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GSR14

BEST PRACTICE GUIDELINES ON CONSUMER PROTECTION IN A DIGITAL WORLD

Regulating the ever-changing ICT sector is like aiming at a moving target.

Developing and using best practices is the best way to fast-track our efforts to adapt to change and embracing new technologies to foster development and business.



Initiated by:

**Mr Brahima Sanou, Director,
Telecommunication Development Bureau (BDT),
ITU**

Today's digital world touches nearly all aspects of our lives. In this globalized and interconnected landscape, we need to work together to protect the rights of the consumers, especially those of vulnerable people, by encouraging the development of modern and effective regulatory tools. I am confident that these Guidelines will help us build a safer and trustworthy digital environment for all.



Coordinated by:

**Dr Mohammed Ahmed Alamer, Chairman,
Telecommunications Regulatory Authority,
Bahrain**

One of our major responsibilities is to examine ways of ensuring that the full array of benefits of the digital world is brought to all citizens in an informed, responsive and safe manner. This can only be achieved through effective and smart regulation targeted at empowering consumers, redefining responsibilities, and creating the conditions for a data-driven economy to flourish. The adoption of Best Practice Guidelines will assist in these processes, and ensure that we all work together to achieve our goal.



GSR14
BEST PRACTICE
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The digital economy has clearly raised new exciting opportunities but also challenges for consumers that will require increased attention from a regulatory perspective. Consumers are confronted with new issues brought about by the wider availability of new Information and Communication Technologies (ICTs) in terms of greater choice of devices, online services and applications. Identifying pro-active policy and regulatory measures in addition to co-regulatory and self-regulatory solutions and initiatives geared towards educating and empowering consumers is essential to protect the rights of all users in an open, transparent and inclusive digital world.

We, the regulators participating in the 2014 Global Symposium for Regulators, recognize that the rights of all stakeholders must be balanced to ensure that both consumers and businesses benefit from digital opportunities. Therefore, we have identified and endorsed these regulatory best practice guidelines to protect consumer interests while ensuring a level-playing field for traditional and new market players by fostering a light touch regulatory approach.

1. Charting a strategic direction

We believe that governments must continue to play a major role in facilitating the protection of citizens at all levels through the development of a wide array of relevant legislation and government policies, such as national ICT and universal access policies, relevant consumer protection legislation, cybersecurity and cybercrime legislation, including on child online protection, quality of service and electromagnetic exposure limit regulations as well as complementary initiatives, such as the development of guidelines on prohibited acts and best practices in tackling issues as varied as hacking, transmission of personal data (between service and/or content providers), and online fraud. In addition, a series of policy measures can be prioritized to establish self-adaptive regulatory mechanisms in order to build a secure and reliable cyber space. Cross-border initiatives can be developed to further foster international cooperation and policy implementation.

We consider that regulations should redefine legitimate consumer rights and interests, which include but are not limited to: access to publically available information and services over the Internet, quality of service, privacy, confidentiality and protection of personal data, the possibility to opt-out from features and services; the right to file a complaint; number portability; and intellectual property rights. Regulators and policy makers should strive to protect those rights universally and equally within the scope of laws and regulations. We recognize that, in enforcing and reviewing relevant legislation, regulators and policy makers must establish effective mechanisms for cooperation (such as memoranda of cooperation) with dedicated consumer protection authorities, service providers and other relevant bodies at the national, regional and international level. In doing so, clearly defining roles and responsibilities between the parties is fundamental, as well as information and resources sharing, as appropriate.

We further recognize that multinational cooperation and harmonization of regulations and initiatives are required in order to deal effectively with cross-border phenomena such as issues related to content and services provided by over-the-top players (OTTs), including consumer privacy, online fraud and cybercrime related to e-commerce and social media activities. Likewise, specialized regional entities can be empowered to deal with cross-national matters in a harmonized and focused manner.

2. Enhancing market competitiveness

We recognize that legal and regulatory frameworks need to be kept open, forward-looking, neutral and flexible to allow leveraging on new technologies, innovative services and new business practices, such as cloud computing, social media, mobile broadband, big data, and the Internet of Things, for users to benefit from a variety of services provided at all levels of the ICT markets.

With regards to the storage and transmission of information, regulated telecom and ICT market players and unregulated OTTs should be treated on an equal footing when it comes to the enforcement of consumer protection legal instruments.

