trends emerging from their "detailed recording of types and kinds of complaints".

Vodacom believes that there is a lack of consumer awareness amongst its customer base, many of whom are unaware they can phone a Customer Care Line on 082 111 to register a complaint - this despite an aggressive marketing campaign with information on this as a free service on all brochures and SIM card and airtime packs⁶¹.

In addition to its Customer Care Line, Vodacom also provides separate facilities for "customers with special needs"⁶², including a special call centre, a voice-tagged web site, and an SMS service.

Vodacom staff also describe some of the difficulties experienced by customer services help lines, claiming a rate of up to 30% of "nuisance calls", such as bored children during school holidays, subscribers wanting to test if they are within a coverage area, people wanting to ask about the weather, even those who phone to listen to the canned music⁶³.

There are a number of other channels of complaint outside the operators themselves:

The dti's **Consumer Affairs Committee** deals with telecoms issues from time to time. There is currently an ongoing investigation into alleged "misleading advertising" by the mobile operators in response to a complaint from a member of the public. This is where "headline" low prices are qualified by small print

conditions or compulsory charges to qualify for the low prices.

The committee receives a complaint, assesses whether it is relevant to their enabling legislation, and considers how prevalent it is -whether it is localised to a specific company or more generalised across an entire industry (the mobile advertising complaint being an example of the latter) - before initiating an investigation.

The committee generally seeks to have such complaints resolved by negotiation, and only seeks resolution by ministerial order if all else fails, pointing to the example of one complaint relating to whether or a voice-mail service provided by a particular telephony operator was free or not, as one that was “amicably resolved”.

Because the misleading mobile advertising complaint affected a whole sector, the Committee’s investigation took on a more formal character, involving an investigation notice, press coverage, representations by affected parties, and an agreed settlement. But over the 17 years it has been in operation, CAFCOM has only found it necessary to undertake 68 formal investigations relating to specific complaints and a further 13 relating to more general business practices.

This is in contrast to the fact that during the 2003/4 period the Consumer Investigations Division of the dti reports having handled a total of 1114 active, presumably substantive, complaints, of which 474 were new complaints. A total of 940 complaints were resolved, with an average turnaround time of 225 days. “Public phone investments - sale of defective phones and late supply of airtime” is listed as one of 8 major categories within which complaints fell, but without further detail being provided⁶⁴.

5.4 The role of the regulator

ICASA sees its role rather more broadly in relation to its overall regulatory functions, including the promotion of “competition and choice for the consumers of telecommunication services” and the protection of consumers from “unfair business practices, poor quality services and harmful or inferior products”. The recently appointed head of ICASA described⁶⁵ the current period as the “era of the consumer” and committed himself to championing consumer rights.

The majority of ICASA’s interventions on behalf of consumers take place either through licensing or by means of regulation. In the majority of cases this is proactive rather than in response to consumer complaints.

ICASA’s Consumer Protection Unit has also made some interventions with regard to the protection of consumers. These include the signing of a Memorandum of Understanding (MoU) with all the telecommunications operators for the resolution of complaints. This MoU seeks to “ensure that complaints received by the Authority and forwarded to the Operators, as respondents, are resolved within fourteen days”. The terms of the MoU are unclear, as, despite repeated requests, no copy was made available; nor is the MoU published on the ICASA web site. In addition, a Draft Code of Good Practice for the Telecommunications Industry covering people with disabilities has been developed.

All fixed and mobile licences include specific quality of service provisions (such as service availability, call quality, fault repair targets, billing) as well as the requirement for a customer service code of conduct, subject to the written approval of the regulator. The code requirements specified in the mobile licence for Cell C provide a useful recent example for the detail contained in respect of customer service and complaint structures and billing information.

It states that: “The Licensee shall develop and implement a complete Customer service code of conduct, describing the training of Customer service representatives, the staffing of Customer service centres, the service activation and change processes, the handling of Customer questions and complaints, the availability of detailed billing data upon Customer request and the development and retention of related records”.

Likewise the imposition, for example, of interconnection and pricing regulations, as stipulated in legislation may also be considered proactive, pro-consumer regulation which ensures the provision of services at affordable prices.



But ICASA also intervenes in reaction to consumer issues by means of enquiries, rulings and regulations. For example, between 2004 and 2005 ICASA received 46 complaints relating to the Asymmetrical Digital Subscriber Line (ADSL) service provided by Telkom, necessitating, in ICASA's view, an enquiry into the "nature, manner, and quality of the ADSL service". The fact that this was deemed a key issue for consumers is evidenced by the high volume of public submissions - 446 in all. In response, ICASA has tabled draft ADSL regulations, which it is likely to finalise during the course of 2006.

Similar processes are under way with regard to the pricing of mobile services, which, being a more competitive sector, is not subject to the same degree of price cap regulation that applies to fixed telecommunications services, and relating to the practice of providing subsidised handsets to mobile subscribers. This arguably suggests a growing trend on the part of the regulator to exploit new avenues for intervention into the market in support of both individual and business consumers of telecommunications services.

Consumer protection under the sector regulator, ICASA, is handled by one of four units within its division for Law, Communications, Consumer Protection and Council Support Division. Its Consumer Protection Unit sees itself as a voice for consumer complaints⁶⁶. The Head of the Consumer Protection Unit is a second-tier manager and the Unit reports to the overall Division head who in turn reports to ICASA's Council. The Unit has a staff of 12, assisted by a further 6 regional office staffers.

According to its 2004 Annual Report, a "total of 197 complaints were received from members of the public" in 2003/4, of which 55% originated from within Gauteng province, where ICASA is headquartered⁶⁷. The low level of complaints is probably because the complaints procedure is not widely publicised, either on its web site or elsewhere. Unfortunately, the report offers no further breakdowns, either in respect of the degree of successful resolution with respect to such complaints, nor against which service providers they were raised.

The report does, however, raise a concern about the slow pace of complaint resolution, noting that this led to the adoption of an MoU with the telecommunications operators on the handling of consumer complaints. The MoU (which is not available publicly) commits operators to ensuring that complaints "are resolved within fourteen days"⁶⁸. ICASA's latest Annual Report is even less forthcoming, highlighting only a single (unsuccessful) individual complaint⁶⁹.

According to the Head of Consumer Protection, complaints received relate mainly to fixed line services⁷⁰. The effectiveness of the unit is also limited, with a large number of complaints remaining unresolved. Mobile operator MTN is described as being the least "responsive" to complaints channelled through ICASA, with fixed incumbent Telkom also poor, but recently "improved"⁷¹.

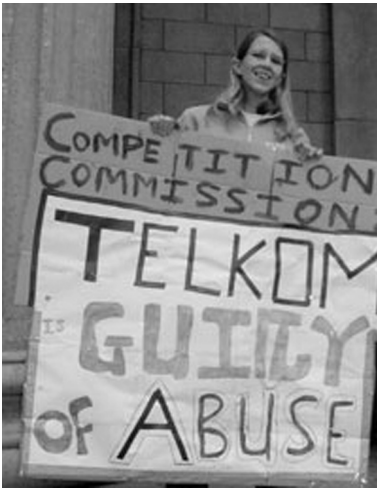
Much of the work of the Consumer Protection Unit revolves around the conducting of road shows in local communities "based on the lack of complaints received"⁷². Officially described as an "outreach programme on consumer education", these were conducted in 14 areas in three of South Africa's 9 provinces in 2003, with a further 5 provinces being covered in 2004⁷³.

The Head of the Consumer Protection Unit describes the South African "public [as] unaware of consumer issues", but feels that the road shows - on which ICASA is usually accompanied by representatives of the service providers, and where information about ICASA, about consumer rights and how to complain is given - do make a considerable "impact"⁷⁴. The kinds of issues raised at the various road show meetings include: absence of payphones and community service telephones; lack of fixed or mobile network coverage and installation delays⁷⁵.

The impact of ICASA's Consumer Protection Unit seems, therefore, relatively limited, and, in the view of some, entirely ineffective "unless the complainant is particularly tenacious and aggressive"⁷⁶. Despite the successes it claims with ADSL users and those with disabilities, its effectiveness as a channel for consumer complaints seems limited. Although their road shows are a useful gauge of consumer issues, it should be noted that it does not conduct a systematic analysis of complaints received, nor does it undertake consumer surveys.



5.5 Consumer organisations and related bodies



A unique feature of telecoms and Internet in South African is the abundance of consumer activist bodies specific to the sector, most of which have an online presence. There is an abundance of vibrant sites and campaigns from the critical to the crusading. Much of the activity here is web-based, driven largely by sophisticated users with a high level of skills and resources at their disposal. Although they come from a diverse range of backgrounds and exhibit a broad range of political agendas, all know of and are in communication with each other, sharing and exchanging content and ideas in a loose, informal alliance with a common adversary: the telecommunications providers in general and the incumbent Telkom in particular. The organisations are as follows (in alphabetical order): **Antitrust:** It is the most outspoken and vocal, and the only one to explicitly describe itself as a “consumer activist pressure group”⁷⁷. It is described by prominent members Wits University politics student Debby Love and crusading lawyer Michael Alachouzouos as driven by a “go out and protest”⁷⁸ ethos.

Love’s says that her honours degree research⁷⁹ exposed her to what she describes as the “arrogance, bullying, incompetence and poor customer service”⁸⁰ of Telkom, and led her to stage a solo poster demonstration against the incumbent on the steps of the university’s Great Hall⁸⁰.

Characterising himself as “an upset and angry Telkom customer”, Alachouzouos has sought to expose what Antitrust sees as malpractices⁸¹ on the part of Telkom relating to share price maintenance through the purchase of its own stock⁸¹.

Antitrust was set up as an “activist group dedicated to the full liberalisation of the telecommunications sector in both high-level and basic telecommunications services through educating the public and the media through peaceful and non-violent means” and has as a prominent slogan: “Telkom does not have customers, it has hostages.”⁸² It is the monopoly nature of the fixed-line market that is seen as the root cause of “how badly Telkom is hurting our economy, and how much South Africans are being ripped off”⁸³. Its material targets Telkom specifically, which it describe as a “bully” with “poor customer service”⁸⁴, and focuses on high prices, line disconnections, anti-competitive practices, abrogation of consumer rights and the impact on the economy and on job creation⁸⁵. It describes its approach as multi-faceted, including “street-level education, parliamentary lobbying, litigation”⁸⁶. In keeping with this, it contains two sub-sites, Teklom, which is a satirical parody of Telkom’s own web site, and Screw the public!, which features a gyrating Telkom profit counter. Love has herself filed a complaint with ICASA, arguing that Telkom’s Standard Terms and Conditions⁸⁷ require prospective customers to sign away their constitutional right to litigate against the incumbent⁸⁷.

By contrast with incumbent Telkom, Antitrust sees the mobile operators and Internet Service providers as far more competitive and that the mobile operators are “not as abusive or bullying”⁸⁸.

Love concedes that telecommunications is an “extremely difficult issue to mobilise support around, because of [its] complexity” and because its “technical aspects are particularly alienating to the average consumer”⁸⁹. She finds that “people are so quick to complain, and so lazy (about) actually doing anything about it”⁹⁰. The overwhelming majority of the complaints⁹⁰ they receive from consumers relate to either lack of access to services or problems with billing⁹⁰.

CellHell: This recently established site, seeks to provide a forum for people to “express unadulterated opinions and experiences regarding cellular networks”, urging visitors to “stick together... against big [mobile] corporations”⁹¹. The site mostly consists of a series of discussion forums and online polls relating to mobile services and pricing.

Freedom of Expression Institute (FXI): THE FXI takes an entirely different approach to consumer activism. Although it has a “cordial working relationship” with the Internet-based activist groupings, their aim is to



make telecommunications a popular, grassroots issue with local communities in the poorer townships - a “people’s campaign” .

Campaign co-ordinator Virginia Setshedi, describes the intention as “trying to bring up the issues of telecommunications as a daily part of people’s struggle for a better life” and as fundamental to democracy and freedom . It is a campaign based on meetings and demonstrations, supported by the production of pamphlets in four of South Africa’s major official languages. One of these, for example, proclaims that “telecommunications should be provided as a right for people and not as a privilege” .

