

## **TELECOMMUNICATIONS**

Consumer protection

### **> Cross-country analysis**

Benchmarking of key regulatory  
topics across 6 countries

February 2011

Founded in 1986, over the last 25 years Cullen International has grown into the widely-recognised leading provider of regulatory monitoring and benchmarking of the Telecom, Media and Electronic Commerce sectors in Europe.

We track and report on a daily basis on regulatory developments at European Union level and at national level across Western Europe and Central & Eastern Europe, in over 30 countries.

Our services are used every day by 100 European and international telecom operators, online service providers, equipment vendors and national regulatory authorities (NRAs).

All our regulatory reporting is based on information available in the public domain (such as published decisions of NRAs, wholesale reference offers of dominant telcos, etc.).

We maintain strict independence. We do not represent the views of any of our clients. And we do not give policy/strategic advice which would compromise our position as a trusted, neutral resource used by the whole industry in Europe.

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### **Description of the service**

CI is delighted to announce a new Consumer Protection service focussing on national regulatory developments at the retail level.

The service is a new option in Cullen International's portfolio of regulatory support services for telecommunications.

The geographic scope initially includes seven countries: France, Germany, Italy, the Netherlands, Spain, Sweden and the UK.

The service covers a number of topics such as net neutrality, quality of service, transparency (advertising, tariff comparison tools...), consumer empowerment, retail regulation, enforcement and privacy.

### **Cross-Country Analysis**

The Consumer Protection Cross-Country Analysis is updated four times per year.

This document gives an example of the range of topics covered. These will evolve based on client's needs.

For every topic, one country is given as an example.

### **Enquiry service**

As for all CI services, an enquiry service is offered.

Cullen International will answer, at no additional charge to clients, any regulatory question that falls within the scope of the service and is not company-specific.

For more information about the service, please contact

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# Consumer Protection Cross-Country Analysis

## February 2011 - SAMPLE

The information published in these tables is valid on February 9, 2011

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**Table 1 - NRA or government position on net neutrality**

**European Union – focus on transparency**

The EU 2009 regulatory framework for electronic communications lays down net neutrality as a policy objective as end-users should be able to access and distribute information or run applications and services of their choice (art. 8(4g) of the [Framework Directive](#)).

It does however not define net neutrality. This term does not appear as such in the text of the [Universal Service Directive](#). The directive says it “*neither mandates nor prohibits conditions [...] limiting end-users’ access to, and/or use of, services and applications*”.

The directive does contain several provisions which aim at ensuring net neutrality (art. 20(1), art. 21 and art. 22(3)).

- End user contracts have to contain information
  - on limitations for access to and/or use of services and applications; and
  - on applied traffic management techniques and their influence on service quality.
- NRAs can impose minimum quality of service levels on operators to prevent degradation of service or traffic slowing across networks, but have to notify this to the Commission and to the Body of European Regulators for Electronic Communications (BEREC)

The European Commission adopted a (non-binding) [declaration](#) at the request of the European Parliament saying it will monitor the development surrounding “internet freedoms”.

The Commission will report before the end of 2010 to Parliament and the Council on “*whether additional guidance (to the 2009 framework) is required*”. In preparation of its report the Commission launched in June a [consultation](#) until end of September 2010 (see [EU Telecom Flash 67/2010](#)). Results are not published yet.

For more information, see [EU Telecom Tracker 2](#).

**United States – focus on end user’s freedoms and non-discrimination**

In October 2009, the Federal Communications Commission (FCC) [proposed](#) to make binding the old four net neutrality principles set out in the policy statement on broadband internet access of September 23, 2005 enabling end users to:

- access the lawful Internet content of their choice;
- run applications and services of their choice, subject to the needs of law enforcement;
- connect their choice of legal devices that do not harm the network; and
- have competition among network, applications, service and content providers.

In addition, two new rules would be introduced, requiring broadband providers to:

- treat lawful content, applications, and services in a non-discriminatory manner; and
- disclose information on network management practices.

The new rules would also explicitly extend beyond so-called wireline providers such as xDSL and cable operators and apply to wireless internet services, such as 3G, satellite and WiMAX.

Country	NRA/government initiative	Main points	Explicit definition of net neutrality
DE	Federal ministry of economy and technology held a <a href="#">workshop</a> on March 18, 2010 with sessions on <ul style="list-style-type: none"> <li>• <a href="#">net neutrality</a>; and</li> <li>• <a href="#">network management and quality of service</a>.</li> </ul>	President of BNetzA, Matthias Kurt in a radio <a href="#">interview</a> on Aug. 8, 2010: <ol style="list-style-type: none"> <li>1. has warned internet providers and telecommunications companies against attempts to compromise net neutrality in Germany</li> <li>2. said talks between Telekom Deutschland and Google should not end up in trying to discriminate unfairly a third party</li> <li>3. ensured that the competition Authority (<a href="#">BKA</a>) shall be vigilant to ensure that the rights of the consumers would not be affected</li> <li>4. concluded that currently net neutrality in Germany is not at risk, however, in the future, the requirements for internet traffic load will grow so BNetzA must have a look on how networks will look like in the future.</li> </ol> President Kurth also gave interview to <a href="#">ZDF</a> .	No It is expected that after amendments of the Telecom Act ( <a href="#">TKG</a> ) that are under discussion, <a href="#">BNetzA</a> will get the power to draft and impose legislation in order to define net neutrality.

## Table 2 - VoIP in mobile networks

VoIP services are typically free or low cost compared to standard rates for mobile voice calls. A VoIP service using the data channel of a mobile network (EDGE, 3G, LTE) can compete with the voice service of that mobile network.

The following table shows:

- whether mobile network operators (MNOs) allow the use of VoIP in their general conditions;
- if so, what requirements or conditions do apply (e.g. limited to a certain number of minutes per month);
- if the use of VoIP is not permitted in general, whether the operator offers premium packages that support the use of VoIP;
- if so, whether the VoIP service is provided by the MNO or whether any VoIP service can be used;
- whether any regulatory initiative (from a NRA, government...) has been taken regarding the use of VoIP in mobile networks (with short description).

Country	MNO	Use of VoIP allowed by general conditions?		Specific conditions	VoIP offered in premium packages?	Regulatory initiative?	Source and comments
		On laptop	On smartphone				
FR	Bouygues	No	No	Not applicable	No	No	Bouygues Telecom's <a href="#">terms and conditions</a>
	Orange	No	No	Not applicable	Yes <i>Voix sur IP</i> option €15/month	No	Orange's <a href="#">terms and conditions</a> p. 54
	SFR	No	No	Not applicable	Yes prepaid subscription with more than 3 hours of call per month	No	SFR's <a href="#">Standard information card</a>

**Table 3 - Traffic management in fixed broadband networks**

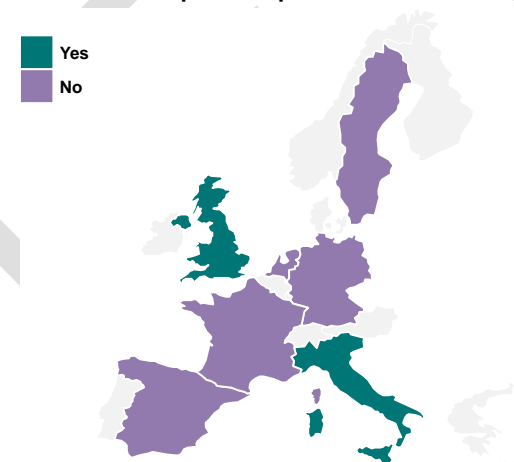
While not aimed at restricting specific applications, broadband network operators may feel the need to install certain traffic management mechanisms in order to cope with peaks in traffic to avoid congestion of large parts of their network.

