



Electronic Communications Committee (ECC)
within the European Conference of Postal and Telecommunications Administrations (CEPT)

ECC RECOMMENDATION (07)02

CONSUMER PROTECTION AGAINST ABUSE OF HIGH TARIFF SERVICES

Recommendation approved by the Working Group “Numbering, Naming and Addressing” (WG NNA)

INTRODUCTION

The market for services provided via high tariff numbers has grown rapidly in recent years. The services considered are typically accessed by the end-user by recognizable “premium rate” number ranges or by agreements for receiving high tariff messages. The services include both telecommunication services as well as non-telecommunication (“content”) services, which are both billed by the provider of the telecommunication service. The services have high tariffs relative to tariffs of calls to local or national destinations on geographical or mobile numbers.

The complexity of the relevant product chain arises from the involvement of different parties and their specific roles. Among these are:

- the originating operator who contracts with the end-user for access to and billing of high tariff services,
- the terminating operator,
- the called party, also called premium rate service provider, who may be assigned the number directly by the regulator in some cases, and
- possibly other intermediate parties.

High tariff numbers nowadays used for telephony and SMS offer added value to the consumer through the use of the telecommunications billing system. Larger and smaller parties may distribute services and charge for small amounts without having to run their own billing systems. All kinds of information services, customer services and entertainment are made available to the user without requiring separate payment procedures for each of these services.

However, in recent years numbering resources, especially high tariff numbers, have been increasingly misused and this has led to the financial damaging of a large number of consumers. Misuse has included various undesirable or illegal practices by premium rate service providers in which consumers are misled by lack of transparency of the nature and costs of these services, or are confronted with unnecessarily lengthened call durations (unfair commercial practices). A related problem is the use of numbers not in accordance with the relevant numbering plans, which has been addressed in ECC Recommendation ECC/REC/(05)09.

The underlying cause of the misuse referred to is that the product chain through which high tariff services are offered, has some specific vulnerabilities to the disadvantage of the consumer. First, all kinds of parties including malevolent parties, may become premium rate service providers and receive traffic from other networks through existing interconnection agreements between providers of electronic communication services. Secondly, the position of the consumer with respect to the providers of these services is weak as the consumer only has a direct contractual relationship with the provider of the electronic communication service. It is often difficult for the consumer to approach the premium rate service provider and there may be no clear legal responsibilities in the event of disputes concerning the service. Also in many cases there is inadequate general legal consumer protection or what is available is too expensive to use. Thirdly, revenues to premium rate service providers are often guaranteed by the providers of electronic communications services and paid out to them before the payments are received from the calling subscriber and this creates financial risks at the top-end of the service chain.

Many forms of misuse exist and some of them may be diminishing while others may arise in the near future due to new developments in technologies and services. In some cases consumers individually suffer high financial damage, in other cases individual damage is small but practices are lucrative because of a large number of consumers lose a small amount each in a short time period. Hit-and-run behaviour is common to all such practices. Examples are:

- cases in which the user is not aware of the tariff applied, in particular the use of dialer software that does not show the tariff of the number to be dialled or establishes the connection to a premium rate number without even the knowledge of the consumer;
- cases where consumers are attracted to dial numbers where the services are not actually available or are of a low quality;
- artificial call duration lengthening by increasing waiting times,
- the use of high tariff numbers for customer care where the consumer has no alternative to reach this service;
- the use of high tariff numbers for services such as TV games with unclear call prices and procedures;
- unclear contractual conditions for providing reverse billed services.

In order to combat the misuse of high tariff services, protection measures should be introduced that might not be related to numbering policy alone. Due to the complexity of the service chain and related interconnection issues, a coherent policy approach is needed comprising various different measures. The ECC Report 86 provides an overview of possible remedies, and the experience of some countries that already have implemented some of these measures. This Report has formed the basis for this recommendation.