The main focus of the campaign has been on fixed and, to a lesser extent, mobile telecommunications. The Internet is considered a less important “luxury” area. As Setshedi points out “many don’t even know what the Internet is” . Its intention is to have “Telkom re-nationalised... as a parastatal to meet basic needs” .

FXI puts on a range of public meetings called Peoples’ Forums on Communication Rights, in predominantly black townships and villages, including a number in the relatively nearby townships of Soweto and Evaton, as well as others in remote villages such as Gapela and Rammulotsi in Limpopo and Free State provinces respectively. Issues such as access to public telephones, lack of mobile coverage and high prices have dominated the meetings . The spotlight has also been on the difficulties people without education have with understanding Telkom’s prepaid service, which, unlike its mobile competitors, charges a monthly rental that eats away their credit even if no calls are made .

Setshedi suggests that the widely reported shift by consumers to mobile telephony is because it is usually easier to buy a mobile starter pack than to experience delays waiting for Telkom to provide service. She says few are aware of channels, such as ICASA’s Consumer Protection Unit, through which complaints might be raised and points to the lack of a toll-free number for complaints to ICASA.

FXI’s campaign culminated in a central Johannesburg public meeting in mid-September 2005. This meeting was followed by a small public picket outside Telkom headquarters in Pretoria .

Limited though the impact of the FXI campaign appears to have been in comparison to some of the higher profile interventions described in this section, it does represent a genuine attempt to popularise telecoms issues and to make them relevant to poorer, less literate consumers.

Hellkom: Perhaps the best known of the activist sites is Hellkom¹⁰⁰ , the primary focus of which is, as its name suggests, the fixed-line incumbent, Telkom.

Founded in 2003 by graphic artist and web designer Gregg Stirton, the site came under the public spotlight and saw its hit rate spiral¹⁰¹ when Telkom lodged a R5 million damages suit for “alleged ‘copyright infringement and defamation’” .

Stirton describes its humble beginnings: armed with little more than a “bunch of logos” and “angered that poor people couldn’t afford telephone service” while Telkom was posting record profits, he put together a few pages of satirical graphic designs and Telkom facts and figures under the slogan “Prices that’ll make you sweat”, and loaded them up on a free hosting service¹⁰² .

Relaunched under its own domain name on 1 July 2004, the site now claims upwards of 50,000 page impressions a month, a figure that continues to grow at over 10% a month¹⁰³ . Besides the logos and facts and figures with which it began, the site contains articles, images, jokes and video and audio clips, offers merchandise and the ability to make an anti-Telkom t-shirt, as well as offering a platform for consumer grievances -the Hellkom Vent. It has grown from a hobby for its founder to an almost full-time project, consuming three to four hours a day¹⁰⁴ .

It has plans to develop and distribute pamphlets in indigenous languages on minibus taxis and in townships, and the site’s primary role is described as “educational”¹⁰⁵ . But it is more interested in discussing and describing the problems of high prices and poor service besetting consumers (describing Telkom as an “unscrupulous, money-hungry horde”¹⁰⁶) than in proposing solutions.



It was the defamation suit from Telkom that brought Hellkom to national prominence, and drew financial and moral support to its cause. Stirton describes Telkom's suit as a "bad decision" and it appears to have conceded, withdrawing the suit on 9 September 2005¹⁰⁶.

Like most of the consumer groups described, Hellkom concentrates its fire on Telkom but it may extend its attention to the mobile operators in the future.

MyADSL: Established by Rudolph Muller in 2003, it focuses specifically on broadband services but because these are provided by a wider range of companies (mostly on Telkom's monopoly ADSL infrastructure, but also broadband wireless and mobile 3G offerings) it has a rather wider scope than the fixed line incumbent.

Described by Antitrust's Debbie Love as the "first serious Internet-based political consumer activist group in SA"¹⁰⁷, MyADSL sees itself as an online community or meeting point for users of broadband services, "a source¹⁰⁸ of information and a place where broadband users can discuss issues openly and share information"¹⁰⁸. The site pulls together news stories from other sites that are relevant to its focus.

But it is in the site's forums and blogs that consumers post complaints and debate technical issues. Much of both news and discussion is clustered by provider and technology - Telkom/ADSL, Sentech/MyWireless, WBS/iBurst, Vodacom, MTN, WiMax and more - with the site maintained entirely on a volunteer basis by its founders and a "small dedicated group of moderators"¹⁰⁹.

As a "Broadband Users Group"¹¹⁰, the site is more a vehicle for the very well-informed Internet aficionado than a service to the average communications user. It seeks to be "completely unbiased" and "completely non-commercial", but declares itself willing to "work with relevant organisations to try [to] improve broadband Internet services in South Africa"¹¹¹.

Internet Service Providers' Association (ISPA): It used to view itself as an organisation continually raising consumer issues in relation to the Internet. However, some years ago it made a "conscious decision" to drop such interventions because they were "diluting its message on behalf of the ISPs"¹¹². Although it now feels there are a number of active consumer groups, it nevertheless recognises it "should consider more formal structured interaction with organised consumers"¹¹³.

As pointed out earlier, ISPA mainly acts as a channel for complaints lodged in terms of the code of conduct that is mandatory on all its members. It does not have precise numbers of complaints, but notes that "informal complaint resolution" is the preferred modus operandi, and suggests that around 80% of the complaints received are resolved in this way¹¹⁴.

Where informal resolution fails, complaints are referred to an independent panel - a procedure that is "cumbersome" and "in need of revision"¹¹⁵. This independent panel has only had to make 2 rulings in terms of the Code of Conduct so far, with a further 2 in the pipeline. In both cases the panel has ruled against the ISPs concerned, both of which have complied with the rulings, albeit very "grudgingly" in one case¹¹⁶.

ISPA has consciously kept a "low profile" in respect of its code, partly in response to advice from the Advertising Standards Authority not to profile a complaints procedure unless it was ready to be "absolutely inundated with the volume of complaints"¹¹⁷.

When questioned about a breakdown of the issues forming the substance of the complaints, ISPA lists domain name disputes, problems with billing, poor service, and take down requests (in respect of illegal or offensive content), the latter comprising fully 20% of all complaints¹¹⁸. Take down notices are a particular problem for ISPA because the law does not at present indemnify the ISP concerned against "wrongful take-down"¹¹⁹. A more recent consumer issue has seen many being "up in arms over Telkom's ADSL cap" (the capping of broadband bandwidth after certain download volumes, usually 3 gb, have been exceeded), but it says that because of the divided views of its ISP members, ISPA has not felt able to take a position on this¹²⁰.

Wireless Application Service Providers' Association (WASPA): The umbrella body for the providers of mobile content, WASPA has given a somewhat higher profile to its Code of Conduct, which, along with the





association’s contact details, features prominently on both the home page and in the top banner of its web site. Besides prominent links to the code itself, the site provides both a downloadable complaint form and an online complaint submission facility. In addition the site provides a sample complaint a tongue-in-cheek letter dealing with unsolicited pictures of farm animals no less¹²¹.

WASPA has received 56 complaints since 1 September 2005, initially overwhelmingly (80 - 90%) from competitor WASPs, but latterly more (about 50%) from consumers¹²². Only a handful of such complaints have been rejected by WASPA, mostly because no WASP was identified or because they were too generalised (what Brooks describes as being “stop all this filth” rants)¹²³. He also points out that WASPA does not accept anonymous complaints, although the identity of complainants will be kept confidential on request¹²⁴.

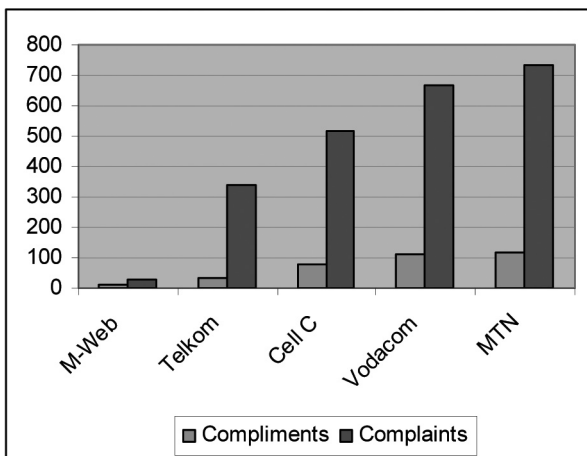
The WASPA site goes further than any of the others examined, giving a list of resolved complaints - currently 19¹²⁵ - of which one was (partially successfully - the fine imposed was rescinded) appealed. In each case the finding of the complaint adjudicator or the appeal panel is downloadable. Of the 19, half came from competitors, and half were submitted by members of the public, with one lodged by WASPA itself. The majority of the complaints were upheld, either fully (42%) or partially (26%). The complaints cover issues like the bundling of subscription services with free downloads (which led to WASPA issuing a separate advisory on the specific issue), misleading advertising in respect of the pricing of content downloads, and misleading SMS competitions.

Other channels consumer channels: One of the more interesting and unusual ways in which disgruntled consumers can voice their issues and complaints is through the web site <http://www.hellopeter.com>.

Founded in 2000 by customer care expert Peter Cheales (hence its name), the site describes its mission as “searching for service excellence” and provides a platform for consumers publicly to air both bouquets and brickbats, one that “gives you, the consumer, the opportunity to comment on the treatment you receive from any supplier. Quickly and for free”¹²⁶. Not only does the site provide a channel for consumer complaints, it also affords companies that register¹²⁷ with it an opportunity to respond. The site is popular, logging some 2.5 million page impressions monthly¹²⁸. Surprisingly, the site also records almost a third of its postings as compliments about good customer service - “28% compliments and 62% complaints”¹²⁸.

All of the service providers interviewed were aware of the existence of the hellopeter.com web site, with most monitoring it closely. Only fixed line incumbent Telkom and ISP M-Web are not members. Telkom claims this is because their licence prevents them from divulging customer information to third parties, saying it’s not considered “prudent” or “good business sense” to open up yet another escalation channel for customer complaints.

Although access to such a web-based platform is restricted to a “very small cross-section of customers with a high level of sophistication”, it is company policy to “take hellopeter very seriously”¹²⁹. Accordingly it has a small team of people who focus on the site because they “don’t want negative perceptions” to arise or to ignore issues “damaging to customer relationships”¹³⁰.



Although the hellopeter’s figures should be not treated as definitive, the site does provide an interesting window on consumer attitudes to telecommunications and Internet service providers.

The accompanying graph is drawn from the web site’s figures for numbers of complaints and compliments over a 12 month period leading up to August 2005¹³¹.

Although the relative number of complaints and compliments to some degree reflect the respective market penetrations of the various providers, it is interesting to note that the county’s second largest mobile operator, MTN attracts the greatest number of complaints. It is also worth noting that the number of complaints



logged against Cell C is disproportionately high in relation to its number of subscribers (which number less than half those of Telkom).

Cell C ascribes this to the fact that about two-thirds of its contract subscribers have switched from one of the other mobile operators, and that such subscribers are “notorious for complaining¹³² more because they expect you not to be [merely] as good as their previous operator but actually better” .

It is also worth noting that the number of complaints against the telecommunications service is about 8 times greater¹³³ than the respective number of compliments -far in excess of the ratios quoted for the site as a whole . Also noteworthy is the low number of complaints against M-Web, South Africa’s leading dial-up ISP, although this accords with anecdotal evidence elsewhere in this report that the levels of complaints in relation to the more competitive ISP sector are much lower.

There are also other generic consumer bodies in South Africa, through which consumers could potentially channel complaints. However, few, if any, of these appear to have any substantial presence or muscle, particularly in the Internet and telecoms sector. Only one was contactable by e-mail during the research project, and none by telephone.

The Pretoria-based SA National Consumers Union, for example, lists its mission as being “to build up consumers’ awareness” and profiles a list of consumer rights on the home page of its web site, which offers consumer tips and guidance in how to write a generic letter of complaint. But, sadly, both its phone and its e-mail go unanswered. Similarly the South African Consumer Council, whose listed e-mail address suggests it is hosted at the Development Bank of Southern Africa, has a phone number that now belongs to a restaurant, and a non-functional e-mail address.

Only the National Consumer Forum appears to be active, although not as a channel for complaints. Under the slogan of “placing consumer issues on the agenda”, this affiliate of Consumers International, founded in 1994, aims to “work to assert and defend the rights of consumers”¹³⁴ . Its web site contains at least one submission on consumer policy, as well as information about a letter of complaint against high mobile inter-connection rates lodged by Durban resident Srinid Naidoo with the Competition Commission¹³⁵ .