This may include limiting the line speed of all clients on certain moments of the day, or to install daily volume caps on the amounts of data downloaded and/or uploaded.

The following table shows for fixed broadband network operators:

- whether they have published a traffic management policy for their residential end users;
- if so, during which period of the day it applies;
- how end users are informed of such policy (e.g. general conditions); and
- whether any regulatory action (e.g. on transparency) has been taken.

**Countries where operators publish a traffic management policy**



Source: CI research

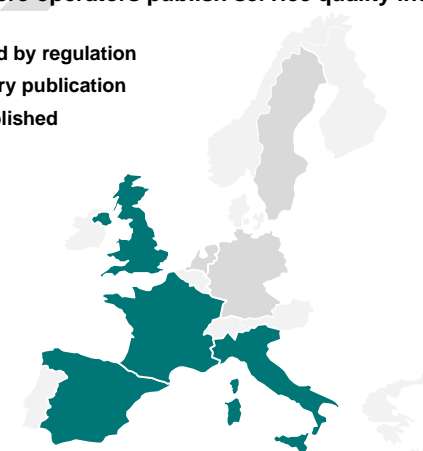
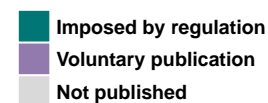
Country	Operator		Traffic management policy published?	Period of day where restriction imposed?	How are end users informed?	Regulatory approach
NL	KPN	Fixed incumbent	No information disclosed. However, a <a href="#">report</a> on net neutrality of June 2009 commissioned by the Ministry of Economic Affairs estimates that traffic of one-third of all fixed broadband consumers is being managed in some way.	Not applicable	Not applicable	<p><a href="#">Draft law</a> to amend the Telecoms Act, transposing the EU 2009 regulatory framework says that ministerial decrees can set transparency obligations for operators on:</p> <ul style="list-style-type: none"> <li>• network management</li> <li>• changes in conditions regarding limitations in the use or access of services or applications.</li> </ul> <p>OPTA <a href="#">warned</a> UPC that if it reinstates its policy to limit heavy P2P traffic, it has to inform its end users and allow them to switch to another provider at no cost without notice.</p>
	Tele2	ANO		Not applicable	Not applicable	
	UPC	Cable	No	Not applicable	Not applicable	
	Tele2	Fixed ANO	No	Not applicable	Not applicable	
	ComHem	Cable	No	Not applicable	Not applicable	

**Table 4 - Service quality indicators regulation – universal service provider**

The following table indicates, for the designated universal service provider:

- If the publication of service quality indicators is required;
- who publishes them; and
- which indicators are to be published.

**Countries where operators publish service quality indicators**



Source: CI research

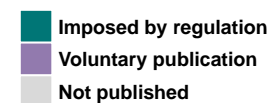
Country	Obligation to publish service quality indicators?	Publication by operator or by NRA	Does the USO provider attain the QoS level set by the NRA? Link to the latest report if available	Published service quality indicators				
				Network coverage	Helpdesk availability and response time	Service provision or activation	Fault repair time	Other
IT	Yes USO providers must measure quality indicators defined by the NRA, publish them, and are subject to penalties in case of non compliance (art. 61 of the <a href="#">Electronic Communications Act</a> ). US quality indicators imposed on Telecom Italia for <a href="#">2010</a>	Both Published every six months. <a href="#">Telecom Italia service charter</a> and <a href="#">US quality indicators</a> .	Yes <a href="#">2010 Report</a> (first half)	-	✓ 2011 QoS <a href="#">proposed</a> (not yet approved by AGCOM).	✓	✓	<ul style="list-style-type: none"> <li>• Claims on billing</li> <li>• Public payphones</li> </ul>

## Table 5 - Service quality indicators regulation – fixed voice telephony providers

The following table indicates, for fixed voice telephony (non USO) providers:

- If the publication of service quality indicators is required;
- who publishes them; and
- which indicators are to be published.

Countries where operators publish service quality indicators



Source: CI research

Country	Obligation to publish service quality indicators?	Publication by operator or by NRA	Published service quality indicators				
			Network coverage	Helpdesk availability and response time	Service provision or activation	Fault repair time	Other
SE	No Under Chapter 8, §1 all providers of public electronic communications services are only required to submit to PTS information on quality indicators for publication. Information must be submitted every time when there is a change. The indicators are defined in PTS ordinance on information on service quality (PTSFS 2007:1)	Not published PTS intends to compile and update all indicators on its consumer price comparison website: <a href="http://www.telepriskollen.se">www.telepriskollen.se</a>	-	✓	-	✓	<ul style="list-style-type: none"> <li>• Provision of calls to 112 emergency service and caller location for 112</li> <li>• Availability of text and video telephony services for disabled</li> </ul>

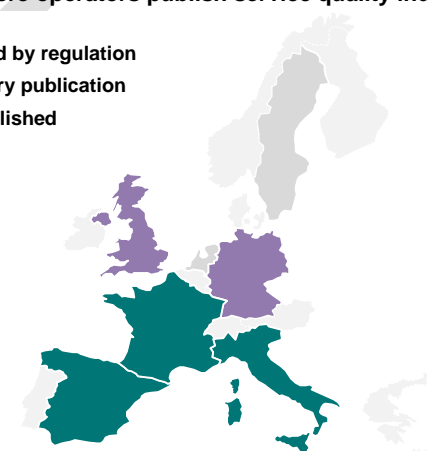
**Table 6 - Service quality indicators – mobile network operators**

The following table indicates, for mobile network operators:

- If the publication of service quality indicators is required;
- who publishes them; and
- which indicators are to be published.

**Countries where operators publish service quality indicators**

- Imposed by regulation
- Voluntary publication
- Not published



Source: CI research

Country	Obligation to publish service quality indicators?	Publication by operator or by NRA	Published service quality indicators							
			Network coverage	Voice quality	Dropped calls	Unconnected calls	Helpdesk availability and response time	Service provision or activation	Fault repair time	Other
UK	No, but mobile operators provide voluntarily a mobile broadband coverage checker, accessible from <a href="#">Ofcom</a> website.	Operator But Ofcom <a href="#">published</a> a research on mobile coverage in November 2010.	✓ <a href="#">Mobile broadband coverage checker</a>	-	-	-	-	-	-	None

**Table 7 - Equivalence in access and choice for disabled end-users**

Article 23a of the [revised Universal Service Directive \(Telecom Tracker 1\)](#) aims to ensure equivalence in access and choice for disabled end-users:

*“1. Member States shall enable relevant national authorities to specify, where appropriate, requirements to be met by undertakings providing publicly available electronic communication services to ensure that disabled end-users:*

*(a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users; and*

*(b) benefit from the choice of undertakings and services available to the majority of end-users.*

*2. In order to be able to adopt and implement specific arrangements for disabled end-users, Member States shall encourage the availability of terminal equipment offering the necessary services and functions.”*

NB Member states have to transpose this directive by May 25, 2011.

