

# **BEREC Report on the handling of third party payment charges on mobile phone bills**

30 SEPTEMBER 2021

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## Executive summary

1. The mobile phone bill has evolved to become an instrument, not only for mobile operators to collect mobile phone charges, but also for third party services providers to easily apply charges for goods or services purchased by end-users. Initially, third party services were delivered by means of a voice call or text message charged to the mobile phone bill, albeit at a higher rate than normal calls or text messages (and from this practice stems the name *premium rate services*, or PRS). Nowadays, service providers offering digital content, or even other products or services, have come to see the opportunities that lie within the mobile phone bill to easily charge for their goods and services. The latter payment method is often referred to as direct carrier billing (DCB). DCB allows third party service providers to benefit from the existing relationship between the end-user and the mobile service operator and the fact that the end-user is already known by, and being charged by, the mobile operator.
2. The increasing popularity of DCB services<sup>1</sup> has also resulted in consumer complaints about these services. Most NRAs/competent authorities confirmed that they have recorded complaints or enquiries on third party billing issues over the last three years. Charging issues are currently the most reported causes of complaints regarding third party billing, for both PRS and DCB. The second most reported causes of complaints are fraud in the case of PRS and consent issues for DCB.<sup>2</sup> It has also put DCB onto the European agenda, resulting in the inclusion of a specific provision on the facility for end-users to deactivate third party billing in the European Electronic Communications Code (“EECC”), currently being transposed by Member States.
3. This report aimed at understanding what charges are being collected on behalf of third party providers and the related issues. The report also aims at shedding some light on the provisions existing prior to and post-transposition of the EECC. To this end BEREC sent a questionnaire to its Members and participants. The answers received have also provided insights on the legal status of third party services, the responsibilities of NRAs/competent authorities and the scope of the present legal/regulatory obligations, as well as on current consumer protection measures and complaints.
4. From the responses received, it appears that in almost all of the responding countries, NRAs/competent authorities have responsibilities regarding PRS, but only one third of them have similar responsibilities for DCB. Given this fact, it is not surprising that as a common thread in the responses to the questionnaire, the existing consumer protection measures are almost always present to a lesser extent for DCB than for PRS. For example, while a significant majority of NRAs/competent authorities indicated that information and transparency measures or tools for PRS are in place in their country, less than half of them indicated that similar measures are in place for DCB; obligations to provide detailed billing are twice as often in place for PRS as for DCB and obligations to provide end-users with facilities to manage services via a customer area or customer support are three times as common for PRS as for DCB.
5. However, for some measures designed to protect consumers from bill shock or forced purchases, respondents indicated that they are only imposed to a very limited extent for both PRS and DCB. For example, obligations to impose a threshold amount (spend limit)

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<sup>1</sup> Note that although DCB services are made available by mobile service operators in the majority of countries, four (4) respondents reported that this is not the case in their country.

<sup>2</sup> See section “3.2 Complaints” of the present Report.

on PRS or DCB services were confirmed to be rarely imposed. Few countries indicated that they impose an obligation to provide an alert service for anomalous traffic for PRS, even less so for DCB and the same can be said for obligations to provide regular spend reminders.

6. When looking at consent requirements for once-off and subscription services, they are more common for PRS services than for DCB and cancellation confirmation is supported in twice as many countries for PRS as for DCB.
7. This report, subject to public consultation in March 2021, has been adopted at the BEREC Plenary 3 (October 2021) prior to publication, and take into account the public feedback.
8. This report focuses on the experience within Member States as reflected through the lens of the national regulatory authority. It does not attempt to introduce new definitions but rather aims to point to established definitions as set out in Annex 1 of this report.

# 1. Introduction

## 1.1 Background

9. In many European countries, mobile operators allow third party providers to charge their customers via their mobile phone bills for goods or services. This type of payment can be considered an easy and suitable option to pay for goods or services, such as parking and public transportation tickets, newspapers subscriptions and other various services. Such charges, applied to various services offered by phone call (voice call) or via text message (SMS/MMS), are known as premium rate services (“PRS”)<sup>3</sup> as they are usually charged at higher rates than those normally applied to phone calls and texts. Nowadays, such charges are also applied to the purchase of goods and services by Direct Carrier Billing (“DCB”)<sup>4</sup>. DCB is also a system of charging a mobile phone user for a good or service via their mobile phone bill. However, DCB does not rely on a premium rate number or specific short codes, like some traditional PRS, to apply the charge but rather the end-user’s account is directly charged for the good or service being purchased.
10. This market evolution, from traditional PRS to also including DCB, can also be seen when looking at the research and policy recommendations of European and International organisations on the matter of third party payments on end-user phone bills (see [Annex 3 - Literature list](#)). Initially, European and international reports, studies or position papers addressed issues relating to the use of premium rate numbers, but gradually mobile online payments (including DCB) were studied and commented on.
11. In the subscription services of the PRS market, there are some authentication problems, especially through the usage of “pin” in web pages, which are accessed by laptop or tablet. Therefore, this subscription process - whilst offering additional security - does not always ensure that the end-user is actually the one that gave its consent, thus in some instances leading to occurrences of subscriptions and resulting charges without the end-user’s awareness.
12. Authentication problems also may appear in DCB transactions through mobile phones. It is worth mentioning that for on line payments, which are supervised by financial institutions (under the Payment Services Directive 2015/2366/EU (PSD2), the authentication process takes place prior to the payment execution, however the DCB payments follow a different process that may also result in unknowing and unwanted subscriptions as well as in charges for end-users for amounts up to the threshold limits. This report will focus on how third party payments and charges are handled via both traditional PRS and direct carrier billing.
13. With regards to PSD2 BEREC notes that the services referred in this report are not covered by the PSD2 as far as they fall within the exclusions of article 3 letter (l) of the same directive that relate to “payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications services for a subscriber to the network or service”; “for purchase of digital content and

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<sup>3</sup> Please note that PRS are a subset of Value Added Services. A description of Value Added Services can be found in Section 4 of the [BEREC input on EC’s request for the preparation of the legislative proposal for the new roaming regulations, BoR \(20\) 131](#).

<sup>4</sup> Please note that DCB can also be referred to as direct operator billing/third party billing.

voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the related bill; where “the value of any single payment transaction [...] does not exceed EUR 50 and” “the cumulative value of payment transactions for an individual subscriber does not exceed EUR 300 per month, or where a subscriber pre-funds its account with the provider of the electronic communications network or service, the cumulative value of payment transactions does not exceed EUR 300 per month”.

14. Therefore, given the nature of services and the level of charges typically applied to PRS and DCB services, payments through telecom operators do not fall under the PSD2 and consumers cannot benefit from the enhanced protection against fraud and other abuses or payment incidents brought by PSD2. To this end regulations, codes of conduct and any other consumer protection measures enacted in Member States with regards to PRS and DCB can be considered as complementary to the provisions of PSD2.
15. BEREC also notes that the simple fact that telecom operators which engage in third party payment services have to notify, on an annual basis, to the competent authority under PSD2 that they comply with the transaction limits does not imply that there is any overlap between financial and telecom regulations.

## **1.2 Directive (EU) 2018/1972 establishing the European Electronic Communications Code (“EECC”)**

16. The market evolution referred to above can also be observed when comparing the former “Telecoms Package”<sup>5</sup> with the Directive (EU) 2018/1972<sup>6</sup> of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (“EECC”), which replaces the Telecoms Package.
17. The EECC contains a number of specific measures relating to promoting competition, the internal market and end-user interests in relation to PRS and other services subject to particular pricing conditions. For example, Article 102.6 of the EECC gives Member States the ability to maintain or introduce provisions requiring providers to give additional information on consumption levels and temporarily prevent further use of the relevant service in excess of a financial or volume limit. Recital 266 explains that provisions on consumption limits protect end-users from ‘bill-shocks’ including those in relation to PRS and other services that are subject to particular pricing conditions. Further, competent authorities can require information about such prices to be provided prior to the provision of a good or service; this does not prejudice the possibility that Member States can maintain or introduce general obligations for PRS to ensure the effective protection of end-users.
18. Pursuant to Article 115 of the EECC, Member States shall also ensure that, where relevant, competent authorities in co-ordination with national regulatory authorities (“NRAs”) are able to require all providers of internet access services, or publicly available number-based interpersonal communications services, to make available free of charge all (or part of) the additional facilities listed in Part B of Annex VI to the EECC, subject to technical feasibility, as well as all or part of the additional facilities listed in Part A of Annex VI to the EECC.

<sup>5</sup> Framework, Authorization, Access, Universal Service Directives, adopted in 2002 and updated in 2009.

<sup>6</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972&from=EN>

19. These additional facilities that can be imposed in relation to PRS and DCB services,<sup>7</sup> and include, among others, the following:

- **Selective barring for outgoing calls or premium SMS or MMS, or, where technically feasible, other kinds of similar applications, free of charge**

namely, the facility whereby end-users can, bar outgoing calls or premium SMS or MMS, or other kinds of similar applications of defined types or to defined types of numbers free of charge,<sup>8</sup> on request to the providers of voice communications services, or number-based interpersonal communications services in the case of Article 115, and

- **Facility to deactivate third party billing**

namely, the facility for end-users to deactivate the ability for third party service providers to use the bill of a provider of an internet access service, or a provider of a publicly available interpersonal communications service, to charge for their products or services.<sup>9</sup>

- **Itemised Billing**

namely, the facility to include an explicit mention of the identity of the supplier and of the duration of the services charged by any premium numbers unless the end-user has requested that information not to be mentioned.

### 1.3 BEREC Work Programme 2020-2021 and related steps

20. The project relating to the handling of third party payment charges on mobile phone bills, as outlined in the 2020/2021 BEREC Work Programme, requires BEREC to collect useful information (by means of an *ad hoc* questionnaire and from documents and reports from the European Commission and other relevant sources) to draft a Report aimed at understanding:

- what charges are being collected on behalf of third party providers using mobile phone bills, considering both pre-paid and post-paid contracts, and the related issues, and
- which provisions exist prior to the introduction of the EECC and after the implementation of the regulatory framework.

21. To this end, in 2020, BEREC sent a questionnaire to NRAs, and/or competent authorities, that included questions on the legal status of third party services, the responsibilities of the NRAs and/or competent authorities, the value chain and the scope of legal/regulatory obligations. With the questionnaire BEREC also sought information on current consumer protection measures as well as complaints, complaints procedures and refunds.

22. The impact of the transposition of the EECC was briefly touched upon given that the questionnaire was issued, and the subsequent responses have been processed, prior to 21 December 2020 - the final date for transposing the EECC into national legislation.

<sup>7</sup> Pursuant to Annex VI, Part A, Article 115 of the EECC.

<sup>8</sup> Annex VI, Part A (b), Article 115 of the EECC.

<sup>9</sup> Annex VI, Part A (h), Article 115 of the EECC.

## 1.4 Aim of the Report

23. This report aims at giving an overview of the status of third party payment charges in Member States at the moment of completing the questionnaire.<sup>10</sup> However it should be pointed out that at this moment most NRAs and/or competent authorities continue to operate under the previous framework, since the transposition process of Directive 2018/1972 was still ongoing.
24. Therefore, this Report intends to provide an initial frame of reference in the field of third party payment charges to enable a more accurate assessment of the impact of the EECC when the transposition processes will have been completed.
25. The Report also aims to serve as a useful information tool in the search for best practices regarding third party payment charges.

## 1.5 Basic definitions and models

26. For the purposes of this report BEREC has included both PRS and DCB, however we acknowledge that there are more complex models, players and parties to the flow of payments and services that exist at individual national level which are excluded.
27. In this report BEREC does not include Value Added Tax (VAT) treatment of the premium-rate services value chain in the Report as VAT is a tax charged on the sale of goods or **services** and is included in the **price** of the third party charge to the customer's mobile bill.
28. This Report considers that PRS<sup>11</sup> are services offered via phone call (voice call) or text message (SMS/MMS) which are charged to the mobile phone bill at a higher rate than normal phone calls or text messages. The term DCB<sup>12</sup> in this report refers to charges for digital content services, or other products or services, which are billed directly to the end-user's mobile phone account.
29. BEREC acknowledges that there can be variations according to the market and type of purchases involved but notes that the following figure only shows a general schematic representation of the relationships (and payments) between parties involved in a voice premium rate call:

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<sup>10</sup> The questionnaire was sent out to NRAs on 15 September 2020 with response deadline set at 14 October 2020.

<sup>11</sup> Please note that PRS are a subset of Value-Added Services.

<sup>12</sup> Please note that DCB can also be referred to as direct operator billing/third party billing.



Figure 1 - Schematic representation voice premium rate call<sup>13</sup>

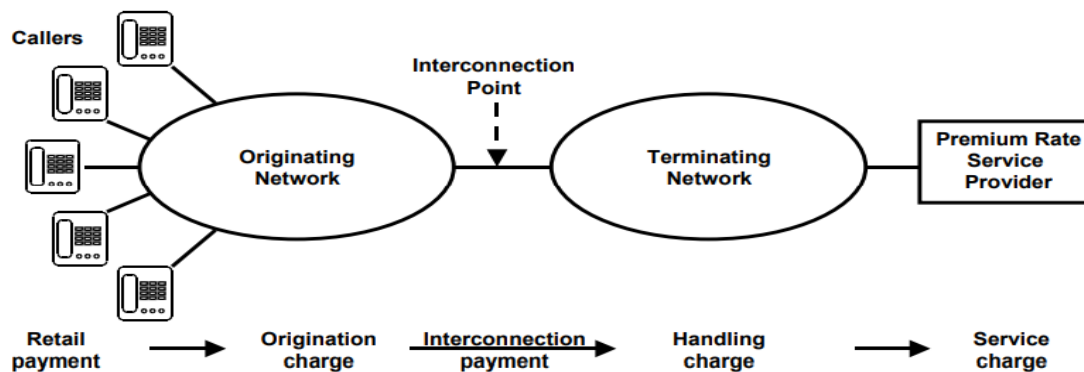
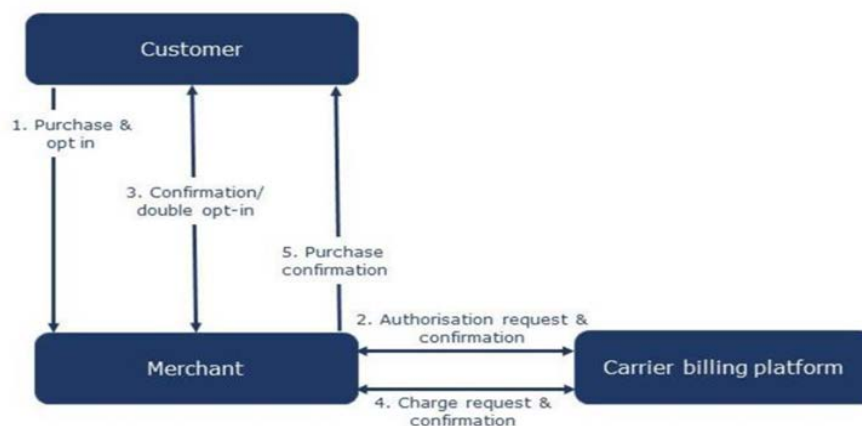


Figure 1 shows a basic reference model

30. Although BEREC acknowledges that there can be variations according to the market, and the type of purchase involved,<sup>14</sup> it considers that the basic relationships and steps in a transaction charged through Direct Carrier Billing can be roughly represented as follows:

Figure 2 - Schematic representation direct carrier billing<sup>15</sup>



31. A list of other useful definitions can be found in *Annex 1 – Definitions* of this Report.

<sup>13</sup> Source: [ECC Report 086](#) on Consumer abuses and fraud issues relating to High Tariff services (2006), p. 4. Please note that inter-carrier wise this is an origination service. The diagram provides a general overview of the basic flows but there are other relationships (and payments) between the parts that are not represented in this graph.

<sup>14</sup> NRAs were asked to indicate if the diagram shown was able to capture the functioning of third party payments in their country, e.g., if the relationships between customers, merchants and billing platforms was correctly described through this diagram. According to the responses received, this diagram reflects the functioning of third party payments in 10 countries (BE, CY, EE, EL, HR, HU, IE, IT, NL, SE); eleven (11) other countries (AT, BG, CZ, ES, FI, FR, LT, LV, PR, RO, SK) responded "maybe", meaning that probably there isn't enough information to be certain and 2 countries (DE, PL) responded that the diagram did not represent the way the business works in their countries.

<sup>15</sup> Source: Consumer market study on m-payment, European Commission, 2018, pp. 20 ("Carrier billing schema", based on Forest Interactive 2017, "Operational Process Overview") - <https://op.europa.eu/en/publication-detail/-/publication/348b9b-39-e8-b5fe-01aa75ed71a1/language-en/format-PDF/source-98833>

## 2. General overview of major issues

### 2.1 Scope

32. In most countries – nineteen (19)<sup>16</sup> out of twenty eight (28) – third party service providers are subject to legal or regulatory obligations regarding PRS and around one third of the responding countries – ten (10)<sup>17</sup> out of twenty eight (28) – indicated that third party service providers are also subject to obligations regarding DCB.
33. Existing obligations for electronic communication service providers do not cover DCB in any responding country.
34. Price control<sup>18</sup> is the most mentioned regulatory provision in place for PRS, but also other provisions as contractual transparency,<sup>19</sup> general information disclosure,<sup>20</sup> prior information disclosure,<sup>21</sup> prior consent<sup>22</sup> and billing transparency<sup>23</sup> were frequently mentioned.<sup>24</sup> Fewer countries indicated that they have obligations in place for both PRS and DCB, and among those, billing transparency was mentioned most frequently.<sup>25</sup>
35. Regarding companies providing content or services online, there are fewer countries which have established rules; the cases mentioned most frequently cover both types of services included billing transparency, general information disclosure and prior information disclosure (4 countries<sup>26</sup>).
36. PRS content providers are mostly subject to PRS obligations regarding prior information disclosure (seven (7) countries)<sup>27</sup> and prior consent (five (5) countries)<sup>28</sup>. Obligations covering both types of services (PRS and DCB) usually cover contractual transparency, billing transparency, prior consent and others indicated by a few countries.
37. When asked if these legal or regulatory obligations were in place prior to the transposition of the EECC in the Member States, sixteen (16) countries<sup>29</sup> confirmed that they were in place and one (1) country<sup>30</sup> indicated that they were not.
38. Furthermore, five (5) countries<sup>31</sup> mentioned that following the transposition of the EECC they plan to implement legal or regulatory obligations on electronic communication service

<sup>16</sup> AT, BE, CY, DE, EE, EL, FI, FR, FY, HR, HU, IE, MT, NL, PL, PT, RO, SE, SK.

<sup>17</sup> BE, CY, DE, EE, EL, FI, IE, NL, RO, SE.

<sup>18</sup> AT, BE, DE, EL, FR, HU, MT, PL, PT, RO.

<sup>19</sup> AT, BE, EL, HR, HU, MT, PL, PT.

<sup>20</sup> BE, EL, FR, HR, HU, MT, PT, RO.

<sup>21</sup> AT, BE, EL, FR, HR, HU, PT, RO.

<sup>22</sup> AT, BE, EL, ES, HR, HU, PT, RO.

<sup>23</sup> AT, EL, HR, MT, PL, PT.

<sup>24</sup> Among the less frequently mentioned provisions there were registration FR, HR, EL, ES, PT; licensing AT, HR, EL; and refund policy AT, BE, HR.