It publishes an occasional newspaper, Consumer Fair, with a claimed print run of 100,000, distributed through government and business channels, but much of its focus appears to be on food and credit issues. Interestingly, it acknowledges Telkom as a major sponsor, without whom “many of our activities would not have been possible” -seemingly without acknowledging the potential for conflicts of interest that might arise.

Interestingly, members of parliament can sometimes act as vehicles for consumer complaints. Opposition MP Dene Smuts, a long-standing member of the parliamentary Portfolio Committee on Communications receives a “steady flood of individual consumer e-mails” and plays the role of a “consumer interface”¹³⁶ . Noting this is “not what the taxpayer is paying me for”, she nevertheless feels compelled to “take up” such issues¹³⁷ . For example, she cites the occasion tried unsuccessfully to intercede with Telkom to secure the replacement of a manual exchange for a farming community in the Karoo. She also refers to many complaints from people in urban areas who cannot get Telkom lines because laying the basic cables is not cost-effective¹³⁸ for Telkom” . In most cases she intercedes herself because she is “dubious of the capacity of ICASA”¹³⁹ to resolve complaints.

She notes that the “complaints caseload” gives her a sense of how well the sector is working, pointing out hers is “much smaller” than those of her colleagues dealing with the Department of Home Affairs.

Fellow portfolio committee member, ANC MP Randy Pieterse, too speaks about complaints he receives from his “poor, black and rural” constituency, although he does not see himself as a conduit for passing on such complaints¹⁴⁰ . He describes how some of his constituents buy mobile phones on trips into town, only to be confused by their failure to work once they return to their rural homes, which are, unknown to them, outside of mobile coverage. Questioned about the level of complaints in the sector, he confesses to only receiving “informal information” from the service providers¹⁴¹ . He does, however, agree that not enough is done to protect consumers, suggesting the need for a “consumers’ charter at a popular level in the ICT sector” which service providers should be compelled to circulate, by SMS in the case of mobile operators¹⁴² .



5.6 The role of the media

It is important to recognise the role of the press, both in setting the terms of the public debate about ICT policy issues, and in profiling issues that impact on consumers and the public at large. It is no accident that the level of public debate on telecommunications prices during 2005 was both fuelled by and accompanied by a number of articles and stories on the issue in both the trade press and the mainstream media, as well as by programmes on both radio and television.

There are a number of platforms in both the print and the broadcasting media through which aggrieved consumers can raise their complaints, concerns and issues. Aside from the letters pages in the print media which regularly print complaint letters, some newspapers have consumer departments or run consumer columns. These include the Cape Argus's 'Argus Action' in Cape Town, the Sunday Tribune's 'Shop Talk' in Durban, and City Press's 'Hotline' in Johannesburg. While talk radio shows such as those on the well-known Radio 702 provide a vehicle for the airing of grievances on an ad hoc basis, there are also a number of regional consumer programmes such as East Coast Radio's 'Consumerwatch' and Zweli Nokhatywa's Radio Zibonele educational programme. The investigative journalism of pay-TV programme 'Carte Blanche' has also exposed a number of consumer issues, and has included telecommunications issues on occasion.

Such platforms tend, however, to be very generalised, covering the entire spectrum from frozen chicken to motor car sales. They are also often tied to the personality of a specific presenter, such as the doyenne of consumer journalists, whose Johannesburg column, Starline, was closed some years ago. Likewise SA FM's 'Consumer Watch' and Radio 5's 'The Buck Stops Here' did not survive the departures of their respective presenters.

They also tend to focus on specific, individualised complaints rather than generalised issues affecting a broad range of consumers. It is only when an issue reaches the news pages of the mainstream press or becomes the focus of a specific broadcast programme that it assumes prominence. In this way, for example, the question of high telecommunications prices became the subject of significant coverage in both print and online (and, to a lesser extent, in broadcast) media during 2005.

Damaria Senne, a senior journalist with ITWeb, talks about the role of the media in relation to consumer issues and activities¹⁴³. She estimates that about 15% of the stories she writes deal with consumer issues.

Sometimes these are in response to e-mailed complaints, although, as she notes, "ITWeb is not a channel for substantive complaints"¹⁴⁴. However journalists play a "big role in shaping"¹⁴⁵ the terms of the debate around consumer issues and are both "both responsive and shaping"¹⁴⁵. Many of the "quality" dailies and weeklies provide¹⁴⁶ consistent and extensive coverage of ICT issues, particularly Independent Newspapers and the *Tot u Diens* section of Afrikaans daily Beeld.

ITWeb monitors the readership of individual articles, giving a good sense of which stories touch the public nerve. Pricing in general and ADSL pricing in particular are hot current issues but Telkom's "monopoly abuses"¹⁴⁷ have also attracted a great deal of attention, perhaps because "slagging Telkom is a national sport"¹⁴⁷. The mobile operators have tended to attract far less attention in relation to consumer issues by comparison, except in relation to the issue of SMS pornography, which has "come up quite a lot", while the ISPs are "not being talked about" at all¹⁴⁸.

Senne notes that consumer issues tend to be raised and driven by the "affluent user who is highly literate and highly vocal", and who is often white and male, noting that she hasn't "heard from (any) women at all"¹⁴⁹. She echoes earlier comments of others about the lack of awareness of many consumers about either their rights or how to complain: "people still don't know where to go to complain"¹⁵⁰.

5.7 Policy and legislative input

Beyond the ability of consumers and customers to voice their complaints, it is necessary to consider the degree to which consumers as individuals and groupings are able to impact upon and influence the content of policy in respect of telecommunications and the Internet.



To some degree the post-apartheid structure of policy-making in South Africa has facilitated contributions from stakeholder groupings, including, potentially, consumers¹⁵¹. Although the green and white paper processes that marked early post-apartheid policy development have largely disappeared, most legislative initiatives in the sector are accompanied by one or more colloquiums or stakeholder consultations, to which interested parties are invited to share, exchange and discuss their views and positions.

In addition, ICASA regularly invites submissions and conducts hearings on proposed regulations. Finally, the Parliamentary Portfolio Committee on Communications invites submissions on and conducts hearings related to all legislation it considers. However, the abundance of such colloquia create a paradoxical situation. Policy processes are perceived at once as consultative by the policy-makers who invite public participation, and as arbitrary by those stakeholders whose positions and points of view are not either accepted or responded to in any formal or transparent way.

The Parliamentary Portfolio Committee's Dene Smuts describes the level of participation in policy processes as "extremely healthy" and "excellent to have" although she notes that the positions of some of the NGOs are "not always fully informed"¹⁵². Noting that South Africa does not have a "rich tradition of consumer lobby groups", she describes the likes of Hellkom and MyADSL as "ground-breakers"¹⁵³. She also gets a "steady flood of lobbying from individuals, mainly young techies"¹⁵⁴. She singles out a recent submission from small ISP lobby group VANSAware on the Convergence Bill, as "excellent" and one that "went to the nub of the matter"¹⁵⁵, explaining how they approached her and how she "advised them on how to feed into the process"¹⁵⁵.

The founders of VANSAware describe themselves as "motivated by the apparent lack of participation... [and] lack of technical input.. in regulatory matters" on the part of small ISPs, whom they describe as "completely oblivious of legislative, regulatory and policy issues"¹⁵⁶. After "lots of initial contact with other small players", who, like them were "suspicious of the processes", preferring instead to "keep their heads down"¹⁵⁷, in December 2004 they launched a web site to "create awareness and encourage participation"¹⁵⁸. VANSAware is concerned about the "real world implications"¹⁵⁹ of the issues it feels strongly about - the Convergence Bill, the draft VANS regulations, the e-rate for schools, the price of backbone connectivity - and about how keen the regulator was about "getting input from small players"¹⁶⁰.

Since then it has made a number of submissions to ICASA, participated in the oral hearings on the VANS regulatory framework for VANS, and made an oral presentation on the Convergence Bill to the Parliamentary Portfolio Committee on Communications. It feels that its influence has been felt, and will "continue to speak out for small ISPs"¹⁶¹.

A policy impact of a different kind comes from the Communications Users' Association of South Africa (CUASA), who represent the corporate consumers of ICT services, and describe themselves as an "industry association" that "engages on an ongoing basis with government and operators to ensure that the interests of users are taken into account"¹⁶².

CUASA aims to represent its members by making "written responses, oral presentations, lobbying whenever they can", noting that "it's difficult to do as much as they'd like" but feeling that they "have made a difference so far"¹⁶³.

It was indeed CUASA's complaint that led to the ICASA enquiry into high levels of mobile pricing¹⁶⁴. Webber feels that it's time to "stop focusing on Telkom: the mobile operators are sitting on the sidelines raking in the money"

. Although he's sceptical about the "extent [to which ICASA can] actually force a reduction in prices", he feels the public furore about telecommunications prices has brought "changes [that] have affected the man in the street, especially on prepaid"¹⁶⁶. CUASA does not see the Internet service providers as a consumer "issue" or problem, pointing out that their market is already fully competitive, and that they "lease facilities from Telkom anyway"¹⁶⁷.

Leading national trade union federation, COSATU, is another body, representing a very different and sometimes opposing constituency, that has intervened in respect of ICT policy, both in respect of its own



members and on behalf of poor consumers. It has made a number of submissions over the years¹⁶⁸, and have consistently raised issues of access and affordability. In the federation's own words, the "central thrust of our approach to ICASA's proposals has thus been ensuring the affordability of basic telephony, especially for low-income consumers... [as an] integral aspect of and precondition for the achievement of universal service"¹⁶⁹.

In addition the federation and its affiliate in the sector, the Communications Workers' Union, have consistently opposed both the privatisation of the sector and the ongoing avalanche of retrenchments of Telkom workers, going so far as to set up in 2004 a commission of experts to propose alternatives to further staff reductions.

The federation views access to telecommunications services at affordable prices as part its "social wage" campaign to improve living standards for workers and their families¹⁷⁰. It concedes that there is some tension between reducing prices for telecommunications services and preserving jobs, but feels that Telkom's "excessive profits"¹⁷¹ should be trimmed.

Disconnections by Telkom of customers who could not pay their bills, has driven many to prepaid mobile, Kgara cites the case of his own grandmother in the township of Thembisa north of Johannesburg. He sees this as a retrograde step because "it's no longer a household phone"¹⁷².

Consumer complaints are, in Kgara's eyes, a "class issue". He too notes the disempowerment of those customers less privileged already noted by many other interviewees. "The poor", he says, "don't complain because Telkom makes you talk to a recorded voice. They lack the means to complain or the confidence to do so"¹⁷³. He further describes how the COSATU Parliamentary Office in Cape Town receives several calls of complaint a day from members of the public about telecommunications services, and feels that COSATU is seen as an "advocate"¹⁷⁴ of the poor. But he is pessimistic about the ability of strengthening the role of consumers, pointing to the "deep-seated weakness in our regulatory institutions"¹⁷⁵.

6. COMPARATIVE CASE STUDIES

The four case studies below are designed to illustrate issues or activities that have some bearing on the main theme of the study. The first one covering price collusion in the mobile sector in France shows how a competition authority and consumer organisation can work together to address an issue.

The second case study looks at the mobile boycott campaign in Nigeria. Consumer boycott campaigns need only affect a small proportion of a company's turnover to make it responsive to the issue being addressed.

The third case study looks at a major piece of work carried out by Consumers International on consumer issues around water. It focuses on how it is important to gather information and expertise before entering into advocacy campaigns. By contrast with telephony, water is a "natural monopoly" and therefore less amenable to competition.

The fourth case study looks at how a couple of Asian countries have chosen to open different parts of their public services to complaints communications channel. One of these is a website administered by a Ministry charged with public sector reform and another is an SMS complaints hotline put in place by the Delhi Water Board.

6.1 Mobile operators and price collusion - France

At the beginning of December 2005, the French competition authority (the Conseil de la Concurrence) imposed a fine of 534 million euros on three mobile operators (Orange France, SFR and Bouygues Télécom) for taking part in two different kinds of anti-competitive market collusion. The case came out an investigation started by the Conseil de la Concurrence on its initiative in 2001 but that was helped by the consumer association UFC Que Choisir filing a complaint with it alleging market collusion between operators in early 2002.