Between October 11 and November 26, 2010 BEREC consulted on a [document](#) which collected examples and best practices for ‘Ensuring equivalence in access and choice for disabled end-users’.

The following table describes the obligations related to ensuring equivalent access and choice for disabled end-users for:

- the universal service provider;
- other (non-US) electronic communications service providers; and
- specifically for internet service providers (ISPs).

It looks at [current obligations](#) (from laws, NRA decisions or self-regulation) and at [proposals made to transpose article 23a](#) of the revised directive.

The table focuses on obligations for:

- fixed voice telephony;
- mobile voice telephony;
- internet access;
- directory enquiry services;
- invoices and contracts;
- service quality (e.g. specific provisions on helpdesk and repair for disabled persons)

The table indicates whether representatives of the concerned groups of disabled persons were consulted when designing the obligations and how they are or will be funded.

Country	Measures to ensure equivalent access and choice for disabled end-users	Obligation imposed on	Imposed by law, NRA or self-regulation?	Were concerned end-users consulted when designing the measures?	How are the measures being funded?	Source and comments
FR	ARCEP together with two governmental agencies has published a <a href="#">study</a> completed in March 2010. The creation of specific centres dedicated to helping deaf/hearing impaired people is planned. The bill transposing the revised universal directive was adopted by the National Assembly on January 14, 2010. The <a href="#">bill</a> has now been sent to the Senate. The government is hoping to transpose the Universal Service Directive through ordinances without the possibility for Parliament to pass amendments	FT, the US provider.	By law	Yes (see <a href="#">study</a> )	USO fund	See <a href="#">R20-30</a> of the Code of Post and Electronic Communications

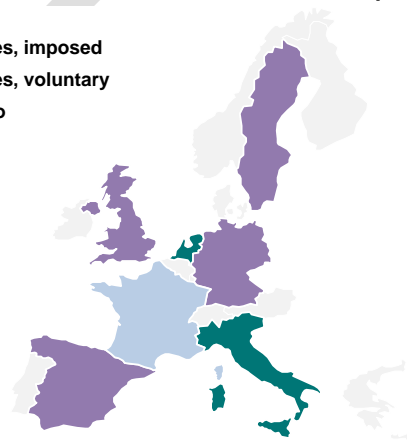
**Table 8 - Standardised presentation of tariffs and service features**

When the different operators in a market all present their tariffs and service features in a standardised format this can improve transparency for consumers by enabling them to easily compare the available options and to make informed choices.

The following table shows whether:

- operators are required to publish their tariffs and service features in a standardised format, who has imposed this obligation (NRA or lawmaker) and who defines the template;
- the NRA collects and makes available tariff and service-feature information on its website, for example in an online tool that helps consumers make their choices; and
- third parties provide such comparison facilities and if so, whether they need approval/accreditation by the NRA.

**Countries where a standard tariff and service description format is available**



Source: CI research

Country	Standardised tariff and service-description format				Price and service comparison facilities			
	Yes/No	Imposed by	Defined by	Example/link	By NRA	By third party	NRA accreditation?	Example/link
NL	Yes	Ministry of Economic Affairs	<a href="#">Annex 1</a> to art. 3.2 of the ministerial ruling on universal service and end users' interests lists the tariffs that have to be presented to end users before concluding a contract for a fixed and mobile subscriptions and mobile prepaid. It includes any one-off charges and all applicable tariffs for SMS and mobile data services.		No	Yes	No	<a href="http://www.bellen.com">www.bellen.com</a>

**Table 9 - Advertised and actual broadband speed (fixed)**

The actual broadband speed experienced by a fixed-line user depends on many factors (e.g. on the length of the DSL line or on the number of active users on a cable segment). However, operators usually advertise the theoretical maximum speed obtainable under the subscription. The explanation that the actual speed can depend on individual circumstances may be buried in the small print and it may not be straightforward for end users to obtain information about the actual performance of their broadband line.

The following table indicates whether:

- rules exist on the communication of broadband speeds;
- end users have access to a tool to test the actual speed of their line and whether this tool is certified by the NRA;
- the NRA (or other instance) has published a study or report on broadband speeds;
- if so, whether this report addresses the difference between the advertised and the actual broadband speeds and what average percentage of advertised speed is actually obtained;
- the NRA (or other instance) has imposed a rule on the minimum speed that has to be obtained in relation to the advertised speed; and
- operators have agreed on a code of practice on the advertising of broadband speeds.

**Countries with rules on the advertising of fixed broadband speeds**



Source: CI research

Country	(Binding) rules on the communication of broadband speed	Line speed test		Broadband speed study or report		Rules on minimum % of advertised speed that has to be obtained	Code of practice?	Comments
		Available? (by operator, NRA or third party)	Certified by NRA?	Available?	% of advertised speed that is actually obtained			
DE	No Section 43a of the Telecommunications Act (TKG) defines minimum contractual requirements which also include scope and the main technical performance of telecommunication services.	Yes By operators <a href="#">Kabel Deutschland</a> <a href="#">Telekom Deutschland</a>	No	Yes <a href="#">Deutschland Online</a>	No information available	No	No	In 2005 <a href="#">BNetzA</a> asked all providers to provide information in their offers on technical characteristics, including envisaged upload and download speeds.

**Table 10 - Advertised and actual broadband speed (mobile)**

The actual speed experienced by a mobile broadband user depends on many factors (e.g. on the distance to an antenna, on the number of active users in the same cell and the general interference conditions).

However, operators usually advertise the theoretical maximum speed obtainable under the subscription. The explanation that the actual speed can depend on individual circumstances may be buried in the small print and it may not be straightforward for end users to obtain information about the actual performance of their broadband line.

The following table indicates whether:

- rules exist on the communication of broadband speeds;
- end users have access to a tool to test the actual speed of their line and whether this tool is certified by the NRA;
- the NRA (or other instance) has published a study or report on broadband speeds;
- if so, whether this report addresses the difference between advertised and actual broadband speeds and what average percentage of advertised speed is actually obtained.
- the NRA (or other instance) has imposed a rule on the minimum speed that has to be obtained in relation to the advertised speed
- operators have agreed on a code of practice on the advertising of broadband speeds.

**Countries with rules on the advertising of mobile broadband speeds**



Source: CI research

Country	Rules on the communication of broadband speed	Line speed test		Broadband speed study or report		Rules on minimum % of advertised speed that has to be obtained	Code of practice?	Comments
		Available? (by operator, NRA or third party)	Certified by NRA?	Available?	% of advertised speed that is actually obtained			
IT	No General rules against misleading advertising apply.	Non certified broadband speed tests offered by third parties	No	No	No information available	No	No	A <a href="#">report</a> on the current challenges related to broadband speed on dongles, and on the related approaches of mobile operators was published by La Stampa in October 2010.

## Table 11 - Mobile number portability – tariff transparency

Once a mobile user ports his number, the prefix of his number no longer indicates the mobile network he subscribes to.