<sup>25</sup> BE, DE, FI, IE, NL, RO, SE (Billing transparency); EE, FI, IE, NL, SE (General information disclosure); DE, FI, IE, NL (Contractual transparency); EE, FI, IE, NL (Prior information disclosure); FI, IE, NL (Registration; Refund policy, Prior consent and Prices); IE, NL (Licensing).

<sup>26</sup> FI, IE, NL, SE.

<sup>27</sup> AT, BE, FR, HR, HU, PT, SK.

<sup>28</sup> AT, BE, HR, HU, PT.

<sup>29</sup> AT, BE, DE, EE, EL, FI, FR, HU, IE, MT, NL, PL, PT, RO, SE, SK.

<sup>30</sup> HR.

<sup>31</sup> BE, CY, HU, PL, PT.

providers. Among those, the most frequently mentioned future regulations include billing transparency, general information disclosure and prior consent; however six (6) countries<sup>32</sup> indicated that they have no plans to regulate this matter. Respondents were also asked whether, at the time of filling the questionnaire,<sup>33</sup> they expected the legal provisions set out in the responses were to change following the transposition of the EEC into national legislation. Four (4) countries responded positively<sup>34</sup> and fifteen (15) countries responded that the legal provisions may change.<sup>35</sup>

39. The majority of NRAs at the time of completing the questionnaire indicated they did not have legislation transposed yet, with some having legislation prepared and before the national parliament awaiting voting.

## 2.2 Complaints and enquiries

### Number of Contacts

40. The questionnaire asked whether NRAs had recorded any contacts (complaints or enquiries) about third party billing issues in the last three years and, if they had, how many contacts were recorded. The questionnaire did not collect data from the providers of the services but rather from NRAs who were contacted by consumers in respect to a third party billing issue. From the answers it was possible to ascertain that 79%<sup>36</sup> of reporting NRAs recorded complaints or enquiries, 14%<sup>37</sup> did not have any records and 7%<sup>38</sup> didn't answer the question.<sup>39</sup> The distribution of the number of registered contacts per NRA is shown in the next figure.<sup>40</sup>

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<sup>32</sup> BG, CZ, IT, LT, LV, RO, .

<sup>33</sup> The questionnaire was sent out to NRAs on 15 September 2020 with response deadline set at 14 October 2020.

<sup>34</sup> BE, CY, HU, PT, .

<sup>35</sup> CZ, DE, EE, EL, ES, IT, LT, LV, MK, NO, PL, RO, SE, SI, SK.

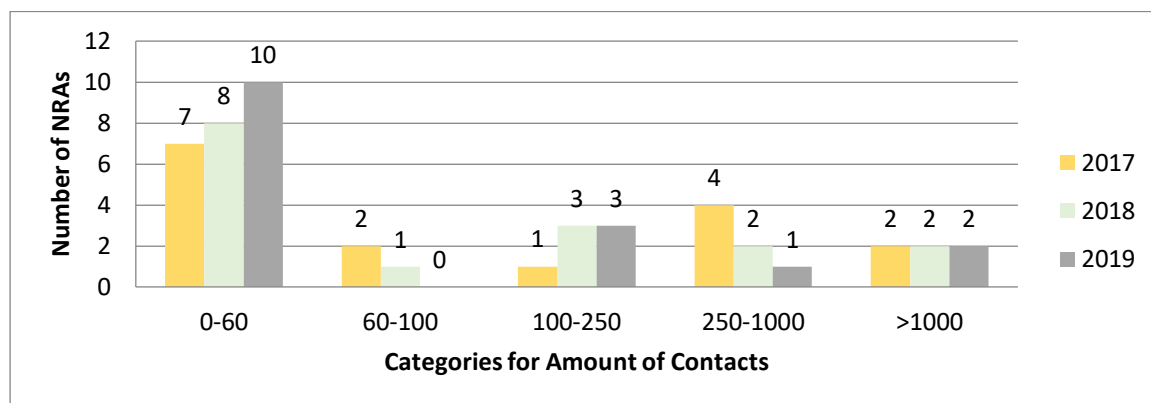
<sup>36</sup> AT, BE, CZ, DE, DK, EE, EL, FI, FR, HR, HU, IE, IT, LT, LV MK, MT, PI, PT, RO, SI, SK.

<sup>37</sup> CY, ES, NL, NO

<sup>38</sup> BG, SE

<sup>39</sup> Some NRA's mentioned explicitly that complaint handling is handled by another authority [ES, NO] or only a specific type of complaint like technical correctness of billing falls within their scope [FI].

<sup>40</sup> Due to keeping the data consistent and comparable, the information of 1 NRA has been removed from the set since they only reported only one year [RO]. Another NRA mentioned that definition of the data asked does not quite fit the definition of records kept by the NRA, no accurate numbers could be provided [DE]

**Figure 3 - Distribution of NRAs by Number of Contacts** <sup>41</sup>

41. Figure 3 depicts the distribution of countries over five categories corresponding to different (increasing) levels of the number of contacts over the three-year period considered. The noticeable shift of the distribution of countries from the rightmost categories, associated with a higher numbers of contacts, to the leftmost, associated with lower levels of contacts, shows a general tendency towards a decrease in the number of contacts. This does not apply to those countries that recorded over 1000 registered contacts, which remain stable<sup>42, 43</sup>.

### Major issues concerning third party billing complaints

42. BEREC asked NRAs/competent authorities whether certain issues<sup>44</sup> were mentioned by end-users in complaints regarding third party billing for PRS and DCB. The distribution of those issues is shown in the next figure:

<sup>41</sup> **2017 category 0-60:** [CZ, DK, FI, LT, LV, MT, SK,] / 2017 category **60-100:** [HU, MK] / 2017 category **100-250** [IT] 2017 category **250-1000** [AT, BE, PL, PT] 2017 category **more than 1000:** [EL, IE]

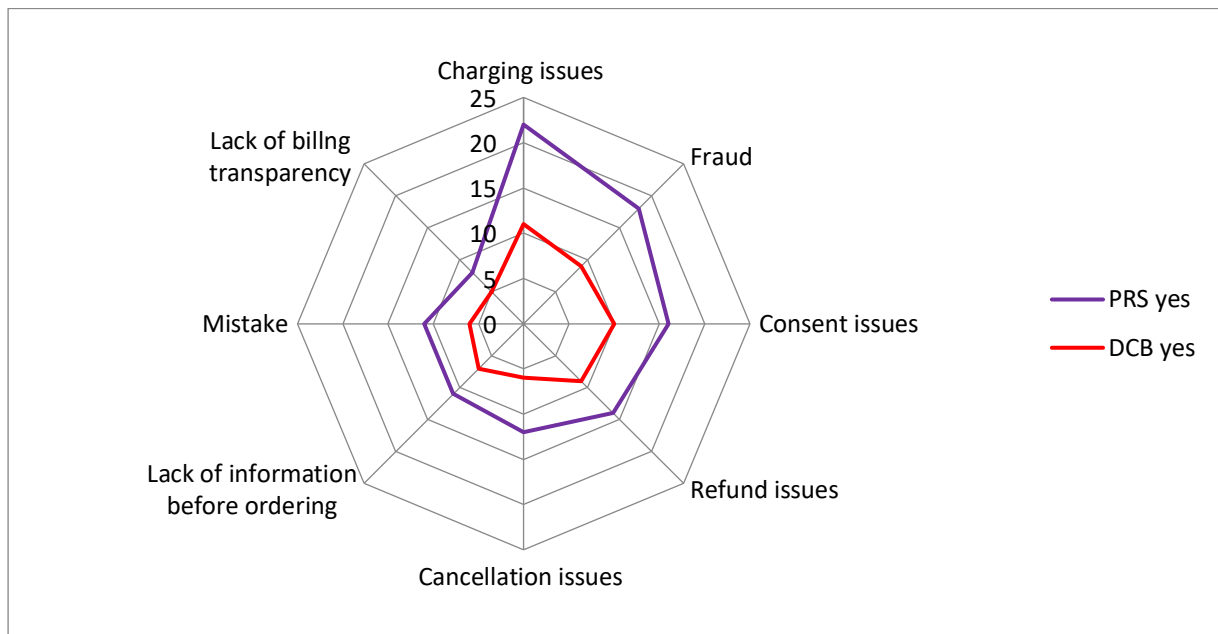
**2018 category 0-60:** [CZ, DK, FI, LT, LV, MK, MT, SK] / 2018 category **60-100:** [HU] / 2018 category **100-250** [AT, IT, PL] /2018 category **250-1000** [BE, PT] / 2018 category **more than 1000:** [EL, IE]

**2019 category 0-60:** [CZ, DK, FI, HU, LT LV, MK, MT, PT, SK] / 2019 category **60-100:** none / 2019 category **100-250** [AT, IT, PL] / 2019 category **250-1000** [BE] /2019 category **more than 1000:** [EL, IE]

<sup>42</sup> There is no real relation between the population and the amount of reported contacts. The >1000 contacts category are IE (5 million inhabitants) and EL (11 million). Categories with lower amount of contacts (0-250) are countries like for example CZ (5,5 million inhabitants) and IT (60 million inhabitants).

<sup>43</sup> The boundaries of the categories are based on the questionnaire issued to the NRAs, for reason of presentation the answers of categories have been compressed and the bandwidth in lower amount of contacts have been made still small and categories with higher amount of contacts bandwidths have been made larger (0-20, 21-40 and 41-60 -> 0-60, 61-80 and 81-100 -> 60-100, 101-250 -> 100-250, 251-500 and 50-1000 -> 250-1000, >1000 -> >1000).

<sup>44</sup> Issues predefined by BEREC in the questionnaire.

**Figure 4 - Amount of times issues were rated major<sup>45</sup>**

43. One can conclude that the two most reported issues regarding third party billing, are charging issues and fraud for PRS and charging and consent issues for DCB. The least reported issue was lack of billing transparency for both PRS and DCB<sup>46</sup>. Information has been provided in the response to the consultation and as published in BoR (21) 117<sup>47</sup> with respect to initiatives undertaken at national level to reduce complaints and with respect to increasing transparency for customers.

## 2.3 The presence and sources of definitions for premium rate services and direct carrier billing

<sup>45</sup> -Charging issues PR: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, LT, LV, MK, MT, NL, PL, PT, RO, SI, SK.

-Fraud PR: AT, BE, CZ, DE, EE, EL, ES, FR, HR, HU, IE, IT, MK, NL, PL, RO, SI, SK.

-Consent Issues PR: AT, BE, CZ, EE, EL, FR, HR, IE, IT, LT, MK, NL, PT, RO, SI, SK.

-Refund issues PR: AT, BE, DE, EL, ES, FR, IE, IT, MK, NL, PL, RO, SI, SK.

-Cancellation Issues PR: AT, BE, EL, HU, IE, LV, NL, PT, RO, SI, SK.

-Lack of information before ordering PR: AT, BG, DE, EE, FR, HU, IE, MK, NL, RO, SI.

-Mistake PR: AT, BE, CZ, DE, HU, IE, NL, PL, RO, SI, SK.

-Lack of billing transparency PR: AT, DE, FR, HU, IE, NL, RO, SI.

-Charging issues DCB: AT, BG, CZ, DE, DK, ES, FI, IE, LT, PL, PT.

-Fraud DCB: AT, BG, CZ, DE, DK, ES, ES, IE, IT, PT. -Consent Issues DCB: AT, BG, CZ, DE, DK, ES, IE, IT, LT, PT.

-Refund issues DCB: AT, BG, DE, DK, ES, IE, IT, PL, PT.

-Cancellation Issues DCB: DE, BG, AT, PT, IE, ES AT, BG, DE, ES, IE, PT.

-Lack of information before ordering DCB: AT, BG, DE, DK, ES, IE, PT.

-Mistake DCB: AT, CZ, DE, IE, PL.

-Lack of billing transparency DCB: AT, BG, DE, IE, PT.

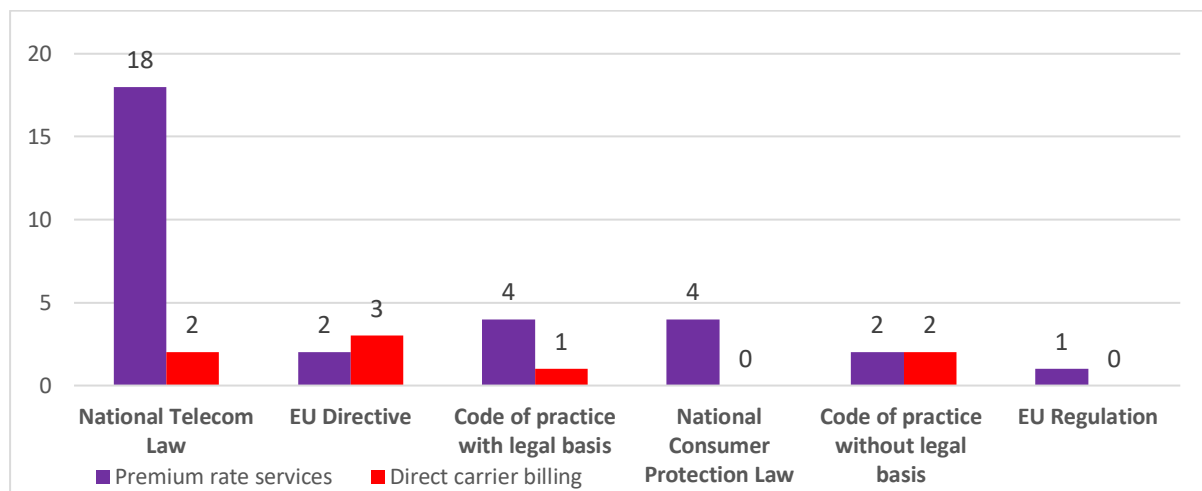
<sup>46</sup> Also see Annex 5 of this Report.

<sup>47</sup> Report on the outcomes of the Public consultation on the draft Report on how to handle third-party payment charges on mobile phone bills

44. The majority of countries (twenty four (24) out of twenty eight (28) respondents<sup>48</sup>) indicated that they have a definition for PRS. This definition is, in most cases, established by national telecommunications legislation (which was confirmed by eighteen (18) countries<sup>49</sup>) but can also be found in national consumer protection law<sup>50</sup> and codes of practice with a legal basis (mentioned by four (4)<sup>51</sup> countries each). Among other less mentioned sources were an EU Directive<sup>52</sup>, EU regulation<sup>53</sup> and codes of practice without legal basis<sup>54</sup>.

45. Only six (6) countries<sup>55</sup> confirmed that they have a definition for DCB which originates from an EU Directive<sup>56</sup>, national telecommunications law<sup>57</sup>, codes of practice with<sup>58</sup> or without legal basis<sup>59</sup>.

**Figure 5 - Source of definitions regarding premium rate services and direct carrier billing**



## 2.4 Responsibilities

46. In almost all countries, NRAs/competent authorities have responsibilities regarding premium rate calls (twenty six (26)<sup>60</sup> out of twenty eight (28) respondents) and premium rate SMS/MMS (twenty four (24)<sup>61</sup> out of twenty eight (28) respondents). NRAs/competent authorities have a role in DCB to a lesser extent (ten (10) respondents<sup>62</sup> out of twenty-eight (28)).

<sup>48</sup> AT, BE, BG, DE, EE, EL, ES, FI, FR, FY, HR, HU, IE, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK, SI.

<sup>49</sup> AT, BE, BG, DE, ES, FI, FY, HR, HU, IE, LT, NL, NO, PL, PT, RO, SK, SI.

<sup>50</sup> ES, IT, LV, PT.

<sup>51</sup> EL, IE, IT, MT.

<sup>52</sup> EE, PT.

<sup>53</sup> EE.

<sup>54</sup> BE, NL.

<sup>55</sup> AT, EL, ES, FI, IT, PT.

<sup>56</sup> EL, ES, PT.

<sup>57</sup> AT, FI.

<sup>58</sup> IT.

<sup>59</sup> BE, PT.

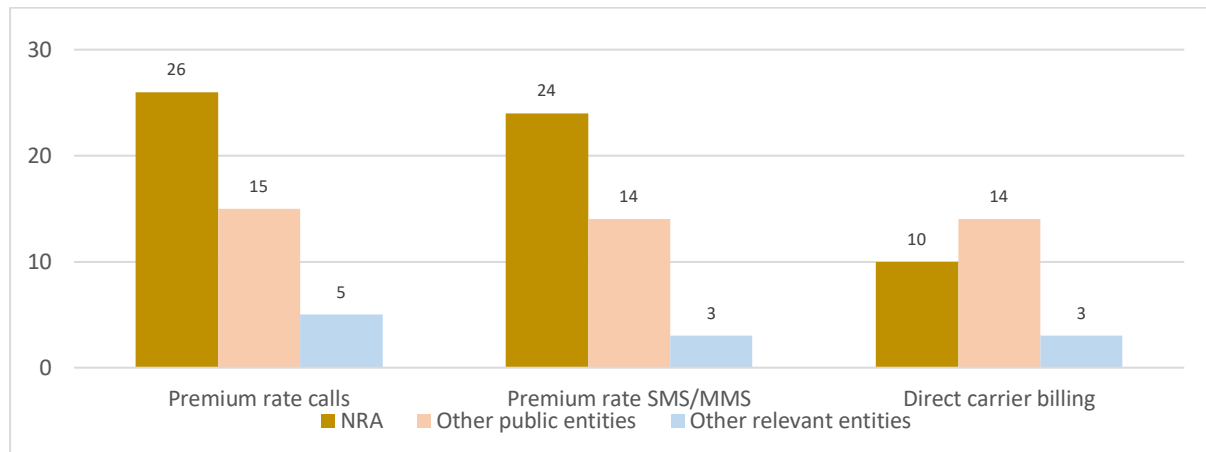
<sup>60</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, FY, HR, HU, IE, IT, NO, RO, LT, LV, MT, NL, PL, PT, SE, SK, SI.

<sup>61</sup> AT, BE, CY, DE, EE, EL, ES, FI, FY, HR, HU, IE, IT, LT, LV, MT, NL, NO, PL, PT, RO, SE, SK, SI.

<sup>62</sup> AT, BE, CY, DE, EE, FI, IE, IT, NL, SE.

47. In almost half of the countries, there are other public entities with more responsibility than their NRAs for certain areas as follows: premium rate calls (fifteen (15)<sup>63</sup> respondents), premium rate SMS/MMS (fourteen (14)<sup>64</sup> respondents) and DCB (fourteen (14)<sup>65</sup> respondents). In some countries, there are other relevant entities acting over these areas<sup>66</sup>.

**Figure 6 – Entities with responsibilities regarding premium rate services and direct carrier billing**



48. The vast majority of NRAs/competent authorities have powers to act on electronic communications service providers. Those powers cover a broad spectrum of competencies such as regulation<sup>67</sup> and inspection<sup>68</sup> (indicated by twenty three (23) countries each), sanctioning<sup>69</sup> and receiving and answering complaints or enquiries<sup>70</sup> (mentioned by twenty two (22) countries each), information provision and collection (referenced by eighteen (18)<sup>71</sup> and sixteen (16)<sup>72</sup> countries, respectively). Fewer NRAs have powers for dispute resolution, either resolution on a voluntary basis (thirteen (13)<sup>73</sup> countries) or on a mandatory basis (twelve (12) countries<sup>74</sup>).

