

# CONSUMER LAW

## Consumer rights protection and its impact on service quality in the telecommunications sector

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### Introduction

In this digital era, telecommunications services have transformed from just being telephones that enable people to talk and text to now include video and data (internet) service. The ability of the single platform such as telecommunications industry to offer all these services makes mobile phone an important tool, not only in communicating, but also in accessing information and services that are crucial to commercial, legal and health issues of the consumers. Telecommunications services have thus become an indispensable part of livelihood. The aim of this article, therefore, is to examine the impact of consumer rights protection on the quality of service in the telecommunications sector. The specific objectives of the paper were to: examine the development of consumer rights protection in the telecommunications industry; provide an overview of the historical background of consumer rights; and explain the approaches to consumer rights protection in the telecommunications sector.

It has been found that consumer rights protection has had a substantial impact on the quality of telecommunications services. The article concludes that the current global interest in telecommunications consumers' right protection have impacted positively on the quality of service in the telecommunications industry. It recommends that regulatory agencies need to be more insightful and respond promptly to new developments in the telecommunications technology. The telecommunications operators and subscribers must also be alive to discharge their responsibilities if the objective of protecting telecommunications consumers is to be fulfilled.

Consumer rights protection has become the centrefold of all businesses, not only because a good business strategy revolves around good customer services, but also as a result of the vital roles played by consumers in the profitability and growth of any business. Accordingly, nations all over the world strive to boost the development of their telecommunications sectors through enhanced consumer welfare. Though not every country has been able to achieve the vision of these principles set out by the United Nations, Nigeria's performance, like other developing nations, is still at its lowest ebb.<sup>1</sup> The telecommunications sector is no exception. Although the issue of consumer protection has been accentuated by industry stakeholders in the Nigerian telecommunications landscape, this appears to have made little or no impact on the welfare of telecommunications subscribers in Nigeria. The general feelings among Nigerian telecommunications subscribers still remains that they have been terribly short-changed by the regulators, the operators, and the system in general. The subscribers appear to always be at the losing end, no matter the circumstance.<sup>2</sup>

Prevalent problems, such as: poor signals; call jamming; network congestion; call failure/dropping; speech breakages; echoing of speech; delay or non-delivery of text-messages; inability to load or defective recharge cards; high tariffs without commensurate quality services delivery; flawed operational practices; inefficient billing system/malfunctioning of billing equipment; and poor customer

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<sup>1</sup>Meyiwa Ayojimi, 'Is the Consumer King in Nigeria?' Business Day Newspaper Nigeria, 18 March, 2014)

<<http://businessdayonline.com/2014/03/is-the-consumer-king-in-nigeria/#.VCL1I6OLVbw>> accessed on 11 September, 2022.

<sup>2</sup>Emmanuel Okwuke, 'Protecting Subscribers in Nigerian Telecoms Space'

<<http://dailyindependentnig.com/2014/03/protecting-subscribers-in-nigerian-telecoms-space/>> accessed on 04 July, 2014

service have continued to persist.<sup>3</sup> Consequently, there have been renewed calls for more contemporary and subscriber-friendly laws by stakeholders in the telecommunications sector.<sup>4</sup>

## Historical development of consumer rights protection

In English common law, the evolution process of consumer rights is traceable to the principles of *caveat emptor*, that is 'let the buyer beware' and *laissez faire*, that is 'let do or allowing events to their own course'.<sup>5</sup> The judicial decisions in *Gardiner v. Gray*,<sup>6</sup> and *Jones v. Bright*<sup>7</sup> not only emphasised contractual obligations of the parties; they also laid down principles to save the consumer from fraudulent practices of the seller. During the course of evolution of the common law, the duty of care which enhanced the protection of consumer of a product was subsequently developed. In 1932, the House of Lords in *Donoghue v. Stevenson*,<sup>8</sup> propounded that the manufacturer of goods owes to the ultimate consumer, with whom he is not in any contractual relationship, the duty of care. This is a kind of special duty imposed on the professional having expertise in their respective fields who offered their services to the public at large to show care, skill and honesty in their dealings with their consumers. It was in the latter part of the 1950s that legal product liability was established, in which an aggrieved party need only prove injury by use of a product, rather than bearing the burden of proof of corporate negligence. It is, therefore, correct to assert that before the mid-twentieth century, consumers had limited rights and protection against unfair business practice.

