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A Consultation Document

Consumer Rights and Obligations Draft Policy

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1 Introduction

1.1 Policy Objectives

This policy on Consumer Rights and Obligations seeks to ensure that each consumer:

- Has a right to essential telecommunication services and broadcast services
- Is provided with sufficient and necessary information, in a convenient manner, in order to make informed decisions
- Receives the highest possible standard of consumer-related quality of service
- Has his complaint recognized, handled and resolved effectively and efficiently
- Is aware of, and abides by, these obligations

1.2 Rationale

Globally, the telecommunications market has evolved from the vertical monopolistic market concept of one national public telecommunications provider, usually state-owned, for all telecommunications services, to a competitive market, in which there is no exclusive provider for any telecommunications service. The evolution of the telecommunications industry into a competitive market has spawned consumer benefits such as reduced prices for service, increased quality and availability of service, a greater variety of services, and greater choice for service. The liberalization of the telecommunications sector is the beginning of the road to full competition.

An imperative activity in the liberalization of the telecommunications industry is the institutionalization of a Regulatory Authority, which serves to ensure the effective transition from a monopoly market to a fully competitive market.

The Republic of Trinidad and Tobago has initiated this Liberalization process with the enactment of a Telecommunications Act 2001 (hereafter called the Act). This Act

establishes and empowers the Telecommunications Authority of Trinidad and Tobago (hereafter called The Authority) and enables the development of policies and regulatory frameworks, which will pave the way for the introduction and sustenance of competition in all telecommunications services.

Policies and frameworks established to promote sustainable levels of competition in the telecommunication market only represent a part of the Authority's responsibilities. Another major role of the Authority is to seek the best interests of the public/consumer. Although the Government is ultimately responsible for this duty, in the area of public telecommunications networks and services, the Authority serves as the instrument for protecting the consumer's interests and ensuring that their rights are not infringed.

The Act also empowers the Authority to regulate the broadcasting industry (e.g. Radio Broadcasters, Television Broadcasters and Cable Television Operators) consistently with the existing constitutional rights and freedoms contained in section 4 and 5 of the Constitution. The broadcasting industry in this country, in particular the FM broadcasting area, is highly competitive. There are currently over twenty-two (22) FM broadcasting stations on-air, and an additional thirteen (13) stations were licensed in June 2004, some of which are already on-air. In the area of television broadcasting, there is one national broadcaster (CCN TV6) and one community broadcaster (Gayelle). There are three (3) cable television operators: Cable Company of Trinidad and Tobago (CCTT) in Trinidad; Trico Ltd in Tobago; and Direct TV. The Authority is responsible for seeking the best interest of the public/consumer in regards to the behaviour and operation of broadcasters as well.

This protection of the consumer has a broad scope. Policies developed to address this area vary in scope among Regulatory Administrations worldwide. This area has been addressed by the development of policies and regulations that may include one or a combination of the following specific topics: Customer Service; Availability of Consumer Information; Treatment of Consumer Complaints; Consumer Rights to

Service; Consumer Obligations; Universal Service Obligations; and Quality of Service Standards.

This Policy document addresses consumer protection for telecommunication and broadcasting services, via the following categories: Consumer Rights to Service; Availability of Consumer Information; Consumer-related Quality of Service; Treatment of Consumer Complaints; and Consumer Obligations.

Policy statements throughout this document can be easily identified as being italicized and bolded.

1.3 Scope

This is a draft working document which will serve as a basis for consultation with stakeholders in the local and regional telecommunications sector, to solicit their opinions on the issues addressed. The objective is to involve a broad cross section of interested parties in a conjoint effort to develop a policy which will guide the preparation of regulations, enshrining in law:

- The rights of consumers to quality telecommunications and broadcast services;
- Accurate consumer information from service providers;
- Value for money for services to the consumer; and
- Obligation of consumers.

The related regulations resulting from the approved version of this policy will be binding on the parties to which it applies.

1.4 Review Cycle

This document will be modified periodically to meet changing and unforeseen circumstances. The Authority, any entity in the telecommunications sector, or any appropriate Industry forum may identify the need for modification. When need for modification is identified, the identifying entity will submit the modification issue to the Authority.

Questions or concerns regarding the maintenance of the Consumer Rights and Obligations Policy may be directed to the Authority.

1.5 The Consultation Process

The Authority will seek the opinion of stakeholders regarding the proposals made in this document, in accordance with the Authority's Procedures for Consultations in the Telecommunications Sector of Trinidad and Tobago (<http://www.tatt.org.tt>). This draft policy will be made available for public comments for a period of four (4) weeks.

This Policy will be followed by the Draft Consumer Rights and Obligations Regulations which shall also be posted on the same website for comments, over a similar time period.

1.6 Definitions

“Customer premise equipment” includes any telecommunications equipment that is connected to the telecommunications network and located at a consumer's site. This equipment is also known as a subscriber unit.

“Consumer” means a direct user, or end-user, of a service.

“Recognized Operating Agency” means a public telecommunications network/service provider or a broadcasting service provider.

“Reverse Charged Calls” means a call made whereby the called party accepts the charge for the call, on behalf of the calling party.

“Stakeholder” means any provider, organization, community group, or consumer of a public telecommunications service or broadcasting service.

“Subscriber” means a consumer who purchases a public telecommunications or subscription broadcasting service.

“Tariff” means a schedule of prices and fees.

“Transceiver” means a radio communications device with the capability to transmit and receive telecommunication signals.

2 Public Telecommunications Services

2.1 Essential and Non-Essential Public Telecommunications Services

The Act defines a public telecommunications service as:

“a service offered to members of the general public, using telecommunications, whereby one user can communicate with any other user in real time, regardless of the technology used to provide such a service”

A public telecommunications service therefore includes all voice and data services offered to members of the public.

The public telecommunications services currently available in Trinidad and Tobago include:

- Domestic fixed telephony

- International telephone services
- Mobile (Cellular) telephony
- Internet access services
- Public payphones service
- Local and international data communications services
- Facsimile services
- Audio text services
- Telegram services
- Call management services
- Leased circuit services
- Paging services

Amongst the variety of contemporary public telecommunication services available reside certain services that can be viewed as essential for the dissemination of information to allow communities or persons to function and fully participate in today's society. Essential public telecommunications services comprise the collection of public telecommunications services that cannot feasibly be economically or technically substituted by another telecommunications service. Examples of essential services are:

- Domestic fixed telephony
- International telephone services
- Public payphone services.

Conversely, non-essential public telecommunications services are considered to be additional services offered which are not essential, but offer convenience. Examples of which are telegram services and call management services.

2.2 Basic Telecommunications Services

The catalytic ability of telecommunications in Information Communication and Technology (ICT) development, and by extension, socio-economic development emphasizes the need for classifying essential and certain non-essential public telecommunications services as basic telecommunications services and the evident right consumers have to basic telecommunications services.

Traditionally, basic telecommunication service can be technically referred to as the emission, transmission or reception of electronic information in voice form (voice telephony) transported via a Public Switched Telephone Network (PSTN). The service-oriented description defines it as a minimum set of services deemed necessary for use of a public telecommunications network. A decade ago, basic telecommunication service was primarily viewed as access to a voice grade telephone service, which included additional services such as operator and directory assistance, access to long distance and international services, free itemized billing and call control features.

There is no standard international definition or classification for basic telecommunications service. Most countries have formulated their own domestic definition for basic telecommunications service. This definition varies among countries at different stages of socio-economic development and technological advancement.

The meaning of basic telecommunications service is now an evolving concept, due to technological advancements and the integral role that telecommunications plays in everyday life. The principles by which it can be defined are:

- The right to communicate
- The ability to originate content without outside interference
- The right to access information
- Access to emergency or essential services.