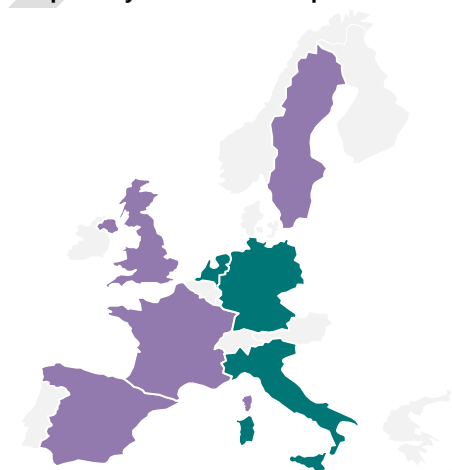
In order for consumers to have transparency on the tariff they will pay for a call to a mobile number (given the difference between on-net and off-net rates in many countries), some EU member states have introduced transparency mechanisms, such as voice-announcement messages or a tone, to warn end users when they try to reach a number that has been ported to a new mobile network.

Recital 41 of the [Universal Service Directive](#), carried over in the EU 2009 regulatory framework, requires NRAs to facilitate tariff transparency as part of the implementation of number portability.

The table below shows whether any tariff transparency mechanism has been introduced in the member states

Countries with a transparency mechanism for ported mobile numbers

Yes  
No



Source: CI research

Country	Tariff transparency mechanism implemented	Format	Transitional or indefinite?	How big is the difference between on-net and off-net tariffs? (Studies, NRA documents...)
UK	No Ofcom <a href="#">research</a> in 2009 acknowledged that MNP can undermine tariff transparency. When deciding to introduce MNP, in 1997 Oftel (now Ofcom) <a href="#">considered</a> that the benefits, such as consumer choice and increased competition, outweighed the disadvantages, such as reduced tariff transparency.	Not applicable	Not applicable	No information available

## Table 12 - Advertising and cost of premium rate services

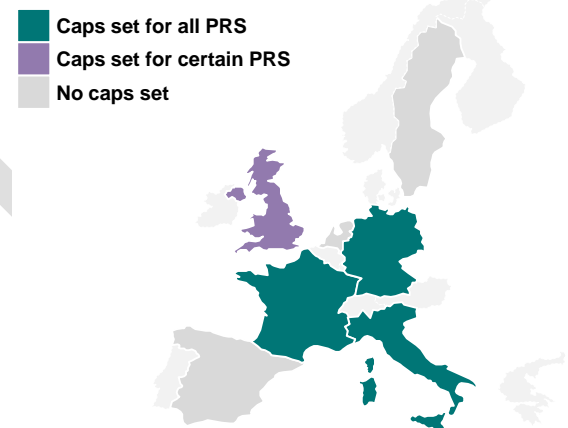
Premium rate services (PRS) usually refer to services that can be accessed via a premium rate telephone number for which the caller pays a special rate above the normal tariff for voice calls.

The following table shows for PRS calls:

- the applicable advertising rules
- if a cap is set for the total cost of a PRS call
- if callers have to be informed by a voice notification about the prices and maximum fees for the PRS call before they are actually connected and charged.

The table also shows if the NRA keeps a blacklist of PRS providers that have repeatedly violated the applicable provisions, so that PRS numbers can no longer be obtained by those providers.

### Countries that set caps to the cost of PRS calls



Source: CI research

Country	Rules on advertisement	Caps set on cost of PRS calls?	Voice notification before PRS call is connected	Other?	Blacklist
SE	<p>Rules on the advertisement of PRS cover:</p> <ul style="list-style-type: none"> <li>• information on call charges, telephone number and service cancellation</li> <li>• direct marketing of PRS</li> <li>• details on service provider</li> <li>• marketing towards children</li> <li>• advertisement of competitions, lotteries, charity collections, services of sexual nature etc.</li> </ul> <p>(Ethical rules for Premium Rate Call Services adopted by the Ethical Council for Premium Rate Call Services (ERB))</p>	No	<p>Yes</p> <p>Every PRS call that could exceed two minutes or a charge of SEK 10 (€1.00) must start by informing the end user of the call charge (price/minute or price/call) within the first ten seconds, via recorded voice or by an operator.</p>	No	<p>No</p> <p>PRS numbers are normally not assigned directly to content providers but obtained by content providers from telecom operators. When a specific service violates ethical rules for PRS, ERB may request the telecom operator who owns the PRS number to withdraw it from the content provider.</p> <p>The specific blacklist is not published, but some of ERB decisions are available on its website, with details of the providers and numbers.</p>

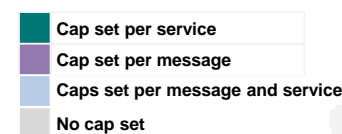
## Table 13 - Advertising and cost of premium SMS

The following table shows for premium SMS services (typically subscription services):

- the advertising rules, that is, information requirements applying e.g. to fees, subscription formulas and service cancellation
- whether premium SMS service providers are allowed to charge for incoming messages (reversed charge SMS)
- whether a cap applies to the cost per message or per service;
- whether a standard way to cancel the subscription is imposed (e.g. sending 'stop' to the same number used to start the service, or even simply a reply with 'stop' to any message from the service).

The table also shows if the NRA keeps a blacklist of premium SMS providers that repeatedly violated the applicable provisions, so short SMS codes can no longer be obtained by those providers.

Countries that set a cap to the cost of premium SMS



Source: CI research

Country	Rules on advertisement	Reversed charge SMS	Cap per message or per service	Cancellation of subscription	Other?	Blacklist
FR	Code of conduct covering tariff transparency, privacy, advertising, protection of minors. Ethical code ( <i>Charte déontologique</i> ) prepared by L'association SMS+, assembling the MNOs. These rules are inspired by the rules set by CST (Superior Council for Telematics) for PRS. (Art. D. 406-1-2 of code of postal services and electronic communications)	Allowed	Yes, per message Max. €4.50/SMS, indicated by first digit of the <a href="#">short code</a> .	Send "STOP" by SMS as a reply to an incoming message	No	No

## Table 14 - Fair use policies (fixed broadband)

The following table shows whether the fixed incumbent operator:

- Offers a broadband internet access product:
  - with a fair use policy applies; and
  - what are the conditions of the fair use policy.
- Offers products or options with usage (download and/or upload) limits, and if so
  - what happens when a end user reaches any of these limits (cut-off, speed reduction...);
  - how end users are being informed when they are nearing the limit.

The objective of this table is not to provide an exhaustive analysis of all commercial offers, but to provide examples of fair use policies for fixed broadband offers

Country	Fixed incumbent	Broadband internet access with fair use policy			Broadband internet access with usage limits		
		Does the operator offer an unlimited internet access product	Does a fair use policy apply	Description of the fair use policy	Does the operator offer options with usage limits	What happens when limit is reached?	How and when are end users being informed when they are nearing the limit?
ES	Telefónica	Yes	No	Not applicable	Yes	Speed reduced, extra charge (depends on options)	The user can control online the volume of downloads and the costs incurred.

