

CRC 20th Anniversary Conference – Communications, Results, Connectivity
Sofia, 22 November 2018

Panel session III: “The difficult balance: Consumer protection in the dynamic environment of innovations and convergence of networks and services”

Ladies and Gentleman, congratulations! It is an enormous honor and pleasure to be here on CRC 20th anniversary as a speaker, representing ANACOM. I would like to thank the organisers of this Conference, for inviting me to be here I am grateful also to all the other speakers and the audience.

As requested, I will give you our reflections about consumer protection in a dynamic environment of innovations and convergence of networks and services.

The electronic communication sector is still a matter of concern for consumers, as general satisfaction of the services provided remains very low. In Portugal, we have received 85.000 complaints in 2017 (around 41.000 in the 1st semester of 2018). In accordance with the Consumer Market Scoreboard 2018, “out of all market clusters, ‘telecoms’ continues to have the highest proportion of consumers experiencing problems (16.9 %).

It also has the highest proportion of consumers complaining about these problems (85.3 % of consumers complain when they experience problems)”. In addition, nearly 21% of the households do not have access to the internet, namely the elderly and the vulnerable.

Based on these figures, there are good news and bad news. The good news is that Telecom consumers are probably more aware of their rights than others. The bad news is that we have in our hand a very competitive market, which not always respect consumer rights and some consumers may be left behind.

As a general remark, we believe that competition drives connectivity and innovation, but consumers should not be left out of this equation. Actually, consumer protection rules could be also a great tool for promoting competition: they ensure that consumers derive maximum benefits from a competitive market, when they are able to make the right purchase or when

they can easily switch providers when desired. These rules have thus enhanced competition on prices, quality and service innovation and have fostered innovative commercial offers.

To that end, sector-specific rules, on top of cross sector regulation, are still needed, and the new Code plays an important role in that respect. It provides a rich catalogue of consumer rights but not without a few possible implementation pitfalls.

I would like just to highlight three cases that could be a challenge to the practical implementation:

1. Different rules for different services
2. Gaps in consumer protection – maximum harmonization
3. Bundles

Regarding the first point, one has to notice that the Code is quite detailed but not fully service neutral. Many provisions do not apply, for instance, to machine-to-machine services and to number independent services. Although the same level of protection regardless of the way the communication is guaranteed it will be more complex for consumers to understand if sector specific or horizontal rules apply in a particular case.

The second challenge is the maximum level of harmonization. Consumers should have a high level of protection whatever the national markets conditions. We all can agree on that. But this rule should not be detrimental to the current level of protection and to possible challenges to consumer rights that may arise in the future. In the one hand, consumer needs and preferences may differ from country to country and, in the other hand, operators' strategies and offers are configured to respond to local conditions and may rise specific problems that need to be addressed at local level.

The positive side is that the Code foresees a three years moratory where national legal frameworks may have higher consumer protection rules. Furthermore, full harmonisation is confine only to the subject matters covered by the provisions on end-user rights in the Code. Therefore, it should not affect national law with respect to those aspects of higher end-user protection, including some aspects of transparency measures which are not covered by the Code.

Thirdly, regarding bundle offers, the Code gives an important right to consumers: they are able to terminate any individual service within a bundle, and renewal of one service should not be used to renew the entire bundle. In practice, this may rise implementation issues to regulators when the other elements of the bundle include services outside the scope of the telecom sector.

It is also true that bundles can make transparency and price comparison more difficult and potentially lead to lock-in effects, since bundles make it more difficult for consumers to switch providers of certain services within the bundle.

So, operators' behavior regarding bundles is one of the aspects that regulators need to follow very closely.

Consumer protection has always been a fundamental concern for regulators and it will continue to be. The disruptive nature of innovation in the communications sector plays different roles for consumers (its stimulating, appealing and a new world of possibilities) and regulators (creates big challenges to adjust regulation to the day-to-day reality).

The Code tries to answer these challenges by providing us with an important toolbox, which we believe is flexible enough to answer most of the problems, and is also future proof. Allow me to highlight just a few areas where the Code improved consumer protection:

- It will be easier to change service providers (24-month maximum duration of contracts, early termination of the contract, easy numbering portability)
- Better protection of citizens in emergency situations;
- Strong information duties and transparency requirements in terms of price and quality.

But one should not stop here. There are significant and on-going changes in how services, applications and content are provided and offered to consumers.

Therefore, regulation has to be proportionate and sufficiently flexible to accommodate future innovation.

One way of achieving this is to make use of soft regulation like consumer-friendly complaints mechanisms, price and quality comparison tools and quality of service measurement tools, relevant, for instance, in net neutrality and mobile coverage. The use of these tools gives more power to consumers when deciding on the best services available and is an important transparency mechanism. In turn, these kind of instruments may push the market in the right direction leading to better services provided by operators.

Let me conclude.

Thank you for your attention.

Q&A - Let me give some examples of the importance of digital literacy for consumer protection.

In the current environment of constant technological advances and the increasing impact of these innovations on the day-to-day of consumers, trust and consumer confidence are central to the success of the digital economy. While the rapid development of digital technology benefits consumers, it is also essential that their protection and empowerment are not neglected and should be an integral part of the regulatory framework.

Digital literacy is therefore crucial as it provides consumers an easier access to more and better information, updated at all times. In what specifically regards communications services, on ANACOM's Consumer Website, for instance, consumers can find useful information regarding communications services in order to prevent conflicts with their service providers, as well as information on how to solve problems and to which mechanisms they should resort, including access to a platform to present a complaint against the service provider. ANACOM's Consumer Website was renewed in 2016, aligned with the best practices in the market in order to allow easier and intuitive navigation, stimulating the use of digital platforms effectively by different segments of the population. The website adopted a new

structure for contents and a user-friendly interface – with illustrations, information guides, infographics and media contents – that facilitate the apprehension of its contents.

In terms of consumption decisions, consumers' digital literacy gives them the possibility to access other markets, products and services, as well as the chance to compare prices of goods and services, allowing them to make better choices and obtain better results. As an example, ANACOM made available an interactive tool – COM.escolha – that allows consumers to consult different service providers' offers for any service, whether it is provided autonomously or in package. Through COM.escolha users can also make simulations to understand which tariff best suits their needs.

Digital skills are also an essential tool for consumers of products and/or information to recognize the potential risks of practices such as fake news, fake emails, viruses, phishing, pharming and the undercover subscription of Internet services. As fraud techniques become more sophisticated, consumers also need to be better prepared to avoid them. Expert users will also be better able to protect themselves and their families from inappropriate or dangerous contents.

ANACOM also promotes and participates in training and capacity-building actions for the use of electronic equipment, technologies and platforms, particularly among the elderly and other vulnerable segments of the population. ANACOM's Public Attendance Service provides an Internet access point, as well as a qualified assistant to help and teach consumers who turn to ANACOM to solve their problems autonomously (e.g., to submit a complaint against their service provider, to print the contract for the provision of electronic communications services they have concluded or to obtain general information available online).