3. Partnering with industry

We recognize that industry players have a vital role to play in ensuring not only transparency and accountability in their business practices, but also in willingly adopting measures geared at protecting the rights of consumers, such as protecting personal data, fighting misleading as well as unfair mass advertising, spam, the permanency of data, and child online protection.

We recommend that regulators encourage the development of Codes of Practice for service providers, including OTTs, to ensure that content, promotion and operation of services comply with all necessary consumer protection conditions.

4. Providing a sound framework for contractual services

We consider best practice to legally prohibit the use of general terms and conditions that provide to the customer's detriment. Furthermore, unjustified and disproportionate differences between the rights and obligations arising under the contract for ICT services should be prohibited irrespective as to whether it was concluded online or otherwise.

We further recognize the need to draw up transparent rules on the terms and conditions for concluding contracts online, the form of such contracts as well as the related procedures (e.g., user identification, order confirmation, cancellation and termination).

5. Multiple channels for redress

We believe that regulators' role in mediating and escalating consumer complaints for redress is essential, and sound relationship with service providers needs to be maintained to this end. Complaints handling procedures that specifically encourage consumers to first seek redress with service providers can be successful and increase service providers' awareness of consumer needs, rights and responsibilities. We believe that consumers not only have the right to complain, but more importantly, have the right to seek a remedy whenever their rights have been infringed.

In the event of a dispute, alternative mechanisms (such as conciliation, arbitration and self-resolution) following clear and transparent procedures can be introduced for settling disputes in addition to formal adjudication and good offices, so that consumers can defend their rights rapidly and at no or minimal cost. Specialized telecommunication/ICT mediation centers might prove particularly effective with this regard.

6. Quality of service and consumer experience

A series of measures can be taken to ensure consumers including people with disabilities have easy and reliable access to ICT services as well as web content, such as, developing and regularly reviewing minimum quality of service standards and specifications of new technologies and services; monitoring network service providers; regularly assessing telecom/ICT services quality and publishing the results.

7. Protecting consumer privacy and data

We believe that establishing an integrated legal system for effectively protecting personal data and information is paramount for the digital world to thrive.

We recommend that OTTs, and social media providers in particular, engage in more transparent procedures for data processing, obtain the consent of their customers through opt-in before sharing their data and provide users with the option to clearly choose the status of their communications, between private or public. Users should be able to make informed decisions about the degree to which their data can be accessed by others and the usage that third parties may make of it.

The online world exposes children and youth to specific risks, notably in terms of adult-only content and sexual predation. We acknowledge the importance of supplementing legal tools with a series of measures that include public advocacy, content alerts and industry self-regulation initiatives while engaging further efforts in consumer education for targeted groups, such as children, youth, parents and teachers.

We believe that establishing a Computer Emergency Response Team (CERT) can yield multiple benefits to consumers in terms of providing, inter alia, an early warning service on threats and possible cyberattacks to both the general public and government agencies.

8. Empowering consumers

ICT regulators should be proactive in promoting, informing, encouraging and raising awareness to stakeholders of the benefits and challenges of a connected broadband world. In doing so, it is important to recognize the need to protect and educate consumers with different access needs who may be particularly vulnerable to deceptive commercial practices or have difficulties fully understanding terms and conditions of service (e.g., the illiterate, the disabled, children and youth). In addition, a bottom-up approach targeted at citizens through the involvement of schools, community centers and NGOs, notably through social media, could greatly contribute to raising consumer awareness. Stakeholders Fora can also be created including consumer representatives, as a platform that allows for consumer participation in decision making and policy development. This will bring consumers voices to the table in a framework of ongoing dialogue.

9. The consumer right to information

Regulators need to ensure that all service providers make available timely and accurate information about their services and products in a clear, transparent and comparable manner that is conducive to rational decision making. Consumers should thus be able to understand the nature of the services, including prices and how they are calculated, and the quality of service provided, in addition to their own rights and responsibilities. All regulations related to consumers' right to information should be regularly and consistently updated allowing it to be practical and enforceable.

10. Redefining the role of regulators

We are mindful that the ICT regulator is increasingly seen as a partner to market players and an advocate for consumers' rights. Their decisions are taken based on evidence and technical expertise to foster access and use of ICTs, competitiveness of the markets, and overall social and economic development.

It is, therefore, necessary to reconsider the mandate of ICT regulators with a view to strategically strengthening their enforcement power to respond to the challenges of the dynamic digital environment.