On March 15, 1962, President John F. Kennedy presented a speech to the United States Congress in which he extolled four basic consumer rights: (1) the right to safety; (2) the right to be informed; (3) the right to choose; and (4) the right to be heard.<sup>9</sup> Later, the Worldwide Consumer Movement led by the Consumers International (CI), a global federation of over 240 Member organisations in 120 countries, added four more rights: (5) the right to satisfaction of basic needs; (6) the right to redress; (7) the right to education; (8) the right to a healthy environment. Thereafter, CI adopted these rights as a charter and started recognising March 15, as World Consumer Rights Day.<sup>10</sup> Since 1983, March 15 has been observed as "World Consumer Rights Day". This originated from the declaration of US President John F Kennedy in 1962, that 'consumers by definition include us all. They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group...whose views are often not heard'.<sup>11</sup> This day is observed with the aim of (a) promoting the basic rights of all consumers; (b) demanding that those rights are respected and protected; and (c) protesting the market abuses and social injustices which undermines them.<sup>12</sup>

The coordination of consumer rights at the international level began in 1960, when the International Organisation of Consumer Union was formed. The first ever international conference of leaders from consumer organisations took place in The Hague in March 1960. Five of the 17 organisations present signed papers to create the International Organisation of Consumers Unions (IOCU). Its major functions

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<sup>3</sup>Michael Mojekeh, 'Quality of GSM Service in Nigeria: Subscribers Perception and Expectations' <[http://mojekeh.blogspot.com/p/quality-of-gsm-service-in-nigeria\\_02.html](http://mojekeh.blogspot.com/p/quality-of-gsm-service-in-nigeria_02.html)> accessed on 01 September, 2022.

<sup>4</sup>Okhakhue B., 'Nigeria, Consumer Protection & CPC', The Nation Newspaper (Nigeria, 18 March, 2012).

<sup>5</sup>Ahamuduzzaman Nuruzzaman, Rahman Lutfor and Zannat Nahida, 'A Contextual Analysis of the Consumer Rights Protection Laws with Practical Approach: Bangladesh Perspectives' ASA University Review, Vol 3 No. 2, 2009. [www.semanticscholar.org](http://www.semanticscholar.org) Accessed on 19 December, 2022.

<sup>6</sup>(1821) 17 S. Ct. Mass 188.

<sup>7</sup>(1829) 130 ER 1167.

<sup>8</sup>(1932) A.C. 562.

<sup>9</sup>Ireneus Nwaizugbo and Chibueze Ogbunankwor, 'Measuring Consumer Satisfaction with Consumer Protection Agencies- Insights from Complainants to CPA Offices In Anambah State', (2013) 1(3) International Journal of Small Business and Entrepreneurship Research (European Centre for Research Training and Development UK, September 2013) 14 <<http://www.eajournals.org/wp-content/uploads/Measuring-Consumer-Satisfaction-with-Consumer-Protection-Agencies-Insights-from-Complainants-To-Cpa-Offices-in.pdf>> accessed on the 11 September, 2022.

<sup>10</sup>'World Consumer Rights Day 2014: Fix Our Phone Rights'

<sup>11</sup>'Telecoms Summit Harps on Subscribers Rights to Quality Services' Daily Independent Newspaper (Nigeria, January, 2013) p. 12.