It emerged from the investigation that between 1997 and 2003 the mobile operators exchanged detailed and confidential information on the numbers of new customers signed up the previous month, and the numbers of people who opted to cancel their subscriptions.

The Conseil found that "from the minutes of the three operators' various executive committees, that the developments in these indicators were an extremely important source of information, and were taken into account when determining commercial strategies". It maintained that in a market where growth was slowing, this enabled the three operators (between 2000 to 2003) to reach an agreement that stabilized their market shares based on jointly-defined targets.

The Conseil uncovered a number of pieces of serious, specific and corroborating evidence pointing to the existence of such an agreement. These included handwritten documents with explicit references to an "agreement" between the three operators, the "pacification of the market" and the "Yalta of market share". Certain similarities were also observed in the commercial policies implemented by the operators during this period, particularly in terms of acquisition costs and call rates. It was these similarities that led the consumer organisation UFC - Que Choisir make a referral to the Conseil de la Concurrence, focusing on the operators' simultaneous decision at the beginning of 2001 to start charging for calls in 30-second increments, after the minimum first minute.

According to the Conseil, before the collusion started, the operators had been focused on acquiring market share which had required considerable investment but after they started sharing information, they placed the emphasis on maintaining their existing market share. This change of emphasis allowed the operators to introduce a range of initiatives which in a more competitive market would have made them vulnerable to loss of market share. These included, for example, giving priority to contracts with commitments over pay-as-you-go cards, or the introduction of billing per 30second increments after a minimum first minute. As all aimed at having the same strategy none suffered a competitive loss from their introduction.

As the Conseil noted:"Like other competition authorities, the Conseil de la Concurrence regards market sharing agreements as unjustifiable, and therefore among the most serious of their kind". It noted that the



collusion took place “in a market to which entry was highly restricted, since mobile telephony operators are required to obtain a licence and no MVNO was granted access to the operators’ networks during the period in question”.

The Conseil “took into account the fact that since the late 1990s, mobile telephones have come to represent a new expense for households, and now account for significant portion of their budgets. It also considered that by colluding, the operators were more easily able to introduce measures that were against the interests of consumers”.

As a response to the judgement consumer organisation Union fédérale des consommateurs - Que Choisir set up a website (www.cartelmobile.org pour) that is collecting a online petition of support for the action and offers a calculator that allows you to calculate how much you might have lost as a subscriber from the collusion. It claims to have collected several hundred thousand online supporters from the web site. It is also planning to mount some individual legal actions as French law does not allow class actions by groups of people.

One of the operators fined - Orange France - says that during the 1997 and 2003 period (during which the collusion took place), customers benefited from roughly 20 per cent decrease in mobile telephony prices. Needless to say, it will appeal the decision. The existing operators are now faced with competition from MVNOs like Tele2 AB and the French regulator ARCEP has ordered operators to lower their prices.

6.2 Nigerian mobile boycott campaign

On 19th September 2003, a loose coalition of activists organised a “switch-off” campaign against mobile operators to protest poor service and high charges. Organisers sought to get the mobile networks to address these issues “by hitting them in their pockets.” According to a report in the South African Sunday Times, “By their calculations, operators could lose as much as 200million naira if all of Nigeria’s two million-plus GSM phone subscribers switch off for just one minute”. The boycott arose over frustration at the long time it was taking a court case on the same issue against two of the networks.

In advance of the boycott, a national newspaper ran a poll on its website. Out of 2,595 persons polled, 2,328, or almost 90%, said they would join the action, while 216 said they opposed it. But although the boycott received substantial support in the south-east and south-west of the country where most people live, independent sources said that the take-up of the boycott was at best mixed. None of the operators would comment on the boycott or its success or failure.

Just over two years later one of the bodies behind the first boycott - the National Association Of Telecommunications Subscribers (NATCOMS) - called another boycott on 17 February 2006. Again the main demands of the organisation were about price and service: the putting in place of satisfactory network efficiency with good voice quality and to lower the rate of dropped calls; good operator staff-subscriber relationship and quick toll-free customer-care service centre responses; reasonable and pocket-friendly tariff for calls, SMS’ and other services (maximum of N15 per minute, 25 kobo per second, N5 per SMS, for inter-network & maximum of N10 per minute, 20 kobo per second, N3 per SMS, for intra-network).

The boycott organisers also demanded “prompt and unhindered account balance information; quality recharge cards where revealed numbers will not deface nor scratch easily; free calls and free SMS’ during weekends and public holidays like in other countries; quick and timely redemption of promises and product and service promotion, winnings and benefits; and *regular compensation for network down-time days and faults(our emphasis)*”.

A statement by the National President of the Association, Chief Deolu Ogunbanjo said although there are four GSM operators and a host of Fixed Wireless Operators with a total of about 15 million subscribers in the country, Nigerians have not benefited from competition as they should have.

According to him, “this phenomenal growth however is not reflective of good service delivery, subscriber-friendly products and reasonable tariff structure. To say the least, the tariff has been deliberately exploitative. This has been further characterized by the following; poor systems responsiveness; low call set-up

success rate; Poor call voice quality; high call failure rate; inaccurate billings; low recharge call success rate; and poor staff / customer-care responsiveness.”

The second boycott seemed to have been prompted by an increase in tariffs for mobile users. According to NATCOMS, subscribers that used to be able to make calls for between N15 to N20 per minute now make the same calls for between N25 to N30 per minute. “Since the introduction of GSM Services in Nigeria, Subscribers have been paying N15 for each SMS. Operators have maintained the N15 price structure for too long. It is time for a downward review,” the Association said in its statement. It argued that as subscriber numbers had grown considerably, prices should go down as elsewhere.

Both of these boycotts generated a high level of publicity for the issue but whatever the level of take-up of the boycotts, they do not appear to have had much impact in terms of the demands made by NATCOMS. The only change that does seem to have occurred between the first and the second boycott has been the introduction of per-second billing. But it is arguable that this was part of a wider trend within the continent and that at least one operator would have triggered its introduction in order to gain short-term competitive advantage.

Nevertheless according to the NCC’s Head of the Consumer Affairs that the campaign had been very effective and that the mobile operators had “lost a lot of money.” And it may be this that will in the long-run give the campaign the success it currently has not yet achieved.

The scale of the impact can be judged by a comment US consumer rights activist made in an interview with Co-op America in 1989: “Most people think that you’ve got to reduce sales a lot, but if you reduce any company’s sales from [between] two to five per cent you’ve won. Having said that, it is very hard to reduce a company’s sales by five per cent because it takes a massive degree of organisation.”

An attempt was made to organise a similar boycott by mobile phone users in South Africa petered out unsuccessfully.

6.3 Water utilities - Africa

Consumers International (CI) carried out a substantial piece of work in 2003 (see appendix 1 for reference) aimed at helping African consumer organisations address issues like affordability, quality and choice in the water sector.

One element was focused on achieving consumer participation: “For consumers to effectively participate in water and sanitation sector reform they need the knowledge, skills, access to information and the forum to facilitate their participation. Statistics of water sector reviews had indicated that non-connected consumers in the informal and peri-urban were paying as much as 3 to 10 times more for water because of ineffective regulatory mechanisms and “because of policies which were not targeted to take into consideration the needs of the less fortunate in our societies”.

Although CI ‘s partners were often critical of the performance of particular companies: “Consumers International is not for or against any model of utility management, be they public or private or any degrees in between...Consumer organisations assess the options based on their merit in delivery and impact in making water and sanitation available to consumers; particularly the most disadvantaged ones”.

For the purpose of the project was to: “to improve access and control by disadvantaged and marginalized consumers to clean water and sanitation. This was to be done through the enhancement of the capacity of consumer organisations to effectively engage in policy debate and formulation whilst at the same time mobilising communities for specific projects and advocacy”.

The project partners were: Association de Défense des Consommateurs du Tchad (ADC); Consumer Information Network of Kenya (CIN); Association de Défense des Usagers de L’Eau, de l’Electricité, des Télécommunications et des Services du Sénégal (ADEETeS); and Zambia Consumers Association (ZACA).

Advocacy and campaigns by partner consumer organizations and the national network participants led to a



better understanding among civil society and governments of the impact of local and national legislation/regulation and practices on the water and sanitation services on vulnerable consumers and options which would help improve their access to these services.

For example Chad's Association de Défense des Consommateurs (ADC) (the Association for the Defense of Consumer) presented a memorandum on the key consumer issues, concerns and recommendations to the Prime Minister and the President of Parliament. ADC followed this up with a peaceful march from August 19 to 20 August 2003 demanding water and electricity as basic consumer rights. More than 3000 consumers participated. Major recommendations from ADC were accepted by the Chadian government and integrated in the national water and sanitation policy document.

Consumer Awareness and Education provided to at least one community in each of the four countries. This training was related to their water and sanitation rights and responsibilities. The training was also designed to support and inform their local and national efforts to improve their access to and control over their water and sanitation services, and to provide practical advice and solutions.

Pilot Projects were undertaken in each of the above communities aimed at improving the services available. These projects varied in nature from local advocacy and representation campaigns to implementing local, affordable, equitable water and sanitation services. The type of project chosen was guided by the participatory research of the first year.

Access emerged as the biggest priority - especially for consumers in periurban and informal settlements - and utilities are unable or unwilling to extend services. Price is an issue, due in part to overall affordability but also because of equity concerns. There are often wide price differentials between the amounts paid by connected and unconnected consumers. Tariff and subsidies systems are often complicated and inequitable. Low-income consumers who most need subsidies are outside of the main water system and hence do not benefit from any subsidies on consumption. Middle- to high-income consumers are benefiting from these subsidies because they can afford to connect. While quality of water has not come up as a major issue among consumers in most of the countries reviewed (in contrast to other consumer goods, where quality of the commodity is an important issue), quality of service is an issue with consumers complaining of poor service delivery in terms of water cut-offs without prior notice, irregular billing and poor customer complaints mechanisms. Regulatory frameworks are lacking or ineffective.

Box 10: Moving from an anecdotal to an evidence-based approach

The Consumer International study concluded from its work in four African countries that consumer organisations needed to move away from an anecdotal approach. It cited the example of ADC in Chad that had prior to carrying out any research through its country review taken a stance against the levying of VAT on water in Chad. It felt that this would make access to water more difficult for poor consumers because the additional tax increased the price. But through its country review ADC found that only 2.8% of the Chadian populace obtained water through the water mains, and that this segment could actually afford to pay the VAT. It therefore changed its position to advocate for a special fund for network expansion, financed by the revenue raised as a result of the VAT on water.

CI was able to point to a wider involvement of consumer organisations in water regulatory bodies. In Burundi, a representative of the Association Burundaise des Consommateurs has been appointed to the National Commission on Water and Energy, an oversight body. The Consumers Association of Ghana represents consumers on Ghana's public utility regulatory board. The Zambian Consumer Association is working with the National Water Supply and Sanitation Council to establish consumer watch groups nationwide to deal with complaints about water services.

6.4 Sending government a message – new ways to complain

In April 2005 the Government-run Delhi Water Board introduced a special SMS hotline for consumers needing help with public services such as water and sewage. Across a range of issues including water theft, contamination, broken pipes and water tankers that fail to turn up for deliveries, consumers can now register their complaint instantly. Given seasonal temperatures that can reach F120, the Water Board is saying that in emergencies water tankers can be sent immediately.

In a similar move but using a different means of delivery, the Government of India has introduced an online Grievance Forum (<http://darpggrievance.nic.in>) which allows consumers to complain about the service they receive at the hands of officials in departments as diverse as: the Passport Office, the Electricity Board, the incumbent telco BSNL and MTNL, the Central Board of Secondary Education, Public Sector Insurance Companies and the Railways.

The site is run by the Department of Administrative Reforms and Public Grievances. Rather ominously from the consumer viewpoint, the site has a link entitled: "Lodge your reminder of a past grievance registered with us."

However according to eGov magazine¹⁷⁶, Faridabad Municipal Corporation laid new roads in a locality, only for them to be dug up two weeks later by telco incumbent BSNL to lay cables. Understandably local residents were angry. One of them used the online Grievance Forum to complain. Much to his surprise, BSNL and Faridabad Municipal Corporation were served a "show cause" notice and the complainant received a copy of this notice within a week.