**Table 15 - Fair use policies and data limits (mobile broadband on laptop)**

The following table shows for the mobile broadband product for use on laptops (with a dongle) of selected mobile network operators:

- the highest usage limit (including both download and upload) offered;
- what happens when the limit is reached;
- the monthly price and the price per additional GB for the offer with the highest usage limit; and
- how end users are being informed when they are nearing the limit.

The objective of this table is not to provide an exhaustive analysis of all commercial offers, but to provide examples of fair use policies for mobile broadband offers on laptops.

Country	Mobile operator	Highest usage limit (GB per month)	What happens when limit is reached?	Price		How and when are end users being informed when they are nearing the limit?	Source and comments	Regulatory initiative
				Per month	Per extra GB			
FR	Bouygues	3 GB	Speed reduced (unspecified)	€29.90 (2 year contract)	€20 (€29.90 per 1.5GB)	Clients can monitor their usage on line ( <i>suivi conso</i> )	See <a href="#">Prices, terms and conditions</a> (clé 3G+)	ARCEP <a href="#">recommendations</a> of Sep. 2010 on internet and network neutrality state that operators should not use the term “ <i>internet</i> ” for a service that actually only offers access to a walled garden and not use the term “ <i>unlimited</i> ” for offers with usage limits.
	Orange	2 GB	Speed reduced (unspecified) But email is unlimited incl. attachments	€35	€11 (based on biggest possible increment including credit offered)	Clients can monitor their usage on line ( <i>suivi conso</i> )	See <a href="#">Clé 3G+</a> See <a href="#">terms and conditions</a>	
	SFR	3 GB	Speed reduced (unspecified)	€31.90 (2 year contract)	€35	Email and text message ( <i>alerte conso</i> ) Clients can monitor their usage on line ( <i>info conso</i> )	See <a href="#">Terms &amp; conditions</a> and <a href="#">Tariffs</a> Also <a href="#">Prices</a>	
	Telekom Deutschland	5 GB	Speed reduced to 64 kbps	€39.95	Not possible to buy additional data		See <a href="#">Terms &amp; Conditions and Pricelists</a>	
	Vodafone	10 GB	Speed reduced to 64 kbps	€49.99	Not possible to buy additional data		See <a href="#">Terms &amp; Conditions and Pricelists</a>	

**Table 16 - Fair use policies and data limits (mobile broadband on smartphone)**

The following table shows for the mobile broadband product for use on smartphones of selected mobile network operators:

- the highest usage limit (including both download and upload) offered;
  - what happens when the limit is reached;
  - the price per additional GB beyond the limit;
- The monthly price of the data plans are omitted because in most cases they include calls, text and a handset subsidy, which does not allow for easy comparison;
- how end users are being informed when they are nearing the limit; and
  - whether tethered use is allowed (i.e. can I use my smartphone as a modem by connecting it to my laptop).

The objective of this table is not to provide an exhaustive analysis of all commercial offers, but to provide examples of fair use policies for mobile broadband offers on laptops.

Country	Mobile operator	Highest usage limit (GB per month)	What happens when limit is reached?	Price per extra GB	How and when are end users being informed when they are nearing the limit?	Tethered use allowed?	Source and comments	Regulatory initiative
DE	E-Plus	1 GB	Speed reduced to 56 kbps	Not possible to buy additional data	End users are not informed	Unspecified	Only as an option on top of regular voice tariff plans.	None
	Telefonica O2	1 GB	Speed reduced to 64 kbps	Not possible to buy additional data		No	Unlimited calls and texts to all networks included.	
	Telekom Deutschland	1 GB	Speed reduced to 64 kbps	Not possible to buy additional data		Yes	Unlimited calls and 3000 texts to all networks included.	
	Vodafone	1 GB	Speed reduced to 64 kbps	Not possible to buy additional data		Yes	Unlimited calls and 3000 texts to all networks included.	

## Table 17 - Contract regulation

The ease with which an end user can switch between telecommunications service providers (churn) is an important factor in the level of competition in a market.

Operators have an incentive to lock end users to their network in order to recuperate their investments (connection costs, promotion etc.) by proposing fixed-term contracts with penalties for cancellation before the end of the fixed term.

The revised Universal Service Directive, which has to be transposed by member states by May 25, 2011, provides that:

- *"Contracts [shall] not mandate an initial commitment period that exceeds 24 months. Undertakings [shall] offer users the possibility to subscribe to a contract with a maximum duration of 12 months"; and*
- *"Subscribers have a right to withdraw from their contract without penalty upon notice of modification to the contractual conditions. Subscribers shall be given adequate notice, not shorter than one month, of any such modification".*

This table gives an overview of contract regulation specific to electronic communications. This comes on top of any horizontal regulation to protect consumers against unfair contract terms.

The table below shows:

- regulation of fixed-term contracts concerning:
  - the maximum initial commitment period
  - the limits to penalties for cancellation before the end of the initial commitment period
  - the notice period for cancellation after the initial commitment period
  - tacit renewal
- whether end users can cancel their contract without penalties (and even without a notice period) when the general conditions have changed.

Country	Fixed term contract regulation				Cancellation without penalty upon changes to general conditions
	Limit to initial commitment period	Penalties for early cancellation	Notice period	Tacit renewal	
NL	No	Not regulated	1 month (Article 7.2a of the Telecoms Act)	Allowed but the renewal period cannot be longer than a year. Consecutive renewals are allowed. Cancellation term of one month in case of tacit renewal. Exceptions to the cancellation period of one month are consumers who agreed to a renewal and business users. (Article 7.2a of the Telecoms Act)	Yes Consumers can <b>cancel without penalty</b> if changed conditions are not beneficial to them. Clients have to be actively informed of this right at least four weeks in advance. (Article 7.2a of the Telecoms Act)

**Table 18 - Expenditure control**

Are operators required to offer their end users tools to control their expenditure and avoid 'bill shock'? Are these requirements imposed by the NRA or by law?

The table below shows:

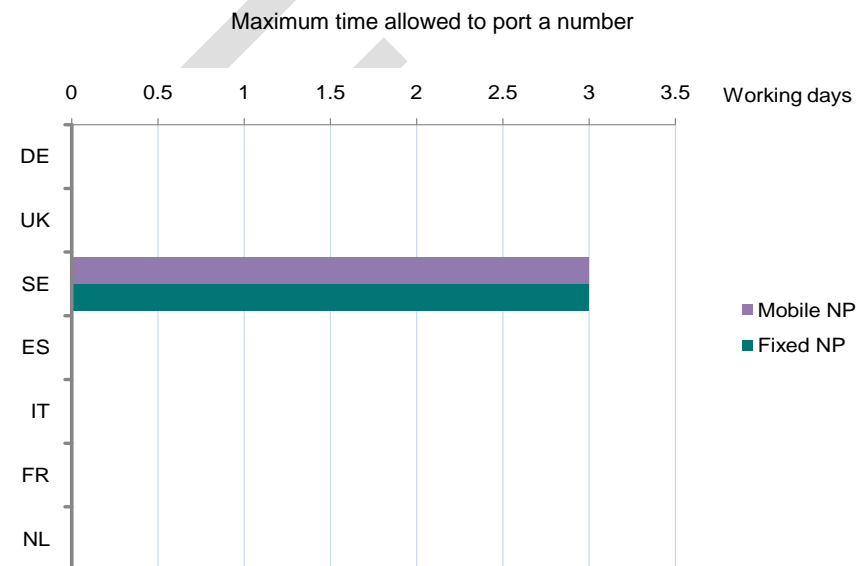
- regulation on the maximum period that can be covered by one bill (billing cycle)
- whether operators are required to offer a website on which an end user can check the current status of his upcoming bill (i.e. called minutes and cost since the last bill)
- whether operators are required to allow their end users to set a limit to their (monthly) consumption. If so, how are these end users warned when they reach their limit
- whether operators have to give guidance to the end user about the most advantageous service/bundle/plan for their call pattern. (An end user should be able to switch to the proposed plan without any penalty for leaving his former plan/bundle.)