<sup>12</sup>Ahamuduzzaman Nuruzzaman, Rahman Lutfor and Zannat Nahida, 'A Contextual Analysis of the Consumer Rights Protection Laws With Practical Approach: Bangladesh Perspectives'

include representation of interest of consumers within international agencies such as the Economic and Social Council of the United Nations and expanding the consumer movement and nurturing young consumer organizations.<sup>13</sup> The participation of International Organisation of Consumer Union in certain international campaign networks has been of immense value. It has recognised the following eight basic consumer rights and has expressed its concern for their promotion: the right to safety; the right to information, the right to choice; the right to basic needs; the right to consumer education, the right to representation; the right to redress; and the right to healthy environment,

The United Nations (UN) have also been endeavouring to promote cooperation among the member nations on various issues. In the context of consumer protection in particular, the UN and its subsidiaries such as the General Agreement on Tariffs and Trade (GATT), the Organisation for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Commission on Transnational Corporations (UNCTC), have been actively involved over the years. More recently, the UN has shown a considerable concern for the problem of consumer exploitation especially in the third world and has made serious endeavours in the direction, which inter-alia includes adoption of a set of guidelines on consumer protection on 9 April 1985 by the General Assembly.<sup>14</sup> These guidelines are meant to provide a framework for countries, particularly for developing countries, to be used in elaborating and strengthening consumer protection policies and legislation to protect consumers and also promote international cooperation in this field. These guidelines have the following objectives: to assist countries in achieving or maintaining adequate protection for their population as consumers; to facilitate production and distribution patterns responsive to the needs and desires of consumers; to encourage high levels of ethical conduct of those engaged in the production and distribution of goods and services to consumers; to assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers; to facilitate the development of independent consumers' groups; to further international co-operation in the field of Consumer Protection; and to encourage development of such market conditions as to provide consumers with a greater choice at lower prices.<sup>15</sup>

These guidelines reinforce the increasing present day recognition that consumer protection issues can no longer be seen as being of purely local concern, but must be seen in an international context. Their importance is certainly not limited to the developing countries. Consumer protection issues are as important to the developed countries as much as they are to those countries in transition from socialist to market economy.<sup>16</sup> The guidelines further provide that governments should maintain adequate infrastructure to develop, implement and monitor consumer protection policies. Special care should be taken to ensure that measures for consumer protection are implemented for the benefit of all sectors of the population, particularly the rural population. The government should make an effort to ensure the improvement of the condition under which essential goods are offered to consumers, giving due regard to both price and quality.<sup>17</sup>

### **Approaches to consumer rights protection in the telecommunications sector**

Globally, different approaches have been adopted for consumer protection in the telecommunications sector. Prominent among the approaches are: government regulatory approach, self-regulation and co-regulatory approaches, and consumer organisations' participation and representation. These approaches are, among targeted toward protecting consumers against fraud, unfair or deceptive acts or practices,

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<sup>13</sup> See, 'History of Consumer Movement' <<http://www.consumersinternational.org/who-we-are/about-us/we-are-50/history-of-the-consumer-movement/>> accessed on 11 September, 2022.

<sup>14</sup> Samuel Asante, 'United Nations International Regulation of Transnational Corporations' (1979) 13 (1) Journal of World Trade Law 55-56.

<sup>15</sup> See the United Nations Guidelines for Consumer Protection.

<sup>16</sup> Samuel Asante, 'United Nations International Regulation of Transnational Corporations'.

<sup>17</sup> Ibid.

protect consumer's data and privacy as well as ensure that consumers enjoy good quality of telecommunications services.<sup>18</sup>

### *Government regulatory approach*

Government regulatory approach in consumer protection requires government's enactment of consumer protection regulation/legislation. These legislation could be general, such as consumer protection and competition laws<sup>19</sup> or sector specific laws such as telecommunications law<sup>20</sup>. In most cases, telecommunications law does not only contain provisions for consumer protection but also enables setting up of a separate regulatory authorities and self-regulatory framework within the telecommunications industry.<sup>21</sup> Likewise, competition law in the telecommunications industry also protects the consumer interests by promoting competition in the markets which directly and indirectly benefit consumers.<sup>22</sup> Mobile number portability which gives consumer choice to migrate to other network is one of the most effective outcome of the demand aspect of competition law in the telecommunications industry. Mobile number portability, no doubt, increases competition among the operators in respect of offering of good quality of service.<sup>23</sup> In many countries, where markets are open to some form of competition, governments have set up telecommunications regulators to carry out the responsibilities of government in overseeing the operation of the sector. These responsibilities usually include consumers' prospection.<sup>24</sup> A typical example of consumer protection responsibility programme of regulator is that of Consumer Affairs Bureau of the Nigerian Communications Commission established in September 2001.