As eGov commented: "This has not only elated the complainant and the residents of the locality, but seeks to finally change the very perception of the way the Government and the system as such had been functioning until now."

At another level entirely, a researcher writing a report for the Government on tourism in India approached a site called Indiamike.com (the India Travel Forum) to ask recent travellers to Rajasthan about annoying experiences during their visits. A number of correspondents complained a number of issues including: the dumping of rubbish, people trying to scam tourists, the absence of information about bus departures and the quality of so-called luxury buses. On the subject of the latter, one visitor pointed out that similar buses in China had air-conditioning and enforced maximum passenger limits and asked why if China could do it, India could not? The researcher promised to pass on the complaints to the right people in Government.

In the legal system in Korea, a complaints line is to be installed in the Seoul District Prosecutor's Office (SDPO). The First Assistant Prosecutor General will assign a post holder to take calls, regarding any acts of brutality during investigations. In addition, an assistant prosecutor will serve as a human rights watchdog of sorts, by patrolling the building daily. Digital video cameras will be installed in interrogation rooms, to ensure suspects retain their human rights during interrogation. These measures come as a result of a recent suspected murder by torture during interrogation at the SDPO.



7. IMPLICATIONS OF RESEARCH AND RECOMMENDATIONS

This section outlines the overall implications of the research undertaken and seeks to draw out the issues that need to be addressed in the following section on recommendations:

7.1 Key issues from a consumer perspective

From all of the information gathered, there is a consistent message. Whether it is negatively expressed through complaints or positively expressed through buying choices in market, Africa's consumers are concerned about three main issues: price, quality of service and access to services.

Getting lower prices is a function of widening competition, particularly in the service layer that affects consumer most. In nearly all African countries there is still not enough price competition, particularly for mobile voice services which are the most widely used of all the services examined.

There is an umbilical cord connecting price and access: put simply, the lower the cost of a service, the more people are likely to use it. But greater access can only be offered to consumers currently without access to services (particularly voice) by encouraging innovation that will also lower the capital and operating costs of delivering those services.

New ways of delivering services may cause conflicts with existing operators but as with other disruptive technologies (like VoIP), policy-makers and regulators have to consider which interest they put first: the consumer or the existing industry? This is not a simple question to answer but if there is to be greater access to communications services for all consumers, then the balance must now shift more decisively in the direction of existing and potential consumers.

Because of the speed of growth of Africa's communications markets, it is hardly surprising that investment has sometimes lagged behind demand. As a result of this and other factors, quality of service (in both the telecoms and Internet sectors) has not always been what it should be. But again as with price, the time is now right for policy-makers, regulators and consumer organisations to focus on getting improvements in quality of service. How this might be achieved is examined in 7.5 below

7.1.1 Recommendation: From all the evidence gathered for this study it is clear that three broad issues affect consumers adversely: price of service, quality of service and access to service. As operators become more established, regulators need to shift their emphasis from the industry part of their mandate to addressing the consumer interest more directly under each of these three headings. A key area for concern affecting large numbers of consumers is the lack of price competition in most African mobile markets.

7.2 How do key stakeholders view consumer activity? - Rhetorics and reality

It would be a foolish person who announced publicly that the African consumer is unimportant. With something like the use of a mobile phone, a significant minority of the population in any African country is a consumer from the mightiest Minister or Chief Executive to the lowliest dweller in an informal settlement. If there is poor network coverage or congestion, it does not usually discriminate on the basis of income or status.¹⁷⁷

Therefore all those spoken to were at pains to demonstrate their genuine commitment to helping the consumer and protecting his or her rights. With some exceptions, the views expressed verbally in interviews have their outward expression in policy documents, statements on operator or regulator web sites and consumer awareness campaigns.

Most operators use language in their press releases that reflects the idea that the consumer is central to

their business processes. Regulators will often go to some length to say that they consult consumers and that they are people to be listened to. Without seeking to be pejorative, these might best be described as the “rhetorics” of consumer rights in the telecoms and Internet sectors: rhetorics being the language and arguments used to describe these issues publicly.

However, to take a phrase used by Catholics, what matters are “the outward signs of inward grace”: in other words, what is the distance between the idealised public rhetorics and the reality facing consumers wanting to make a complaint or get their viewpoint heard. It will be clear from our research and the sections that follow that although practices vary enormously, there is still in the majority of African countries some distance between idealised aspirations and what actually occurs.

7.3 A consumer framework – law, regulation and codes of conduct

The desire to place the needs of consumers more centrally - particularly for basic services like communications - can only be turned into reality through the existence of relevant legislation (consumer and competition law) and a body or bodies to ensure that the law is upheld (a sector regulator and a competition body).

The liberalisation of Africa’s economies is a relatively recent phenomenon and therefore the required laws and regulation are not always in place. Both African consumer and competition law are therefore relatively young and there has not been a great deal of practical case law and precedent in the telecoms and Internet fields.

Law and regulation relies upon: respect for the law, the ability of the judiciary to operate freely from the executive and for it to be transparent and open. There is always a distance between the idealised expression of how things should work and the reality of what actually happens. Nevertheless it would be helpful in a number of countries to see some selective test cases - particularly in the case of competition law - to investigate the operational effectiveness of these frameworks.

Regulators are set up to provide rules that might be accepted without recourse to law: indeed a number of regulators in their work with consumers make a virtue of their ability to use processes that avoid law. However in this role, they have control over a number of key levers that can influence whether consumer rights are adopted and operate. The effectiveness of their work in this area is examined in 7.6 below.

Unlike utility regulators (for basic services like water and electricity), the regulators of communications services have the ability to use competition to achieve consumer objectives, particularly at the services level. It is striking that where greater competition exists (for example, the ISP sector in South Africa), there appear to be fewer complaints from consumers.

7.3.1 Recommendation: Where consumer and competition law exists, it is important to encourage the undertaking of test cases to demonstrate that these laws can operate and that the successful conclusion of test cases will help regulators support the consumer interest in their discussions with industry.

7.3.2 Recommendation: Where it has not already occurred, regulators need to encourage competition (particularly in the services layer) to help address the issues of price and quality of service.

7.4 Complaint resolution – Does “cause and effect” function?

In a significant number of countries, it is possible for the consumer to complain to an operator and get redress. This is more likely to happen where the regulators have put in place consumer Codes of Conduct or Service Level Agreements that operators are obliged to respect as part of their licence conditions.

That said, the successful complainant needs will need to be able to read and write and make copies of documents that affect their complaint. For those not able to do any or all of these things, there are currently almost no support organisations to assist them.

With the exception of two regulators who run their own complaints call-centres, most regulators choose



to function as the last place to go for a complainant when all else has failed. Although they publicise complaints procedures (usually on their web sites), the number of complaints (in the small number of instances where the data is collected) is not large.

The consumer function in most regulators is not well-publicised, poorly resourced and is often staffed by relatively junior members of staff. By contrast, the customer care function (which deals with complaints) in private sector companies is taken very seriously and has access to management at the highest level in more competitive countries.

The information generated by consumer complaints to regulators is almost never used to influence policy or regulatory decisions. That said, there are a significant number of cases where regulators have stepped into disputes between consumers and operators (for example, the introduction of charging for SMS messages in Senegal) and resolved the situation.

However, there are still a significant number of countries where those spoken to during this research felt that if they complained that their complaint would not be taken seriously or dealt with within a reasonable period of time.

7.4.1 Recommendation: Where it does not already occur, regulators need to ensure that a Code of Conduct (covering the rights and responsibilities of consumers) is a condition of licence for operators, along with the obligation to publicise the existence of the Code of Conduct.

7.4.2 Recommendation: Regulators need to publicise their own complaints procedures effectively and gather data from complaints made that can influence policy and regulation. Where it does not already occur, the Consumer function within the regulator needs to be: properly resourced, managed at a senior level and have direct access to senior management.

7.5 The informed consumer – the need for information to help choice

Market theory that gives the framework for consumer rights depends upon the idea of an individual making informed choices between competing products and services. The challenge for those that seek to make this a reality are twofold. Firstly, what is the key information required that will help individual consumers make choices and protect their rights as consumers? Secondly, how does one ensure that this information is freely available irrespective of individual education or wealth?

There is a widespread consensus amongst stakeholders that in the main African consumers are not aware of their consumer rights in general or their particularly rights (and responsibilities) as users of telecoms and Internet services. Where information is available, it is clear that the better-off and the more well-informed are likely to complain. If African consumers are unaware of their rights, they are even less aware of the channels for complaint that exist.

But where stakeholders have thought deeply about the issue of how to make consumers better informed, there is much less agreement about who should be responsible for addressing this task. Should it be the regulator alone or are there other partners who might become involved? The following section touches on how an answer to this question might be reached.

Outside of information about their rights, consumers need to be able to compare issues like pricing and quality of service. Tactical one-off promotions and marketing offers are designed to obscure underlying differences in price or the fact that operators are charging more or less the same price. The regulator has the ability to both collect and publish information on pricing that allows consumers to see which providers are cheaper, particularly for voice services.

Alongside price, it is also possible to collect quality of service information. For example, in the Senegalese case study the Government obtained this information from both voice operators and gave an aggregated assessment of the overall quality of service. It would be perfectly possible for regulators to collect and publish annually quality of service data. The same would also be true for complaints data from operators,

covering who is complaining about what. Again if published on an annual basis, the information be of little direct tactical use to competitors and would encourage a more transparent market.

As with all forms of information in this field, there are a number of issues that need to be addressed. The regulator has a choice between asking (or compelling) operators to provide the information and collecting it independently. Circumstances vary and it may be more effective to have an independently conducted survey that addresses these issues. The cost of getting the information needs to be cost-effective. Operators already collect much of the data but may well protest that it is costly to provide it. However we observe that operators elsewhere have been able to do so.

If it is the well-informed and well-resourced who know how to complain, then the challenge is how to communicate information to those who lack literacy skills. The print media and web sites must form part of the communications portfolio of most organisations in this field but will be largely ineffective in communicating with the less well-educated.

The more advanced regulators are using a combination of two different approaches: the “town hall” meeting and broadcast voice media. In Zambia, CAZ goes out every month to a different part of the country, explaining CAZ’s work and listening to the views of participants. Acknowledging that the circulation of the printed media is small, it is using radio and television to get its message across. It has bought one year’s worth of advertising to concentrate on consumer issues.

- 7.5.1 *Recommendation: Serious consideration should be given regulatory enforcement of compulsory disclosure by the operators of accurate, comparable statistical information relating to the numbers and breakdown of customer complaints. While this is likely to be resisted by the companies concerned, and although careful formulation is necessary to ensure comparability and comprehensiveness, it would greatly incentivise customer responsiveness on the part of the companies. It would act as a powerful tool to promote consumer empowerment and freedom of choice.*
- 7.5.2 *Recommendation: If compulsory disclosure proves impossible to implement then regulators should themselves initiate independent surveys that identify levels of consumer satisfaction.*
- 7.5.3 *Recommendation: As with the example from India given in Box 4, regulators need to set a simple “basket” of performance indicators on which operators can be judged and the results from these studies should be published at least on an annual basis. On a slightly broader front, regulators need to be more proactive in educating consumers about market issues like underlying mobile prices and consumer broadband and contention ratios.*
- 7.5.4 *Recommendation: If information is central to making informed choices, regulators need to develop effective communications strategies to talk directly to consumers and (as is already happening in some countries) these need to take account of the levels of education and literacy amongst consumers.*

7.6 The role of the regulator – The balance between acting directly and facilitating others

The functions required to meet the aim of safeguarding consumer interests might be summarised as follows:

- Setting the conditions that will favour consumers (enshrining transparent business practices and consumer protection in licensing);
- Obtaining and providing information that will enable consumers to make informed choices (particularly on issues of price and quality of service);
- Disciplining industry players who “break the rules” (and making the cost of the offense high enough to deter them from doing it again);
- Creating an environment and processes that will facilitate the successful resolution of complaints.



In addition, regulators need to seek the opinions and ideas of consumers, both on everyday issues like price increases but also on the development of policy and regulation.

A key issue at every turn is: should the regulator choose to deal directly with all aspects of these consumer functions? For example, regulators in two of Africa's larger markets - Egypt and Nigeria - have chosen to deal directly with individual complaints. Whereas most other regulators have set themselves up as a point of "last resort". Which of these two approaches can best deliver the consumer interest?