The Internet is predominantly used today to realize these principles. Consequently, access to the Internet is rapidly integrating into the national definition of basic telecommunications service, especially amongst countries with a commitment to build a people-centred, inclusive and development-oriented information society. The Republic of Trinidad and Tobago is no different, with its *fastforward* plan bespeaking the desire to become an Information Society. *Hence, basic telecommunications service requires the inclusion of access to the Internet, in addition to the traditional public telecommunications services.*

At present, basic telecommunications services to the consumer include:

- The ability to originate and terminate calls locally, nationally and internationally
- Public payphone services
- Basic connectivity to the Internet
- Free 24-hour access to the emergency call services
- Operator assisted services
- Directory assistance
- Access to call control features
- Free itemised billing

A basic telecommunication service includes a basic fixed, touch-tone telephone with connectivity to a public telecommunications network used to communicate with persons in various locations.

The Authority shall ensure that a basic telecommunication network/service provider offers telecommunication services that include:

- *Local, national and international calls*
- *Access to Internet services*

- *Selective call barring*
- *24-hour access to the emergency call services*
- *Operator assisted services*
- *Free Itemised billing*
- *Directory assistance*
- *Public pay phones*

The Basic Telecommunications Service Provider shall be any Public Telecommunication Network/Service Provider obligated to provide the above inclusive services. The Universality Policy shall include the process for determining a Basic Telecommunications Service Provider.

2.2.1 Local, National and International Call Origination and Termination

All consumers of basic telecommunications service require a suitable access connection and a Customer Premise Equipment (CPE), with the capability of making and receiving local, regional and international calls. The traditional method of affording access is via a ‘fixed’ line (copper wire line) and the standard CPE for communicating in Trinidad and Tobago is a touch-tone telephone, notwithstanding that there are still a number of “rotary” telephones still in operation today. Access to connectivity can also be via a wireless medium, and the CPE can offer a number of auxiliary functions (e.g. speed dial, call waiting key, stored directory number recall).

It is therefore imperative that a consumer of basic telecommunication services be provided with a suitable access connection that permits the origination and termination of local, regional and international calls, a CPE and access to other services classified as a basic telecommunications service.

The Authority shall ensure that a basic telecommunications network/service provider equip a consumer with at least one (1) CPE and an access connection from a basic

telecommunications network provider that permits the origination and termination of local, regional and international calls, and access to other services classified as basic telecommunications services.

2.2.2 Basic connectivity to the Internet

The connectivity goal as expressed in the Government's National Information and Communication Technology Plan (*fastforward* Plan) is to create a knowledge based society where all citizens of the country have affordable Internet access to enable rapid sourcing and transfer of useful information. This approach is founded on the concept that information is critical to knowledge which in turn is crucial to the growth and development of any country.

The 'speed' or bandwidth of an Internet connection is dependent on the technology and type of access used to provide the basic telecommunication service. For instance, basic telecommunication services provided via the traditional copper line (fixed access) network can only afford a relatively slow, dial-up speed (average 28.8 kbps). The incumbent public telecommunications service provider, Telecommunications Services of Trinidad and Tobago (TSTT), currently offers the following dial-up Internet access services (see Table 1 below).

Market Segment	Package
Residential	20hrs – 100hrs
Residential	Unlimited time
Business	20hrs – 100hrs

Source: TSTT website, 2004 (www.tstt.net.tt)

Table 1: Dial-Up Internet Access Tariff Rates, TSTT

However, this connection speed has been vastly improved with the addition of Digital Subscriber Line (DSL) technology, which allows relatively high-speed Internet access

(over 128 kbps). Unfortunately, this form of high-speed Internet access, more commonly called Broadband Access, is not widely available throughout Trinidad and Tobago. TSTT currently offers the following high-speed Internet service (see in Table 2 below).

Market Segment	Access Speed	
	Download	Upload
Residential	128k	64k
Business	128k – 1544k	64k – 256k

Source: TSTT website, 2004 (www.tstt.net.tt)

Table 2: High Speed Internet Access Tariff Rates, TSTT

Additionally, an Internet Service Provider called Fiberline utilizes the infrastructure of the cable TV company in Trinidad and Tobago, CCTT, to provide an alternative “wired” high-speed Internet access. Fiberline’s service offering is as follows (see in Table 3 below).

Market Segment	Features
Premium Residential	A shared residential service. A free email account
Fiberline Gold	A Prioritized, High Speed Service. Up to 5 free Email Addresses
Fiberline Platinum	The Ultimate in Speed and Service Up to 10 free Email Addresses

Source: Fiberline website

Table 3: High Speed Internet Access Tariff Rates, Fiberline

Alternatively, there are other technologies used to provide broadband access. These technologies employ wireless methods of access the subscriber, such as fixed wireless access “broadband access” networks. A subscriber unit, similar to a miniature satellite dish, is installed as part of the customer premise equipment, allowing connectivity to a central transceiver covering a specified area. The availability of this form of broadband access is limited to localized areas in Trinidad and Tobago, and is available primarily to

the business community. It is expected that the liberalization of the local telecommunications sector will increase to accessibility to broadband access, by various technologies.

This notwithstanding, the consumer should be entitled to a minimum prescribed level of Internet access, as it is an element of the basic telecommunications service provider's service obligation.

Each consumer of basic telecommunication services shall have the ability to access the Internet. The Authority shall require basic telecommunication network/service providers to provide their consumers with the ability to connect to the Internet with a minimum level of access as prescribed in the Consumer-Related Quality of Service Standards established by the Telecommunications Authority of Trinidad and Tobago.

2.2.3 Emergency Call Services

Emergency call services are among the services governments generally designate as essential. In Trinidad and Tobago, these services primarily include routing of emergency calls to the Police Rapid Response Service, Fire Service, Emergency Health (Ambulance) Service, and the National Emergency Management Agency, etc.

The ability of persons to access these emergency services via a basic telecommunication service is referred to as Emergency Call Services. An emergency call service should be a 'free' service, because such calls request aid in a crisis situation.

Persons should be able to contact an emergency service directly, via the specified phone number from any telephone device (e.g. public payphone, standard telephone, mobile handset), or indirectly, via an operator service.

The Authority shall require basic telecommunication network/service providers to provide free access to emergency call services.

2.2.4 Operator and Directory Assistance

It is important that each provider of basic telecommunication services include operator assistance as part of their service package. Operator assisted services have evolved since the advent of the telephone. This service, which was traditionally used to connect a calling party to a called party, can now additionally be used to locate persons and businesses via directory assistance. Although operator assisted services may be under-subscribed due to the telecommunications providers' directories (phone books) publication, it serves to be convenient in instances where a directory is unavailable, and essential in emergency situations.

It is essential that a basic telecommunications network/service provider afford, at a minimum, the following to a consumer:

- Operator and directory assistance services on a 24-hour basis for local assistance;
- Operator services including:
 - connection to emergency services;
 - connection to directory assistance;
 - connection to repair services; and
 - facilitation of reverse charge calls;
- Stated tariff for all operator and directory assistance services. Any charges made for any operator or directory assistance service shall be listed separately on a post-paid consumer's bill.
- Operator assistance to connect to emergency services shall be free of charge.

A consumer shall be afforded essential operator and directory assistance services from a basic telecommunications network/service provider.

2.3 Basic Telecommunication Services for Differently-Abled Persons

Victims of disabilities (i.e. visual, speech and physical impairments) should be provided with access to basic telecommunications services on terms, and in circumstances, that are comparable to those for which other nationals have access to basic telecommunications services.