The Consumer Affairs Bureau has been acknowledged as a unique approach in protecting the rights and interest of consumer, given the fact that it serves as a 'one-stop-shop' that stakeholders can rely upon for information on the telecommunications industry in Nigeria. It sought not just to be a passive recipient of complaints "after the fact", but to 'generate an unmatched awareness of consumer rights in Nigeria by establishing a strong bureau that would monitor and control telecommunications operators in Nigeria in order to protect consumers from unscrupulous practices in the industry'. It has also established a Consumer Parliament that tours the different regions of the country where regulators and operators can be questioned directly by members of the public.<sup>25</sup> Although different approaches have been adopted in various jurisdictions, the government regulatory goal should be to ensure: (i) the delivery of acceptable service for the telecommunications user; and (ii) that consumers are aware of the variations in performance from various service providers/operators thereby allowing them to make an educated choice regarding their preferred service provider.

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<sup>18</sup> Jorg Binding and Kai Purnhagen, 'Regulation on E-commerce Consumer Protection Rules in China and Europe Compared- Same but Different?' (JIPITEC 2011) p. 187 <[https://www.jipitec.eu/issues/jipitec-2-3-2011/3173/binding\\_purnhagen.pdf](https://www.jipitec.eu/issues/jipitec-2-3-2011/3173/binding_purnhagen.pdf)> accessed on 13 September, 2022.

<sup>19</sup> For example, the Federal Competition and Consumer Protection Act (FCCPA) 2018 which established the Federal Competition and Consumer Protection Commission with the responsibility of initiating broad-based policies and reviewing economic activities in Nigeria with a view to identifying anti-competitive and anti-consumer protection and restrictive practices.

<sup>20</sup> For example, the Nigerian Communications Act, 2003 which established the Nigerian Communications Commission (NCC) and for other matters connected therewith.

<sup>21</sup> Russell Simmons, 'Consumer Protection in the Digital Age: Assessing Current and Future Activities' (International Telecommunication Union (ITU), September, 2006) <[http://www.itu.int/ITU-D/treg/Events/Seminars/2006/QoS-consumer/documents/Cons\\_Bkgpaper.pdf](http://www.itu.int/ITU-D/treg/Events/Seminars/2006/QoS-consumer/documents/Cons_Bkgpaper.pdf)> accessed on 20 September, 2022.

<sup>22</sup> Patrick Xavier, 'Enhancing Competition on Telecommunication: Protecting and Empowering Consumers' (OECD Ministerial Background Report, 2007) p. 6 <<http://www.oecd.org/internet/consumer/40679279.pdf>> accessed on 30 June, 2022.

<sup>23</sup> Singer H.J, 'The Consumer Benefits of Efficient Mobile Number Portability Administration' <[http://www.navigant.com/~media/WWW/Site/Insights/Economics/Consumer%20Benefits%20of%20Efficient%20MNP\\_Economics\\_030813.ashx](http://www.navigant.com/~media/WWW/Site/Insights/Economics/Consumer%20Benefits%20of%20Efficient%20MNP_Economics_030813.ashx)> accessed on 13 September, 2022.

<sup>24</sup> Russell Simmons, 'Consumer Protection in the Digital Age: Assessing Current and Future Activities'

<sup>25</sup> Okechukwu Itanyi, 'Regulatory Trends, Challenges, Potentials for Growth in Telecommunication Industry' <<http://www.nigeriancurrent.com/ck81-special-reports/regulatory-trends-challenges-potentials-for-growth-in->telecom-industry>> accessed on 13 September, 2022.