Country	Maximum billing cycle? (e.g. monthly, bi-monthly...)	Online instant bill-verification application?	Can end users define a monthly limit for themselves?	Must the operator propose offers better suited to end user's call pattern?	Other?
IT	No maximum billing cycle. However, AGCOM established the periodicity of billing should be every 2 months, unless otherwise specified in the contract. <a href="#">AGCOM decision 418/07/CONS art. 4</a>	Not regulated However such applications are generally offered by operators	Yes. For mobile data services. Mobile operators must provide from January 1, 2011, at no additional cost for end-users, an automatic system alerting end users when they reach a certain consumption threshold. The alerts will be provided via SMS, email, or pop-up windows on end-users' computers. See <a href="#">Big Five Update August 2010</a>	Not regulated	Special regulatory measures on blocking of calls towards premium services. Access is automatically blocked unless otherwise requested by end-user. Decision valid from Jan. 1, 2010. <a href="#">AGCOM decision 600/09/CONS</a> See <a href="#">Big Five Update November 2009</a>

**Table 19 - Number portability and SIM locking**

The table below shows:

- for the porting of a fixed telephone number:
  - the timescale to port a number
  - whether there are any costs for the end user to port his/her number
- for the porting of a mobile telephone number:
  - the timescale to port a number
  - whether there are any costs for the end user to port his/her number
  - where the end user has to initiate the porting process (at the recipient operator or at the donor operator)
- what happens with unused credit on a prepaid card that the end user no longer wants to use (can it be reimbursed or transferred or is it lost?)
- the maximum period for SIM locking, whether unlocking has to be possible, and if a penalty can be charged.



Source: CI research

Country	Fixed number portability (FNP)		Mobile number portability (MNP)			Unspent prepaid credit	SIM locking	
	Timescale	End user costs	Timescale	End user costs	Process initiation		Max. period	Unlocking (penalty?)
<b>SE</b>	Three days for residential end users and up to 10 days for corporate end users (PTS regulation on number portability <a href="#">PTSFS 2010:4</a> )	None (Electronic Communications Act (2003:389), Chapter 5, §10)	Three days (PTS regulation on number portability <a href="#">PTSFS 2010:4</a> )	None (Electronic Communications Act (2003:389), Chapter 5, §10)	Recipient operator	Not regulated	Not regulated Typically 12 months	Not regulated (see note below) Typically SEK 300-350 (€30-35)
In October 2010 PTS <a href="#">published</a> a report on switching service providers in Sweden where it stated that the use of SIM-card locks that do not expire until the consumer pays a fee to the service provider constitutes an unreasonable obstacle to consumers' ability to switch providers. PTS proposed in the report to introduce a regulation that would mandate free SIM unlocking after the expiry of the initial commitment period.								

**Table 20 - Protection against inertia selling**

Selling services to a end user that were not ordered by that end user is a practice called ‘inertia selling’.

During a phone call, an operator may e.g. suggest a certain call plan to one of his end users and may activate it while that end user did not realise he actually ordered the suggested service. Or the person on the phone may not be the actual end user, but e.g. a family member.

‘Slamming’, where an operator claims that a end user from a competing operator requested to be ported although that end user did not authorise this, is a form of inertia selling and is treated in a separate table (see [Table 20](#)).

The Distance Selling Directive (see [EU Ecom Tracker 9](#)) provides that before concluding a contract, the consumer must be informed in a clear and comprehensible manner.

The directive provides for a minimum 7 day period during which the consumer can withdraw from a contract. But this right of withdrawal does not apply when the consumer already started using the service, which is the case for e.g. an automatically activated call plan.

The directive does not detail how a contract has to be actually concluded. It merely defines a distance contract as:

*“Any contract concerning goods or services concluded between a supplier and a consumer as a consequence of an organised distance sales or service-provision scheme of the supplier, using, for this contract, exclusively one or more means of communication at a distance, up to the conclusion of the contract and including the contract itself.” (emphasis by CI)*

This table focuses on any national consumer protection regulation on top of the rules imposed by the Distance Selling Directive, specifically aimed at controlling inertia selling of electronic communications services.

These rules could be imposed by the national regulatory authority (NRA) for telecommunications, or another consumer protection body like the national competition authority (NCA).

In particular the table shows:

- whether any sector-specific legislation or regulation exists on the distance selling of electronic communications services on top of the provisions from the Distance Selling Directive;
- if that additional regulation extends the right of withdrawal in case of inertia selling?;
- how should a provider prove that his end user accepted the new contract in case of dispute.

Country	Sector specific regulation of distance sale of electronic communications services? (If yes, provide details)	Right of withdrawal		In case of dispute, how does the provider have to prove that the client accepted to conclude a contract?	Comments
		Standard period for distance selling of electronic communications services	Extended in case of inertia selling?		
ES	Standard provisions on distance selling apply ( <a href="#">Royal Legislative Decree 1/2007, of November 16, 2007</a> ). Article 5 of the <a href="#">Bill of rights</a> for consumers of electronic communications services ( <a href="#">Royal Decree 899/2009</a> ) requires that a user gives his “ <i>express and unequivocal consent</i> ” to enter into a contract (sold at a distance or not).	7 working days	It is unclear whether a right of withdrawal applies in case of inertia selling (as no contract has been entered into). The law is silent on this issue.	A recording of the phone conversation can be used.	The ministry of industry posted on its website <a href="#">recommendations</a> on how to avoid slamming. It warns that a ‘Yes’ from the user can be recorded and used as evidence by the operator to prove that he the user has accepted the contract.

## Table 21 - Protection against slamming

This table shows whether the process of switching operators is lead by:

- the receiving operator (RO) that is winning the client from another operator; or
- the donor operator (DO) that is losing a client.

In both systems there is a risk of slamming: the RO ask the DO to hand over a client but that client did not ask for this or did not authorise it.

The table below indicates regulation that protects consumers against slamming practices. Several techniques exist: e.g. the RO has to produce a written authorisation signed by the consumer. Alternatively, the DO may check with the consumer if the fully understands the consequences of switching, although this may entail a risk for a last-minute winback action by the DO (see [Table 22](#) on regulation of winback).

The table shows regulation to protect against slamming for three classes of services:

- carrier selection and preselection (CS/CPS), including fixed number portability;
- mobile number portability (MNP); and
- broadband services (retail fixed).

