



**CEPT/ECTRA**

**ECTRA/REC(98)06 - E**

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**CEPT - European Conference of Postal and Telecommunications Administrations  
ECTRA - European Committee for Telecommunications Regulatory Affairs**

**CEPT / ECTRA Recommendation of 10 December 1998**

**on licensing conditions relating to  
Consumer Protection in Telecommunications in Europe**

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As Chairman of the European Committee for Telecommunications Regulatory Affairs (ECTRA), I hereby confirm that this recommendation was approved in Berlin on 10 December 1998 at the XXVII<sup>th</sup> ECTRA Plenary Meeting.

Frédéric Riehl  
ECTRA Chairman  
10.12.1998

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**CEPT / ECTRA Recommendation of 10 December 1998**

**on licensing conditions relating to  
Consumer Protection in Telecommunications in Europe**

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*This Recommendation shall not prejudice the obligation of the EEA member states to act in accordance with applicable Community law or CEPT members to act in accordance with their national legislation.*

The European Conference of Postal and Telecommunications Administrations,

**CONSIDERING**

that the Revised ONP Voice Telephony Directive (98/10/EC) has defined a general framework for a common European approach in the implementation of Consumer Protection principles.

**TAKING INTO ACCOUNT**

- i. that the objectives of protecting consumers can be met by various forms of regulation such as telecommunications specific regulation, horizontal regulation or measures established by operators and service providers on a voluntary basis.
- ii. that, even within a general framework for a common European approach, Consumer Protection conditions might not be uniform through Europe, but subject to national legislation which varies from country to country.
- iii. that specific Consumer Protection measures are particularly important in the transitional period towards a fully competitive market in which new players and services will emerge.

**RECALLING**

- a) that the ETO study on “Consumer Protection” concludes that no further harmonisation is deemed necessary because the current EU and national regulations provide for a sufficient level of harmonisation and because the mechanisms of competition are expected to guarantee Consumer Protection, but taking into account also that the sector is at present going through a transitional period towards full competition and that the regulatory and market conditions will change considerably in the near future.
- b) that the ETO study on “Consumer Protection” has taken into consideration the following aspects of consumer protection:
- Information to consumers
  - Fair contracts
  - Quality of service
  - Information on the level of consumption
  - Billing accuracy
  - Non-abusive use of information on consumers
  - Protection of private life
  - Non-abusive disconnection
  - Complaint handling and recourse procedures.
- c) that the ETO study on “Consumer Protection” has identified, out of the list presented in Recalling b), the following issues as the most important aspects to be investigated more thoroughly with regard to Consumer Protection:
- Information to consumers
  - Fair contracts
  - Billing accuracy, in particular, itemised billing
  - Non-abusive disconnection
  - Complaint handling and recourse procedures

## **CONSIDERING FURTHER**

### **1. Concerning “information to consumers”:**

- 1.1 that the EU provisions and national regulations ensure a sufficient level of consumer information.
- 1.2 that it can be expected that in a competitive environment consumers will be free to select what they consider the best offer in the market in terms of price, quality and any other relevant parameter which influences consumer choice, but also taking into account that, in the transitional period, the disadvantages of an imperfect functioning of competition can harm consumers and that tariffs, which are in most cases a crucial factor in influencing choice, may not be presented automatically in an easily comparable form.

### **2. Concerning “fair contracts”**

- 2.1 that the EU provisions on fair contracts ensure a sufficient level of protection for telecommunications consumers.
- 2.2 that "fair contracts" can be considered as an issue to be regulated in general commercial and consumer protection law and that it can be expected that competition will act as a stimulus for telecommunications operators to provide more customer-friendly contracts, but taking also into account that in the transitional period the disadvantages of an imperfect functioning of competition can also lead to contracts containing abusive clauses or terms which could cause a significant imbalance in the parties' rights and obligations, to the detriment of the consumer.
- 2.3 that contracts for the provision of telecommunications services are a prime example of the conclusion of a service contract whereby the contact between the consumer and the service provider takes place by means of technology for communication across a distance and that they are therefore subject to Directive 97/7/EC.

**3. Concerning "itemised billing":**

- 3.1 that the Revised ONP Voice Telephony Directive (98/10/EC) does not specify what is a sufficient level of detail in an itemised bill and what are the additional levels which may be offered to subscribers, but considering also that itemised billing seems to be driven by competition.
- 3.2 that the Revised ONP Voice Telephony Directive (98/10/EC), however, leaves room for interpretation and that different data protection rules may lead to further discrepancies, the matter should be kept under review and studied further.

**4. Concerning "non-abusive disconnection":**

- 4.1 that the Revised ONP Voice Telephony Directive (98/10/EC) leaves open some questions such as how long the reasonable period of time should be during which the service has to be continued before termination; should the operator communicate the disconnection in writing; should providers of Universal Services not be allowed to disconnect or should they be obliged to maintain at least a restricted service for a certain period; what should such a restricted service be; and how long should the period be.
- 4.2 that obligations on "non-abusive" disconnection imposed on telecommunications operators exist and are clearly defined in the legislation and regulations of all European countries, but that these are not usually accompanied by an easily understandable and readily available list of consumers' rights with regard to disconnection.

**5. Concerning “complaint handling and recourse procedures”**

- 5.1 that the issue of recourse procedures cannot be considered as telecommunications-specific and that it can therefore be regulated in the general law or in the general consumer protection law of a country, according to the national legal system.
- 5.2 that, with regard to services for handling consumers’ complaints, it is very important, in the interests of both consumers and telecommunications organisations, to make data on consumer complaints publicly available, in order to improve both the service offered and the customer/provider relations.

**RECOMMENDS**

- 1. That all CEPT administrations encourage telecommunications operators and service providers to respect the following items in their relationships with consumers, as far as it is in their competence.

**1.1 regarding “information to consumers”**

that they make information available on their tariffs, and do so in a form which is sufficiently detailed and transparent to enable consumers to make easy comparisons.

**1.2 regarding “fair contracts”**

that they involve consumer associations in the process of drafting model contracts.

**1.3 regarding “non abusive disconnection”**

that they give subscribers due warning in writing before disconnection.

**1.4 regarding the requirement for telecommunications organisations to create internal procedures for handling consumer complaints**

that telecommunications organisations make statistics publicly available on the number and different categories of complaints filed every year by telecommunications users and how these complaints have in general been dealt with in the respective categories.

- 2. that CEPT administrations, as far as it is in their competence, draft if appropriate, after consultation with consumer associations and telecommunications organisations, a list of consumers’ rights with regard to telecommunications specific issues such as disconnection.
- 3. that CEPT administrations, as far as it is in their competence, make statistics publicly available on the number and categories of complaints filed every year with them and how these complaints have, in general, been dealt with.