### *Self-regulation and co-regulatory approach*

The notion of self-regulation is neither new nor revolutionary. Throughout history, industries have developed their own standards, rules and practices through a variety of organisations to reduce costs, avoid and resolve conflicts, improve quality of services and ultimately to create consumer confidence. Traditionally, self-regulation has been described as an option whereby an industry voluntarily develops, administers and enforces its own solution to address a particular issue, and where no formal oversight by the regulator is mandated. Self-regulatory schemes are characterised by lack of legal backing to act as the guarantor of enforcement. For example, self-regulation may involve the development of voluntary codes of practice or standards by an industry, with the industry solely responsible for enforcement.<sup>26</sup>

The nature and rapid evolution of the telecommunications network has aggravated the need for an effective and flexible method of regulating the industry. It is obvious that regulators alone, however determined, lack the resources to ensure adequate regulation of the telecommunications industry with its rapid changing technology which always keep the regulator behind. Therefore, the telecommunications regulators in most countries usually make provision for Code of Conduct by the telecommunications industry as a condition of licence. The Regulators can also impose a code of conduct or suggest that operators abide by it on a voluntary basis. In addition, consumer protection provisions are often included in telecommunications licenses, alongside other terms and conditions related to the provision of services and facilities. These conditions may relate to matters such as price regulation, quality of service standards and mandatory services that must be offered to consumers.<sup>27</sup>

The regulators primarily provide for enabling environment to encourage the operator to develop self-regulatory practices in the industry. For instance, in February 2001, Malaysia's regulator, the Malaysian Communications and Multimedia Commission (MCMC) set up a consumer forum called the Communications and Multimedia Consumer Forum of Malaysia. The forum was set up to encourage the development of industry self-regulation by the operators in the country. It primarily develops and oversees Codes that 'serve the dual purpose of promoting high standards of service in the communications and multimedia industry while protecting the interest of the Malaysian consumer'.<sup>28</sup>

In practice, pure self-regulation without any form of government or statutory involvement is rare. Hence, the notion of co-regulation, which can be described as a combination of non-government (industry) regulation and government regulation. Observers have noted that self-regulation has become embedded in the regulatory state, reflected in the range of 'joint products' between the regulator and the regulated, and is now best reflected in the understanding of the term 'co-regulation'.<sup>29</sup> Co-regulation generally involves both industry and the regulator developing, administering and enforcing a solution, with arrangements accompanied by a legislative backup. Co-regulation can mean that an industry develops the regulatory arrangements, such as a code of practice or rating schemes, in consultation with government. While the industry may administer its own arrangements, the government provides legislative backing to enable the arrangements to be enforced.<sup>30</sup>

Under co-regulation, certain powers are delegated to the industry to develop, regulate and enforce codes. According to the Organisation for Economic Cooperation and Development (OECD), self- and co-regulation when used in the right circumstances, can offer a number of advantages over traditional command and control regulation. The advantages include: greater flexibility and adaptability, potentially lower administrative costs, an ability to harness industry knowledge and expertise to address

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<sup>26</sup> The Australian Communications and Media Authority, 'Optimal Conditions for Effective Self- and Co-regulatory Arrangements' (Project, 2010) p.8 <[http://www.acma.gov.au/webwr/\\_assets/main/lib310665/optimal\\_conditions\\_for\\_self\\_and\\_co-regulation.pdf](http://www.acma.gov.au/webwr/_assets/main/lib310665/optimal_conditions_for_self_and_co-regulation.pdf)> accessed on 13 September, 2022.

<sup>27</sup> Atip Latipulhayat, 'Telecommunications Licensing Regime: A New Method of State Control After Privatisation of Telecommunications' (2014) 9 (1) *Journal of International Commercial Law and Technology* .27

<sup>28</sup> Ibid

<sup>29</sup> The Australian Communications and Media Authority 'Optimal Conditions for Effective Self- And Co-Regulatory Arrangements' (Project, 2010) p. 8

<sup>30</sup> Ibid.

industry-specific and consumer issues directly, quick and low-cost complaints-handling and dispute resolution mechanisms.<sup>31</sup>