49. In around one third of the countries, NRAs/competent authorities also have responsibilities for PRS content providers, mainly regarding receiving and answering complaints or enquiries (ten (10) countries<sup>75</sup>), regulation (nine (9) countries<sup>76</sup>), inspection (eight (8) countries<sup>77</sup>), sanctioning (seven (7) countries<sup>78</sup>), information provision (seven (7)

<sup>63</sup> AT, BE, BG, CY, EE, EL, ES, FI, FR, HU, IT, NO, PL, RO, SK.

<sup>64</sup> AT, BE, BG, CY, EE, EL, ES, FI, FR, HU, IT, PL, RO, SK.

<sup>65</sup> BE, BG, CY, EE, EL, ES, FI, FR, HU, IT, LT, PL, PT, RO.

<sup>66</sup> CY, EL, FI, NL (for premium rate calls) and CY, EL, NL (for premium rate SMS/MMS and direct carrier billing).

<sup>67</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT; LV, MT, NL, NO, PT, RO, SK, SI.

<sup>68</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, MT, NL, PL, PT, RO, SE, SK, SI.

<sup>69</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, MT, NL, NO, PL, PT, RO, SK.

<sup>70</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK.

<sup>71</sup> AT, BE, BG, CY, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, MT, NL, PT, RO.

<sup>72</sup> AT, BE, BG, CY, EL, ES, FI, FR, HR, IT, LT; MT, NL, NO, PT, RO.

<sup>73</sup> AT, BE, BG, CY, DE, ES, IE, IT, FI, MT, LT, PL, SK.

<sup>74</sup> AT, BG, CY, EL, ES, FI, FR, HR, IT, LT, MT, NL.

<sup>75</sup> AT, BE, EE, ES, HR, IE, MT, NL, PT, SI.

<sup>76</sup> AT, BE, EE, ES, HR, IE, MT, NL, PT.

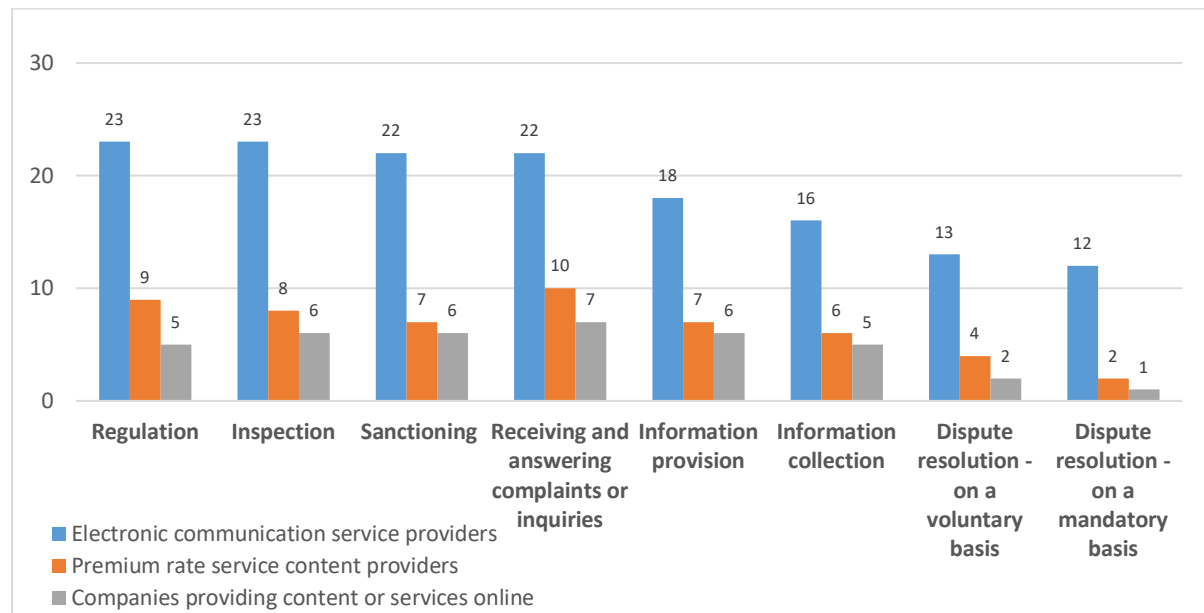
<sup>77</sup> AT, BE, EE, ES, HR, IE, NL, PT.

<sup>78</sup> AT, BE, EE, HR, IE, NL, PT.

countries<sup>79</sup>) and information collection (six (6) countries<sup>80</sup>). Dispute resolution on a voluntary basis<sup>81</sup> and on a mandatory basis<sup>82</sup> were less frequently mentioned.

50. Fewer NRAs/competent authorities have powers to act against companies providing content or services online. In six (6) countries, these powers cover receiving and answering complaints or enquiries<sup>83</sup>, in six (6) further countries they cover inspection<sup>84</sup>, sanctioning<sup>85</sup> and information provision<sup>86</sup>, and in five (5) countries they cover regulation<sup>87</sup> and information collection<sup>88</sup>. There are even fewer NRAs/competent authorities with responsibilities for voluntary or mandatory dispute resolution<sup>89</sup>.

**Figure 7 – NRAs responsibilities regarding companies**



51. Almost one third of the NRAs who responded to the BEREC questionnaire confirmed that Consumer Protection Authorities have the power to sanction (ten (10) out of twenty eight (28) respondents<sup>90</sup>) and inspect (nine (9) respondents<sup>91</sup>) providers of both PRS and DCB. Fewer respondents indicated that the Consumer Protection Authorities also have powers for regulation and information provision<sup>92</sup>, information collection<sup>93</sup>, handling complaints and voluntary dispute resolution<sup>94</sup>. In two (2) countries, these Authorities only have powers

<sup>79</sup> EE, HR, IE, MT, NL, PL, PT.

<sup>80</sup> ES, HR, MT, NL, PL, PT.

<sup>81</sup> AT, BE, IE, MT.

<sup>82</sup> HR, PT.

<sup>83</sup> AT, EL, EE, IE, MT, NL.

<sup>84</sup> AT, EE, EL, IE, NL.

<sup>85</sup> EE, EL, IE, NL, SI.

<sup>86</sup> EE, EL, IE, MT, NL.

<sup>87</sup> AT, EE, EL, IE, NL.

<sup>88</sup> EL, MT, NL, SI.

<sup>89</sup> IE, MT (for voluntary dispute resolution) and EL (for mandatory dispute resolution).

<sup>90</sup> BE, BG, CY, EL, FI, FR, NL, PL, RO.

<sup>91</sup> BE, CY, EL, FI, FR, NL, PL, RO.

<sup>92</sup> BE, CY, FI, NL.

<sup>93</sup> FR, FI, NL.

<sup>94</sup> NL.



over DCB covering regulation, inspection, sanctioning, information provision and collection<sup>95</sup>, and in one (1) country also covering complaints handling and voluntary dispute resolution<sup>96</sup>. Two (2) countries confirmed that these Authorities only have responsibilities for PRS, including regulation, inspection and sanctioning<sup>97</sup>, and one (1) country confirmed it included also information provision and collection<sup>98</sup>.

52. Financial Services Authorities were mentioned by two (2) countries<sup>99</sup> as being responsible for DCB with their powers covering inspection, regulation, information provision and collection. In one (1) country<sup>100</sup>, they also have sanctioning powers. One (1) respondent confirmed that the specific national administrative authority has responsibilities over PRS<sup>101</sup> or both PRS and DCB<sup>102</sup>.
53. Governments were mentioned to have responsibilities over PRS in three (3) countries with powers relating to inspection and sanctioning<sup>103</sup>, regulation and information collection<sup>104</sup> and information provision<sup>105</sup>. Three (3) respondents indicated that their Governments have regulation competencies over both PRS and DCB<sup>106</sup> and one (1) country confirmed that its Government also has information collection and provision competencies<sup>107</sup>.

## 2.5 Collecting information

54. In most countries (seventeen (17)<sup>108</sup> out of twenty-eight (28)), information about PRS is collected by NRAs/competent authorities, but only three (3) NRAs/competent authorities<sup>109</sup> collect information regarding DCB. The collection of information about PRS and DCB has a legal basis in nineteen (19)<sup>110</sup> and in six (6)<sup>111</sup> countries, respectively.
55. The majority of NRAs/competent authorities collect information from electronic communications services providers, including revenues (sixteen (16)<sup>112</sup> out of twenty eight (28) countries), complaints (thirteen (13) countries<sup>113</sup>) and the number of subscribers/users (eleven (11) countries<sup>114</sup>). Fewer NRAs/competent authorities collect information from

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<sup>95</sup> PT, LT.

<sup>96</sup> LT.

<sup>97</sup> ES, SK.

<sup>98</sup> ES.

<sup>99</sup> FI, PT.

<sup>100</sup> PT.

<sup>101</sup> SK – the Gambling Regulatory Authority.

<sup>102</sup> FR.

<sup>103</sup> AT, ES, IT.

<sup>104</sup> ES, IT.

<sup>105</sup> ES.

<sup>106</sup> HU, PT, PL.

<sup>107</sup> PT.

<sup>108</sup> BE, BG, CY, EL, ES, FR, FY, HR, IE, IT, LT, LV, MT, PL, PT, NO, RO.

<sup>109</sup> BE, DE, IT.

<sup>110</sup> BE, BG, CY, EL, ES, FI, FR, FY, HR, IE, IT, LT, LV, MT, NL, NO, PL, PT, RO.

<sup>111</sup> BE, DE, ES, FI, IT, NL.

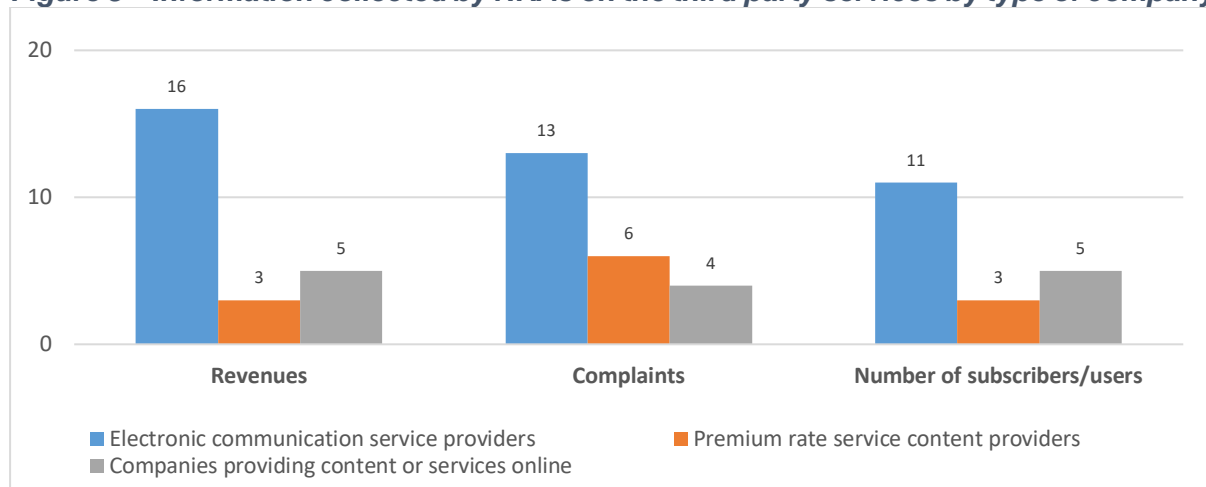
<sup>112</sup> BE, BG, CY, DE, EL, ES, FR, HR, IE, IT, LT, NL, NO, PL, PT, RO.

<sup>113</sup> BE, BG, CY, DE, EL, ES, HR, IT, LV, MT, NL, PT, SI.

<sup>114</sup> BE, BG, CY, EL, ES, IT, LT, NL, NO, PT, RO.

PRS content providers<sup>115</sup> - mostly about complaints, and information from companies providing content or services online<sup>116</sup>.

**Figure 8 – Information collected by NRAs on the third party services by type of company**



56. In most countries there are no other entities apart from the NRAs collecting relevant information. Four (4) countries<sup>117</sup> confirmed that other entities collect information about PRS and two (2) countries<sup>118</sup> indicated that other entities collect information about DCB.

### 3. Consumer Protection Measures

#### 3.1 Information and transparency measures or tools

57. BEREC asked NRAs/competent authorities about information and transparency measures or tools for PRS and DCB. The significant majority of NRAs/competent authorities (twenty five (25) NRAs/competent authorities<sup>119</sup>) indicated that measures or tools for PRS are in place, and only nine (9) NRAs/competent authorities<sup>120</sup> indicated that there are such measures or tools for DCB. It is evident that fewer NRAs/competent authorities have competences related to DCB than competences related to PRS. Below is a summary of the types of measures and tools adopted by Member States:

- **Cost of PRS** - all twenty five (25) NRAs/competent authorities<sup>121</sup> which answered this part of the questionnaire indicated that there is an obligation to clearly state the cost of the PRS, while eight (8) NRAs/competent authorities<sup>122</sup> indicated that the same obligation for DCB exists.

<sup>115</sup> HR, NL, PT (about revenues); IT, NL, PT (about the number of subscribers/users); and ES, IT, MT, NL, PT, SI (about complaints).

<sup>116</sup> EL, ES, HR, NL, PT (about revenues); EL, ES, IT, NL, PT (about the number of subscribers/users); and EL, IT, NL, PT (about complaints).

<sup>117</sup> BE, EL, ES, PT.

<sup>118</sup> BE, PT.

<sup>119</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, MK, MT, NL, NO, PL, PT, RO, RS, SE, SK.

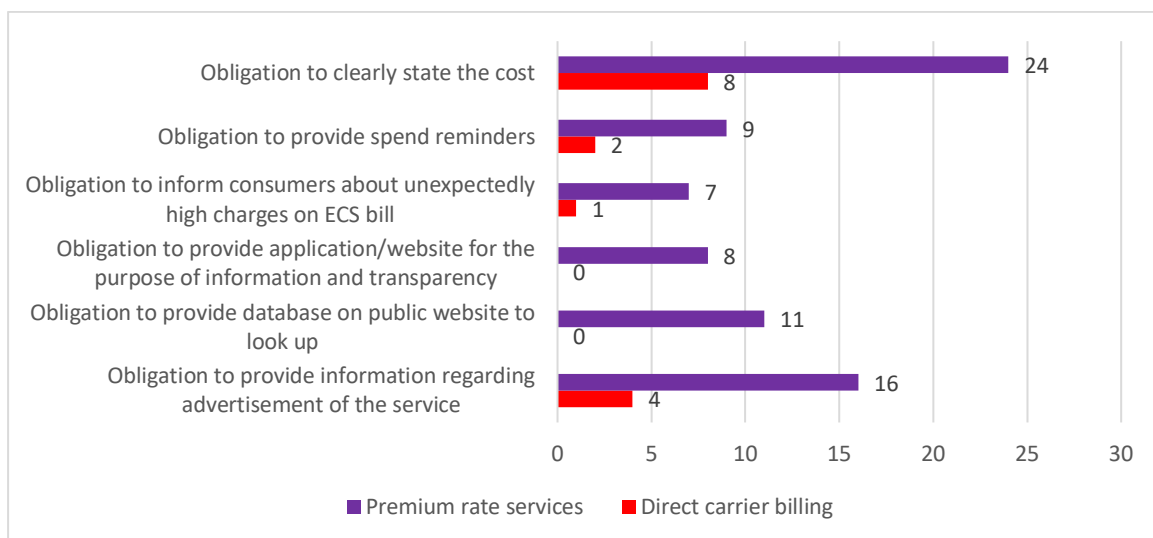
<sup>120</sup> BE, DE, EE, FI, FR, IE, IT, RO, SE.

<sup>121</sup> AT, BE, BG, CY, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, MK, MT, NL, NO, PL, PT, RO, RS, SE, SK.

<sup>122</sup> DE, EE, FI, FR, IE, IT, RO, SE.

- **Spend reminders** - nine (9) NRAs/competent authorities<sup>123</sup> confirmed that there is an obligation to provide spend reminders for PRS and just two (2) NRAs (IE, IT) indicated that there is the same obligation for DCB.
- **Informing consumers about unexpectedly high charges** - seven (7) NRAs/competent authorities<sup>124</sup> specified that there is an obligation to inform consumers about unexpectedly high charges on an electronic communication services bill due to PRS and only one (1) NRA (BE) indicated that for DCB there is the same obligation.
- **Information requirements online** - eight (8) NRAs/competent authorities<sup>125</sup> specified that there is an obligation to provide an application or website for the purpose of information and transparency for PRS, and eleven (11) NRAs/competent authorities<sup>126</sup> confirmed that there is an obligation to provide a database on a public website to look up premium rate services. No NRA/competent authority indicated that there are similar obligations regarding DCB in their country.
- **Advertisement requirements** - Seventeen (17) NRAs/competent authorities<sup>127</sup> indicated that there is an obligation to provide information regarding the advertisement of PRS, and four (4) NRAs/competent authorities (EE, FR, IE, IT) specified that this obligation exists for DCB too.

**Figure 9 - Information and transparency measures and tools**



#### 58. Service acceptance process:

- **Detailed information regarding the service** – in respect to information that must be provided to end-users in the process of service acceptance, eighteen (18) NRAs/competent authorities<sup>128</sup> confirmed the obligation to provide end-users with

<sup>123</sup> AT, BE, EL, HR, IE, IT, LT, NL, RO.

<sup>124</sup> BE, CY, HU, HR, LT, MK, NL.

<sup>125</sup> AT, BG, CY, ES, FR, HR, NL, PT.

<sup>126</sup> AT, BE, BG, EL, FR, HU, IT, NL, PT, RO, SE.

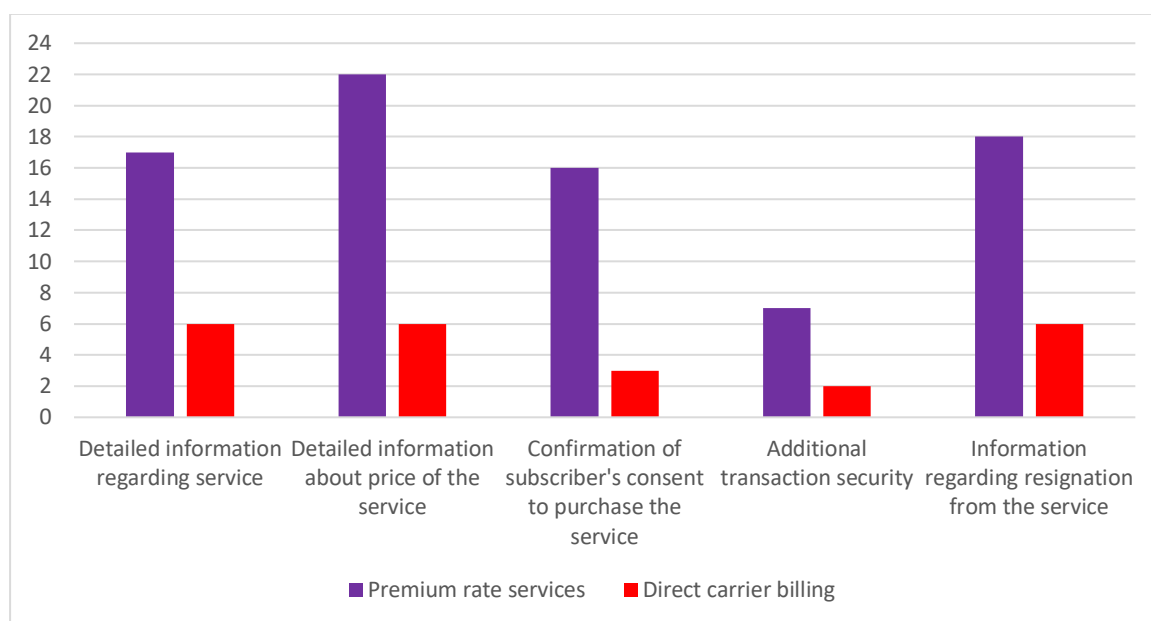
<sup>127</sup> AT, BE, CY, DE, EE, EL, FR, HU, HR, IE, IT, MK, MT, NL, PT, RS, SK.