An equally challenging issue is the degree to which regulators may or may not choose to work with (or indeed support) independent consumer bodies. Although it is not strictly speaking a consumer body (as it represents telecentres), Senegal's UNETTS receives support from its regulator. The constitution of regulators vary enormously and some may be unable to offer this kind of support. But whether it is formal support or simply an informal working partnership (as in Malawi with MACRA), it makes sense for the regulator to be in dialogue with effective consumer organisations.

Regulators also have a choice between having consumer representatives on their governing bodies (as too few currently do) or setting up some form of consumer committee. Egypt's NTRA has gone the latter route as has Zambia's CAZ with the added twist that it advertised for volunteers to sit on its Consumers Council. But whilst as we observed earlier, regulators are often good at reacting to "things that happen" in the consumer field, there are few changes in regulation or policy that can be directly attributed to consumer input. With the involvement of consumers - either as representatives or volunteers - it should be possible to create a more dynamic consumer input.

Where regulators are "vertically-defined" it may also be helpful (again as Zambia's CAZ has done) to enter into an alliance with water and electricity regulators. It may be through this form of joint working that issues of resourcing and scale might be resolved. Using approaches like this, regulators in smaller markets might be able to find the resources to offer a "direct" complaints service to consumers rather being one of "last resort".

Where a competition body exists (a Competition Commission or Conseil de La Concurrence), regulators need to explore how best each body might contribute to addressing the consumer interest. Competition bodies will nearly always address larger scale, precedent-setting issues and the regulator may well be reluctant to let these kinds of issues out of its control. But it may well be useful to do so in order to demonstrate that competition law can and does function in the telecoms and Internet sector.

7.6.1 Recommendation: Regulators need involve consumers in their work and ensure that their perspective is fed into their work. A number of different approaches are available to help bring this about.

7.6.2 Recommendation: Regulators ought to seek to work closely with consumer bodies as a way of strengthening the consumer aspects of their mandates. Depending on the constitutional framework of the regulator, it may be possible to provide direct support for this kind of work. Particular emphasis might be given to supporting those complainants that lack the wealth and education to negotiate existing complaints processes.

7.7 An independent consumer movement – what role in the telecoms and internet sector?

Just as an independent Internet community in a country helps the development of the Internet so it is that an independent consumer movement can play a key role in strengthening and defending consumer interests. For if the regulator often finds itself as the referee between competing industry interests, it is useful to have clear, non-partisan voices that speak for the interests of the African consumer.

Nevertheless, African consumer organisations are often fragmented, weak and relatively under-resourced. With certain exceptions, there are simply not sufficient well-informed and wealthy consumers to support them. As their existence is relatively recent, very few countries have a tradition of consumer action.

Very few of the generic consumer organisations have the resources or skills needed to tackle telecoms or Internet complaint or policy issues.

There are only four countries with consumer organisations that specialise in telecoms and Internet issues (Cote d'Ivoire, Nigeria, Senegal and South Africa) and very few generic consumer organisations are actively working in this area. In the four countries where there are specialised consumer organisations, all have begun to make their mark. Often consumer issues find themselves by default ending up being dealt with by trade and professional bodies.

Whether it is the regulator or consumer bodies raising these issues, the media has a vital role to play in both conveying information and shaping attitudes to what should be done about issues raised. Although almost all of the media organisations spoken to consider consumer issues important, a much smaller number of them provide consistent coverage on these issues. It is particularly important that key stakeholders understand the importance of using radio and television as key means of communications in order to overcome the challenges posed by illiteracy.

7.7.1 Recommendation: Consumer organisations should be encouraged to respond to consumer complaints in the telecoms and Internet sector and asked to make input into policy processes.



APPENDICES

Appendix A1: Background reading

An Assessment of Consumer Perceptions on the Quality of Telecommunication Services in Botswana, Survey Report, Botswana Telecommunications Authority, Gaborone, 2005 available online at <http://www.bta.org.bw/pubs/report2005/report.doc>

Bridging the gaps: The case for a General Agreement on Public Services, Consumers International, September 2005

Catalogue of Kenya Standards, Kenya Bureau of Standards

Communications Authority Telecommunications Sector Consumer Protection Guidelines, Communications Authority of Zambia, July 2004 Consumer and Corporate Regulation Division National Consumer Survey, Department of Trade and Industry, Pretoria, 2003, available online at <http://www.dti.gov.za/protecting-consumers/NationalConsumerSurvey.pdf>

Consumer protection policy, statement issued by the Director General of Telecommunications, 18 December 2002, Office of Communications, London, available online at http://www.ofcom.org.uk/static/archive/oftel/publications/about_oftel/2002/cppr_1202.pdf

Consumer Protection and Quality of Life in Africa Through Competition and Regulation 2004 Annual Report, Consumers International

Draft Green Paper on the Consumer Policy Framework, Government Gazette, Vol 471 No 26774, 9 September 2004, Department of Trade and Industry, Pretoria, available online at <http://www.polity.org.za/pdf/DraftGreenPaper.pdf>

Cross Border Fraud Trends, Consumer Sentinel, January -December 2004, Federal Trade Commission, 9 March, 2005

Draft Consumer Protection Guidelines, Telecommunications Regulatory Association of Southern Africa, Gaborone, 2004 available online at <http://www.internews.org/siprs/reports/Consumerprotectionguidelines.pdf>

Effective Competition Review: Mobile, Oftel, February 2001

Feedback to Regulators from Consumers, presentation to ITU Global Symposium for Regulators, prepared by G Crannock, Apoyo Consultoria, available online at http://www.itu.int/ITU-D/treg/Events/Seminars/2002/GSR/Documents/13-consumers_casestudy.pdf

Involving consumers in communications, case study for the Involving Consumers project, National Consumer Council, London, 2002, available online at http://www.ncc.org.uk/involvingconsumers/case_study_comms.pdf

Making the Case for Involving Consumers - A series of international case studies, National Consumer Council, June 2002

Model Consumer Protections in the Telecommunications Industry: SADC Region: Consumer Bill of Rights, Southern Africa ICT Policy & Regulatory Support Project, USAID, Washington DC, Schulte, W, 2002 available online at <http://www.internews.org/siprs/reports/Consumer%20Bill%20of%20Rights%20Schulte%20Report.pdf>

Moving from Protest to Proposal - Building the Capacity of Consumer Organisations to engage in Urban Water Supply and Sanitation in Africa, Consumers International, June 2004



Regulating Quality of Service, in Telecom Reform: Principles, Policies and Regulatory Practices, Melody, William H (Ed), Den Private Ingeniørfond, Technical University of Denmark, Lyngby, Claire Milne, 1997 available online at <http://www.lirne.net/resources/tr/chapter14.pdf> Survey conducted by TRAI to assess QOS provided <http://www.traai.gov.in/> December 2005

The Tanzania Communications (Consumer Protection) Regulations,

Government Notice No 271, 9 September 2005, Tanzania Telecommunications Sector Consumer Protection Guidelines, Communications Authority of Zambia, July 2004

United Nations Declaration of Human Rights, United Nations, 1948 Voluntary Peer Review on Competition Policy: Kenya, UNCTAD, 2005



Appendix A2: List of generic and specialist consumer organisations

Benin: Ligue pour la Défense des Consommateurs au Benin (LDCB) e-mail: ldcb.cird@intnet.bj Tel: 00 229 21 35 24 58

Burkina Faso: Ligue des consommateurs du Burkina (LCB) e-mail: lcb@zcp.bf Tel: +226 31 55 70

Burundi: Association burundaise des consommateurs (ABUCO) e-mail: abuco@cbinf.com Tel: +257 23 76 86

Cameroon: Cameroon Mouvement national des Consommateurs (MNC) e-mail: n/a Tel: +237 22 3002

Chad: Association de défense des consommateurs (ADC) e-mail: adcchad@yahoo.fr Tel: +235 52 4866/52 1048

Cote d'Ivoire: Federation des Associations de Consommateurs de Cote d'Ivoire (FAC-CI)

Ethiopia: Ethiopian Consumer Protection Association (ECPA) e-mail: ahaecpps@telecom.net.et Tel: +251 1 57 0956

Ghana: Consumers Association of Ghana (CAG) e-mail: consumersghana@yahoo.com Tel: +233 21 220 009

Kenya: Consumer Information Network e-mail: cin@swiftkenya.com Tel: +254 2 781 131

Malawi: Consumer Association of Malawi (CAMA) e-mail: cam@malawi.net Tel: +265 644 639

Mali: Association des Consommateurs du Mali (ASCOMA) e-mail: ascoma70@yahoo.fr Tel: +223 222 3561/222 7245

Mauritius: Association des Consommateurs de l'Île Maurice e-mail: acim@intent.mu Tel: +230 212 2333

Mauritius: Institute for Consumer Protection e-mail: icpmapbi@intnet.mu

Tel: +230 210-4433 Web: <http://icp.intnet.mu/>

Morocco: Association Atlas Saïs e-mail: s.elijaafari@menara.ma Tel: +212 55 61 480 440/55

Mozambique: Proconsumers e-mail: proconsum@hotmail.com Tel: +258 1 309 438

Nigeria: All Nigerian Consumer Movement Union (ANCOMU) e-mail: n/a Tel: n/a

Nigeria: Consumer Rights Advocacy League e-mail: cnokafor@crlnigeria.org Tel: 2341 4938187 Web: <http://www.nextdaysite.net/cral/newweb/contactus.php>

Senegal: Association de Défense des usagers d'Eau, d'Electricité, des Télécoms et des Services (ADEETELS) e-mail: adeetels@sentoo.sn Tel: +221 824 1424

Senegal: L'Association pour la défense de l'environnement et des consommateurs (ADEC) e-mail: addec2_cons@yahoo.fr Tel: n/a

Senegal: ASCOSEN E-mail: ascosen@gmail.com Tel: +221 635 07 07 Web: <http://www.ascosen.sn/>

Senegal: L'Association sénégalaise pour la défense de l'environnement et des consommateurs (ASDEC) e-mail: asdec@belgique.com Tel: +221 823 20 01

Senegal: SOS Consommateurs e-mail: n/a Tel: n/a Web: www.geocities.com/sosconsommateurs2002

Senegal: L'Union nationale des consommateurs du Sénégal (UNCS) e-mail: uncs1@hotmail.com Tel: +221 823 46 68

Seychelles: National Consumers Forum e-mail: natcof@seychelles.net Tel: +248 225 941

South Africa: Consumer Institute of South Africa (CISA) e-mail: n/a Tel: +27 11 614 1381



South Africa: National Consumer Forum e-mail: ncf@ncf.org.za Tel: +27 11 403 1869 Web: <http://www.ncf.org.za/>

South Africa: South African National Consumers Union e-mail: info@sancu.co.za Tel: +27 12 428-7122 Web: www.sancu.co.za

Sudan: Consumer Advocates e-mail: n/a Tel: n/a

Togo: Association togolaise des consommateurs (ATC) e-mail: actogo@yahoo.fr Tel: +228 221 5082

Tunisia: Organisation tunisienne de défense des consommateurs e-mail: otdc@gnet.tn Tel: +216 71 789 789 Web: <http://www.odc.org.tn/>

Uganda: Uganda Consumer Protection Association (UCPA) e-mail: n/a Tel: +256 41 234002

Zambia: Zambia Consumer Association (ZACA) e-mail: zaca@zamnet.zm Tel: +260 022 241 93

Zimbabwe: Consumer Council of Zimbabwe (CCZ) e-mail: headoffice@ccz.org.zw Tel: +263-(0)23-307031