The following equipment are examples of those available that allows a person with a disability to have access to basic telecommunication services and communicate effectively with a person without or with a disability:

- A standard rental telephone handset which includes one-touch dial memory, a lightweight handset and a built-in hearing aid coupler;
- A telephone which amplifies the incoming caller's voice to suit the listener;
- A telephone which amplifies the speaker's voice, allowing the speaker to adjust the speech level to suit the listener;
- A hands free telephone for a person who cannot hold a telephone handset;
- An ancillary telecommunications product which has adjustable volume, tone and pitch controls to assist the user to hear the telephone ringing (for example, an extension ringer or general purpose alarm);
- An ancillary telecommunications product which visually alerts on incoming call (for example, a visual signal alert);
- An ancillary telecommunications product which allows the connection of a second piece of equipment (for example, a visual signal alert) in parallel with the existing telephone (for example, a double adaptor);
- An ancillary telecommunications product in which the telephone handset is cradled, providing hands free operation; and
- A telephone-adapting device that allows a person with a cochlear implant to have access to the standard telephone service.

Telecommunications Relay Services (TRS) enable telephone users to talk to people who have difficulty hearing or speaking on the telephone.

The following are examples of equipment provided with a Telecommunications Relay Service:

- Equipment that facilitates text-to-text communication through the telephone network (for example, a teletypewriter (TTY));
- Equipment that facilitates data transmission over the telecommunications network (for example, a modem);
- Equipment that facilitates the transmission of data over the telecommunications network and its transfer into Braille (for example, a telebraille).

The following are examples of Telecommunications Relay Services:

- Text-To-Voice - uses a Communications Assistant (CA) who speaks what a TTY user types, and types what a voice telephone user replies.
- Voice Carry Over - enables a person who is hard of hearing, but who wants to use his/her own voice, to speak directly to the receiving party and to receive responses in text form through the CA. No typing is required by either the calling or the called party. This service is particularly useful to senior citizens who have lost their hearing, but who can still speak.
- Hearing Carry Over - enables a person with a speech disability to type his part of the conversation on a TTY.
- Speech-to-Speech Relay - a person with a speech disability uses a CA specially trained in understanding a variety of speech disorders. The CA repeats what the caller says in a manner that makes the caller's words clear and understandable. No special telephone is needed for this option.
- Video Relay Services - enables individuals who use sign language to make relay calls through a CA who can interpret their calls.

Another option of a Telecommunications Relay Service is the Internet Protocol (IP) Relay Service. IP Relay allows people who have difficulty hearing or speaking to communicate with anyone in the world through an Internet connection. IP Relay is accessed using a computer and the Internet, rather than a TTY and a telephone. Individuals who use IP Relay do not need to invest in a TTY; they simply use the computer to communicate. When conversing over IP Relay, people who are deaf, hard of hearing, or have difficulty speaking can participate in a conference call or go online while holding a conversation.

Unlike traditional TRS, where a TTY user contacts a TRS centre and a Communication Assistant (CA) at the TRS centre calls the receiving party via voice telephone, the first leg of an IP Relay call goes from the caller's computer, or other Web-capable device, to the IP Relay Centre via the Internet. The relay site is usually accessed via a Web page. The second leg of the call, as with traditional TRS, is from the CA to the receiving party via voice through the PSTN. The CA can also accept IP relay calls from persons with hard-to-understand speech and repeat the calls in an easily understandable form for the called party.

There are several consumer benefits of IP Relay:

- Availability – IP Relay is available to anyone who currently has access to the Internet via a computer, Personal Digital Assistant (PDA), Web-capable telephone, or other device.
- Convenience – Consumers do not need to go to a separate TTY or log off the Internet to use a TTY telephone line.
- Multiple Calls – IP Relay users can initiate multiple calls simultaneously, make conference calls, or browse the Internet while making a call.
- Quality – Transmission quality may be faster via IP Relay than via a TTY.

- Multi-vendoring – Like users of most other telecommunications services, IP Relay users can choose among many relay providers

Another example of a TRS is a Video Relay Service, which enables persons to make relay calls using a web-cam and a high-speed Internet connection, as well as send and receive visual messages using sign language through a web interface over a computer.

A Priority Assistance Service may also be considered to help people with diagnosed life-threatening medical conditions that depend on a reliable home telephone service to be able to call for assistance when needed.

It is recommended that the provision of TRS services (including IP Relay and Video Relay) should be treated as a Universal Service Obligation. Costs for provision of TRS should be recovered through the Universal Service funding mechanism set forth in the Universality Policy. The method via which the Universal Service Fund can be accessed for this purpose will be elaborated in the Universality Policy.

It is imperative that differently-abled (disabled) persons are provided with a Telecommunications Relay Service, and the supporting equipment that allows them to communicate.

The Authority shall require basic telecommunication service providers to provide adequate telecommunications services to persons with various types of disability.

The Authority will be responsible for monitoring the performance of service providers that provide disability services by accessing their quarterly reports and by consulting with existing and potential users. The Authority shall engage the public and service providers regarding standards for quality of service, consumer benefits and consumer satisfaction related to the operation of disability services.

2.4 Disconnection of Service

Disconnection of service is the inability of a consumer to access the subscribed service. For example, a consumer who has been disconnected from his/her mobile telecommunications service would not be able to make or receive calls. One-way disconnection or impairment of service restricts the consumer from transmitting information via the service. Information can only be received. For example, when a consumer's 'fixed-line' voice telecommunications service is impaired, that consumer will only be able to receive calls, and not be able to make calls.

Disconnection of service is a most discomfoting event for any consumer, especially when it is a wrongful disconnection. Disconnection of service usually arises from the inability of a consumer to pay his/her bill. Also, a service provider may choose to disconnect a consumer until a billing dispute is resolved.

Due process should be employed in the event that a consumer's behaviour warrants disconnection of service. For instance, a warning should be issued to the consumer initially, specifying a period of time to comply (e.g. make bill payment). The service can then be impaired (one-way disconnection) for a specified period of time, for non adherence to the warning, especially in the event of a billing dispute. Finally, disconnection of service can be effected if the above avenues to allow the consumer to comply have been exhausted.

Additionally, telecommunications service providers can institute programmes or provide consumer information that alleviates the possibility of a consumer being disconnected from service.

The Authority shall institute the necessary measures to ensure that disconnection of service by a service provider only occurs when warranted, and follows due process.

2.5 Carrier Pre-Selection

Carrier pre-selection can be described as a pre-programmed selection of an international or long-distance public telecommunications service provider allowing access to a public telephone service without the need for the consumer to dial a prefix selection code before dialing the actual phone number. For example, a consumer can use carrier pre-selection to switch from one international public telecommunications service provider to another. This allows the consumer to choose the international service provider with the best service and tariff. Note that this is different from carrier selection, which allows a consumer to switch to an international or long-distance service provider on a per call basis.

Carrier pre-selection will be necessary in the Republic of Trinidad and Tobago when there are multiple international public telecommunications service providers. A consumer would then be able to select an international service provider, via a request to his/her domestic public telecommunications service provider.

The Authority shall ensure that carrier pre-selection is afforded to a consumer, upon a request made to his/her public telecommunications service provider, within a reasonable timeframe.

3 Broadcasting Services

3.1 Free-to- Air and Subscription Broadcasting Services

The Act describes broadcasting services to mean the following:

“... the offering of the transmission of programmes whether or not encrypted, by any means of telecommunications, for reception by the general public, including sound, radio, television and other types of transmissions, such as those on a point to multipoint basis.

This definition includes national and community free-to-air broadcasting services, such as:

- Broadcast Radio (e.g. FM and AM broadcast radio stations);
- Broadcast Television (e.g. CCN TV6 and Gayelle).

and subscription broadcasting services, such as:

- Cable Television services;
- Satellite Television and Radio services.

Consumers do not pay directly for free-to-air broadcasting services (e.g. radio station broadcasts), but are exposed directly to the content of the electronic media delivered, provided that the consumers’ receiving equipment (radio or television) are “tuned” to a station. The *Broadcasting Code* will address the type of content and the delivery of information. Consumers should also be able to receive service from at least one television and radio free-to-air broadcasting service provider. This implies that the population of the Republic of Trinidad and Tobago (who are essentially the consumers of this service) should be able to “tune into” at least one television station or radio station, and receive an acceptable level of signal quality.