### *Consumer organisations' participation and representation*

The lack of consumer representative in the regulatory process is considered as a missing link in achieving effective protection of the consumers' rights. There is ongoing support for the involvement and participation of the consumers in the regulatory process. In most cases, both at national and global level, the regulators/policy makers represent the consumers. These regulators rarely consult and get feedback from consumers and their representing bodies, the interest of whom they are representing. The argument here is that no matter how vigilant the regulators are, they cannot adequately represent consumers especially era where increasing rivalry telecommunications operators threaten consumer rights. A report submitted to ITU-T Study Groups stresses the need to involve consumer representative bodies in the regulation process. The report in its suggestions, opined that participation of consumer representative bodies in regulatory process may result in transparency, critical evaluation of regulations and ultimately improve quality of services.<sup>32</sup>

Another strong recommendation for involvement of consumers representative in the regulatory process concerning consumers is the OECD consumer protection guidelines which stresses the need to engage consumer representative bodies in all regulatory process, and consider it as a fundamental human rights<sup>33</sup> There are now consumer organisations which focus on the rights and protection of the telecommunication and Internet customer/users in the developed countries. Many of the African consumer organisations do not get involved in consumer issues relating to the telecommunication and Internet sector. Only four countries out of the 30 African countries surveyed had consumer organisations that were specifically focused on the telecommunication and Internet sector: Côte d'Ivoire, Nigeria, Senegal and South Africa.<sup>34</sup> However, this approach cannot be used in countries without these consumer organisations.

It is pertinent to point out at this juncture that in most countries more than one of these models are used at the same time, while all the approaches are often used simultaneously for more effective protection of consumer rights in the telecommunications sector.

### **The impact of consumer rights protection on the quality of service in the telecommunications sector**

Understanding of the meaning of 'quality' for any particular product or service requires an unbundling of quality attributes and elucidation of their applicability. In *The Service/Quality Solution*, Collier, views the many dimensions of quality as part of a 'consumer benefits package.' According to him, the consumer benefits package is 'a clearly defined set of tangible (goods-content) and intangible (service-content) attributes (features) the customer recognises, pays for, uses or experiences.'<sup>35</sup> Provision of quality service by the telecommunications services providers are the greatest expectation of the consumers. Therefore, the determining factor of excellent service quality is consistently meeting or exceeding customer expectations. The question is, what precisely is the service quality as applied to telecommunications, and how is it measured?

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<sup>31</sup> Hepburn Glen, 'Alternatives to Traditional Regulation' <<http://www.oecd.org/gov/regulatory-policy/42245468.pdf>> accessed on 13 September, 2022.

<sup>32</sup> Farooq Ahmad, 'ITU Agenda: The Missing Link of Consumer Rights' <<http://a2knetwork.org/itu-agenda-missing-link-consumer-rights>> accessed on 13 September, 2022.

<sup>33</sup> Organisation for Economic Cooperation and Development (OECD), 'Guidelines for Consumer Protection in the Context of Electronic Commerce' (Recommendation of the OECD Council) <<http://www.oecd.org/internet/consumer/34023235.pdf>> accessed on 13 September, 2022

<sup>34</sup> Russell Simmons, 'Consumer Protection in the Digital Age: Assessing Current and Future Activities'

<sup>35</sup> Vivian Witkind, David Landsbergen and Raymond Lawton, 'Telecommunications Service Quality' (The Ohio State University 1080 Carmack Road Columbus, Ohio 43210, March 1 996) <[www.ipu.msu.edu/.../Davis-Telecom-Service-Quality-96-11-Mar-96.pdf](http://www.ipu.msu.edu/.../Davis-Telecom-Service-Quality-96-11-Mar-96.pdf)> accessed on 13 September, 2022.