Appendix A3: Assessing commitment to consumers – countries surveyed

	Is there a regulator?	Is the regulator in charge of the protection of customers rights?	Is there a complaint procedure in place (regulator level)?	Is there one or more consumers associations defending telecoms customers?	Is there a specific consumers association for telecoms customers?	Is the media writing about telecoms services and consumers rights?		% Mobile phone per 100 population - 2005	GDP in billions \$	Population	Average GDP per person in \$
Zimbabwe	Y	Y		Y	N	Y		6	5.817	12,160,782	478
Zambia	Y	Y	Y	Y	N	Y		8	5.701	11,261,795	506
Uganda	Y	Y	Y	Y	N	Y			8.489	27,269,482	311
Togo	Y	Y	N	Y	N	Y		5	2.076	5,399,991	384
Tunisia	Y	N	N	Y	N	Y		60	31.74	10,074,951	3,150
Tanzania	Y	Y	Y	Y	N	Y		9	11.83	36,766,356	322
Sudan	Y	Y	Y	Y	N	N		5	23.02	40,187,486	573
South Africa	Y	Y	Y	Y	Y	Y			191.3	44,344,136	4,314
Senegal	Y	Y	Y	Y	Y	Y			8.281	11,706,498	707
Rwanda	Y		N	N	N	N		2	1.892	8,440,820	224
Nigeria	Y	Y	Y	Y	Y	Y		15	78.08	128,765,768	606
Namibia	Y	Y	Y		N	Y			5.076	2,030,692	2,500
Mozambique	Y	Y		Y	N	Y		8	5.924	19,406,703	305
Morocco	Y	N	N	Y	N	Y		39	52.7	32,725,847	1,610
Mauritania	Y	Y	Y	N	N	N					
Mauritius	Y	Y	Y	Y	N	Y			6.45	1,230,602	5,241
Malawi	Y	Y	Y	Y	N	Y			1.957	12,707,464	154
Madagascar	Y	Y	Y	Y	N	Y			4.705	18,040,341	261
Lesotho	Y	Y	Y	Y	N	Y			1.405	2,031,348	692
Kenya	Y	Y	Y	Y	N	Y			16.63	33,829,590	492
Guinea	N	N	N	N	N	Y			3.786	9,467,866	400
Ghana	Y	Y	N	Y	N	Y		12	9.464	21,029,853	450
Gabon	Y	N	N	Y	N	Y			7.332	1,389,201	5,278
Ethiopia	Y	Y	N	Y	N	Y		1	9.034	73,053,286	124
Egypt	Y	Y	Y	Y	N	Y		18	81.47	77,505,756	1,051
Cote d'Ivoire	Y	Y	Y	Y	Y	Y		12	16.17	17,298,040	935
Cameroon	Y			Y	N	Y		12	15.91	16,380,005	971
Burkina Faso	Y	Y	Y	Y	N	Y			5.555	13,925,313	399
Botswana	Y	Y	Y	Y	N	Y		42	9.594	1,640,115	5,850
Benin	Y	Y	N	Y	N	Y			4.433	7,460,025	594
Angola	Y	N	N	N	N	Y		12	24.13	11,190,786	2,156

Light grey = Yes

Dark grey = No

White = No information available



Footnotes

¹ If one includes broadcasting as part of the discussion, then obviously those parts of the Declaration covering “free expression” become relevant.

² The Communications Agency of Zambia’s consumer guidelines provide a useful list of external market failures including: a) high prices, b) insufficient supply, c) poor service quality and reliability, d) slow repairs, e) slow introduction of new services, f) inaccurate and incontestable bills, g) late delivery of bills or lack of bills altogether h) corrupt practices in allocating scarce services, and i) new service provider barriers. In markets with multiple providers that are more characterized by competition, internal-market failures such as unfair trade practices are also concerns.

³ Whenever there are descriptions of basic services, telephony is the phrase used but communications services might be more helpful in the future.

⁴ Open Access Models: Options for Improving Backbone Access in Developing Countries (with a Focus on Sub-Saharan Africa), Spintrack (Anders Comstedt, Eric Osiakwanand Russell Southwood) for infoDev, August 2005⁵ For a rare acknowledgement at a national level, see Poor Customer Care Embarrasses - Official, Mmegi, 7 September 2005

⁶ http://www.balancingact-africa.com/news/back/balancing-act_298.html

⁷ Cote d’Ivoire, Ghana, Mali, Nigeria, South Africa, Sudan, Uganda and Zimbabwe. The Ghana government took its SNO Westel back into public ownership and the Zimbabwean regulator withdraw the SNO Licence from the operator granted it for failure to implement. Morocco has granted an SNO licence and Senegal has announced that it will do so in 2006.⁸ In Reunion this worked in favour of consumers as the French regulator insisted that the island’s telco France Telecom lower its international connectivity prices.

⁹ La loi 98-005 du 11 février 1998 sur les telecommunications

¹⁰ NCA Act 524, 1996

¹¹ See chart on page 18 of the 2004 Consumers International annual report and the International Bar Association’s Global Competition Forum: <http://www.globalcompetitionforum.org/africa.htm>¹² LOI N° 94-63 DU 22 AOUT 1994 SUR LES PRIX, LA CONCURRENCE ET LE CONTENTIEUX ECONOMIQUE

¹³ Togo’s Café Informatique offers cheaper pre-pay calling by VoIP: http://www.balancingact-africa.com/news/back/balancing-act_252.html

¹⁴ Regulatory association ARICEA has a Code of Conduct in relation to consumers that has been adopted by its members but the existence of the code was not mentioned by any of the ARICEA country regulator members interviewed.¹⁵ The survey covered a sample of 1000 respondents from 10 locations in Botswana and was carried out by the University of Botswana.

¹⁶ Effective Competition Review: Mobile, Oftel, February 2001

¹⁷ Tunisian regulator INT conducted a global study in 2003 to audit the quality and benefits of the mobile services offered by the two operators and to see whether they conformed to the standards set out in their licensing conditions and recognised as international benchmarks. It was as a result of analysing the data supplied for this study that it concluded that it was satisfied that overall the quality of mobile services was not markedly differed from the level specified by the operator’s licence conditions. However it is over 10% short of the target in the key benchmark of dropped calls. The key results of the study were as follows:

- There was a broad similarity in service quality terms between Tunisie Télécom and Tunisiana, except in some regions;
- In terms of dropped calls, Tunisiana achieved 86.8% calls going through first time whereas Tunisie Télécom had a slightly lower success rate at 88.3% against the 96% rate set by their licence conditions.



¹⁸ <http://www.ntra.gov.eg/presentations/Mobile%20Roaming%20in%20Arab%20countries.ppt>

¹⁹ For details see: <http://www.trai.gov.in/>

²⁰ Contention Ratio is the ratio of total bandwidth available that is shared amongst subscribers to an internet service.

²¹ Moving from Protest to Proposal - Building the Capacity of Consumer Organisations to engage in Urban Water Supply and Sanitation in Africa, Consumers International, June 2004

²² Le Consommateur des Services d'Utilite Publique at son Apport dans le processus de Regulation, Fidele Masengo, Conseiller Juridique, L'Agence de Regulation des Services d'Utilite Publique, 29 October 2004

²³ A lot depends on how you judge substantive involvement but we were able to identify the following: Benin, Egypt, Malawi and Nigeria.

²⁴ This judgement is based both on our survey and on the news-gathering that we do to producing Balancing Act's weekly e-letter, News Update.

²⁵ http://www.balancingact-africa.com/news/back/balancing-act_202.html

²⁶ Kictanet is composed of government, private sector and civil society members. During the period of research for this study it launched a consumer campaign.

²⁷ "The rapid growing number of Celtel subscribers has been causing congestion on the mobile company's network and has been a source of concern to the company". Celtel upgrades African mobile network, InfoWorld, 4 November 2005 Safaricom also carried out an upgrade to ease congestion in Nairobi's central business district.

²⁸ See section 23.2.A.

²⁹ Appointed in pursuant to the provisions of Section 3(1) of Kenya's Competition law.

³⁰ Interview with Narain Kuljeeth, dti.

³¹ The nine-person committee is chaired by Professor of Law Tanya Woker of the University of kwaZulu-Natal and includes individuals from a wide range of backgrounds, such as prominent financial adviser Lionel Karp and T Bolani of the National Consumer Forum.

³² Including the Internet Service Providers Association and SA VANS Association against incumbent Telkom.

³³ Some sections of which are in abeyance.

³⁴ dti (2003) *Consumer and Corporate Regulation Division National Consumer Survey*, Department of Trade and Industry, Pretoria. The survey analyses down awareness of the dti's role as a consumer champion (38% overall were aware of such a role), showing that the awareness levels are highest amongst whites (82%) and lowest amongst blacks (27%), and lower in rural areas (24%) than in cities (52%).

³⁵ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

³⁶ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

³⁷ Interview with Sharon Horton, 16 September 2005.

³⁸ Interview with Sharon Horton, 16 September 2005. Even the organogram showing where customer service fits within the Telkom corporate structure is confidential.

³⁹ Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9 December 2005.



⁴⁰ Synovate (2005) 'SAS Index Media Information', Synovate, Johannesburg, 25 November 2005, available online at http://www.sas-index.co.za/Microsoft%20Word%20%20SASIndex_Media%20Information_Nov2005.pdf. Despite several requests and lengthy e-mail correspondence, the full report could not be secured for this research project.

⁴¹ Synovate (2005) 'SAS Index Media Information', Synovate, Johannesburg, 25 November 2005, p4, available online at http://www.sas-index.co.za/Microsoft%20Word%20%20SASIndex_Media%20Information_Nov2005.pdf. Unfortunately, these drivers are not specified or discussed.

⁴² Synovate (2005) 'SAS Index Media Information', Synovate, Johannesburg, 25 November 2005, p8, available online at http://www.sas-index.co.za/Microsoft%20Word%20%20SASIndex_Media%20Information_Nov2005.pdf.

⁴³ Synovate (2005) 'SAS Index Media Information', Synovate, Johannesburg, 25 November 2005, p8, available online at http://www.sas-index.co.za/Microsoft%20Word%20%20SASIndex_Media%20Information_Nov2005.pdf.

⁴⁴ Synovate (2005) 'SAS Index Media Information', Synovate, Johannesburg, 25 November 2005, p9, available online at http://www.sas-index.co.za/Microsoft%20Word%20%20SASIndex_Media%20Information_Nov2005.pdf.

⁴⁵ Synovate (2005) 'SAS Index Media Information', Synovate, Johannesburg, 25 November 2005, p9, available online at http://www.sas-index.co.za/Microsoft%20Word%20%20SASIndex_Media%20Information_Nov2005.pdf.

⁴⁶ Interview with Dianne Ngoasheng, 29 August 2005.

⁴⁷ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁴⁸ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁴⁹ Interview with Katharina Pillay and Leona Mentz, 15 December 2005. Cell C has an agreement with Vodacom, allowing its customers to roam on or connect via the latter's network.⁵⁰ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁵¹ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁵² Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁵³ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁵⁴ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁵⁵ Interview with Katharina Pillay and Leona Mentz, 15 December 2005.

⁵⁶ Interview with Sharon Horton, 16 September 2005.

⁵⁷ Interview with Sharon Horton, 16 September 2005. She suggests the "best customer service in South Africa is that delivered by your average petrol attendant".

⁵⁸ See <http://www.hellopeter.com> and <http://www.myadsl.co.za> respectively. Both are discussed more fully later in the report.

⁵⁹ Interview with Sharon Horton, 16 September 2005.

⁶⁰ In the words of Marco Gagiano. Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9 December 2005.

⁶¹ Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9



December 2005.

⁶² Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9 December 2005.

⁶³ Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9 December 2005. One wonders how the last assertion was verified, but Vodacom claims it forced them to change the music on their call centre system.

⁶⁴ dti (nd) *Consumer Affairs Committee Report 2003/4*, Department of Trade and Industry, Pretoria, p3.

⁶⁵ Harrison, R (2005) 'New ICASA chief considers fourth cellphone licence', *Business Report*, Johannesburg, available online at <http://www.busrep.co.za/index.php?fSectionId=566&fArticleId=2644377>

⁶⁶ Interview with Dianne Ngoasheng, 29 August 2005.

⁶⁷ ICASA (2004) *Annual Report 2004*, p 40, Independent Communications Authority of South Africa, Johannesburg.

⁶⁸ ICASA (2004) *Annual Report 2004*, p 40, Independent Communications Authority of South Africa, Johannesburg. If the example of a complaint submitted as part of this research on 15 December 2005, and to which there has been neither response nor acknowledgement by 16 February 2006, is anything to go by, this target is not being adhered to.

⁶⁹ ICASA (2005) *Annual Report 2005*, p 23, Independent Communications Authority of South Africa, Johannesburg.

⁷⁰ Interview with Dianne Ngoasheng, 29 August 2005.