<sup>128</sup> AT, BE, CY, EE, ES, EL, FR, HR, IE, IT, LT, MK, NL, PL, PT, RO, RS, SK.

detailed information regarding PRS, and six (6) NRAs/competent authorities<sup>129</sup> indicated the same obligation for DCB.

- **Detailed price of the service** – twenty three (23) NRAs/competent authorities<sup>130</sup> indicated detailed information regarding the price of PRS and six (6) NRAs/competent authorities<sup>131</sup> confirmed that there is the same obligation for DCB.
- **Consent to purchase** – seventeen (17) NRAs/competent authorities<sup>132</sup> specified that there is an obligation to provide end-users with the confirmation of a subscriber's consent to purchase PRS and three (3) NRAs/competent authorities (EE, IE, IT) indicated that the same obligation for DCB is in place.
- **Transaction security** – seven (7) NRAs/competent authorities<sup>133</sup> confirmed that there is also an obligation to provide end-users with information on additional transaction security for PRS, while two (2) NRAs (EE, IE) indicated that the same obligation exist for DCB.
- **Resignation from the service** – NRAs/competent authorities were asked about the obligation to provide end-users with detailed information regarding the resignation from the service. Nineteen (19) NRAs/competent authorities<sup>134</sup> confirmed the existence of this obligation for PRS and six (6) NRAs/competent authorities<sup>135</sup> confirmed the same for DCB.

**Figure 10 - Obligation to provide in an acceptance process**



- **Legal basis** - when asked about the legal basis of the obligations for PRS, nineteen (19) NRAs/competent authorities<sup>136</sup> confirmed that the legal basis of these obligations is set out in law, whilst four (4) NRAs/competent authorities (EL, IE, MT, SE) referred to a Code of Practice and three (3) NRAs/competent authorities (BG, CY, MK)

<sup>129</sup> EE, FR, IE, IT, PL, SE.

<sup>130</sup> AT, BE, BG, CY, DE, EE, EL, ES, FR, HR, HU, IE, IT, LT, MK, NL, NO, PL, PT, RO, RS, SE, SK.

<sup>131</sup> EE, IE, IT, FR, PL, RO.

<sup>132</sup> AT, BE, CY, EE, EL, ES, HR, IE, IT, LT, MK, NL, NO, PT, RO, RS, SK.

<sup>133</sup> CY, EE, EL, HR, IE, MK, NL.

<sup>134</sup> BE, CY, EE, EL, ES, FR, HR, HU, IE, IT, LT, MK, NL, NO, PL, PT, RO, RS, SK.

<sup>135</sup> EE, IE, IT, FR, PL, RO.

<sup>136</sup> AT, BE, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, NL, NO, PL, PT, RO, RS, SK.

indicated that there is another legal basis. When asked the same question about the legal basis for DCB, seven (7) NRAs/competent authorities<sup>137</sup> indicated that the legal basis for the obligations is provided by law with four (4) NRAs/competent authorities (IE, IT, PT, SE) confirming that the legal basis is a Code of Practice.

### 3.2 Detailed billing

59. BEREC asked NRAs/competent authorities if in their country there is an obligation, interpreted in a broad sense (for example in law or a Code of Practice), to provide detailed billing for PRS and for DCB. Of the twenty six (26) responses to the question on PRS, twenty two (22) NRAs/competent authorities<sup>138</sup> indicated that there is an obligation to provide detailed billing for PRS and of the twenty (20) responses about DCB ten (10) NRAs/competent authorities<sup>139</sup> indicated that there is such an obligation in their country.

60. NRAs/competent authorities were also asked about specific rules regarding detailed billing. The activation of detailed billing takes place at the subscriber's request in ten (10) countries<sup>140</sup> for PRS, and in five (5) countries<sup>141</sup> for DCB; and when the spending thresholds are reached, in four (4) countries (LV, NL, PT, SE) for PRS, while in two (2) countries (PT, SE) for DCB.

61. NRAs/competent authorities also indicated that specific information should be included in the detailed billing for PRS and for DCB, such as the full name of the service or content, the full name of the service provider, the total cost of the service and the contact information for the provider of the service. NRAs/competent authorities responses are presented in the table below.

**Figure 11 - Obligation to include information in the detailed billing**

Specific information	Full name of the service or content	Full name of service provider	Total cost of the service	Contact information to the provider of the service
Obligation to include in the detailed billing for PRS	8 (DE, ES, FR, HR, LT, MT, NL, PT)	8 (DE, ES, FI, FR, HR, LT, NL, PT)	17 (AT, BE, BG, DE, EL, ES, FI, FR, IT, LT, MT, NL, NO, PL, PT, RO, SK)	4 (DE, ES, NL, PT)
Obligation to include in the detailed billing for DCB	3 (DE, FR, PT)	3 (DE, FR, PT)	6 (BE, BG, DE, FR, PT, RO)	2 (DE, PT)

62. The NRAs/competent authorities were also asked whether there are any restrictions regarding the use of general terms as a name of the service, for example 'electronic services' for PRS or DCB, in their countries. Three (3) NRAs/competent authorities (FR,

<sup>137</sup> BE, DE, EE, FI, FR, IE, RO.

<sup>138</sup> AT, BE, BG, DE, EL, ES, FI, FR, HR, IE, IT, LT, LV, MT, NL, NO, PL, PT, RO, RS, SE, SK.

<sup>139</sup> BE, BG, DE, FI, FR, IE, IT, PT, RO, SE.

<sup>140</sup> BG, DE, EL, ES, LT, NL, PL, PT, RO, SE.

<sup>141</sup> BG, DE, PT, RO, SE.

NL, PT) confirmed such a restriction for PRS and two (2) NRAs/competent authorities (FR, PT) specified that there is such a restriction for DCB in their countries.

63. NRAs/competent authorities were also asked if there is an obligation to provide a separate bill for PRS and DCB. Two (2) NRAs/competent authorities (ES, IT) indicated that there is such an obligation for PRS but no (0) NRA/competent authority indicated that there is a similar obligation for DCB.

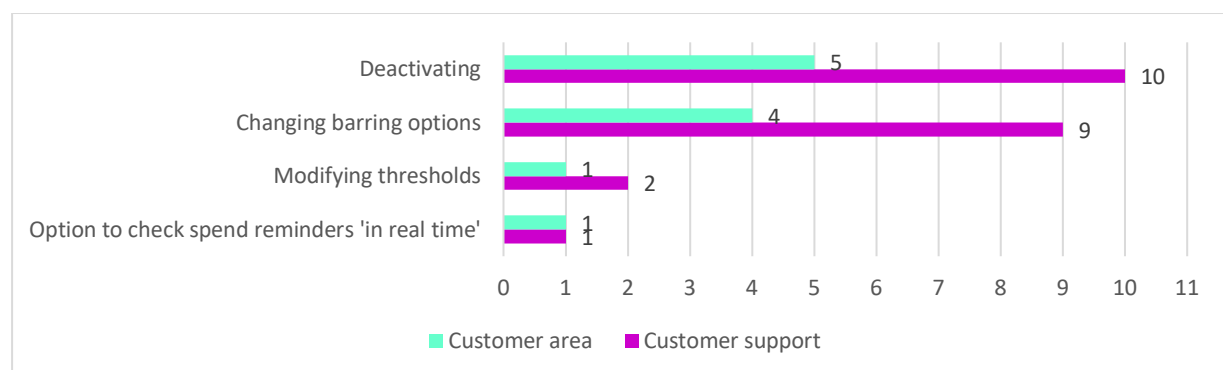
### 3.3 Available services

64. When asked about the obligation to provide end-users with facilities aimed at managing PRS and DCB, twelve (12) NRAs/competent authorities<sup>142</sup> confirmed that there is such an obligation regarding PRS and three (3) NRAs/competent authorities (IT, FI, NL) stated that there is such an obligation for DCB.

65. NRAs/competent authorities were asked about whether there is an obligation to provide various services via a customer area (e.g. a website, an application) and via customer support (e.g. by email, telephone number, chat). The possibility of checking a bill via the customer area was confirmed by six (6) NRAs/competent authorities<sup>143</sup>, while seven (7) NRAs/competent authorities<sup>144</sup> indicated that a bill could be checked via customer support. Seven (7) NRAs/competent authorities<sup>145</sup> confirmed that there is a customer area and another set of seven (7) NRAs/competent authorities<sup>146</sup> also indicated customer support as means of providing information about the service. Five (5) NRAs/competent authorities<sup>147</sup> confirmed a customer area, and six (6) NRAs/competent authorities<sup>148</sup> indicated customer support, as a means for providing subscriber care details.

66. NRAs/competent authorities were asked about the available services separately for PRS and DCB. NRAs responses are presented in the charts below.

**Figure 12 - Available services for end-users regarding PRS**



<sup>142</sup> BE, CY, FI, FR, HU, IE, IT, MT, NL, NO, RS, SK.

<sup>143</sup> FR, HR, IE, MT, NL, RS.

<sup>144</sup> CY, FR, HR, IE, IT, MT, NL.

<sup>145</sup> CY, ES, FR, HR, IE, NL, RS.

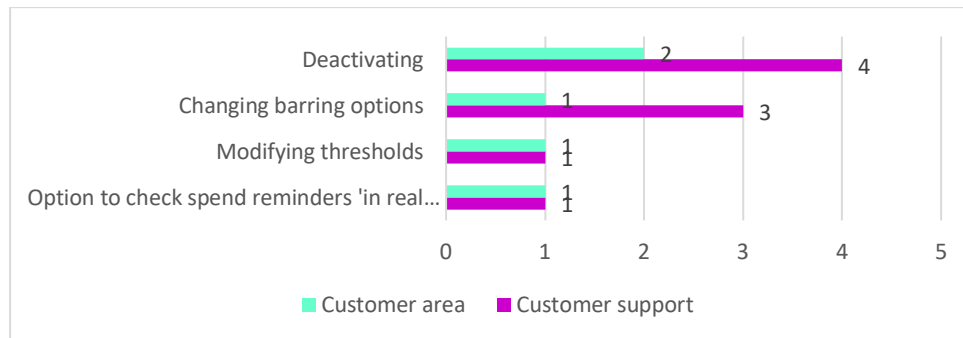
<sup>146</sup> CY, FR, HR, IE, IT, MT, NL.

<sup>147</sup> CY, FR, IE, HR, NL.

<sup>148</sup> CY, FR, IE, HR, MT, NL.

67. As evident in the chart above, when asked about the possibility of deactivating PRS, five (5) NRAs/competent authorities<sup>149</sup> indicated that an end-user can deactivate PRS via a customer area and ten (10) NRAs/competent authorities<sup>150</sup> confirmed that the same can be done via customer support. Five (5) NRAs/competent authorities (CY, HR, NL, RS, SK) stated that it is possible to change barring options for PRS via the customer area and ten (10) NRAs/competent authorities<sup>151</sup> indicated that it can be done via customer support. Only one (1) NRA (HR) confirmed that thresholds for PRS can be modified via the customer area as well as via customer support.

**Figure 3 - Available services for end-user for DCB**



68. As showed in the chart above, when asked about the possibility of deactivating DCB, two (2) NRAs/competent authorities (HR, NL) confirmed that the end-user can deactivate DCB via the customer area and four (4) NRAs/competent authorities (HR, IE, IT, NL) indicated that the same can be done via customer support. One (1) NRA (HR) stated that it is possible to change barring options for DCB via the customer area and three (3) NRAs/competent authorities (CY, HR, IT) confirmed it could be arranged via customer support. Only one (1) NRA (HR) confirmed that there is a possibility of modifying thresholds for DCB via the customer area as well as via customer support. Finally, only one (1) NRA (HR) stated that there is an option to check spend reminders 'in real time' for DCB via the customer area as well as via customer support.

69. NRAs/competent authorities were asked by BEREC about who provides end-users with access to the services mentioned above. Regarding the facility to check a bill, one (1) NRA (CY) confirmed that this facility for PRS is made available to the end-users by the NRA, three (3) NRAs/competent authorities (CY, MT, RS) indicated that the facility is made available by mobile service operators, while six (6) NRAs/competent authorities<sup>152</sup> confirmed that the mobile service operators make the facility available for PRS and DCB. Additionally, two (2) NRAs (NL, SE) specified that the facility to check bills for PRS and for DCB is made available by content providers.

70. One (1) NRA/competent authority (CY) reported that the NRA provides service information about PRS, and one other NRA (IE) indicated that it provides service information for both PRS and DCB services. Three (3) NRAs/competent authorities (HU, MT, RS) confirmed that mobile service operators provide service information about PRS, one (1) NRA (IT) specified that mobile service operators provide service information for DCB, while four (4) NRAs/competent authorities (FR, IE, NL, SE) indicated that mobile service operators provide information about both PRS and DCB. Further, two (2) NRAs/competent

<sup>149</sup> CY, FR, HR, NL, RS.

<sup>150</sup> BE, CY, FR, HR, HU, IE, IT, MT, NL, RS.

<sup>151</sup> BE, CY, HR, HU, IE, IT, MT, NL, RS, SK.

<sup>152</sup> FI, FR, IE, IT, NL, SE.

authorities (HU, MT) confirmed that content providers provide service information for PRS, and four (4) NRAs/competent authorities (FR, IE, NL, SE) indicated that mobile service operators provide information about both PRS and DCB.

71. One (1) NRA (CY) confirmed that it provides subscriber with care details for PRS and another NRA (IE) confirmed that it provides subscriber with care details for both PRS and DCB. One (1) NRA/competent authority (MT) specified that mobile service operators provide subscriber care details for PRS and four (4) NRAs/competent authorities (FR, IE, NL, SE) indicated that mobile service operators provide such information about both PRS and DCB. Additionally, two (2) NRAs/competent authorities (HU, MT) specified that content providers provide subscriber care details for PRS, while four (4) NRAs/competent authorities (FR, IE, NL, SE) indicated that mobile service operators provide such information about both PRS and DCB.
72. NRAs/competent authorities were also asked who is providing end-users with the facility to deactivate PRS. One (1) NRA (CY) confirmed it provides this facility to end-users, ten (10) NRAs/competent authorities<sup>153</sup> indicated that mobile service operators make the facility available to end-users, while three (3) NRAs/competent authorities (HU, IE, NL) specified that content providers facilitate end-users deactivating PRS. NRAs/competent authorities also answered a question about who is providing end-users with a facility to change barring options for PRS. In this case, one (1) NRA (CY) indicated that it is the NRA, nine (9) NRAs/competent authorities<sup>154</sup> confirmed it is the mobile service operators, and two (2) NRAs/competent authorities (IE, SE) indicated that it is the content providers. When asked about who provides a facility to modify thresholds for PRS, two (2) NRAs/competent authorities (BE, IT) indicated that it is the mobile service operators. None of the NRAs reported that there is a facility to check spend reminders 'in real time'.
73. The same questions were asked regarding DCB. Three (3) NRAs/competent authorities (IE, IT, NL) confirmed that a facility to deactivate DCB is provided by the mobile service operators, as well as by content providers. Two (2) NRAs/competent authorities (FI, IT) stated that a facility to change barring options for DCB is provided by the mobile service operators.
74. BEREC asked NRAs/competent authorities whether DCB services are made available by mobile service operators. Most NRAs/competent authorities answered affirmatively to this question. Eleven (11) NRAs/competent authorities<sup>155</sup> confirmed that all mobile service operators make DCB services available, and eight (8) NRAs/competent authorities<sup>156</sup> indicated that only some of the operators make them available. Only four (4) NRAs/competent authorities (CY, HR, LV, MK) specified that in their country DCB services are not made available by mobile service operators.

### 3.4 Blocking

<sup>153</sup> BE, CY, FR, HU, IE, IT, MT, NL, NO, RS.

<sup>154</sup> BE, FI, HU, IE, IT, MT, NL, RS, SE.

<sup>155</sup> AT, BE, BG, DE, EE, EL, HU, LT, NL, NO, RS.

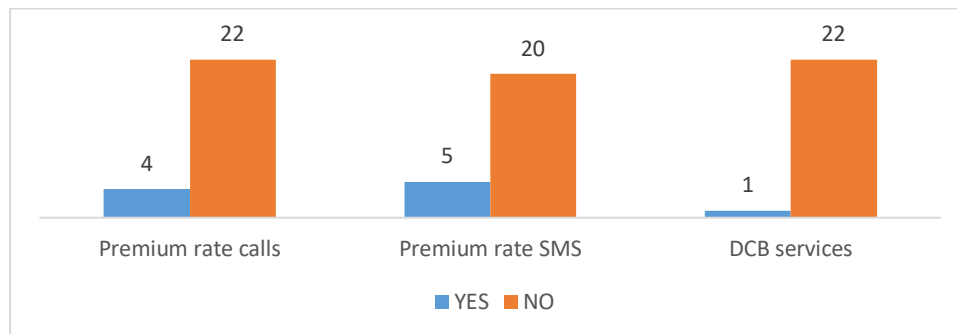
<sup>156</sup> CZ, FI, FR, IE, IT, PL, PT, RO.



75. In general, the blocking<sup>157</sup> of services can be part of a default setting or must be explicitly requested by the end-users. In the latter case, and depending on the national legislation, end-users can request the blocking of specific numbers or services or the blocking of a specific range of numbers or services.

76. BEREC asked NRAs/competent authorities whether there is an obligation in their country to provide a blocking facility as part of the default settings. Most of the NRAs reported that there is no such obligation. This obligation is in place in only five (5) countries for premium rate calls and SMS<sup>158</sup>, respectively, and in one (1) country for DCB services.<sup>159</sup>

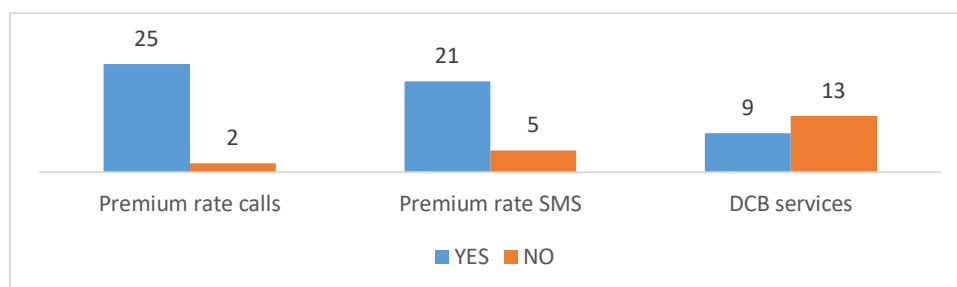
**Figure 14 - Blocking facilities as default settings**



77. On the other hand, the obligation to provide a blocking facility to end-users on request exists in most countries. Almost all NRAs/competent authorities have reported that this block is available on request for both premium calling<sup>160</sup> and SMS services<sup>161</sup>. None of the countries where the blocks are not available are planning to implement them.