Conversely, consumers pay directly for subscription broadcasting services. Thus, consumers of subscription broadcasting services should be afforded a quality of service,

sufficient consumer information on services offered and complaint resolution mechanisms similar to those prescribed for a public telecommunications network/service provider. Also, consumers of these services will be prescribed similar obligations as consumers of public telecommunications services.

The Authority shall ensure that free-to-air broadcasting services are available to the population of the Republic of Trinidad and Tobago.

The Authority shall regulate providers of subscription broadcasting services similarly to public telecommunications network/service providers in terms of consumer-related quality of service, provisioning of consumer information and complaints resolution.

3.2 Customer Premise Equipment for Subscription Broadcasting Services

A consumer of subscription broadcasting services requires a Customer Premise Equipment (CPE) to access the service(s) offered by a provider. For example, a consumer of cable television requires a set top box from the provider in order to access television channels offered by this service.

Additionally, a CPE for subscription broadcasting services should be sufficiently equipped to allow the consumer to control the use of the service, and in particular, to have the facility of parental control. For example, for cable television services, the CPE should, at a minimum, be able to select between the channels offered and provide a parental control feature that allows the “blocking” of channels and/or programmes.

The Authority shall ensure that subscription broadcasting service providers equip each consumer of such services with at least one (1) CPE and an access connection to the service offered. Additionally, the CPE shall provide, at a minimum, a function to control the use of the service and allow for parental control.

4 Provision of Consumer Information

4.1 General Principles

A liberalized telecommunications market is dynamic, highly competitive, and characterized by innovative and diverse services, rapidly changing technologies, and a high public profile. Consumers' ability to choose and decide amongst similar services can be significantly challenged in such an environment. Nevertheless, consumers should be able to make informed decisions, once the relevant information is available. The realization of an informed consumer warrants the establishment and maintenance of standard industry practices in relation to the provision and timely dissemination of information to consumers. Similarly, it is expected that a competitive market for subscription broadcasting services will provide sufficient information to foster an informed consumer.

The importance of providing consumers with clear, accurate and complete information about the services they are purchasing, so that the level of information is maintained throughout, is critical.

Most modern consumer legislation attempts to rectify the inequality in bargaining power between the consumer and the service provider. Notwithstanding the legislation provided for in the Consumer Protection and Safety Act 1985, consumer information for public telecommunications and subscription broadcasting services require specific attention. This is principally the resultant of difficulties in obtaining sufficient or easily understood information, for a service offered.

Without adequate information on the price and quality of service available from competing providers; and on the terms to which those providers are prepared to do business, the consumer is unable to make a prudent purchasing decision.

The implications may be even more far-reaching. An adequately informed consumer can indicate his/her preferences, which may lead to competition between those providers to satisfy those preferences.

Intervention in the market by the regulator becomes justified when the information is not available to consumers, either because there is an absence of information; it is inadequate; or it can be false or misleading.

The Authority shall ensure that consumer information be provided in a manner that is not confusing, misleading or deceptive, and to ensure that consumers are able to make informed purchasing decisions when subscribing to public telecommunications or subscription broadcasting services.

4.2 Code of Practice for Service Providers

Service providers should be encouraged to produce sufficient information to consumers of public telecommunication and subscription broadcasting services by establishing a code of practice. This code of practice can take the form of a booklet, brochure, displayed on a website or included in another publication of the provider. The intention is to collate the consumer related information regarding service(s) offered in one document or at one location, and update this centralized information when necessary.

The code of practice document will at a minimum, supply relevant, coherent and sufficient information, to the consumer, regarding a provider's:

- Services offered;
- Contact and customer service information;
- Technical support services;
- Details of billing and tariff regime;
- Locations and telephone numbers of business offices;

- Directory assistance and operator services contact information;
- Complaint resolution procedures; and
- Other relevant information the consumer may require for informed decision-making.

A consumer's request for information should be responded to in a timely manner, and the charge for accessing information should be no greater than the cost of providing such information.

The Authority shall ensure that service providers (public telecommunications and subscription broadcasting) avail consumers of their Code of Practice.

A consumer should have access to information that is:

- *Accurate and precise*
- *Up-to date*
- *Relevant and sufficient to assist them to make an informed purchasing decision*
- *Clear*
- *Easily understood*

4.3 Marketing (Advertising and Promotions)

The marketing of public telecommunications and subscription broadcasting services can be construed in a manner that intentionally or unintentionally confuses the consumer. For example, advertisements that suggest a service is “free” or “unlimited” may not be entirely correct. It is important for consumers to know the full cash price, the service tariffs and any significant limitations of offers before making a decision. Service providers should be required to properly disclose this information when they promote their services. There are various subscriber-winning/retention practices that disadvantage

the consumer. Monitoring these practices attempts to ensure that service providers do not advantage the consumer, singularly or in unison.

Truth-in advertising requires the service provider to advertise its products/ service in methods that are clear to the consumer and representative of the actual service offered. Truth-in advertising ensures that no provider uses false or misleading advertising methods to gain subscribers. False advertising would include:

- Misleading product/ service description: via service accessibility, service quality, availability. This would also monitor the use of negative advertising: disingenuous claims targeted to maliciously affect the brand of competitive services;
- Misleading billing/ charging scheme: where the advertised method of billing is not carried out by the provider, or that scheme is altered (through unauthorized transfer of account) without the knowledge of the consumer.

Telemarketing is a practice of utilizing a telecommunications service, by service providers and independent telemarketing agencies, to market new telecommunications services of non-telecommunications related products or services. An example is the use of Simple Messaging System (SMS) to notify consumers of product sales. The abuse of telemarketing practices may become disruptive to the consumer of this service. As such there should be clear directives to ensure that:

- Numbers designated for emergency services are not compromised;
- Automatic recorded voice mechanisms are not utilized to call the home of any phone user without prior authorization;
- Once a subscriber has informed an agency that he/ she does not want to be contacted again, any agency that ignores this request continuously is liable to real and significant penalties. A period should also be determined when the moratorium on a number identified as not interested in telemarketing services may expire. This may be based on the average rate of churn/ change of telephone numbers;

- Telemarketers send caller ID information when calling, so that consumers whose CPE or handsets are so equipped may discern the identity of the caller;
- Telemarketers do not send unsolicited Fax advertisements/ messages to consumers. This is important as the receipt of unsolicited fax messages may cause a real cost to the consumers;
- Transnational inbound and outbound telemarketing is managed, so not to exacerbate the possible local telemarketing problem, which may proliferate with the rapid decline in international calling tariff and the opening of national markets.

The Authority shall take the necessary measures to:

- *Ensure truth-in advertising;*
- *Prevent abuse of telemarketing.*

4.4 Contract Terms and Conditions

Consumers are usually faced with a large amount of complicated information when signing contracts for mobile phone, fixed line phone, Internet and subscription broadcasting services.

A consumer of public telecommunications or subscription broadcasting services has the right to a contract including the following elements:

- The identity and address of service provider;
- Services provided, the service quality levels offered, as well as the time for the initial connection;
- The types of maintenance and support services offered;
- Details of the tariff and current information detailing all tariffs and maintenance charges;

- The duration of the contract along with the conditions for renewal or termination of the services and of the contract itself;
- Details of applicable compensation or refunds if the consumer-related quality of service levels specified in the contract are not met; and
- The method of initiating procedures for handling of complaints.

Fair service contracts help consumers enjoy maximum benefits from their telecommunications products and services. The Authority shall require all service providers to prepare contracts or standard forms of agreement, for post paid services, to ensure that they do not cause a significant and unreasonable asymmetry in the parties' rights and obligations arising under the contract, to the detriment of the consumer.