Country	Carrier Selection and Preselection (CS/CPS)		Mobile number portability		Switching fixed broadband providers	
	Lead by	Protection against slamming	Lead by	Protection against slamming	Lead by	Protection against slamming
UK	RO	All fixed line providers are subject to <a href="#">general condition 24</a> which prohibits ROs from acquiring end users without their express knowledge and/or consent. GC 24 gives examples of slamming.	DO	Porting authorisation code (PAC) End user asks PAC from DO who checks that the request comes from the legitimate account holder. End user gives the PAC to the RO who passes it to the DO.	DO	Porting authorisation code (PAC) End user asks PAC from DO who checks that the request comes from the legitimate account holder. End user gives the PAC to the RO who passes it to the DO.

**Table 22 - Regulation of winback**

When a end user decides to change operator (for his fixed telephony line, for his mobile or for his broadband internet), the donor operator (DO) becomes aware at some point that his end user is leaving or has the intention to leave.

The DO has the incentive and possibility to make a counter offer to try to convince the end user to stay (retention). Alternatively, the DO can wait for some time and then contact the lost end user with an offer to make him come back (winback).

The following table describes regulation that sets limits to the behaviour of the DO.

- Is the DO prohibited to or limited in his possible retention actions when he learns that a end user wants to leave?
- Is a period set during which the DO cannot contact the lost end user with a new offer (standstill period)?

The table shows regulation of winback for three classes of services:

- carrier selection and preselection (CS/CPS), including fixed number portability;
- mobile number portability (MNP); and
- fixed broadband services.

Country	Carrier Selection and Preselection (CS/CPS)		Mobile number portability		Fixed broadband	
	Retention and winback regulation	Standstill period	Retention and winback regulation	Standstill period	Retention and winback regulation	Standstill period
DE	<p>BNetzA can decide in the case of disputes which practices are the best for consumers.</p> <p>On July 18, 2005 BNetzA <a href="#">decided</a> in a dispute between Arcor and Deutsche Telekom (DT) that DT is not allowed:</p> <ul style="list-style-type: none"> <li>• to require a written approval by the end-user in order to proceed with a CPS order</li> <li>• to use data received with the CPS order to win back end users. On Oct. 26, 2005 the Administrative Court of Cologne endorsed the decision, but the <a href="#">case</a> is pending at the Federal Administrative Court.</li> </ul>	No	<p>BNetzA can decide in the case of disputes which practices are the best for consumers.</p>	No	<p>BNetzA can decide in the case of disputes which practices are the best for consumers.</p>	No

**Table 23 - Consumer protection organisations**

This table gives an overview of all bodies (governmental and industrial) that are involved in consumer protection regulation in telecommunications.

At EU level, the European Consumers' Organisation ([BEUC](#)) defends the interests of all European consumers and acts as the umbrella group for 43 independent national consumer organisations from 31 European countries (EU, EEA and applicant countries).

A distinction is made between regulation of market power (both across sectors and sector specific), which can have some consumer protection elements, and specific consumer protection regulation (again across sectors and sector specific for telecommunications).

The latter includes (industry) bodies that deal with specific consumer protection issues, like e.g. premium rate services (PRS).

This is represented in the following table:

	Market power regulation	Consumer protection regulation
<b>Horizontal (across sectors)</b>	Ex post competition authority	General national consumer authority
<b>Vertical (sector specific)</b>	Ex ante NRA	Telecom consumer authority
<b>Issue specific</b>	-	e.g. industry bodies

Country	Market power regulation		Consumer protection regulation			
	Ex post Competition authority	Ex ante NRA	General national consumer authority	Telecom consumer authority	Industry bodies	Private consumer organisations
SE	<a href="#">Konkurrensverket</a>	<a href="#">PTS</a>	<a href="#">Konsumentverket</a> (the head of Konsumentverket is also Konsumentombudsman)	<a href="#">PTS</a>	<ul style="list-style-type: none"> <li><a href="#">Consumer Bureau for Telecom, TV &amp; Internet</a> - guidance and assistance for consumers and mediation in consumer disputes</li> <li><a href="#">Ethical Council for PRS</a> – marketing and provision of PRS</li> <li><a href="#">Ethical Board for direct marketing</a> – unsolicited marketing calls</li> </ul>	<a href="#">Sveriges Konsumenter</a>

## Table 24 - Billing regulation

The [Universal Service Directive](#) (Annex I part A) says that national regulatory authorities (NRA) may specify the basic level of itemised bills which are to be provided free of charge by undertakings designated as universal service providers.

Itemised bills have to be provided free of charge. Additional levels of detail may be offered to end users at reasonable tariffs or at no charge.

Calls which are free of charge to the calling subscriber, including calls to helplines, are not to be identified in the calling subscriber's itemised bill.

The following table shows whether:

- an itemised bill has to be available and whether it has to be offered free of charge;
- regulations (by NRA or by law) define the itemised billing;
- regulations (by NRA or by law) exist on billing increments (e.g. call setup of max 30sec or 1min, billing per second, no round-up to the next minute...); and
- complaints related to a bill do suspend that bill.

Country	Itemised bills		Rules on itemised billing?	Rules on billing increments?	Does a complaint suspend the bill?
	Obligatory?	Free of charge?			
FR	Yes For all electronic communications providers. (Article D98-5 of the <a href="#">code</a> of postal services and electronic communications)	Yes	The bill: <ul style="list-style-type: none"> <li>• must include sufficient details to allow the end-user to check the amounts on the bill</li> <li>• should not include free calls</li> <li>• should not show the last 4 digits of each number called unless otherwise requested by the end-user.</li> </ul> (Article D98-5 of the <a href="#">code</a> of postal services and electronic communications)	Obligation to bill per second from the first second. (Article L113-4 code of consumption created by <a href="#">Law n°2004-575 of 21 June 2004</a> ).	No

## Table 25 - Helpdesk availability and cost

The following table shows:

- rules on the availability of a end user helpdesk (e.g. minimally during working hours, 24/7...);
- whether a maximum waiting time is defined; and
- whether a helpdesk has to be free of charge. If paying, when does the billing start (during waiting or when an operator answers)?

Countries where operators' helpdesk has to be free of charge

Yes  
No



Source: CI research

Country	Availability	Response time	Does helpdesk have to be free of charge?	When does billing of paying helpdesk start?
IT	Yes Regulation ensures minimum quality standards to be provided to end users of electronic communications services. (AGCOM <a href="#">Decision 79/09/CSP</a> on quality of service of call centres of May 2009)	Not regulated. Providers must send to AGCOM and publish a number of quality <a href="#">indicators</a> applicable to call centres, including response time. (AGCOM <a href="#">Decision 79/09/CSP</a> on quality of service of call centres of May 2009)	Yes (AGCOM <a href="#">decision 26/08/CIR</a> )	Not applicable

**Table 26 - Dispute resolution and mediation**

Article 34 of the [Universal Service Directive](#) on out-of-court dispute resolution says that:  
*“Member States shall ensure that transparent, non-discriminatory, simple and inexpensive out-of-court procedures are available for dealing with unresolved disputes between consumers and undertakings providing electronic communications networks and/or services”.*  
*“Member States shall adopt measures to ensure that such procedures enable disputes to be settled fairly and promptly and may, where warranted, adopt a system of reimbursement and/or compensation.”*