78. Only nine (9) NRAs/competent authorities reported that this block is available on request for DCB services.<sup>162</sup> As for the 13 countries where this block is not available, three (3) NRAs/competent authorities indicated that they are planning to implement deactivation facilities for DCB.<sup>163</sup>

**Figure 15 - Blocking facilities on request**



<sup>157</sup> For the purpose of this report where reference is made to blocking of services it is understood from a consumer view point similar to barring a service and both refer to a facility to prevent a charge being applied by a third party service provider to the consumer's bill.

<sup>158</sup> MK, CY, HU, PT, LT.

<sup>159</sup> CY.

<sup>160</sup> DE, FR, MK, BE, NO, RO, CY, NL, BG, HU, MT, AT, LV, IT, PT, EL, LT, SK, IE, FI, EE, SE, PL, SI, ES.

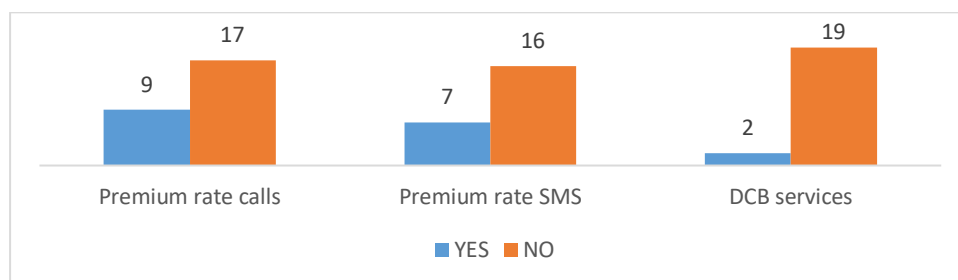
<sup>161</sup> FR, MK, BE, NO, RO, CY, NL, HU, AT, LV, IT, PT, EL, LT, SK, IE, FI, EE, SE, SI, ES.

<sup>162</sup> AT, CY, DE, EE, FI, IT, NL, PT, SE.

<sup>163</sup> BE, HU, PL.

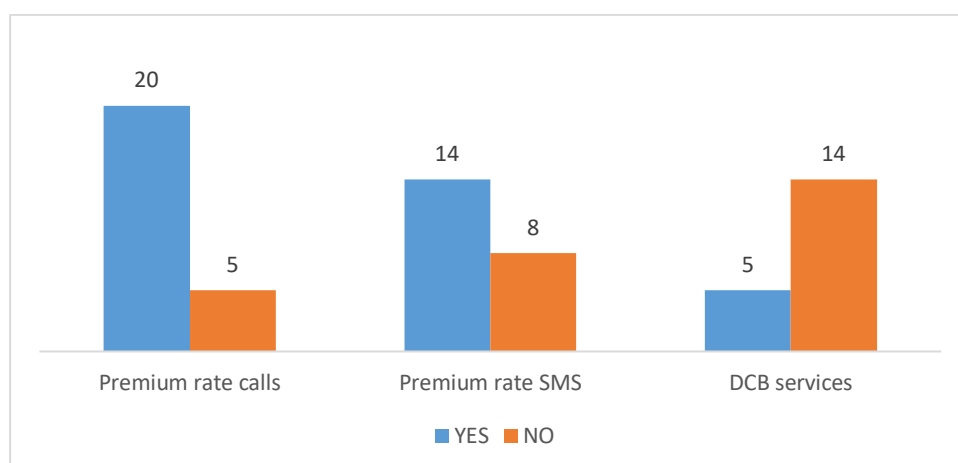
79. In addition, BEREC also asked NRAs/competent authorities whether there is an obligation to provide on request a blocking facility for specific, individual numbers/DCB services to end-users. Most of the NRAs/competent authorities replied that it is not possible to block specific numbers (calls and SMS) or DCB services in their country. Only in nine (9) and seven (7) countries this obligation is in place for premium rate calls<sup>164</sup> and SMS,<sup>165</sup> respectively. Finally, two countries have such an obligation for DCB services.<sup>166</sup>

**Figure 16 - Blocking facility for specific, individual numbers/DCB services**



80. However, most NRAs/competent authorities reported that there is a facility to block specific number ranges both for premium rate calls<sup>167</sup> and SMS.<sup>168</sup> Only five (5) NRAs/competent authorities reported that it is possible to block a specific range of DCB services<sup>169</sup> in their country.

**Figure 17 - Blocking facility for specific number ranges**



81. BEREC also asked NRAs/competent authorities how end-users make such a request. Most NRAs/competent authorities reported that a request can be made both via customer support (telephone, email, chat, etc.) and via customer area (self-care application, personal area via website). More precisely, as for PRS, in fifteen (15) countries, end-users can make this request both via customer support and via customer area;<sup>170</sup> while in seven (7) countries end-users can make this request only via customer support.<sup>171</sup> As for DCB

<sup>164</sup> MK (if it is technically possible for the operators), BG, CY, LV, NO, PT, EL, SE, SK.

<sup>165</sup> MK (if it is technically possible for the operators), CY, EL, LV, PT, SE, SK.

<sup>166</sup> CY, SE.

<sup>167</sup> AT, BE, BG, CY, DE, EL, ES, FI, HU, IT, MK, MT, NL, NO, PL, PT, RO, SE, SI, SK,

<sup>168</sup> AT, BE, CY, EL, ES, FI, HU, IT, MK, PT, RO, SE, SI, SK.

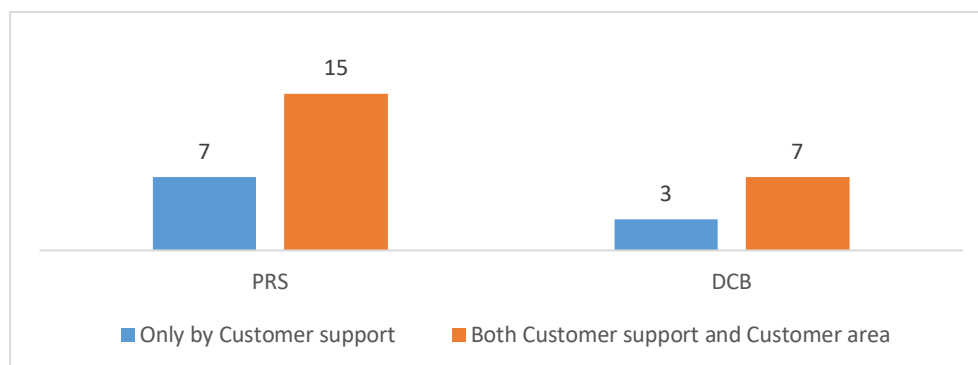
<sup>169</sup> CY, FI, IT, PT, SE.

<sup>170</sup> AT, BE, CY, DE, EE, ES, FI, FR, HR, HU, IE, LT, NL, PL, PT (n writing or via another durable medium).

<sup>171</sup> BG, EL, IT, LV, MK, MT, SK.

services, in seven (7) countries end-users can make this request both via customer support and via customer area<sup>172</sup>, while in three (3) countries end-users can make this request only via customer support<sup>173</sup>. No country indicated that the request can be made only via the customer area. Consequently, customer support remains the main method to make the request to block specific number ranges.

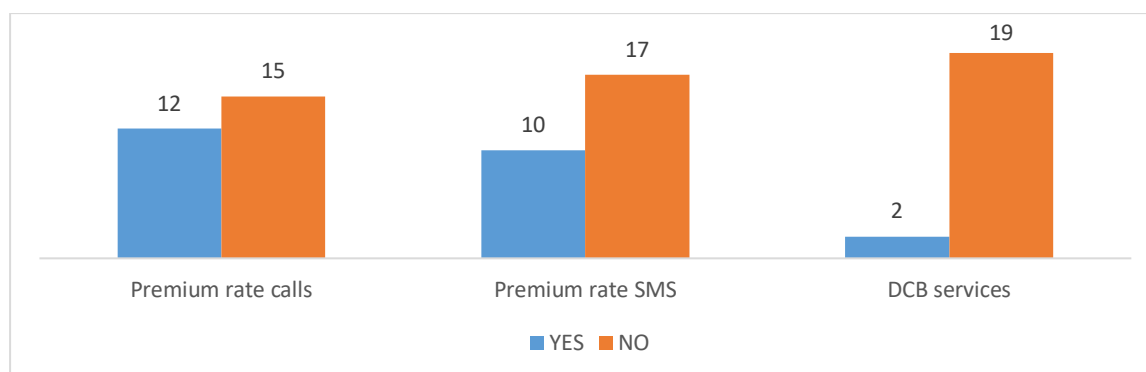
**Figure 18 - How to request blocking**



### 3.5 Threshold amount

82. BEREC asked NRAs/competent authorities whether there is an obligation to impose a threshold amount (spend limit) on PRS and DCB services. In most countries, there is no such an obligation. More precisely, and with reference to PRS calls and PRS SMS, this obligation is present in twelve (12)<sup>174</sup> and in ten (10)<sup>175</sup> countries, respectively. While for DCB, there is an obligation to impose a threshold amount in only two (2)<sup>176</sup> countries.

**Figure 19 - Threshold amount obligation**



83. As for PRS, in three (3) countries<sup>177</sup> the threshold is precisely established and expressed in terms of a monthly expense (on average 35 euros per month). In one (1) country<sup>178</sup> the threshold is set at €60 and just applies to PRS calls. In two (2) countries, the threshold is

<sup>172</sup> AT, CY, DE, FI, FR, , NL, PT.

<sup>173</sup> EE, IT, LT.

<sup>174</sup> BE, EL, HR, IE, IT, MK, NL, NO, PL, RO, SE, SI.

<sup>175</sup> EL, HR, IT, MK, NL, NO, PL, RO, SE, SI.

<sup>176</sup> BG, SE.

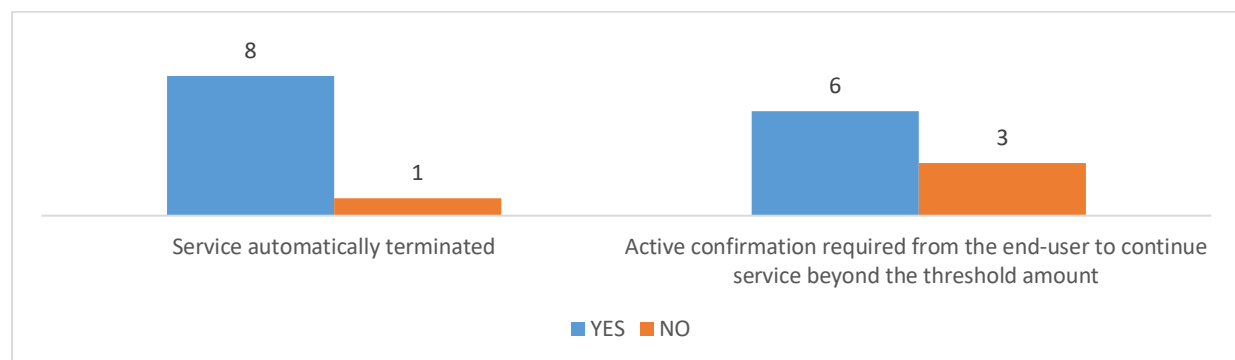
<sup>177</sup> IT, NL, NO.

<sup>178</sup> IE.

set and published by the electronic communication service provider<sup>179</sup>. In one country (1), the provider is obliged to offer at least three price limits to its subscribers<sup>180</sup>. In another country, the threshold is set as requested by the customer<sup>181</sup>. As for DCB services, the threshold is set at €300 per month and at €50 per single payment in one (1) country<sup>182</sup> or as requested by the customer in another (1) country.<sup>183</sup>

84. BEREC also asked NRAs/competent authorities to confirm what happens when the end-user has reached the threshold amount for the service. In eight (8) countries, the service terminates automatically<sup>184</sup>. In six (6) countries<sup>185</sup>, an active confirmation is required from the end-user to continue the service beyond the threshold amount. In particular, in one (1) country<sup>186</sup> there is an obligation to immediately inform the subscriber that the limit has been exceeded.

**Figure 20 - Consequences of reaching threshold amount**



### 3.6 Alert service

85. BEREC asked NRAs/competent authorities whether there is an obligation in their country to provide an alert service for anomalous traffic. Regarding PRS, only three (3) countries<sup>187</sup> have the obligation to provide an alert service for anomalous traffic, while as for DCB this obligation is present in only one country<sup>188</sup>. In two (2) of these countries<sup>189</sup>, the alert service is activated by default.

<sup>179</sup> RO, SI.

<sup>180</sup> PL (amounting to 0 PLN, 35 PLN, 100 PLN and 200 PLN).

<sup>181</sup> SE.

<sup>182</sup> BG.

<sup>183</sup> SE.

<sup>184</sup> BE, HR, IE, IT, MK, PL, RO, SI.

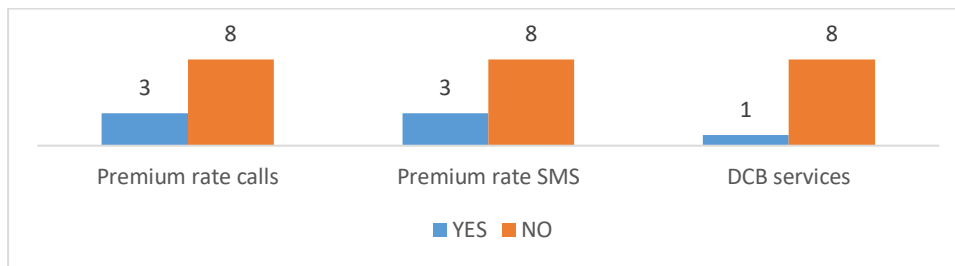
<sup>185</sup> EL, HR, PL, RO, SE, SI.

<sup>186</sup> PL.

<sup>187</sup> BE, MK, PT.

<sup>188</sup> BE.

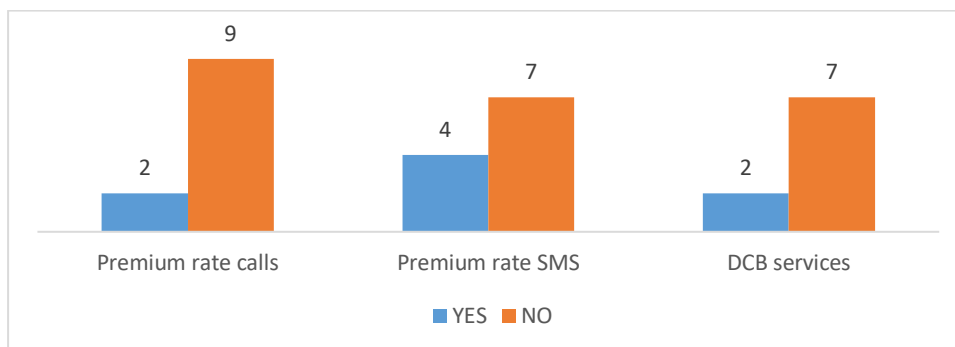
<sup>189</sup> BE, MK.

**Figure 21 - Alert service for anomalous traffic**

86. BEREC also asked NRAs/competent authorities to specify when the alert message must be sent by the provider (for example, when 80% of the threshold is reached).<sup>190</sup> In one country (MK), the alert is activated when around 100% (with VAT) of non-typical traffic/costs for individual subscriber is reached; for another country (BE), the alert service is not specific for PRS or DCB, but has to be applied for post-paid mobile subscriptions when the monthly flat rate is exceeded, and again when the monthly flat rate is exceeded by €50 (default setting). Customers must be given the option to change the €50 setting to a monthly flat rate + €0, + €75 or + €100. For another country (PT), the conditions of the alert of anomalous traffic depend on the provision of the contract.

### 3.7 Spend reminders

87. BEREC asked NRAs/competent authorities whether there is an obligation in their country to provide end-users with regular reminders to avoid bill shock (i.e. reminders that are regularly repeated in order to allow the end-users to exercise a control over their bills). Most NRAs/competent authorities replied that such an obligation does not exist. More precisely, for premium rate calls and SMS, the obligation is present in two (2) countries<sup>191</sup> and in four (4) countries,<sup>192</sup> respectively. Regarding DCB services, the obligation is present only in two (2) countries<sup>193</sup>.

**Figure22 - Spend reminders**

88. BEREC also asked NRAs/competent authorities to describe at what point the end-user is reminded of the subscription costs (e.g. every time the service costs €20). In one country (MK), non-typical costs for an individual subscriber is the average amount for services of

<sup>190</sup> For the purposes of this Report free voice notification informing the caller of the premium rate tariff, is not considered as an alert service.

<sup>191</sup> MK, PT.

<sup>192</sup> BE, IE, MK, PT.

<sup>193</sup> IE, PT.

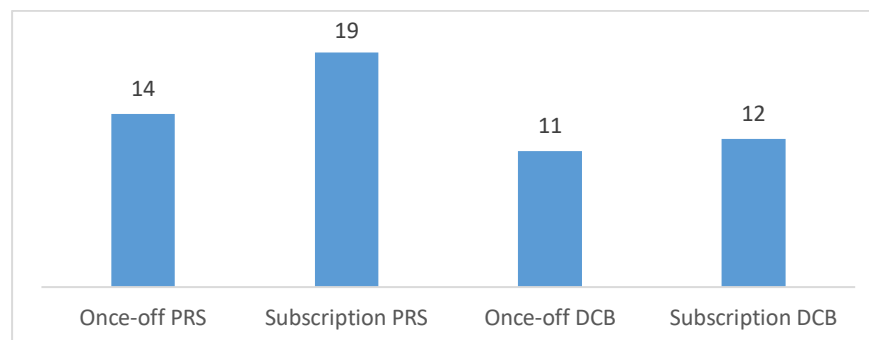
last three months x 2 (the amount of the invoice for services - not for terminal equipment such as for mobile phones); in another country (BE), for certain specific types of premium rate SMS services (chat and games, quizzes or services to personalize the phone), a spend reminder must be sent to the subscriber every time €10 is charged in a given month; in another country (NL), a reminder must be sent every year with a reminder of the costs of the service; in another country (AT), there is a reminder for every 10 € step; in another country (PT), before every subscription the end-user shall be clearly informed about the cost of the subscription; in another country (EL), once a month; in another country (IE), every time the service costs €20. Finally, in another country (FI) there is no reminder, but a telecommunications operator or **end-user** may set a reasonable spending limit in euros for the subscriber connection.

89. Finally, BEREC asked NRAs/competent authorities whether there is an obligation in their country to give the subscriber the choice to control PRS and DCB services via a customer area (self-care application, personal area via website) and/or via customer support (telephone, email, chat, etc.). This obligation is present only in five (5) countries<sup>194</sup> and only via customer support.

### 3.8 Consent

90. BEREC asked the NRAs/competent authorities if end-users must give their explicit consent (by taking specific action) to purchase/subscribe to certain services. NRAs responded that in fourteen (14) countries,<sup>195</sup> consent is requested for once-off PRS. In nineteen (19) countries<sup>196</sup> consent is requested for subscription PRS. In eleven (11) countries,<sup>197</sup> consent is requested for once-off DCB. In twelve (12) countries,<sup>198</sup> consent is requested for subscription DCB.

**Figure 23 - User consent in PRS**



91. In all cases where consent is requested, the NRAs/competent authorities clarified how (by which means) consent is provided by the end-user. In fourteen (14) countries<sup>199</sup> consent is given via SMS. In four (4) countries (AT, BG, EE, ES), an online PIN can be used for providing consent. In ten (10) countries other means of consent can be used.<sup>200</sup>

<sup>194</sup> BG, IE, IT, RO, SI.

<sup>195</sup> BE, BG, EE, EL, IT, LT, MK, NL, NO, PL, PT, RO, SK, SI.