According to a recommendation published by the International Telecommunications Union (ITU), quality of service in the telecommunications sector is defined as ‘the collective effect of service performance, which determines the degree of satisfaction of a user of the service’.<sup>36</sup> While Richters and Dvorak developed service quality criteria that customers can use to measure the quality of communications service, they identified availability, reliability, flexibility, speed, security and simplicity as criteria in measuring the quality of service in the telecommunications industry.<sup>37</sup>

In 1992, the Staff Sub-committee on Service Quality published a Telephone Service Quality Handbook intended to assist regulatory agencies in developing and administering service quality programs. The Handbook identifies four tools a regulatory agency might use, depending on its resources in evaluating quality service. The tools are: customer complaint analysis, performance standards and analysis, field investigations and customer surveys.<sup>38</sup> However, there appears to be three dominant methods of measuring the quality of service in the telecommunications sector. These are: the key quality indicators, live testing and consumer survey.<sup>39</sup> These methods are now discussed.

### *Key Quality Indicators (KQIs)*

These indicators are patterned after key performance indicators (KPIs). They measure quality of service and make the results comparable across time, periods and carriers. Many National Regulatory Authorities, usually after a series of public consultations, have introduced sets of indicators for different services, depending on the scope of regulation, definitions, measurement guidelines and expected levels of quality. The sets vary and can relate to both customer service and technological issues. Unsuccessful call ratios, supply times for initial connection, response times for operator services and bill accuracy are among the most popular indicators.<sup>40</sup> To make it less prone to measurement biases, the KQIs require data to be gathered during a specified, recurrent period, not just a one-time sample. The method has been adopted in many countries, and international bodies, including the European Communication Standardization Institute and the European Commission, have endorsed it.<sup>41</sup>

### *Live testing*

This method is not often used by both regulators and operators because of its costs. Even when it is used, it covers only a representative sample of services and end-users. Some countries - like France, Turkey, the United Kingdom, Latvia and India - have used this method to measure the quality of mobile services or Internet connections.<sup>42</sup>

In measuring mobile telephony, the live tests may be performed with the help of a custom vehicle with dedicated equipment, antennas or other facilities capable of gathering quality of service data. In car testing, the vehicle must adhere to a specified route, usually covering the biggest cities and most crowded travel routes. For broadband connection tests, access to customers' lines is essential. For example, Ofcom performed such live testing in the United Kingdom in 2008 and 2009 to verify the quality of the broadband network.<sup>43</sup> Dedicated facilities with special software were placed on the access lines of around 1,600 consumers and data was collected for a three-month period. The goal of this method is to present data regarding the quality of a given service at a particular moment in time over a specified period.

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<sup>36</sup> ‘Quality of Telecommunication Services: Concepts, Models, Objectives and Dependability Planning- Terms and Definitions Related to the Quality of Telecommunication Services’ <[http://www.itu.int/rec/dologin\\_pub.asp?lang=e&id=T-REC-E.800-200809-1!!PDF-E](http://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-E.800-200809-1!!PDF-E)> accessed on 17 September, 2022.

<sup>37</sup> Vivian Witkind, David Landsbergen and Raymond Lawton, ‘Telecommunications Service Quality’.

<sup>38</sup> Ibid.

<sup>39</sup> ‘Telecommunication: Measuring Quality of Service’ <[http://www.atkearney.com/paper/-/asset\\_publisher/dVxv4Hz2h8bS/content/telecommuication-mearsuring-quality-of-service/10192](http://www.atkearney.com/paper/-/asset_publisher/dVxv4Hz2h8bS/content/telecommuication-mearsuring-quality-of-service/10192)> accessed on 20 August, 2022.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid

<sup>43</sup> Ibid

### *Conduct of consumer surveys*

This method can effectively pinpoint the weakest elements of service quality, giving operators effective feedback, while allowing customers to compare opinions about various operators. It can also be a useful addition to the indicator-based method of measurement. Contrasting those two sets of data can determine whether a weakness identified by consumers also falls among the low- levels of relevant indicator data. If not, proper verification of both activities can be performed. For example, the Telecom Regulatory Agency of India performs this type of joint measurement for 23 regions to ensure the validity of quality of service data. Customer surveys are used also in Nigeria and Germany. A survey conducted by the major telecommunications regulator in Nigeria, the NCC, shows that 71.54% subscribers are not satisfied with the services rendered by their Service Provider.<sup>44</sup>