A consumer should avoid entering into contracts that include the following terms:

- The ability of the service provider to end the contract, or fail to meet their contract service commitments, without refunding the consumer, while still requiring the consumer to pay the full contract price;
- The consumer pays the service provider excessive compensation if they do not pay on time or fail to meet other obligations;
- The automatic lock of a consumer into a new fixed length contract when their current contract ends;
- The consumer's inability to take legal action against the service provider.

Fairness also has to do with the way that a contract is explained by a salesperson/customer service representative and the consumer can access other information to aid in the explanation of the contract.

Before a contract is entered into, a service provider should inform a consumer of:

- The minimum duration of the contract, including any specified term during which a customer must pay an early termination payment, if applicable;
- Any minimum period of notification of termination the customer is required to give, if applicable.

In the contract, the service provider should inform a consumer of:

- The commencement date of the contract (except where the contract is a Standard Agreement);
- What the minimum contract term is, if applicable;
- Where applicable, the minimum period and the manner of notification of termination;
- What events give rise to a right to terminate early, if applicable;
- Which party has these early termination rights;
- The amount or method of calculating any charges payable for early termination and in what circumstances such charges are payable;
- The conditions and term of renewal of the service contract, if applicable

If undertakings want to amend a contract, it must give at least one month's notice. Consumers must also be given notice of their right to withdraw from their contracts without penalty, if they do not accept the new conditions that have been proposed.

A service provider should inform a consumer:

- How changes to the contract can be affected;
- How changes to the contract are to be notified to the customer if at all;
- How a customer can obtain or access amended terms and conditions;
- If there is a minimum notice period for amending the contract, and what is this period.

The Authority shall ensure that consumers receive clear, correct and complete information in service contracts, inclusive of the elements identified above, from public telecommunications and subscription broadcasting service providers.

The Authority shall ensure that service providers take extra measures to ensure that people with disabilities understand a service contract before signing to it.

4.5 Billing Information

A bill invoice for a service is an important document, as it itemizes the tariff a consumer pays for services rendered by a service provider. Therefore, the information presented on a bill invoice should be sufficient to properly inform the consumer of all the charges incurred from subscribing a service.

Consumers should be provided with clearly understood, accurate, timely and complete bills and billing related information for any post-paid public telecommunications or subscription broadcasting services.

Consumers of pre-paid public telecommunication or subscription broadcasting services may wish to verify the remaining credit for the respective service. Thus, they would require a method of accessing the credit balance for the subscribed service. A pre-paid Service Provider would be obligated to implementing a mechanism for prepaid consumers to verify the credit balance for the subscribed service.

The Authority shall ensure that service providers produce billing information to enable consumers to:

- *Have access to sufficient information that facilitates verification of the accuracy of billed charges;*
- *Easily read and understand their bills;*

- *Meet their billing commitments on or before the due date.*

4.6 Directories

A directory is a published book that includes an alphabetical listing of consumer(s) name(s), and their related telephone number(s) and address(es), except for those consumers who requested unlisted number. Directories are essential for contacting residential and business customers of telecommunications service providers, and it should be available upon issuance at regular intervals (usually per annum) to customers served by that directory.

The responsibility of publishing telephone directories is usually borne by the dominant concessionaire in the provision of domestic public telecommunication services. Other similar concessionaires would have the option of providing directories for their subscribers or requesting the inclusion of its subscribers' numbers (and any other related information) in the dominant concessionaire's directory, upon payment of the costs of such inclusion.

Apart from customer's telephone related details, directories should also contain:

- Information relating to emergency calls (conspicuously in the front part of the directory);
- Local and long distance call placement;
- Support services for disabled persons.

The Authority shall ensure that:

- *Directories are available upon issuance per annum to consumers served by that directory;*

- *The dominant concessionaire in the provision of domestic public telecommunication services is responsible for publishing telephone directories.*
- *Other similar concessionaires either provide separate directories for their subscribers or include their subscribers (and other relevant information) in the dominant concessionaire's directory, upon payment of the costs of such inclusion.*
- *Directories include information relating to emergency calls (conspicuously in the front part of the directory); local and long distance call placement; and support services for disabled persons.*

5 Consumer Protection

5.1 Calling Number Displays for Public Telecommunications Services

It is important that privacy issues raised by Calling Line Identification (CLI) and Calling Number/ Name Display (CND) be addressed.

CLI is data that is generated at the time a call is established and passed through the carrier networks, and includes the called party's number, the calling party's number, the date and time of the call, the call's duration and routing. CLI is integral to the operation of telecommunications networks, facilitating efficient call management, route selection and billing.

CND services present or display the subscriber number or name of the calling party on equipment of subscribers to a CND service, providing the calling party has not blocked it and there is no technical impediment to sending it. It offers a range of service advantages for people receiving calls, such as being able to identify the source of incoming calls before picking up a receiver, keeping a log of incoming calls while away from the phone and being able to immediately return a missed call.

CND also raises some complex problems through the risks it poses to personal privacy. Integrated with other technologies, CND can allow increased collection and use of personal information, without the knowledge of the consumer.

The privacy of consumers may be protected from the abuse of the following:

- The manner in which CND is to be offered to consumers by service providers;
- Options which consumers have in relation to using or blocking the display of CND Information from their services;
- Charges which may apply in relation to enabling or blocking the display of CND Information to CND Services;

- Measures to be undertaken by service providers to ensure that the public is aware of CND Services and their implications.

The Authority shall ensure that Calling Number/Name Display services does not infringe upon the right of the consumer to privacy of consumer-related information.

5.2 “Prank Calls”

Obscene phone calls can be one of the most stressful and frightening invasions of privacy a person experiences. Any unwanted phone calls, while a minor problem when compared with threatening calls, can still be a major inconvenience.

When someone calls and uses obscene or threatening language, or even heavy breathing or silence to intimidate the consumer, it is a prank call. Telephone service providers should have services such as “Trap” and “Call Trace” available to the consumers to deal with stopping prank calls.

A “Trap” service allows the telephone company to determine the telephone number from which the harassing calls originate. The consumer is usually required to keep a log noting the time and date the harassing calls are received. “Traps” are usually set up for a particular time period specified by the provider, and the provider does not usually charge a fee for the service.

A “Call Trace” service may also be able to help track down harassing calls. Immediately after receiving a harassing call, a code is entered on the phone and the call is automatically traced. A “Call Trace” is easier than using a “Trap” since the consumer does not have to keep a phone log.

Telephone service providers should offer non-essential services such as “Call Screen”, “Caller ID”, “Anonymous Call Rejection”, “Priority Ringing”, “Call Return”, “Voice

Mail” and “Call Blocking” available to the consumers to assist in the prevention of receiving prank calls.

The Authority shall ensure that service providers offer, at a minimum and where applicable, services such as those described in this part to track down and deal with obscene and harassing calls received by consumers. Service providers shall also be required to set policies for, and inform consumers of, steps that can be taken to prevent or put an end to obscene calls when they take place.

5.3 Protection of Consumers from Illegal Transfers

5.3.1 Transfer of Customers between Service Providers

New service providers will provide consumers with greater choice with the liberalization of the telecommunications industry, enabling them to transfer one or more of their telecommunications services from one provider to another. However, the increased ease with which this may occur, may lead to the use of selling practices by some industry participants which may result in the transfer occurring without the customer’s full knowledge or consent.

Consumers should therefore be protected from unauthorized transfer or attempted transfer of their service(s) from one service provider to another. The same should apply for consumers of subscription broadcasting services.

Procedures for transfer of services should ensure that:

- Sales representatives are appropriately trained prior to soliciting transfers
- Steps are followed to identify the authorized customer
- An appropriate verification process is in place
- Customers are duly notified of the transfer

The Authority shall ensure that all industry participants have clear procedures to transfer a customer's service(s) from one provider to another. Consumers should be informed of the minimum standards of behaviour that they can expect from all providers when they transfer service(s).