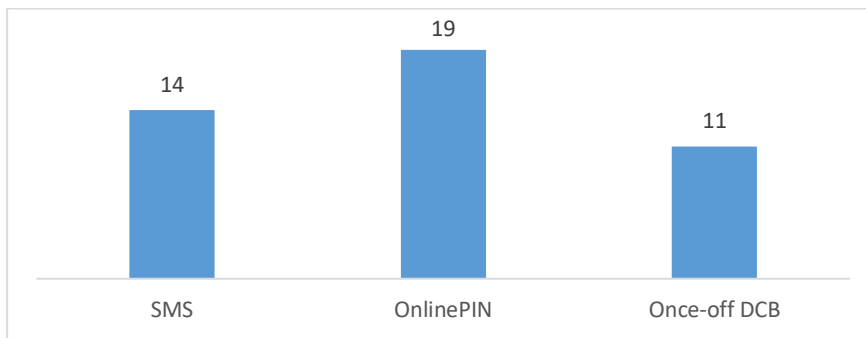
<sup>196</sup> AT, BE, BG, HR, EE, EL, ES, HU, IE, IT, LT, MK, NO, NL, PL, PT, RO, SK, SI.

<sup>197</sup> AT, BG, EE, DE, IT, LT, NL, PL, PT, RO, SI.

<sup>198</sup> AT, BG, EE, DE, IE, IT, LT, NL, PL, PT, RO, SI.

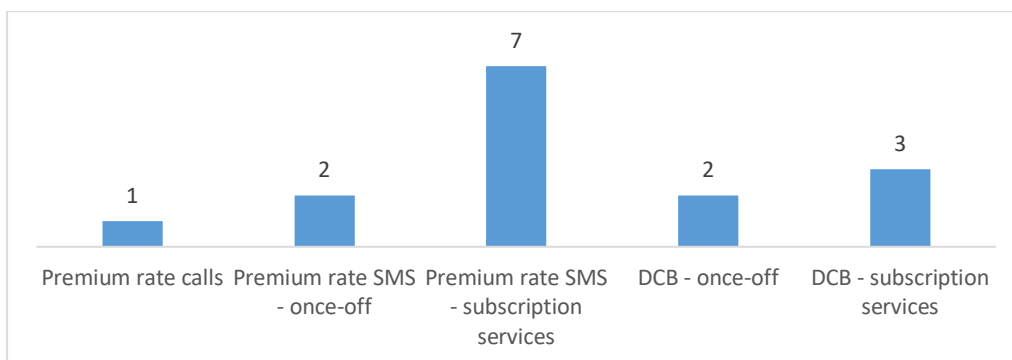
<sup>199</sup> AT, BE, BG, EL, ES, HR, HU, IE, IT, MK, NL, PT, RO, SI.

<sup>200</sup> AT, BE, DE, IT, LT, PL, PT, RO, SI, SK.

**Figure 24 - Type of consent**

92. BEREC also asked whether end-users can be charged for premium rate subscription services if they have not given explicit consent for the subscription to the services. In two (2) countries (CZ, MK - by opt-in), charging for premium rate subscription services is possible without user's explicit consent. In two (2) countries (BE, CZ), DCB subscription services can be charged for without user's explicit consent.<sup>201</sup>

93. BEREC also asked whether there is an obligation to have an authentication procedure in place that guarantees that the consent is given by the end-user in order to avoid unintended charges (via unauthorised party or malware). For premium rate calls, 1 country (MK) has such a mechanism in place. For two (2) countries (EE, MK), there is such a requirement for premium rate SMS (once-off) services. In seven (7) countries<sup>202</sup> such a requirement is available for premium rate SMS (subscription) services. Two countries (DE, EE) have this in place for DCB (once-off) services. The situation is the same for DCB (subscription) services in three (3) countries (DE, EE, IE).

**Figure 25 - Avoid unintended charges via malware**

94. If the answer to whether there is an obligation to have an authentication procedure in place that safeguards that the consent is given by the end-user in order to avoid unintended charges was affirmative, the NRA/competent authority was asked to specify how the authenticity of the user's consent is verified. In six (6) countries (EE, ES, HU, IE, MK, PT), this is done via SMS. In two (2) countries (EE, ES), an online PIN is used. A fingerprint or an authentication app is not used for authentication in any of the countries. One country (DE) uses another method.

<sup>201</sup> Belgium clarified after submission of its responses to the questionnaire that "explicit consent" was interpreted as referring to an additional consent measure, in addition to the end-user's consent given during his application for subscription services.

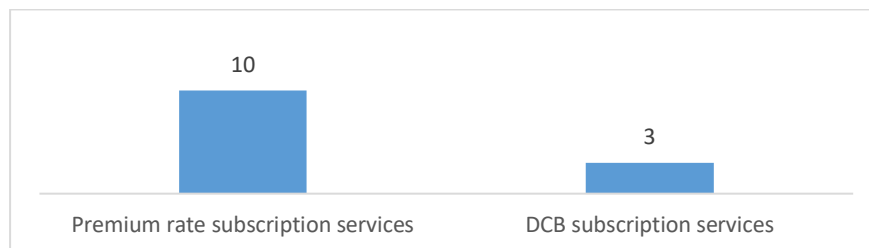
<sup>202</sup> DE, EE, ES, HU, IE, MK, PT.

95. Out of the twenty-eight (28) NRAs/competent authorities, some reported specific ways in which consent can be given. BNETZA (DE) requires consent via redirection to the mobile operator. RTR (AT) confirmed that users of third party services can use a button to order a service against payment. Consumers give their consent by clicking on an 'order with costs' button on the internet. BIPT (BE) requires an oral consent in premium rate calls. ANCOM (RO) allows online consent to the premium services. ANACOM (PT) also allows consent via a button in the online page. CNMC (ES) allows direct call from the user for subscribing to a service. ECPTCA requires a double confirmation in a website. UKE (PL) reports that consent is dependent on the type of service and the operator.

### 3.9 Unsubscribing

96. BEREC also asked whether there is an obligation to provide end-users with a confirmation after unsubscribing from PRS. For premium rate subscription services, cancellation confirmation is supported in ten (10) countries.<sup>203</sup> Regarding DCB, confirmation when unsubscribing is available in three (3) countries (IE, NL, PT).

**Figure 26 - Confirmation of unsubscribing available**



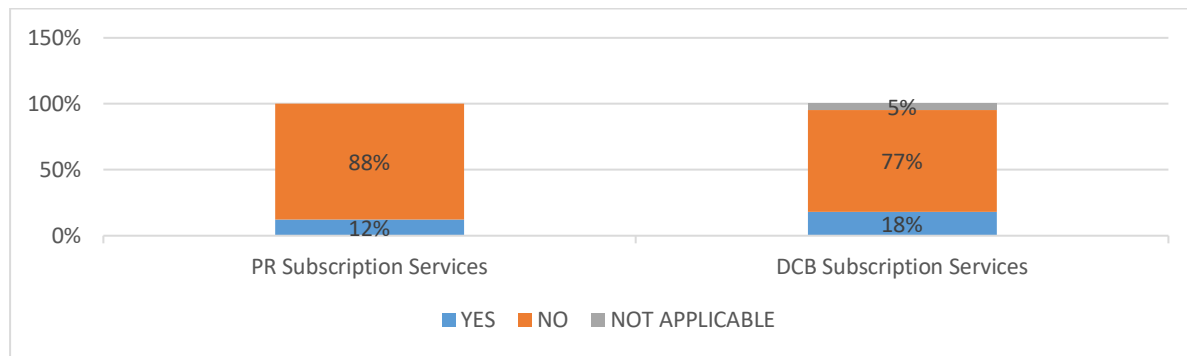
97. BE informs BEREC that in the event of the termination of the subscription to a PRS by SMS/MMS, a confirmation of the unsubscribing will be sent immediately to the end-user or to the subscriber. This message is free. NL requires an SMS as confirmation of the unsubscribing. EL, EE, IE and SI oblige the third parties to send a free SMS as confirmation after the end-user has unsubscribed.

### 3.10 Cancellation

98. BEREC asked whether there is an obligation to provide a cancellation period for end-users to withdraw from (a) PR subscription services, and (b) DCB subscription services.

<sup>203</sup> BE, EE, EL, HR, IE, MK, NL, PT, RO, SI.



**Figure 27 - Cancellation period to withdraw from subscription services**

99. Of the twenty four (24) responses to whether there is an obligation to provide a cancellation period for end-users to withdraw from PRS, 88%<sup>204</sup> specified that there is no such obligation<sup>205</sup> and 12% of NRAs/competent authorities<sup>206</sup> indicated that there is an obligation to provide a cancellation period. Of the twenty two (22) responses to the same question but regarding DCB subscription services, 77%<sup>207</sup> specified that there is no obligation to provide a cancellation period for end-users and 18%<sup>208</sup> of respondents indicated that there is an obligation.= One respondent (MK), accounting for 5% of all responses to this question, confirmed that DCB is not currently an offered service on its internal market and, therefore, the question was not applicable in this instance.

100. When asked about the length of any applicable cancellation periods, one (1) NRA (IT) indicated that within six hours of receiving the activation message, the end-user can call a dedicated call centre or send a text message to cancel the subscription. Two (2) NRAS (RO, SI) specified that the cancellation period consists of fourteen (14) days from the conclusion of the contract with one (1) NRA (PL) also confirming that, in accordance with Article 27 of the Act on Consumers Rights, a consumer who has concluded a distance or off-premises contract may terminate that contract within a period of 14 days without giving any reasons and without incurring any costs. However, the same NRA also specified that a consumer shall have no right of withdrawal from an off-premises or distance contract in the case of contracts for the supply of digital content which is not supplied on a tangible medium, if the provision has begun with the consumer's express consent before the end of the withdrawal period, and after they have been informed by the service provider about the loss of the right of withdrawal from the contract.

101. NRAs/competent authorities were asked if there was an obligation to provide end-users with a specific way to deactivate PR subscription services and DCB subscription services once the end-user had subscribed to a service. Of those NRAs who responded, 57%<sup>209</sup> confirmed that for PR subscription services there was an obligation in this sense while 43%<sup>210</sup> of NRAs specified that there was no obligation. Regarding DCB subscription

<sup>204</sup> AT, BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, LT, LV, MK, NL, NO, RO, SI, SK.

<sup>205</sup> One NRA (BE) indicated that it is possible not to give a cancellation period, but the provider has to explain this in advance and obtain the consumer's prior express consent (see Article 16 (a) of the Consumer Rights Directive 2011/83/EU). In practice, most third party services seem eligible to make use of this exception, so they responded "NO" to this question.

<sup>206</sup> IT, PL, PT.

<sup>207</sup> AT, BE, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IE, LT, LV, NL, PT, SK.

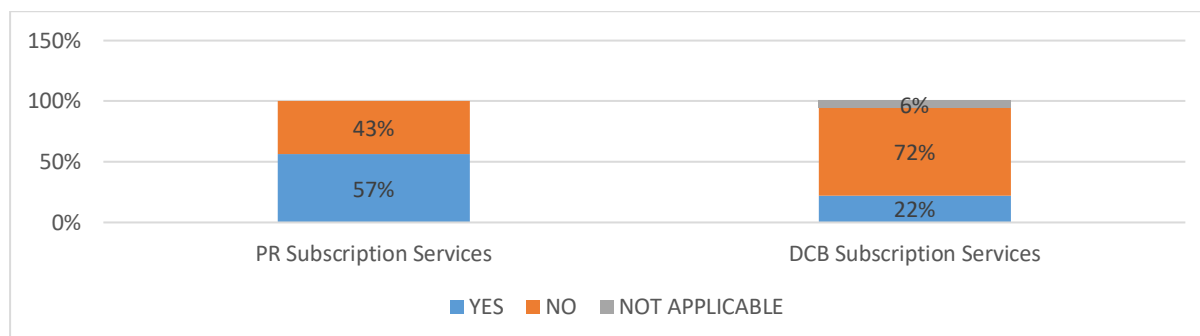
<sup>208</sup> IT, PL, RO, SI.

<sup>209</sup> AT, BE, EL, ES, HR, IE, IT, LV, NL, NO, PT, RO, SI.

<sup>210</sup> BG, CZ, DE, EE, FI, FR, LT, MK, PL, SK.

services, 22%<sup>211</sup> of NRAs indicated that there was an obligation to provide end-users with a specific way to deactivate, while 72%<sup>212</sup> of respondents advised that there was no obligation and 6%<sup>213</sup> specified that DCB is not currently a service offered on the internal market.

**Figure 28 – Obligations to provide end-users with specific way to deactivate subscription services**



102. In terms of how end-user cancellation requests are made, 73%<sup>214</sup> of respondents indicated that they can be made by SMS, with some respondents also confirming that the requests can be made by written request (or another durable medium), by e-mail, by calling a dedicated call centre, online or via other methods not specified. One NRA (PT) specified that in relation to PRS, the law stipulates that the request might be made by written request or through another durable medium. Further, it confirmed that concerning DCB, the code of practice about WAP billing sets out that the third party service providers shall provide a freephone number, or a number charged at a local rate, for the cancellation of the subscription of end-users - alternatively, end-users can unsubscribe in the personal area of the website of the third party service providers via a cancellation button.

### 3.11 Guaranteed minimum service

103. NRAs/competent authorities were asked whether there is an obligation to give the subscriber the option to pay telecom services excluding PRS and DCB charges to maintain telecom services in the event of disputing some PRS/DCB charges.

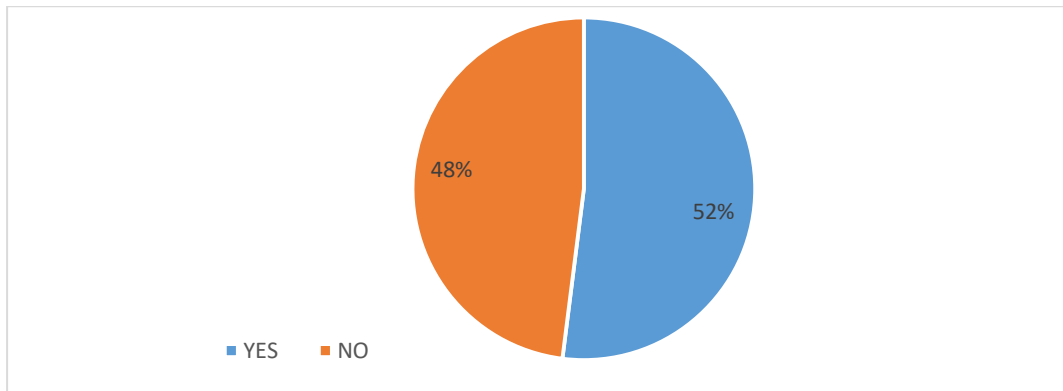
<sup>211</sup> ES, IE, IT, PT.

<sup>212</sup> AT, BE, BG, CZ, DE, FI, FR, LT, NL, PL, RO, SI, SK.

<sup>213</sup> MK.

<sup>214</sup> BE, EE, EL, ES, HR, IE, LV, NL, NO, RO, SI.

**Figure 29 - Guaranteed minimum service - Obligation to give subscribers the option to pay telecom services excluding PRS and DCB charges**

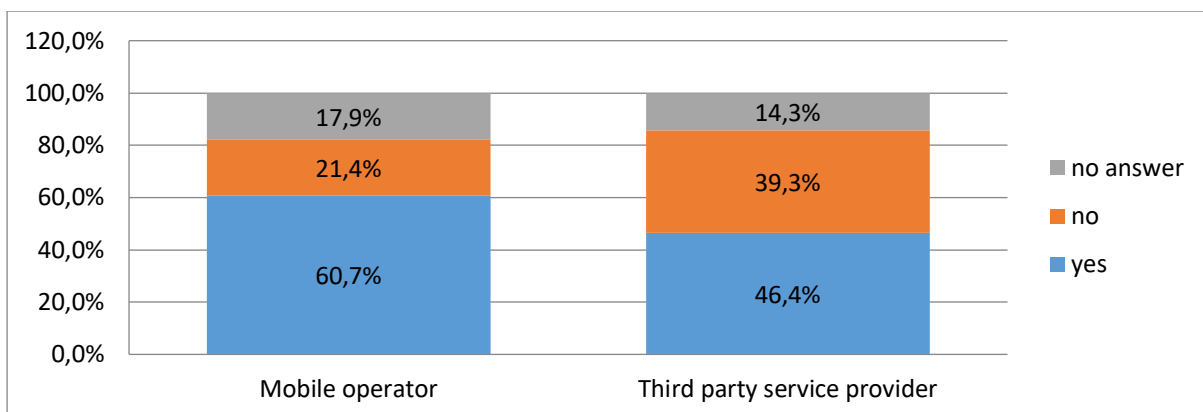


104. 52%<sup>215</sup> of respondents indicated that there was such an obligation, while 48%<sup>216</sup> of NRAs/competent authorities confirmed that there was no such obligation. One NRA (MT) noted that an originating operator shall be responsible for complaint handling<sup>217</sup>, and for providing refunds or waiving PRS entries from bills, where appropriate and justified, and may not suspend the service of a subscriber who refuses to pay the premium rate element of a call while a complaint of a 'technical' nature is being considered.

### 3.12 Refunds

105. NRAs were asked who would be obligated to refund the end-user if services were activated by mistake, fraud, etc. The following figure illustrates their answers in percentages.

**Figure 30 - Responsible party – Obligation to refund<sup>218</sup>**



<sup>215</sup> AT, BE, DE, EL, ES, HR, HU, IT, LT, MK, MT, NL, PT

<sup>216</sup> BG, CZ, EE, FI, FR, IE, LV, NO, PL, RO, SI, SK.

<sup>217</sup> With the exception of complaints on the content of the call

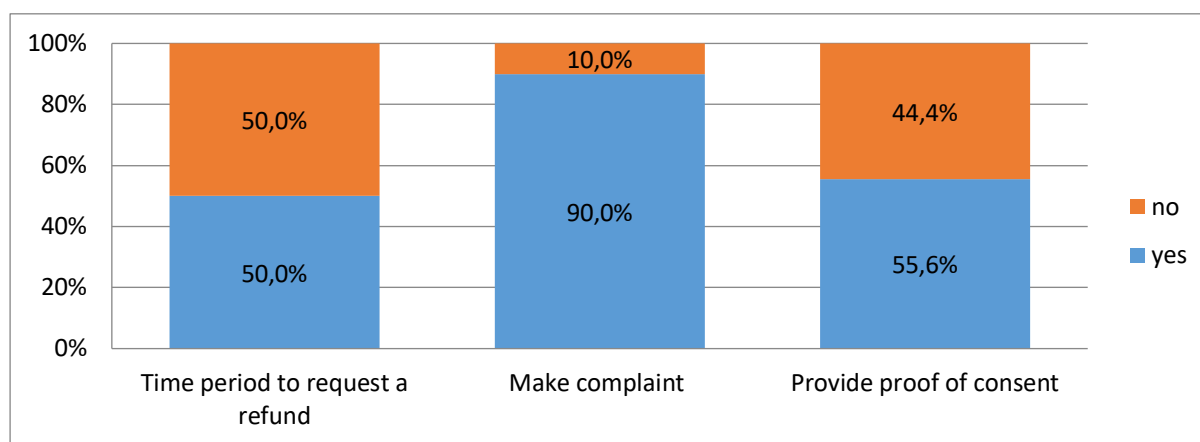
<sup>218</sup> Mobile operator yes: AT, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IT, NL, PL, PT, SK. /

Mobile operator no: BE, IE, LT, MK, RO, SI. / Mobile operator no answer: BG, LV, MT, NO, SE.