“The Conference of Postal and Telecommunications Administrations,

considering

- a) that in many European countries NRAs, consumer protection bodies and other relevant organisations have in recent years received a large number of consumer complaints about financial harm due to the use of high tariff services and that it is unlikely that these streams of complaints will significantly diminish without adequate remedies;
- b) that the position of the consumer regarding these services should be improved;
- c) that a coherent policy approach to improve the position of the consumer should have at least the following complementary attributes:
 - it strengthens the legal and financial position of the consumer;
 - it prevents abuse practices via increase of consumer awareness (e.g. by increased transparency of contents and tariffs of services so that the consumer may take rational decisions) and increase of consumer control over transactions;
 - it makes possible a quick response to abuses when they are observed;
 - it facilitates a system for low threshold redress possibilities for consumers;
- d) that many European NRAs or other relevant organisations in European countries already have taken relevant measures of which the scope and nature vary between countries;
- e) that it has appeared that self-regulatory solutions not supported or accompanied by additional regulation, do not function satisfactorily in most countries in combating abuses of high tariff services;
- f) that these services have a complex structure in which different parties fulfil different roles and subsequently have different responsibilities in the provision of high tariff services; consequently, that a coherent policy aimed at improving the position of the consumer should be balanced according to these responsibilities;
- g) that without regulation, the service and billing model used is unlikely to facilitate a stronger position of the consumer;
- h) that technologies and services are developing rapidly and consumer protection measures should be robust for the future by being as much as possible technology neutral;
- i) that consideration 16 of the Universal Service Directive recognises the importance of the legal position of the consumer with respect to the provision of an electronic communication service;

- j) that the precise services to be regarded as high tariff services may differ between countries and that therefore in certain cases national measures are likely to differ between countries;

recommends

- 1) that by means of national regulation the provision of the basic telephony service is decoupled from the provision of high tariff services by the provider of an electronic communication service to the end-user, so that the basic telephony service may not be suspended in the case of non-payment of sums relating to high tariff services;
- 2) that high tariff services should only be allowed in appropriate numbering ranges that are exclusively or non-exclusively allocated for these services, and that are preferably defined in a national numbering plan to facilitate tariff transparency and call barring;
- 3) that appropriate conditions (e.g. residency or registered address of company) are defined by the NRA on the entities that are entitled to be allocated high tariff numbers;
- 4) that the NRA should have the power to impose or modify conditions on the use of a number to address problems when they arise;
- 5) that consumers are well informed by the premium rate service provider about the tariff and content of high tariff services by clear and unambiguous announcements of tariffs in advertisements and where appropriate, clear announcements of numbers and tariffs at the beginning of calls in order to allow the user to cancel the call before the charging starts;
- 6) that, where technically possible, the tariff rate, the duration of a call, or the total cost of a call, or the total amount of the telephone bill should be subject to limitations according to consumer preferences, especially where numbers are called automatically by software;
- 7) that consumers are enabled to block number ranges in order to prevent the usage of high tariff services in appropriate cases e.g. where special numbering spaces exist for accessing services by software that enables automatic dialling;
- 8) that additional conditions are attached to the use of numbers by software that enables automatic dialling, such as the requirement to terminate the call after the consumer has ended the service concerned and not to continue the call while the user browses the public Internet;
- 9) that the identities of persons operating high tariff numbers are checked and recorded by the assignee, the NRA or an organization acting on behalf of the NRA, and updated as necessary and are available to originating operators and entities responsible for investigating problems. In the case of companies this should preferably apply to the identity of a responsible director;
- 10) that the NRA should ensure that payments to entities operating high tariff services are delayed for sufficient time to allow problems and abuses to be detected and reported, and that there are adequate powers to suspend payments to involved providers of electronic communication services in particular cases;
- 11) that there is a rapid response mechanism to suspend payments or to block access to numbers while problems and abuses are investigated;
- 12) that appropriate means are established to provide refunds and compensation for consumers who suffer from abuses and unauthorised calls, if necessary after a prior decision of the competent public authorities;
- 13) that it is not allowed to use a premium rate number in CLIP.

Note:

Please check the Office web site (www.ero.dk) for the up to date position on the implementation of this and other ECC Recommendations