Country	Alternative dispute resolution mechanism (e.g. ombudsman) imposed by law or regulation?	Who organises?				Compensation mechanism foreseen?	Number of complaints handled in 2009	Average resolution time
		NRA	Ministry	Industry	Other			
NL	<p>Yes – the <a href="#">association</a> of consumer complaint boards assembles complaint boards for various industries, which are recognised by the minister of justice. Separate boards for providers of:</p> <ul style="list-style-type: none"> <li>• electronic communications services, i.e. internet (voluntary)</li> <li>• information numbers (<a href="#">obligatory</a> – art. 3.4 of the <a href="#">Ministerial Ruling</a> on universal service and end-users interests)</li> <li>• telecommunications, i.e. telephony (<a href="#">obligatory</a> – <a href="#">article 12.1</a> of the Telecoms Act)</li> </ul> <p>Each board consists of a lawyer, and representatives of the Dutch Consumer Association and a trade association.</p>	-	-	✓ Recognised by the minister of justice	-	Complaint boards can take binding decisions, including on compensation	<p>Electronic communications services: 1,204            Information numbers: 15            Telecommunications: 1,995</p> <p><a href="#">Annual report 2009</a> of the association of complaint boards</p>	<p>4.7 months (average of all complaint boards)</p> <p><a href="#">Annual report 2009</a> of the association of complaint boards</p>

## Table 27 - Sanctioning

The following table gives an overview of sanctions that can be imposed on operators in case of breach of national consumer protection rules, specifically in the sector of electronic communications.

This table does not include sanctioning by civil and penal courts.

The table focuses on possible sanctions issued by:

- the national regulatory authority for electronic communications (NRA);
- other bodies like consumer authorities, industry organisations or government bodies.

Country	Body		Fines	Obligatory communication (in press, on tv,...) by defaulting operator	Compensation by the defaulting operator for impacted consumers	Withdrawal of service or suspension of promotional communication	Obligation to amend general terms and conditions	Other
FR	NRA	ARCEP Only competent for matters related to the <a href="#">code of postal services and electronic communications</a> - Not for applying the consumer code to telecom sector	✓ Fine of up to 3% of the turnover with a max of €150,000) (increased to 5% and a max of € 375,000 in case of a repeated default of the same obligation). Code of Post and Electronic Communications ( L. 36-11)	-	-	-	✓ But limited in scope (Art 98 ;12 II of the <a href="#">code of postal services and electronic communications</a> )	-
	Other	Le médiateur	-	-	✓	-	-	-

## Table 28 - Prepaid cards registration

The table below shows whether mobile operators are required to register the personal details (identity) of their pre-paid end users, and if so

- how these data have to be registered (in person in a point of sales (POS) or at a distance with electronic registration through website, phone, mail, sms or other);
- whether operators have to verify this electronic registration and if so, according to which legal procedure;
- how long operators have until all currently unregistered pre-paid cards have to be registered.

It also shows the practice of mobile operators in registering these personal details.

Countries where pre-paid mobile users' identity has to be registered

Yes  
No



Source: CI research

Country	Legal obligation to register details of pre-paid end users?					Practice of mobile operators
	Yes/No	Legal basis	Registration Electronic or in person in POS	Verification of electronic registration?	Period until all currently unregistered cards have to be registered.	
ES	Yes	<a href="#">Law 25/2007</a> on the retention of data on electronic communications. Mobile operators must register pre-paid end users including their full name, nationality and the type and number of the identity document.	Undecided	No	2 years from the entry into force of the law – until October 2009. Compulsory disconnection of pre-paid end users whose data could not be obtained and registered within that deadline (See <a href="#">Big Five Update 87</a> ).	Mobile operators carry out identity checks of pre-paid end users (mostly at sales points).

**Table 29 - Unsolicited marketing calls**

The EU legislation does not clearly forbid unsolicited voice calls for marketing purposes:

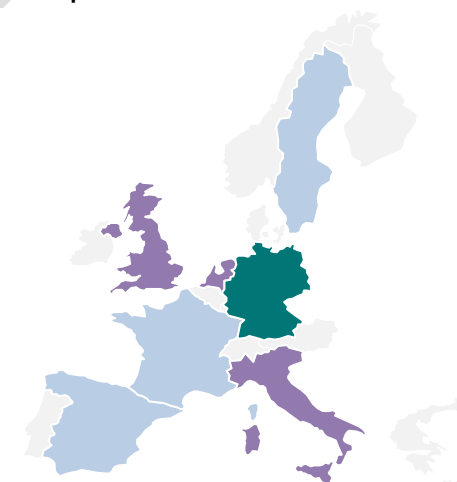
- article 13(1) of the Privacy Directive (2002/58/EC) only allows the use of automated calling systems without human intervention for the purposes of direct marketing in respect of end users who have given their prior consent (see [EU Ecom Tracker 24](#));
- article 10 of the Distance Contracts Directive 1997/7/EC forbids automated call systems (see [EU Ecom Tracker 9](#));
- Annex I item 26 of the Unfair Commercial Practices Directive (2005/29/EC) classifies “persistent and unwanted solicitations by telephone, fax, e-mail or other remote media” as practices that are aggressive and therefore considered unfair in all circumstances (see [EU Ecom Tracker 12](#)). However, unfair commercial practices legislation or case law in some Member States considers all forms of unsolicited calls without prior consent as unfair commercial practice, even if the calls are not “persistent”.

National regulations on unsolicited marketing calls can be roughly divided into two groups:

- opt-in schemes, where the default rule is that a certain form of unsolicited communication is forbidden as long as the called person has not given its prior consent and
- opt-out schemes, where the default rule is that a certain form of unsolicited communication is allowed as long as the called person has not explicitly refused.

The table below shows the different national rules related to the unsolicited marketing calls.

**Opt-in or opt-out for unsolicited voice calls?**



Source: CI research

Country	Opt-in or opt-out for unsolicited voice calls?	Legal basis	Sanctions	Central repository?	When does the consumer express his choice?	Who collects the consumers' choice and in which form	Effectiveness of the system Recent legislative or regulatory intervention	Blacklist
UK	Opt-out	Art 21, para 1 of the <a href="#">Privacy and Electronic Communications Regulations 2003</a> , which details rules that govern electronic marketing. The <a href="#">Data Protection Act 1998</a> gives individuals rights over their personal information.	The ICO (the UK data protection authority) has a range of enforcement powers. It can impose fines up to £500,000 (i.e. 603,246).	Telephone Preference Service (TPS)	Anytime	The central repository is administered by the <a href="#">Telephone Preference Service (TPS)</a> . No formal requirements exist. Choices can be expressed over the phone or by filling a form online at the TPS website.	Very well, according to the <a href="#">Information Commissioner's Office (ICO) hotline</a> . The ICO was given the power to fine companies up to £500,000 (€600.000) (see <a href="#">UK Ecom Update Dec. 2009</a> ).	No If consumers still receive unsolicited calls after opting-out, they should, complain to the TPS, which will contact the company involved, and will also report the complaint to the Information Commissioner (ICO) who enforces the relevant regulations.