**Third party service provider** yes: BE, CY, CZ, DE, EE, EL, FI, FR, IE, LT, LV, PL, PT. /Third party service provider no: AT, DK, ES, HR, HU, IT, MK, NL, RO, SI, SK./ Third party service provider no answer: BG, MT, NO, SE.

- Almost half of NRAs reported (46,4%) that in case there is a refund obligation it applies to both (mobile) operators and third party service providers<sup>219</sup>. One NRA<sup>220</sup> noted that complaints are treated on a case by case basis such that a refund obligation would be imposed on the party determined to be at fault. More than a third of NRAs (17,9% + 21,4%) reported no refund obligation or did not answer this question.
- BEREC also asked NRAs which of the predefined conditions are in place to determine whether a refund is applicable. NRAs were asked to state if in their Member State there was proof of consent required in order to determine if a refund was applicable. The figure below shows their answers in percentages.

**Figure 31 - Conditions to determine if a refund<sup>221</sup> is applicable**



### 3.13 Complaint filing

106. BEREC asked NRAs where customers can file a complaint about third party billing. Their answers in percentages are presented in the figure below<sup>222</sup>.

**Mobile operator** yes: AT, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IT, NL, PL, PT, SK./ Mobile operator no: BE, IE, LT, MK, RO, SI./ Mobile operator no answer: BG, LV, MT, NO, SE.

**Third party service provider** yes: BE, CY, CZ, DE, EE, EL, FI, FR, IE, LT, LV, PL, PT. /Third party service provider no: AT, DK, ES, HR, HU, IT, MK, NL, RO, SI, SK. /Third party service provider no answer: BG, MT, NO, SE.

<sup>219</sup> An NRA mentioned that complaints to mobile operators are unfortunately often rejected (DK).

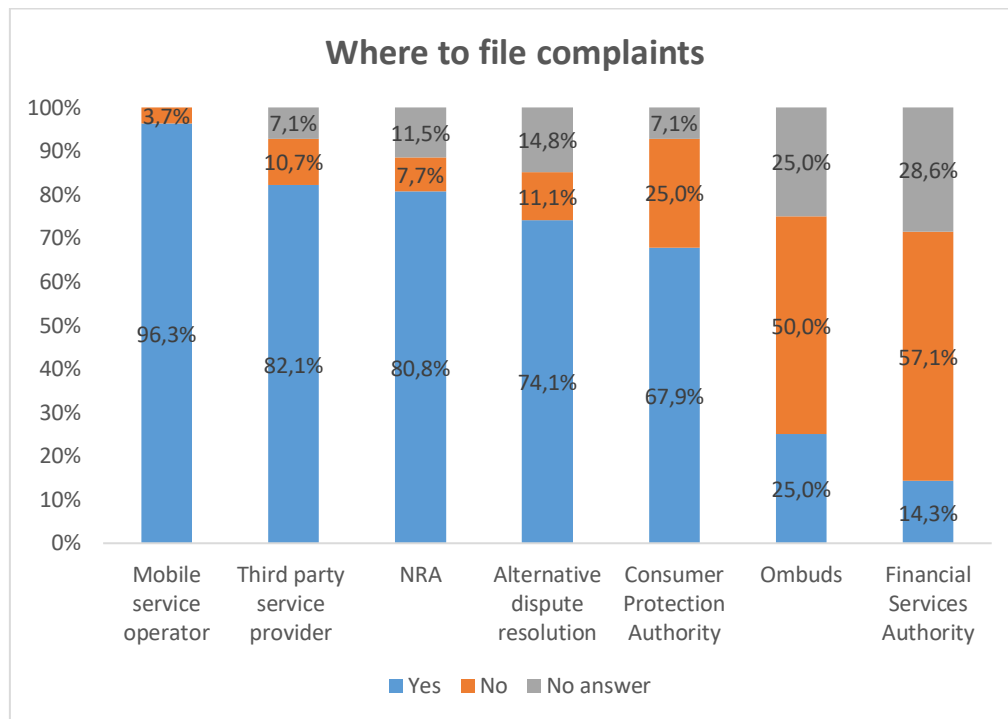
<sup>220</sup> MT.

<sup>221</sup> **Time period to request a refund** Yes: CZ, ES, HU, IE, IT, NL, PL, SK./ Time period to request a refund No: AT, BE, DE, DK, FR, HR, MK, PT.

**Make Complaint** Yes: AT, BE, CZ, DK, EL, ES, FI, FR, HR, IE, IT, LT, LV, MK, NL, PL, SK. / Make complaint No: DE, PT.

**Provide proof of consent** Yes: BE, CZ, EL, HU, IE, IT, LT, MK, NL, PT. / Provide proof on consent No: AT, DE, DK, ES, FR, HR, PL, SK.

<sup>222</sup> One NRA mentioned that the Ombuds is considered as alternative dispute resolution (BE). Another NRA mentioned that a complaint can only be filed if the billed service is supplied by an electronic communications service provider (LT).

Figure 32 - Where to file complaints<sup>223</sup>

107. BEREC also asked if complaints can be filed at the NRA and if they can lead to supervisory actions. In the figure below, their answers in percentages are illustrated<sup>224</sup>.

<sup>223</sup> **Mobile service operator** Yes: AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IT, LT, LV, MK, MT, NL, NO, PL, PT, RO, SE, SK. / Mobile service operator No: IE. / Mobile service operator no answer: none.

**Third party service provider** Yes: AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HU, IE, IT, LT, LV, MT, NL, PL, PT, RO, SE, SI, SK. / Third party service provider No: DK, HR, MK. / Third party service provider no answer: ES, NO.

**NRA** Yes: AT, BE, CY, CZ, DE, EE, ES, FI, HR, HU, IE, IT, LV, MK, MT, NL, PL, PT, RO, SI, SK. / NRA No: DK, FR.

NRA no answer: BG, NO, SE.

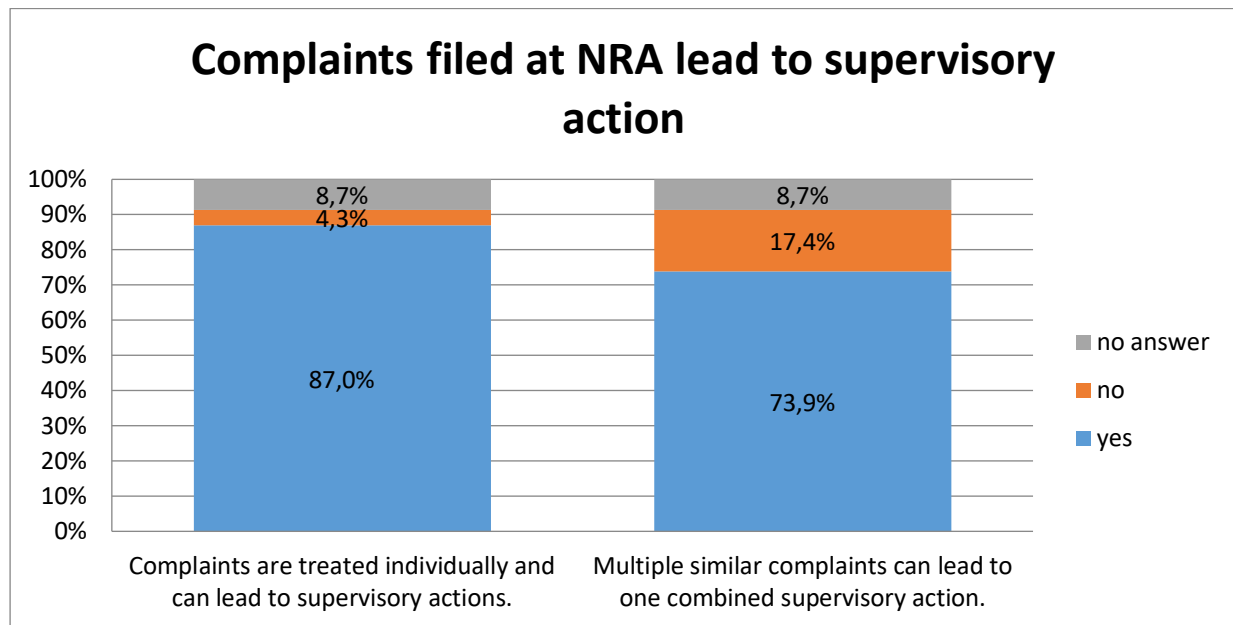
**Alternative dispute resolution** Yes: AT, CY, CZ, DE, DK, EE, ES, FR, HU, IT, LT, MT, NL, NO, PL, PT, RO, SE, SI, SK. / Alternative dispute resolution No: BE, HR, IE. / Alternative dispute resolution no answer: BG, EL, LV, MK.

**Consumer Protection Authority** Yes: AT, BE, BG, CY, CZ, DE, EE, EL, ES, LT, LV, MT, NL, PL, PT, RO, SE, SI, SK. / Consumer Protection Authority No: DK, FR, HR, HU, IE, IT, MK. / Consumer Protection Authority no answer: FI, NO.

**Ombuds** Yes: AT, BE, DK, EL, MK, PL, SK. / Ombuds No: CY, CZ, DE, EE, ES, FR, HR, HU, IE, IT, LT, MT, NL, PT. / Ombuds no answer: BG, FI, LV, NO, RO, SE, SI.

**Financial Services Authority** Yes: AT, CZ, LT, PT. / Financial Services Authority No: BE, CY, DE, DK, EE, ES, FR, HR, HU, IE, IT, MK, MT, NL, PL, SK. / Financial Services Authority no answer: BG, EL, FI, LV, NO, RO, SE, SI.

<sup>224</sup> One NRA mentioned that most often multiple similar complaints can lead to one combined supervisory action. However, sometimes an individual complaint can also lead to a supervisory action (NL).

Figure 33 - Supervisory actions NRA<sup>225</sup>

<sup>225</sup> Complaints are treated individually and can lead to supervisory actions Yes: AT, BE, CY, CZ, DE, EE, EL, FI, HR, HU, IE, IT, LT, LV, MK, MT, NL, PL, RO, SK.

Complaints are treated individually and can lead to supervisory actions No: PT.

Complaints are treated individually and can lead to supervisory actions no answer: BG, DK, ES, FR, NO, SI.

Multiple similar complaints can lead to one combined supervisory action Yes: AT, BE, CY, DE, EE, EL, FI, HR, HU, IE, MT, NL, NO, PL, PT, RO, SK.

Multiple similar complaints can lead to one combined supervisory action No: CZ, IT, LT, MK.

Multiple similar complaints can lead to one combined supervisory action no answer: BG, DK, ES, FR, LV, SE, SI.

## 4. Conclusion

108. This BEREC report aims to give an overview of the status of third party payment charges in Member States. This was done by collecting information by means of a questionnaire issued in September 2020. The report clearly demonstrates that prior to the transposition of the EEC there is some level of competency for PRS third party payments among Member States. The majority cited price regulation with billing transparency being most mentioned whilst other consumer protection measures which are not as prevalent range from spend reminders to transparency of information.
109. One of the main actions an end-user may take is to block PRS, an action that is primarily on request by them for specific number ranges for calls and to a lesser extent SMS. Fewer countries indicated that they have rules for both PRS and DCB services.
110. In respect to intervention, the majority of NRAs/competent authorities have powers when dealing with telecommunication service providers in respect to regulation, inspection, sanctioning with fewer having dispute resolution responsibilities. However, it does not extend to PRS providers for over half of the countries and in respect to content service providers the responsibility is further reduced.
111. The report should provide a useful benchmark and insight into how Member States currently handle third party payment charges on mobile phone bills and what protections are available to end-users. The same exercise will be considered as part of the BEREC Work Program in 2023.
112. Annex 3 offers a summary of recommendations in previously published documents. The most recent report<sup>226</sup> in 2018 focused on a holistic approach for providers and stakeholders in addition to raising awareness for end-users in respect to dangers of fraud and misuse. The topic of transparency and the importance of awareness was one of the policy recommendations set out in the EC consumer market study<sup>227</sup> published in 2018 with respect to obtaining all pre-contractual information and the identity of the payment service provider in addition to how to ensure the communication of mandatory information is transparent.

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<sup>226</sup> ECC Report 275 on the role of E.164 numbers in international fraud and misuse of electronic communications services (2018).

<sup>227</sup> The European Commission published a consumer market study on the functioning of m-payment for consumers in the European Union (2018).

## Annex 1 – Definitions

For the purpose of this Report, BEREC uses the following definitions:

**Alert service:** a message or notification that warns of abnormal traffic, cost or expenditure.

**Authentication:** a procedure which allows the service provider to verify the use or user of a specific service.

**Cancellation:** means the period of time that end-users have to withdraw from a DCB or PRS subscription.

**Call barring:** the option that allows end-users to prevent calls from being made.

**Company providing content or services online:** any company that searches, selects and/or produces online content services that are supplied to the public.

**Complaint:** a statement of dissatisfaction with a specific trader made by an end-user to a complaint handling body, in relation to the promotion, sale or supply of a good or a service, use of a good or a service or after-sales service.

**Consent:** any freely given, specific, informed and unambiguous indication of the person's wishes, by a statement or by a clear affirmative action, that signifies agreement to the provision of certain services or third party billing.

**Consumer:** any natural person who, in contracts covered by this Report, is acting for purposes which are outside his trade, business, craft or profession.

**Customer:** any buyer of goods or services.

**Direct Carrier Billing:** refers to charges for digital content services, or other products or services, which are billed directly to the end-user's mobile phone bill.

**Deactivation:** the facility for end-users to deactivate the ability of third party service providers to use the bill of a provider of an internet access service or a provider of a publicly available interpersonal communications service to charge for their products or services.

**Electronic communications service:** a service normally provided for remuneration via electronic communications networks, which encompasses, with the exception of services providing, or exercising editorial control over, content transmitted using electronic communications networks and services the following types of services:

(a) 'internet access service' as defined in point (2) of the second paragraph of Article 2 of Regulation (EU) 2015/2120;

(b) interpersonal communications service; and

(c) services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting.<sup>228</sup>

<sup>228</sup> Article 2 (4) Directive (EU) 2018/1972 of the European Parliament and of the Council of eleven (11) December 2018 establishing the European Electronic Communications Code.



**‘End-user:** a user not providing public electronic communications networks or publicly available electronic communications services<sup>229</sup>.

**Enquiry:** a request for information or advice, other than a complaint, made by an end-user to a complaint handling body concerning the promotion, sale or supply of a good or a service, use of a good or a service or after-sales service;

**Fraud:** wrongful or criminal deception intended to result in financial or personal gain.<sup>230</sup>

**Mobile phone bill:** a statement of the money owed for goods or services charged under a pre-paid or post-paid mobile electronic communications contract.

**Opt-in:** the requirement to register the willingness to receive (third party) services via an electronic communications service before they are enabled.

**Opt-out:** the option to stop receiving (third party) services provided to the customer of an electronic communications service.

**Premium rate services:** services offered via phone call (voice call) or text message (SMS/MMS) which are charged to the mobile phone bill at a higher rate than normal phone calls or text messages.

**SMS:** Short Message Service text message, composed principally of alphabetical and/or numerical characters, capable of being sent between mobile and/or fixed numbers assigned in accordance with national numbering plans.<sup>231</sup>

**Threshold:** any spend limit amount established in the provision of services to the customer.

**User:** natural or legal person using or requesting a publicly available electronic communications service.<sup>232</sup>

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<sup>229</sup> Art. 2 (14) Directive (EU) 2018/1972 of the European Parliament and of the Council of eleven (11) December 2018 establishing the European Electronic Communications Code.

<sup>230</sup> [ECC Report 275](#) on the role of E.164 numbers in international fraud and misuse of electronic communications services (2018).

<sup>231</sup> Regulation (EU) No 531/2012 of the European Parliament and of the Council of thirteen (13) June 2012 on roaming on public mobile communications networks within the Union.

<sup>232</sup> Art. 2 (13) Directive (EU) 2018/1972 of the European Parliament and of the Council of eleven (11) December 2018 establishing the European Electronic Communications Code.

## Annex 2 - List of surveyed NRAs

Country	Country code	NRA	NRA's Full Name
<b>ALBANIA</b>	AL	AKEP	Electronic and Postal Communications Authority of Albania
<b>AUSTRIA</b>	AT	RTR	Austrian Regulatory Authority for Broadcasting and Telecommunications
<b>BELGIUM</b>	BE	BIPT	Belgian Institute for Postal Services and Telecommunications
<b>BOSNIA HERZEGOVINA</b>	BA	RAK	Bosnia and Herzegovina Communications Regulatory Agency
<b>BULGARIA</b>	BG	CRC	Communications Regulation Commission
<b>CROATIA</b>	HR	HAKOM	Croatian Regulatory Authority for Network Industries
<b>CYPRUS</b>	CY	OCECPR	Office of the Commissioner of Electronic Communications and Postal Regulation
<b>CZECH REPUBLIC</b>	CZ	CTU	Czech Telecommunication Office
<b>DENMARK</b>	DK	DBA	Danish Business Authority
<b>ESTONIA</b>	EE	ECPTRA	Estonian Consumer Protection and Technical Regulatory Authority
<b>FINLAND</b>	FI	TRAFICOM	Finnish Communications Regulatory Authority
<b>FRANCE</b>	FR	ARCEP	Autorité de Régulation des Communications Electroniques et des Postes
<b>GERMANY</b>	DE	BNetzA	Federal Network Agency
<b>GREECE</b>	EL	EETT	Hellenic Telecommunications and Post Commission
<b>HUNGARY</b>	HU	NMHH	National Media and Infocommunications Authority
<b>ICELAND</b>	IS	PTA	Post and Telecom Administration in Iceland
<b>IRELAND</b>	IE	COMREG	Commission for Communications Regulation
<b>ITALY</b>	IT	AGCOM	Autorità per le Garanzie nelle Comunicazioni

<b>KOSOVO</b> <sup>233</sup>	XK	ARKEP	Regulatory Authority of Electronic and Postal Communications
<b>LATVIA</b>	LV	SPRK	Public Utilities Commission
<b>LIECHTENSTEIN</b>	LI	AK	Amt für Kommunikation
<b>LITHUANIA</b>	LT	RRT	Communications Regulatory Authority
<b>LUXEMBOURG</b>	LU	ILR	Institut Luxembourgeois de Régulation
<b>MALTA</b>	MT	MCA	Malta Communications Authority
<b>MONTENEGRO</b>	ME	EKIP	Electronic Communications and Postal Services of Montenegro
<b>NETHERLANDS</b>	NL	ACM	Authority for Consumers and Markets
<b>NORTH MACEDONIA</b>	MK	AEC	Agency for Electronic Communications
<b>NORWAY</b>	NO	Nkom	Norwegian Communications Authority
<b>POLAND</b>	PL	UKE	Office of Electronic Communications
<b>PORTUGAL</b>	PT	ANACOM	Autoridade Nacional de Comunicações
<b>ROMANIA</b>	RO	ANCOM	National Authority for Management and Regulation in Communications of Romania
<b>SERBIA</b>	RS	RATEL	Regulatory Agency for Electronic Communications and Postal Services
<b>SLOVAK REPUBLIC</b>	SK	RÚ	Regulatory Authority for Electronic Communications and Postal Services
<b>SLOVENIA</b>	SI	AKOS	Agency for Communication Networks and Services of the Republic of Slovenia
<b>SPAIN</b>	ES	CNMC	Comisión Nacional de los Mercados y la Competencia
<b>SWEDEN</b>	SE	PTS	Swedish Post and Telecom Authority
<b>TURKEY</b>	TR	BTK	Information Technologies and Communication Authority

1. <sup>233</sup> This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

## Annex 3 - Literature list

### European and international reports/studies/position papers<sup>234</sup>

1. Some years ago the [ECC](#), the **Electronic Communications Committee**, published the following deliverables:

(1.1) [ECC Report 086](#) on Consumer abuses and fraud issues relating to High Tariff services (2006)

(1.2) [ECC Recommendation](#) of 10 October 2007 on Consumer protection against abuse of High Tariff Services

More recently the ECC published (1.3) [ECC Report 275](#) on the role of E.164 numbers in international fraud and misuse of electronic communications services (2018).