5.3.2 Customer Proprietary Network Information

Public telecommunications and subscription broadcast service providers have in their possession information about consumers which lets them know what numbers their customers call, how often they call them, how much they pay to call them, what services they subscribe to, how those services are used, and other personal and sensitive information about their customers' telephone usage. This information is called Customer Proprietary Network Information (CPNI).

The Telecommunications Act 2001, Section 24(1)(j) states that a concessionaire should refrain from using, and maintain the confidentiality of any confidential, personal and proprietary information of any user, other operator of a public telecommunications network or other provider of a telecommunications service originating from:

- Any such user, operator or provider; or
- Any information regarding usage of the service or information received or obtained in connection with the operation of the concessionaire's network or service,

for any purpose other than to:

- Operate such network or service;
- Bill and collect charges;
- Protect the rights or property of the concessionaire;

- Protect users or other providers from the fraudulent use of the concessionaire's network or service, or as otherwise permitted by the concessionaire, user or other provider, as the case may be.

The Authority shall ensure that public telecommunications and subscription broadcasting service providers include provisions in their contract agreements with consumers to protect them from disclosure of Customer Proprietary Network Information (CPNI). The Authority may also set penalties that will be enforced in the event that such an offence takes place.

5.4 Slamming and Cramming

Three common types of fraud and abuses from service providers, in particular public telecommunications network/service providers, are slamming and cramming.

Slamming is the term referred to the practice of changing a subscribers' preferred carrier(s) without his/her knowledge. This practice is inherently anti-competitive and should be discouraged entirely. Accordingly it should be clear that any provider found in the practice of slamming will be liable to significant penalties, as prescribed by the Authority.

Cramming is the practice of placing unauthorized, misleading or deceptive charges on a consumer's bill. For example, in addition to charging for local telephone service, providers bill their consumers for services provided by other companies. Cramming charges appear on the consumer's bill when one of these companies sends inaccurate billing data — accidentally or intentionally — to his/her service provider. The consumer's service provider, in turn, bills the consumer for these calls or services. Cramming can come in many forms, and it is often hard to detect unless a consumer closely reviews his/her bill. Signs of possible cramming include charges for services not requested or authorized and charges that appear as service fees, service charges, membership charges or other fees.

The Authority shall employ the necessary inhibitors to prevent slamming and cramming by public telecommunications and subscription broadcasting service providers.

6 Consumer-related Quality of Service

Consumer-related quality of service comprises both customer service and technical network quality of service indicators that directly affect the delivery of a service to a consumer. Customer service incorporates the ability of an organization to respond continuously and consistently to consumers' needs and requests. For example, the length of time it takes for a new subscriber to get an active connection to basic telecommunication services. The network quality of service parameters which are consumer-related involve parameters that relate to the access of service. For example, the ability of a public mobile telecommunications service subscriber to connect to a called party.

In a competitive market, consumers decisions are greatly influenced by the customer service and related quality of service ratings of a service provider. These ratings are generally born from standards defined by the Regulator.

The Authority shall develop the necessary consumer-related quality of service standards in order to ensure that public telecommunications and subscription broadcasting service providers maintain an acceptable service standard and to allow consumers to compare the services offered by various providers.

6.1 Consumer-related Quality of Service Indicators

As described previously, the indicators which can be used to prescribe consumer-related quality of service standards are customer service indicators and service access-oriented quality of service indicators. Although these indicators can be utilized for various public telecommunications and subscription broadcasting services, the acceptable standards level prescribed from these indicators may vary amongst different types of services. Hence, the following consumer-related quality of service indicators, their measurement

method and their respective standard levels are classified in accordance with the type of public telecommunication or subscription broadcasting service:

6.1.1 Fixed Public Telecommunication Services

Indicator 1.1

Service Activation Time

Definition

The time period between the approval of a consumer's application for service and when the service is actually activated. The installation of the service shall be completed within this time period.

Measurement Method

The time lag between the recorded date of application approval and the recorded date of activation of service for the consumer.

Maximum Standard level

20 working days

Indicator 1.2

Service Re-activation Time

Definition

The time period between the acknowledgement of payment of arrears and when the service is actually re-activated. Service re-activation occurs when a consumer has been validly disconnected from a service, possibly due to accumulation of arrears.

Measurement Method

The time lag between the recorded date and time of payment of arrear and the recorded date and time of re-activation of service for the consumer.

Maximum Standard Level

24 hours

Indicator 1.3

Fault Repair Time

Definition

The time period between the occurrence of a network fault that impairs or prohibits service and the time at which service is restored to the consumer. Faults can occur either in the access network, the core network or an interconnection point between ROAs. The fault repair times will be different.

Measurement Method Difference in time from the logging of a fault to the restoration of service due to fault.

Maximum Standard level Access network fault repair time: 24 hours
Core network fault repair time: 48 hours
Interconnection point fault repair time: 72 hours

Indicator 1.4 Network Availability

Definition A calculated value that indicates the percentage of a year-quarter service can be accessed from the network.

Measurement Method The aggregation of “loss of service” consumer complaints and consumer survey per year-quarter.

Minimum Standard level 95% per year-quarter

Indicator 1.5 Peak Traffic Completed Calls

Definition The percentage of calls completed during designated peak traffic periods for either originated local calls or originated international calls.

Measurement Method Ratio of network dimensioned erlang to measured erlangs at local office and international switches, expressed as a percentage.

Minimum Standard level Originated local call – 99%
Originated international call – 95%

Indicator 1.6 Public Payphone Availability

Definition The percentage of public payphones operational on a daily basis. This standard aims at ensuring optimal access to a basic telecommunication service for individuals or communities who may not be able to afford or do not have access to their own public telecommunication service.

Measurement Method Operational log for public payphones and consumer complaints

Minimum Standard Level 85%

Indicator 1.7 Consumer Query Response Time

Definition The time period elapsed between the start of a consumer’s query request and the acknowledgement of that query request by the service provider. Consumer queries can be made via consumer assistance phone numbers, an email to a customer service email address, or at a customer service center of the service provider. This ensures that consumer queries relating to billing, malfunctioning connection, quality of service and other issues are dealt with promptly and satisfactorily. The service provider will be required to include a commitment as to the time within which the investigation will be completed in their response to the consumer.

Measurement Method Relevant consumer complaints and consumer survey results related to the observance of this standard level.

Maximum Standard Level Consumer Assistance Support Services – 20 seconds
Customer Service email contact – 1 hour
Customer Service Center – 1 hour

Indicator 1.8 Billing Accuracy

Definition The ratio, expressed as a percentage, between the number of accurate billing invoices prepared to the total number of billing invoices prepared for any given billing cycle.

Measurement Method The calculated percentage of the number of billing related complaints logged by a service provider or the Authority to the total number of billing invoices issued for that billing cycle, in order to derive the percentage of accurate billing invoices.

Minimum Standard level 99%

Indicator 1.9 Consumer Complaint Resolutions

Definition A year-quarterly percentage between the total number of consumer complaints resolved by a service provider for a

service offered and the total number of complaints logged for that service .

Measurement Method The distinct logged complaints from the service provider and the Authority per service offered and the log for distinct resolved complaints by the service provider and the Authority, within a year-quarter.

Minimum Standard Level 80% per year-quarter

Indicator 1.10 Consumer Satisfaction

Definition The level of satisfaction the consumer indicates for a service offered by a service provider.

Measurement Method Annual Consumer Surveys

Indicator Range Subjective: graded out of a score of 10

6.1.2 Public Mobile Telecommunication Services

Indicator 2.1 Call Success Rate

Definition The probability that a call attempt made from a cellular mobile handset within a coverage area will be successfully signaled to the called network, within a specified time. This does not refer to the performance of the called network, or the congestion in the air interface.

Minimum Standard level Call success rate probability – 90%

Indicator 2.2 Call Drop Rate

Definition The ratio of calls lost after establishment, due to failure of handover, radio loss or network congestion, to all established calls.