⁷¹ Interview with Dianne Ngoasheng, 29 August 2005.

⁷² Interview with Dianne Ngoasheng, 29 August 2005.

⁷³ ICASA (2004) *Annual Report 2004*, p 40, Independent Communications Authority of South Africa, Johannesburg and ICASA (2005) *Annual Report 2005*, p 30, Independent Communications Authority of South Africa, Johannesburg.

⁷⁴ Interview with Dianne Ngoasheng, 29 August 2005.

⁷⁵ ICASA (2004) *Annual Report 2004*, p 41, Independent Communications Authority of South Africa, Johannesburg.

⁷⁶ Debbie Love, AntiTrust, personal communication, 16 March 2006.

⁷⁷ Interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005

⁷⁸ Debby Love, personal communication, 2005-09-20.

⁷⁹ Debby Love, interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005.

⁸⁰ See Jovanovic, D (2005) 'One woman against Telkom', *ITWeb*, Johannesburg, 17 March 2005, available online at <http://www.itweb.co.za/sections/quickprint/print.asp?StoryID=150605>.

⁸¹ Michael Alachouzos, , interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005. While Telkom would no doubt view Alachouzos as a 'vexatious litigant', his allegations, if correct, have potentially far-reaching implications in relation to Telkom's listing on the NYSE and its compliance with the USA's SarbanesOxley Act.

⁸² See <http://www.antitrust.co.za>.



- ⁸³ Antitrust pamphlet, copy in the author's possession.
- ⁸⁴ Interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005.
- ⁸⁵ Antitrust pamphlet, copy in the author's possession.
- ⁸⁶ Interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005.
- ⁸⁷ See http://www.rights-watch.org/Love_complaint_to_ICASA.html for a copy of the complaint.
- ⁸⁸ Interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005.
- ⁸⁹ Debby Love, personal communication, 2005-09-20.
- ⁹⁰ Interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005.
- ⁹¹ See <http://www.cellhell.co.za>.
- ⁹² Interview with Virginia Setshedi, Freedom of Expression Institute, Johannesburg, 20 September 2005.
- ⁹³ Interview with Virginia Setshedi, Freedom of Expression Institute, Johannesburg, 20 September 2005.
- ⁹⁴ FXI (nd) pamphlet, Freedom of Expression Institute, Johannesburg, copy in the author's possession.
- ⁹⁵ Interview with Virginia Setshedi, Freedom of Expression Institute, Johannesburg, 20 September 2005.
- ⁹⁶ Interview with Virginia Setshedi, Freedom of Expression Institute, Johannesburg, 20 September 2005.
- ⁹⁷ Interview with Virginia Setshedi, Freedom of Expression Institute, Johannesburg, 20 September 2005.
- ⁹⁸ Interview with Virginia Setshedi, Freedom of Expression Institute, Johannesburg, 20 September 2005. Telkom's Prepaid Fone service was introduced in response to the runaway success of mobile prepaid and is explicitly aimed at poorer households.
- ⁹⁹ Chibba, R (2005 'Telkom 'refused' to attend meeting on lines, tariffs', *Mail & Guardian*, Johannesburg, 12 September 2005.
- ¹⁰⁰ See <http://www.hellkom.co.za>.
- ¹⁰¹ See <http://www.hellkom.co.za>.
- ¹⁰² Interview with Gregg Stirton, Cape Town, 7 October 2005. The site was originally domiciled at <http://www.telkomsucks.0catch.com>.
- ¹⁰³ Interview with Gregg Stirton, Cape Town, 7 October 2005.
- ¹⁰⁴ Interview with Gregg Stirton, Cape Town, 7 October 2005.
- ¹⁰⁵ Interview with Gregg Stirton, Cape Town, 7 October 2005.
- ¹⁰⁶ See Lloyd Gedye and Nic Dawes (2005) 'Telkom gets the hell out', *Mail & Guardian*, Johannesburg, 9 September 2005. Gedye and Dawes suggest that the decision was "heavily influenced" by the outcome of a similar copyright suit, which (also with the support of the FXI) had gone all the way to South Africa's Constitutional Court', and which had seen the right of Justin Nourse's Laugh It Off Promotions to satirise a brand name and slogan belonging to breweries multinational SAB / Miller, vindicated.
- ¹⁰⁷ Interview with Debby Love and Michael Alachouzos, Johannesburg, 15 September 2005.
- ¹⁰⁸ See MyADSL (nd) 'About MyADSL', MyADSL, Johannesburg, available online at <http://www.mybroadband.co.za/myadsl/community.php>.
- ¹⁰⁹ See MyADSL (nd) 'About MyADSL', MyADSL, Johannesburg, available online at <http://www.mybroadband.co.za/myadsl/community.php>.



¹¹⁰ See MyADSL (nd) 'About MyADSL', MyADSL, Johannesburg, available online at <http://www.mybroadband.co.za/myadsl/community.php>.

¹¹¹ See MyADSL (nd) 'About MyADSL', MyADSL, Johannesburg, available online at <http://www.mybroadband.co.za/myadsl/community.php>.

¹¹² Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹³ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹⁴ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹⁵ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹⁶ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹⁷ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹⁸ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹¹⁹ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005. He states that the section concerned (RSA (2002) *Electronic Communications and Transactions Act*, No 25 of 2002, Republic of South Africa, Pretoria, section 77) has not yet been implemented and requires ISPA to be formally recognised as an industrybody.

¹²⁰ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹²¹ WASPA (2005) 'Sample Code of Conduct Complaint', Wireless Application Service Providers' Association, Johannesburg, available online at <http://www.waspa.org.za/code/sample.shtml>.

¹²² Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹²³ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹²⁴ Interview with Ant Brooks, Chair: ISPA Regulatory Committee, 27 October 2005.

¹²⁵ See http://www.waspa.org.za/code/complaint_idx.shtml -accessed on 2006-01-17.

¹²⁶ See <http://www.hellopeter.com/>.

¹²⁷ According to the NCF (nd) 'Tell it like it is. Tell Peter!', National Consumer Forum, Pretoria, available online at <http://www.ncf.org.za/docs/publications/consumerfair/vol3/peter.htm>.

¹²⁸ NCF (nd) 'Tell it like it is. Tell Peter!', National Consumer Forum, Pretoria, available online at <http://www.ncf.org.za/docs/publications/consumerfair/vol3/peter.htm>.

¹²⁹ Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9 December 2005.

¹³⁰ Interview with Vanessa van Zyl, Executive Head of Special Regulation, Natalie Launspach, Project Manager: Customer Care and Marco Gagiano, Manager: Customer Information and Research, Vodaworld, 9 December 2005.

¹³¹ See [hellopeter.com - http://www.hellopeter.com/cwc.asp](http://www.hellopeter.com/cwc.asp) and <http://www.hellopeter.com/cwd.asp> respectively, accessed 2005-08-23. An examination of the figures nearly six months later (2006-03-02) reveals different numbers, but the same relative positions.

¹³² Leona Mentz, personal communication, 24 March 2006, Cell C, Johannesburg.

¹³³ In fact the site's own figures for the preceding 12 months suggest that around 80% of postings are complaints, as opposed to 20% of compliments. Telecommunications and Internet service providers account for



around 14% of all postings. See [hellopeter.com](http://www.hellopeter.com/cwc.asp) - <http://www.hellopeter.com/cwc.asp> and <http://www.hellopeter.com/cwd.asp> respectively, accessed 2005-08-23

¹³⁴ See <http://www.ncf.org.za>.

¹³⁵ NCF (nd) 'Are MTN and Vodacom profiteering at our expense?', National Consumer Forum, Pretoria, available online at <http://www.ncf.org.za/docs/publications/consumerfair/vol2/complaint.htm>.

¹³⁶ Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹³⁷ Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹³⁸ Personal communication from Dene Smuts, MP, Cape Town, 8 March 2006.

¹³⁹ Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹⁴⁰ Interview with Randy Pieterse, MP, 17 October 2005.

¹⁴¹ Interview with Randy Pieterse, MP, 17 October 2005.

¹⁴² Interview with Randy Pieterse, MP, 17 October 2005.

¹⁴³ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁴⁴ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁴⁵ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁴⁶ Literally "at your service". See the link from <http://www.beeld.co.za>.

¹⁴⁷ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁴⁸ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁴⁹ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁵⁰ Interview with Damaria Senne, ITWeb, Johannesburg, 15 December 2005.

¹⁵¹ See, for example: Horwitz R (2001) *Communication and Democratic Reform in South Africa*, Cambridge University Press; Cogburn, D (1998) 'Globalization and State Autonomy in the Information Age: Telecommunications Sector Restructuring in South Africa', *Journal of International Affairs*, Vol 51 No 2, Spring 1998; Gillwald, A (2002) 'Experimenting with Institutional Arrangements for Communications Policy and Regulation: The case of telecommunications and broadcasting in South Africa', *The Southern African Journal of Information and Communication* Vol 2 No 1, <http://link.wits.ac.za/journal/j0201-ag.htm>; and Lewis, C (forthcoming) 'Negotiating the Net: the Case of South Africa' in Wilson, E & Wong, K (eds) (forthcoming) *Negotiating the Net*, Lynne Rienner, Boulder CO.

¹⁵² Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹⁵³ Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹⁵⁴ Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹⁵⁵ Interview with Dene Smuts, MP, Cape Town, 17 October 2005.

¹⁵⁶ See <http://www.aware.co.za>.

¹⁵⁷ Interview with Ron Holloway and Jurie Steenkamp, Hermanus, 10 October 2005.

¹⁵⁸ See <http://www.aware.co.za>.

¹⁵⁹ See <http://www.aware.co.za>.



¹⁶⁰ Interview with Ron Holloway and Jurie Steenkamp, Hermanus, 10 October 2005.

¹⁶¹ Interview with Ron Holloway and Jurie Steenkamp, Hermanus, 10 October 2005.

¹⁶² See <http://www.cuasa.org.za>.

¹⁶³ Interview with Ray Webber, CUASA spokesperson, Johannesburg, 20 October 2005.

¹⁶⁴ ICASA (2005) *Discussion Document: Mobile Prices*, Notice No 1200, Government Gazette Vol 481 No 27814, Independent Communications Authority of South Africa, Johannesburg, 18 July 2005. ICASA explicitly states its enquiry was prompted by CUASA's May 2005 complaint.

¹⁶⁵ Interview with Ray Webber, CUASA spokesperson, Johannesburg, 20 October 2005.

¹⁶⁶ Interview with Ray Webber, CUASA spokesperson, Johannesburg, 20 October 2005.

¹⁶⁷ Interview with Ray Webber, CUASA spokesperson, Johannesburg, 20 October 2005.

¹⁶⁸ See <http://www.cosatu.org.za/subcommun.htm> for a list of COSATU submissions to the Parliamentary Portfolio Committee on Communications.

¹⁶⁹ COSATU (2001) 'COSATU Submission on the Findings and Conclusions on the Review of Rate Regime and Proposed Regulations on Fees and Charges in the PublicSwitched Telecommunications Sector', Submitted to ICASA, 23 July 2001, Congress of South African Trade Unions, Johannesburg, available online at <http://www.cosatu.org.za/docs/2001/tcrates.htm>.

¹⁷⁰ Interview with Sidney Kgara, COSATU Deputy Parliamentary Co-ordinator, Cape Town, 7 October 2005. The provision of housing, health care, education, transport and communications either by the state or at affordable prices is seen as integral to improving the real wages at the disposal of workers.

¹⁷¹ Interview with Sidney Kgara, COSATU Deputy Parliamentary Co-ordinator, Cape Town, 7 October 2005.

¹⁷² Interview with Sidney Kgara, COSATU Deputy Parliamentary Co-ordinator, Cape Town, 7 October 2005.

¹⁷³ Interview with Sidney Kgara, COSATU Deputy Parliamentary Co-ordinator, Cape Town, 7 October 2005.

¹⁷⁴ Interview with Sidney Kgara, COSATU Deputy Parliamentary Co-ordinator, Cape Town, 7 October 2005.

¹⁷⁵ Interview with Sidney Kgara, COSATU Deputy Parliamentary Co-ordinator, Cape Town, 7 October 2005.

¹⁷⁶ Ever imagined this happening in India!!, March 2006, eGov, the e-Government magazine for Asia and the Middle East.

¹⁷⁷ Of course, the major exception are those areas not yet served.

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