Furthermore, there are two means of enforcing compliance with the minimum standards of quality of service by the regulators of telecommunications operators. These are sanction and publication of telecommunications complaints. The sanction is usually in form of payment of compensation or fine for failures to meet quality of service standards by the regulators. The regulator may impose payment of compensation or fine, on the telecommunications operators, either to individual customers who suffer particular quality of service failures, or to the customer base as a whole, where quality of service failures affect its entire network and are not referable to individual customers. The major challenge is that the imposition of sanction, as a means of enforcing compliance mechanism, on the telecommunications operators, is believed to have little impact on the improvement of the quality of service to the consumers.<sup>45</sup>

Publication of the consumer complaints is another mean of sanctioning the telecommunications operators for failure to meet the minimum quality of service standard. In this case, the regulator requires the telecommunications operators to submit the full details of customer complaints. The regulators believe that publication of such information will help consumers make more informed decisions about which provider offers the best service in cases of migrating a new service provider. In addition, publication of provider-specific complaints data also may act as an incentive for providers to improve their performance.<sup>46</sup>

The impacts of the consumer rights protection on the quality of service are in two folds. Consumer rights protection policies and regulations have numerous impacts on the telecommunications operators and consumers in relation to quality of service. Setting minimum quality of service standard as a consumer rights protection policy by the regulator helps telecommunications operators focus on delivering high quality services to their customers. It equally provides guarantee to telecommunications customers that the service they receive is of a certain standard.<sup>47</sup>

Another impact is that consumer rights protection encourages healthy competition among the telecommunications operators which result into improvement in the quality of service. The consumers, on the other hand, have a choice to switch providers if they are not satisfied with the quality of service. For instance, the mobile number portability as a demand side to strengthen competition in the telecommunications market makes decision of switching service provider not only easy but also meet the consumers' expectation of excellent quality of service.<sup>48</sup>

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<sup>44</sup>NCC Current Survey/Poll Result <[http://consumer.ncc.gov.ng/poll\\_result.asp?succ=1&sgid=1&ansid=57&queid=11](http://consumer.ncc.gov.ng/poll_result.asp?succ=1&sgid=1&ansid=57&queid=11)> accessed on 04 September, 2022.

<sup>45</sup> Measures of Quality of Telecommunications Services in the Channel Islands (the Channel Island Competition and Regulatory Authorities Consultation paper, Document No: CICRA 13/14 March 2013) <[http://www.cicra.gg/\\_.../Telecoms%20QualityofService](http://www.cicra.gg/_.../Telecoms%20QualityofService)> accessed on 20 August, 2022.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.



## **Conclusions**

Consumer rights protection in the telecommunications industry is a very extensive area and is considered a global agenda. Apart from legislation on the protection of the consumer in the telecommunications industry, it also includes the regulation of telecommunications market structure and introduction of competition law to ensure that the consumer enjoys good quality of service. The increasing global interest in protection of telecommunications consumers' right has impacted positively on the quality of service in the telecommunications industry.

Across the globe, various means of ensuring consumer protection in the telecommunications sector have developed, both at the national and international levels. These include: the government regulatory approach, the self and co-regulatory approaches, as well as consumer organisations participation and representation. In most countries, more than one of these models are used at the same time, while all the approaches are often used simultaneously for more effective protection of consumer rights in the telecommunications sector.

At present, consumer rights protection is considered as an essential responsibility of the regulatory agencies, the telecommunications operators, as well as the consumers themselves, with the regulatory agencies playing a major and supervisory role. Hence, the regulatory agencies in many different jurisdictions have adopted various methods to regulate telecommunications industry and ensure adequate consumer protection. However, regulatory agencies have not fully captured the nature of the telecommunications market's ever-changing landscape due to incessant advancement in technology.

What seems to be a good regulatory tool may soon prove inadequate, given the speed with which technology advances and customer habits and expectations change. Therefore, the regulatory agencies need to be more insightful and respond promptly to new developments in the telecommunications technology. The telecommunications operators and subscribers must also be alive in fulfilling their responsibilities if the objective of protecting telecommunications consumers is to be fulfilled.