Minimum Standard level Standard practice within the industry has established a base standard for the moderate performance of a network at 2 – 3% dropped call rate.

Indicator 2.3	Service Access Delay
Definition	The time elapsed between initiating a call (i.e. pressing the send button on a cellular mobile handset) to receiving a ring-back tone.
Maximum Standard level	5 seconds
Indicator 1.1	Service Activation Time
Maximum Standard level	24 hours
Indicator 1.2	Service Re-activation Time
Maximum Standard level	24 hours
Indicator 1.7	Consumer Query Response Time
Maximum Standard Level	Consumer Assistance Support Services – 20 seconds Customer Service email contact – 1 hour Customer Service Center – 1 hour
Indicator 1.8	Billing Accuracy
Minimum Standard level	99%
Indicator 1.9	Consumer Complaint Resolutions
Minimum Standard Level	80% per year-quarter
Indicator 1.10	Consumer Satisfaction
Standard Level	Subjective: graded out of a score of 10

6.1.3 Public Data (Internet) Telecommunication Services

Indicator 3.1 Average Bandwidth to Consumer

Definition The Average download speed, in kilobits per second (kbps), for both dial-up and broadband services.

Measurement Method Bandwidth meter at subscriber's access point.

Minimum Standard level Dial-up access – 28.8 kbps
Broadband access – 128 kbps

Indicator 3.2 Service Accessibility

Definition The time elapsed between initiating a dial-up connection to actually accessing the connection.

Measurement Method Consumer surveys.

Maximum Standard level 60 seconds

Indicator 1.1 Service Activation Time

Maximum Standard level Dial-up access – 48 hours
Broadband access – 20 working days

Indicator 1.2 Service Re-activation Time

Maximum Standard level Dial- up access – 24 hours
Broadband access – 48 hours

Indicator 1.7 Consumer Query Response Time

Maximum Standard Level Consumer Assistance Support Services – 20 seconds
Customer Service email contact – 1 hour
Customer Service Center – 1 hour

Indicator 1.8 Billing Accuracy

Minimum Standard level 99%

Indicator 1.9 Consumer Complaint Resolutions

Minimum Standard Level 80% per year-quarter

Indicator 1.10 Consumer Satisfaction

Indicator Range Subjective: graded out of a score of 10

6.1.4 Subscription Broadcasting Services

Indicator 1.1 Service Activation Time

Maximum Standard level 20 working days

Indicator 1.2 Service Re-activation Time

Maximum Standard level 24 hours

Indicator 1.7 Consumer Query Response Time

Maximum Standard Level Consumer Assistance Support Services – 20 seconds
Customer Service email contact – 1 hour
Customer Service Center – 1 hour

Indicator 1.8 Billing Accuracy

Minimum Standard level 99%

Indicator 1.9 Consumer Complaint Resolutions

Minimum Standard Level 80% per year-quarter

Indicator 1.10 Consumer Satisfaction

Indicator Range Subjective: graded out of a score of 10

The Authority shall utilize these consumer-related quality of service indicators, but not be limited to them, in order to set consumer-related quality of service standard levels to ensure consumers are satisfied with the service performance offered by public telecommunications and subscription broadcasting network/service providers.

The Authority shall prescribe a manner in which information will be submitted by service providers, in order to set the standard level for each consumer-related quality of service standard employed.

The Authority may review the standard levels of these indicators from time to time, where it is deemed necessary.

6.2 Compliance to Customer-Related Quality of Service Standards

Generally, non-compliance to consumer-related quality of service standards result in a credit to the consumer, relative to the standard breached. However, the breach of certain standards results in monetary compensation to the consumer or a fine imposed by the Authority.

A multi-faceted approach can be adopted to ensure compliance to these quality of service standards:

- An encouragement approach, which will involve the publication of quality of service indicators, to provide information to consumers on the levels of service offered by service providers in order to make informed choices;
- An enforcement approach, which will involve the provision of rebates to consumers that experience unsatisfactory levels of service, which fall below the standard level determined by the Authority (e.g. requests for service, reports of faults, and complaints due to service quality, billing accuracy); and

- An incentive-based approach, which will involve the provisions of incentives to concessionaires to maintain adequate levels of service, especially in the case of markets whereby a sole or dominant service provider exists.

The Authority shall determine the approach (i.e. encouragement, enforcement or incentive-based approach) to be utilized to ensure compliance to its various consumer-related quality of service standards.

The Authority shall institute penalties or rebates for any consumer-related quality of service standard which employ the enforcement approach to compliance.

7 Treatment of Consumer Complaints

A customer-oriented relationship between the consumer and the service provider is tantamount to sustaining consumer satisfaction. The service provider's ability to manage and resolve consumer complaints forms one aspect of this customer-oriented relationship. Also, complaints can arise between network/service providers. Equitable treatment amongst network/service providers promotes a level 'playing field' for sustainable competition. Unresolved disputes between concessionaires only retard the transition to a fully competitive market.

A complaint is a dissatisfaction expressed verbally or in writing towards to use of a service by a consumer. For example, consumers of public telecommunication services in Trinidad and Tobago complain continuously about inaccurate billing and unacceptable quality of service delivered.

A dispute results from a complaint that was not handled and/or resolved by the party the complaint was addressed. Section 22(3)(e) of the Telecommunications Act 2001 obligates concessionaires to provide information to users and procedures for handling complaints and disputes. Under Section 78(1) (j), the Minister, on recommendation by the Authority, shall make regulations prescribing procedures for investigation and resolving complaints by users. Additionally, under Section 82(1), the Authority is responsible for establishing a dispute resolution process to handle and resolve disputes.

Therefore, the Authority is inevitably accountable for ensuring mechanisms are created to effectively resolve any complaint or dispute the consumer or the concessionaire would have, with the necessary checks and balances for impartial decision-making. The Act empowers the Authority to mandate that all public telecommunications and subscription broadcasting service providers develop procedures for resolving consumer complaints related to the service being offered. Additionally, the Act also obligates the Authority to create procedures to resolve complaints from a consumer or service provider.

7.1 The Consumer Complaints Committee

The Consumer Complaints Committee (hereafter called the Committee) will be established to collect, decide on and report on consumer complaints (Telecommunications Act 2001 Section 18(1)(q)). This Committee will be used to ensure that service providers treat with consumer complaints in a timely and definite manner. This Committee may prescribe the framework in which consumer complaints information will be submitted by providers for determination by the Committee.

Committee meetings should convene every three months (or any other date) in conjunction with:

- The development of new complaints by customer or concessionaire
- The final determination on course of action for outstanding complaints
- The service providers' submissions on quality of service received by the Authority
- Any customer surveys which may be conducted by agencies on behalf of the Authority

This Committee may constitute representatives of the Authority, representatives of network and service providers, representatives of the Consumer Affairs Division and applicable Consumer Rights groups.

The Authority may elect a representative to act as a liaison between the Complaints Committee and the parties in dispute.

The report from the Committee will form part of the annual report of the Authority. The information from this report can be used to inform the performance standards to prescribe as Quality of Service and Customer Service Standards Indicators.

The Authority shall establish a Consumer Complaints Committee (hereafter called the Committee) to collect, decide on and report on consumer complaints (Telecommunications Act 2001 Section 18(1)(q)).

This Committee shall comprise representatives of the Authority, representatives of network and service providers, representatives of the Consumer Affairs Division and applicable Consumer Rights groups.

The report from the Committee shall form part of the Annual Report of the Authority.

7.2 Procedure for Making, Handling and Resolving a Complaint

Service providers should develop and enforce a comprehensive complaint handling process which will maintain and enhance consumer satisfaction through:

- Recognizing, promoting, and protecting consumers' rights, including the right to actively provide feedback;
- Providing an efficient, fair and accessible mechanism for handling consumer complaints
- Providing information to consumers on the complaint handling process for telecommunications and subscriber-based broadcasting services.
- Monitoring complaints for the purpose of improving the quality of service.

Service providers should adhere to the following principles when developing their complaints and dispute resolution process:

- There should be a commitment to efficient and fair resolution of complaints by people in the provider's organisation at all levels, including the provider's Chief Executive Officer(s) or ruling body and this should be demonstrated by an organisational culture which acknowledges the right of consumers to

complain and which regards complaints as an opportunity to improve its service offerings;

- Service providers' complaint handling processes should recognise the need for fairness, both to the complainant and the organisation (or individual) about which (whom) the complaint is made;
- Providers should provide adequate resources for complaint handling with sufficient delegated levels of authority;
- Providers' complaint handling processes should have the capacity to determine and implement remedies to achieve resolution. Where a provider establishes a separate fault handling process, it must have the capacity to determine and implement remedies to achieve resolution;
- Where a provider operates both fault and complaint handling processes, as far as possible, these processes should be both compatible with each other and transparent to the consumer;
- Providers should seek to resolve complaints at the first point of contact, where possible.

The Authority shall develop regulation to ensure that public telecommunications and subscription broadcasting service providers develop and enforce a mechanism for the consumer to make a complaint, for the handling of complaints and for the resolution of complaints, to be approved by the Authority.

The Authority's shall develop procedures for investigating and resolving complaints made by service providers or consumers.

7.3 Maintenance of Customer Complaints Records

A concessionaire is usually informed to archive its records of consumer complaints for the purposes of auditing by the Authority. There is usually a finite maintenance period for stored records, anywhere between three to six months inclusive.

The record stored by the concessionaire should include, at a minimum, the following:

- The name and/or address of the customer.
- The date received;
- The nature of the complaint;
- The result of any investigation;
- The disposition of the complaint;
- The date of such disposition.

The Authority shall ensure that each public telecommunication and subscription broadcasting service provider archive its records of consumer complaints for the purposes of auditing by the Authority.

8 Environmental Issues

8.1 EMR Human Exposure

Radio communication systems are emitters of electro-magnetic radiation (EMR). Theoretically, constant exposure to intense levels of EMR will result in deterioration of one's health. For example, it is advised that one not to stand directly in front of a high gain transmitting parabolic antenna, for a radiation levels can degrade one's health. As a result, radio communications equipment manufacturers and designers take the necessary measures to mitigate of avoid harmful human exposure to EMR. Another example is the increased use of cellular mobile handsets globally. This has raised public anxiety in possible health issues associated with exposure to electromagnetic emissions. These concerns relate to both mobile phone handsets and mobile phone base stations. It has been known for many years that exposure to sufficiently high levels of Radio Frequency (RF) EMR can heat biological tissue and potentially cause tissue damage.

The Telecommunications Act 2001 Section 32 states that any terminal equipment may be connected to a public telecommunications network where the Authority, after consultation with the concessionaire, has certified such terminal equipment as:

- Being safe for the user;
- Being in compliance with international standards, and environmental health and safety standards including standards for electromagnetic radiation and emissions;
- Meeting requirements of electromagnetic compatibility if specified;
- Not posing a risk of harm to the network;
- Effectively utilising the electromagnetic spectrum and preventing interference between satellite and terrestrial-based systems and between terrestrial systems;
- Being compatible with the network.

The Authority shall develop the necessary standards to mitigate or eliminate public exposure limits to RF EMR to ensure that the public is protected from the effects of high levels of RF EMR.

The Authority shall encourage service providers supply consumer information on the effects of EMR Exposure, once applicable, so that consumers are aware of risks associated with the use of telecommunications equipment that emits electromagnetic energy.

9 Consumer Obligations

The Authority shall create the necessary regulations to enforce the following consumer obligations.

9.1 Acceptance of Service Rules

A service contract/agreement signed with a service provider and/or subsequent usage of the service occurs shall obligate the consumer to the conditions imposed by the agreement, and the owner of the property shall be considered as having expressed his/her consent to be bound by the regulations and requirements contained by the service rules.

9.2 Access for Maintenance or Upgrade of CPE

The consumer shall grant the service provider, without charge, right-of-way over and on the premises on which equipment of the Service Provider is located. Access to the equipment shall be granted to the provider at reasonable times for installation, inspection, testing, repair, and other functions necessary for the maintenance of satisfactory service.

9.3 Tampering of Customer Premise Equipment

The consumer shall not use the customer premise equipment (CPE) for reasons other than those incident to normal service, nor create a condition likely to interfere with the functions of such equipment, without written consent of the service provider. The consumer shall be held responsible for his or her actions, which cause damage to, or loss of CPE.

CPE owned by the service provider may not be moved to a location or address other than the location or address where service was installed, without prior written authorization

from the service provider. Also only authorized employees of the service provider may remove, cut, raise or change any facilities belonging to the service provider.

Attachment of any unauthorized device to the CPE, or modification to the service provider's equipment or facilities, is prohibited without prior written authorization from the service provider.

No customer-owned equipment or device that interferes in any way with the normal operation of a telecommunications or subscription broadcasting service, including any equipment or device that intercepts or assists in intercepting or receiving any service offered by the service provider, may be installed on either the subscriber's wiring or the service provider's facilities.

9.4 Re-selling Services without Authorization

No Account Holder, person, occupant or owner of any premises to which a telecommunications or subscription broadcasting service is supplied shall be allowed to provide or re-sell such a service to other persons, families, buildings, premises, etc. or permit the same to be taken.

The Authority shall ensure that there is no unauthorized re-selling of services provided by authorized service providers.

9.5 Persistent Misuse of a Public Telecommunications or Subscription Broadcasting Network/Service

The Concept of persistent misuse of a public telecommunications or subscription broadcasting network/service relates to:

- Dishonestly obtaining the telecommunications or subscription broadcasting services;

- The possession or supply of equipment that may be used to obtain such services fraudulently;
- The improper use of a public providers network/service by sending messages that are grossly offensive, indecent, obscene or menacing;

An example of behaviour that may represent misuse is cellular fraud. Cellular fraud is defined as the unauthorized use, tampering, or manipulation of a cellular phone or service. Cellular industry estimates indicate that carriers lose millions of dollars per year to cellular fraud, with the principal cause being subscription fraud. Subscriber fraud occurs when a subscriber signs up for service with fraudulently obtained customer information or false identification.

In the past, cloning of cellular phones was a major concern. A cloned cellular telephone is one that has been reprogrammed to transmit the electronic serial number (ESN) and telephone number (MIN) belonging to another (legitimate) cellular telephone. Unscrupulous persons obtain valid ESN/MIN combinations by illegally monitoring the transmissions from the cellular telephones of legitimate subscribers. Each cellular telephone is supposed to have a unique factory-set ESN. After cloning, however, because both cellular telephones then have the same ESN/MIN combination, cellular systems cannot distinguish the cloned cellular telephone from the legitimate one.

The cellular equipment manufacturing industry is currently developing an authentication methodology that is intended to reduce fraud. This authentication methodology would replace use of the ESN with an encrypted code that could not be obtained by off-the-air monitoring.

The Authority shall take the necessary measures to prevent unlawful use of a public telecommunications or subscription broadcasting network/service.

9.6 Dishonest Churning

In a competitive market, the consumer may be encouraged to accumulate payment arrears with one provider for services used, then 'switch' service to another provider without settling the arrears payment with the previous service provider. This manner of dishonest churning which becomes possible in a competitive market cannot be tolerated. In order to prevent this consumer behaviour, consumers should be obligated to settle all valid arrears with a service provider before switching to another provider. Additionally, service provider should have the ability to investigate if an applicant is in arrears for the service provided, from his/her previous service provider, before service is offered to that applicant.

The Authority shall ensure that dishonest churning practices by consumers are not allowed.