2. Also in 2018 the **European Commission** published a [consumer market study on the functioning of m-payment for consumers in the European Union](#).

3. A few years before, [the OECD](#), the **Organization for Economic Development and Cooperation**, published [Consumer Policy Guidance on Mobile and Online Payments](#) (2014).

This Policy Guidance was preceded by a [Report on Consumer Protection in Online and Mobile Payments](#) (OECD 2012)

4. Also in 2014, [ICPEN](#), the **International Consumer Protection and Enforcement Network**, published a [Report on Mobile Payments](#) (2014).

5. [CEER](#), the **Council of European Energy Regulators**, touches implicitly upon third party payments charges in its [Guide on bundled products](#) (2019)<sup>235</sup>.

6. The [EBA](#), the **European Banking Authority**, published an [\(unofficial\) position on the exemption of the PSD2-requirements](#) for providers of electronic communication services (2019).

7. Finally, in 2012 **BEREC** published its BoR (12) 55 [Report on Special Rate Services](#), mainly focussing on price and transparency aspects (including wholesale) of voice services having a special rate.

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<sup>234</sup> NRAs in Germany, Italy and The Netherlands have taken specific regulatory measures regarding DCB or payments via mobile phone bills. They are not included in this list due to the national scope of such reports and/or measures.

<sup>235</sup> The Guide says, among others: *'Where bundling of products includes an essential service (such as energy, water or communications), consumers must be clearly protected from disconnections or risks associated with other elements of a bundled contract, according to legal safeguards in place for that essential service. If the consumer breaks the conditions of the bundled contract (e.g. does not pay the part of the bill that corresponds to an additional service), their essential service should be maintained although the consumer loses the benefits and conditions of the bundled contract.'* (p. 22)

## Summary of recommendations in the documents of the literature list

### 1.1.- ECC Report 086 on consumer abuses and fraud issues relating to High Tariff services (2006).

The report produced by the Electronic Communications Committee (ECC) within the European Conference of Postal and Telecommunications Administrations (CEPT) includes a diagram of a reference model, examples of PRS types, consumer problems, abuses by providers, regulatory frameworks and consumer protection measures at national levels.

The consumer problems identified in the report are, among others: unexpectedly high bills due to lack of tariff awareness, unawareness of the options for call barring or problems with the solution for call barring, unauthorised calls and confusion over the use of subscriptions services. Whilst the fraud issues include billing cycle abuse and viruses in mobiles.

The purpose of the report is to provide a reasonably comprehensive list and explanation of the main consumer and fraud issues that have been experienced in relation to high tariff services, especially those on premium rate numbers, and also of the main consumer and operator protection measures that have been adopted in some countries.

The report focuses primarily on voice services and SMS, but premium rate services are also growing around MMS and mobile portals.

The report does not cover the issues of cross border access to PRS that are offered legitimately to subscribers in other countries.

A distinction is made between abuse (taking advantage of the consumer) and fraud (illegal activity).

The following is a list of the main abuses detected:

- Inadequate warning of the tariff.
- Call back messages. This approach is taken frequently for announcing that someone has won a prize or a holiday and they must call a certain number quickly to claim their prize. The number is a PRS number. The number to call back may be given as well as a tariff warning.
- Services without any normal rate complaint line. To make a complaint and seek a refund the only way to do so is to call another premium rate number.
- Unreasonable extension of the length of calls. The PRSP may organise the answering of the call so that the call duration is maximised by slow answering, putting callers on hold and making conversations unnecessarily long.
- Lack of clarity about subscription services where the subscriber is likely to think that they are buying one-off service.
- Call initiation via directory services that by-pass the normal protections such as call barring. This problem could arise where there are directory services that include information about premium rate numbers and allow calls to be connected without the caller re-dialling.

Some of the various consumer protection measures proposed in the Report are:

- Limitations in the types of services that may be offered: Various types of services may be prohibited.

- Require premium rate services to use a specific numbering range so that consumers can learn to distinguish PRS and so that call barring can be applied.
- Price warnings
- Itemised billing
- Call barring or opt-out
- Opt-in
- Pre-pay
- Removal of the right of an operator to suspend service for non-payment of the calls to PRS numbers
- Right to a refund for the first high bill
- Credit limits and warnings when specified levels are exceeded
- Faster billing
- Traffic monitoring
- Delays in interconnection payments or payments to PRSPs by at least one complete retail billing cycle to provide time for abuses to be detected before the money is passed to the PRSP.
- Requirements on dialling software used with premium rate numbers to contain a warning about the charge rate in sufficiently large print, which has to be explicitly accepted by the user.
- Barring of specific numbers
- Traffic analysis

## **1.2.- ECC Recommendation of 10 October 2007 on Consumer protection against abuse of High Tariff Services (2007).**

Forms of misuse of PRS identified in the report are:

- cases in which the user is not aware of the tariff applied,
- cases where consumers are attracted to dial numbers where the services are not actually available or are of a low quality;
- artificial call duration lengthening by increasing waiting times,
- the use of high tariff numbers for customer care where the consumer has no alternative to reach this service;
- the use of high tariff numbers for services such as TV games with unclear call prices and procedures;
- unclear contractual conditions for providing reverse billed services.

A coherent policy approach to improve the position of the consumer should have at least the following complementary attributes:

- it strengthens the legal and financial position of the consumer;
- it prevents abuse practices via increase of consumer awareness (e.g. by increased transparency of contents and tariffs of services so that the consumer may take rational decisions) and increase of consumer control over transactions;
- it makes possible a quick response to abuses when they are observed;
- it facilitates a system for low threshold redress possibilities for consumers.

It has appeared that self-regulatory solutions not supported or accompanied by additional regulation, do not function satisfactorily in most countries in combating abuses of high tariff services.

There shall be a rapid response mechanism to suspend payments or to block access to numbers while problems and abuses are investigated. Also, that appropriate means are established to provide refunds and compensation for consumers who suffer from abuses.

### **1.3.- ECC Report 275 on the role of E.164 numbers in international fraud and misuse of electronic communications services (2018).**

In order to tackle fraud and misuse effectively a holistic approach that takes into account the dynamic character of fraud and misuse is needed. Although the focus of the report is voice, fraud and misuse in telecom is of course not limited to voice. SMS and social media messaging are also vulnerable to fraud and misuse. The following recommendations are made:

#### Prohibit CLI Spoofing

"CLI Spoofing" is a technique that enables the calling party, originating network and/or transit network to manipulate the information displayed in the CLI field with the intention of deceiving the called party into thinking that the call originated from another person, entity or location. Fraudsters use CLI spoofing to take advantage of the inherent trust that end-users have in the integrity of CLI information. Normally, the CLI presented is a national geographic or mobile E.164 number with a format that the called party would be familiar with. With CLI spoofing the number displayed could be an unassigned number or one which is already assigned to another end-user.

In order to maintain integrity and trust in E.164 numbers and Calling Line Identification (CLI), validation techniques should be made periodically in order to prevent the number being used by two different end-users at the same time when the number is re-assigned to a new end-user by the original provider.

#### Encourage real time data analytics

Operators will increasingly have to invest in solutions that facilitate intelligent real time data analyses of call detail records and signalling messages. These analyses must result in the detection of patterns of calls which are suspicious and effective action must be taken to minimise the impact on revenues and end-user welfare.

#### Promote information sharing and cooperation

Once an instance of fraud or misuse is detected it can be beneficial to share related information between operators and other relevant stakeholders. The information sharing includes information on specific cases (e.g. suspicious numbers), fraud and misuse methods or even the modus operandi of certain stakeholders in the value chain. The information sharing should not only take place at the national level but also at the international level (e.g. by creating a worldwide network of contacts). Easy blocking mechanism for incoming and outgoing traffic

Operators should have some discretion to create simple and quick internal procedures to block incoming and outgoing calls which are fraudulent or involve the misuse of E.164 numbers without any intervention of a court order or NRA or the competent telecommunications authority.

#### Establish standardised procedures for trace back calls/Test calls

For serious and large scale fraud, easy procedures should be created in order to facilitate an expeditious trace back of calls across national borders. Requirements to this effect could be included in interconnection agreements to facilitate detection of the sources of fraud.

#### Transparency

A central reference point for national numbering plans, which clearly identifies mobile, premium and unassigned E.164 number ranges, could create the necessary transparency to flag possible problematic calls and routes. Based on that information a list can be made of expensive number ranges which are vulnerable to fraud or misuse and which can be used as an input in the data analytics systems.

### Raising awareness

End-users need to be aware and take a critical look when calls, SMS and social media messages are received. Initiatives to raise awareness and educate end-users as to the dangers of fraud and misuse and how to deal with such communications need to be implemented. Simple reporting mechanisms for reporting fraud and misuse to the national police and/or competent authority should be implemented.

## **2.- The European Commission published a consumer market study on the functioning of m-payment for consumers in the European Union (2018).**

Based on the findings, policy recommendations are made for three core findings:

### **Mandatory information to be provided by merchants or service providers**

While the Consumer Rights Directive (CRD) pre-contractual information requirements necessitate that retailers or service providers must provide consumers with contact information, the right to withdraw, legal guarantees, and more, our findings show that this information is often difficult or impossible for m-payment consumers to find. It is very likely that the use of mobile devices with (relatively) small screens may account for at least part of this problem. The amount of information that can be presented on the screen is limited and information may be presented elsewhere at the cost of lower accessibility.

Two recommendations are made to solve this information problem. First, icons with a clear meaning (e.g. trader information, product information and legal information) and an embedded link could help refer consumers to further information if they desire. Icons would have to be agreed upon within the business sector and consumers would have to be educated about their meaning.

Second, mandatory information can also be provided in a confirmation e-mail after the transaction. The confirmation e-mail may contain more extensive information regarding customers' right to withdraw and other relevant consumer rights. While this is not the same as pre-contractual information, consumers that do not agree with this information may use their right to withdraw.

### **Insufficient information about the m-payment service**

It is important for customers of an m-payment service to obtain all relevant pre-contractual information and identification data. The identity of the payment service provider should always be transparent. When problems arise during an m-payment transaction (e.g., unauthorized payments, hacked transaction, etc.), customers may easily find themselves in a triangular relationship between the trader/service provider, the m-payment service provider and the bank. This is a complex situation and may make it difficult for consumers to make use of their chargeback rights. Hence, the identification of all involved parties and the most important terms and conditions must always be available. Guidance should be provided to the players in this relationship, especially merchants, service providers and payment service providers, on how they should ensure transparency.



## Transaction security and data security

Consumers' concerns regarding identity theft, data abuse, and transaction hacking are among the most important barriers to the development of m-payment services. While the consumer regulations reviewed in this study do not cover these concerns, this is a consumer risk worth taking into consideration. One possible solution to increase consumers' security is to introduce a chargeback system that works similar for all m-payment mechanisms. In addition, quality cues and/or the results of security audits of m-payment services may be communicated to consumers.

### **3.- OECD Consumer Policy Guidance on Mobile and Online Payments (2014).**

The guidance concerns mobile and online payments made by consumers for products (including goods and services) acquired *via* e-commerce. It includes payments made *via* the Internet and those made using mobile devices, including, but not limited to, SMS and MMS payments as well as proximity-based payments made *via* mobile devices, such as those using near-field communication technology (NFC) at a point of sale.

Guidance on payments contained in the guidelines further provides that consumers should be provided with easy-to-use, secure payment mechanisms and with information on the level of security such mechanisms afford. It adds that limitations of liability for unauthorised or fraudulent use of payment systems and chargeback mechanisms offer powerful tools to enhance consumer confidence and their development and use should be encouraged in the context of electronic commerce. In addition, the guidelines provide a set of basic principles on fair business, advertising and marketing practices, information disclosure, confirmation process, and dispute resolution and redress.

The committee concluded that it would be beneficial to provide further guidance on a selected number of issues in seven areas: *a)* information on the terms, conditions, and costs of transactions; *b)* privacy; *c)* security; *d)* confirmation process; *e)* children; *f)* varying levels of consumer protection among payment providers and payments vehicles; *g)* protection against fraudulent and misleading commercial practices; and *h)* dispute resolution and redress.

### **4.- ICPEN, the International Consumer Protection and Enforcement Network, published a Report on Mobile Payments (2014).**

ICPEN is a network of governmental consumer protection authorities from over 50 countries. For the purposes of its report, "mobile payment" is defined as any sort of payment for goods or digital/regular services initiated, transmitted, or confirmed via a mobile phone or device, billed by a mobile network operator, card company/bank, or other.

To survey the market for mobile payments the Working Group issued a questionnaire, during the spring of 2012, consisting of five sections: (1) Market Analysis; (2) Consumer Challenges; (3) Consumer Protection – Policy and Law; (4) Enforcement; and (5) Industry Initiatives.

In many responding countries, mobile payments relating to premium SMS services present the most problems for consumers. In particular, unclear and insufficient information can lead consumers to pay for services they thought were free, or to subscribe to services with recurring charges that they thought were only one-off charge services. In addition, consumers are often faced with fraudulent or unauthorized charges on their mobile carrier bills, a practice often referred to as "cramming." Some ICPEN respondents see stronger authentication and

authorization procedures as a solution to address this type of problem as long as implementation of such schemes is weighed against the usability of the payment service.

In some countries, mobile payments charged on the mobile phone bill are considered as credit card transactions, with consumers therefore enjoying the same level of protection when purchasing with their mobile phone or with their credit card. However, consumers often have less protection when paying with mobile payments in comparison to traditional means of payment that are regulated by specific laws or regulations, such as debit or credit cards.

The types of protections consumer authorities have recommended include: adequate authentication and authorization procedures for consumer transactions such as double opt-in procedure with a Personal Identification Number (PIN)-code or similar security procedure; limitations on consumers' total liability when using mobile payment mechanisms service; and limitations on consumers' liability for unauthorized charges or costs incurred after the theft or loss of a mobile device or SIM card.

Consumers need to know who is responsible for what and whom to turn to if things go wrong. To solve this problem, some ICPEN authorities have proposed that mobile operators should bear the same kind of responsibility as the issuers of credit cards, which would include responsibility for price information and charge backs, and other penalties imposed on the consumer. In addition, many countries have alternative dispute resolution systems ("ADR") that can resolve the matter, but it may be unclear in some circumstances which ADR has the jurisdiction.

Some ICPEN authorities reported that unclear billing information from mobile network operators regarding mobile payments was problematic. A bill from a mobile operator will typically state "premium rate services" and a sum, but both the vendor of the service and the time of purchase are usually not included. This can make it difficult for consumers to fight unauthorized charges on their bill or prepaid credit.

The practice of "mobile carrier billing," which offers service providers the ability to charge payments directly to a mobile phone bill, has been increasing in the United States and in other jurisdictions as a growing number of third-parties enter into agreements with carriers to place charges on mobile bills.

Concurrently, the mobile carrier billing platform raises a unique challenge for authorities with regard to the third-parties' practice of placing fraudulent or unauthorized charges on consumers' mobile carrier bills (known as "cramming"). Some ICPEN respondents suggested strategies to ensure that cramming does not occur; these include: (1) permitting consumers to block all third party charges on their mobile phone bills (including the ability to block third party charges on individual accounts operated by minors in the household); (2) requiring mobile carriers to establish clear and consistent processes for consumers to dispute suspicious charges and obtain reimbursement; and (3) requiring mobile carriers to standardize and prominently highlight billing descriptions of third party charges in a format that makes it clear why the consumer is being billed for a third party charge, the provider or merchant that placed the charge, and the good or service provided.

## **5.- Guide on bundled products (2019).**

CEER, the Council of European Energy Regulators, touches implicitly upon third party payments charges in its Guide on bundled products (2019)

The Guide says, among others: *'Where bundling of products includes an essential service (such as energy, water or communications), consumers must be clearly protected from disconnections or risks associated with other elements of a bundled contract, according to*

*legal safeguards in place for that essential service. If the consumer breaks the conditions of the bundled contract (e.g. does not pay the part of the bill that corresponds to an additional service), their essential service should be maintained although the consumer loses the benefits and conditions of the bundled contract.’ (p. 22)*

Besides this particular statement, the Guide also gives the following more general guidance on contractual matters in a bundled products context:

#### Ensure transparency of different elements of bundled products

Consumers buy bundles of multiple products for their intended efficiency in terms of cost and services. Price, services, quality and contractual transparency on the different elements of the bundled products are vitally important. As well as the terms and conditions of the different elements of the bundled product, **companies should ensure that no arbitrary allocation of the price to individual elements of the bundle takes place.**

This should be done in an understandable manner without overloading the consumer with information. All contracting parties that are directly involved with the supply of the good or service should be identified.

#### Keep it simple

Consumers need easy to understand, easy to compare and consistent information.

#### For contractual clarity and simplicity for consumers. Align duration of elements in bundled contracts.

- a. The parties involved in the bundle should (to the greatest extent possible) seek to align the duration of the elements of the bundled contracts with the duration of the essential contract. Otherwise, with different contract durations, contractual lock-in can be implicit as consumers may be confused about when a component of the bundle ends. Irrespective of the duration of the contract, which may be limited by sectorial legislation, conditions and procedures for contract termination should not act as a disincentive to changing service provider.
- b. Where component durations are not aligned, the durations should be transparently communicated before signing the contract and before the expiry date (and potential renewal) of the relevant components.
- c. Similarly, the parties involved in the bundle should seek to align the conditions for termination of the different elements of the bundle.
- d. The contractual renewal of the provision of optional or additional services should be subject to prior notification and separate from the essential element and sent in a timely manner to the consumer without the consumer’s consent. The consumer should be able to terminate the contract with the provider at no cost (except the charges for receiving the service during the notice period).

#### Apply clear liability principles where there are multiple parties/contracts involved in the bundled product

In some cases, the consumer may have to sign more than one contract when securing bundled products brokered by a company. In the case of multiple contracts for bundled products, it should be made clear (at all times) to the consumer who is liable for each or all parts of the bundle in case of any problems.

In cases where a single contract is concluded but where the provider indicates that for part of the services, it acts only as an agent or broker, the provider should ensure the consumer is

aware of who is liable towards the consumer for any problem arising with any part of the bundle at the outset of the contract.

The consumer should not be obliged to interact with different parties for the different elements of the bundled product – instead there should be one company that acts as a “primary contact point” for the full bundle.

Have a single summary statement and/or single portal for consumers to find the different bills associated with their bundles

On billing, a single-bill for a bundled product makes life easier for consumers. Where this is not possible, a single summary statement and/or a single portal will help consumers to find the different bills associated with their bundle. The provider(s) who sends the statement and the bill(s) should comply with consumer protection legislation. What is important is that the customer should be able to check the bill(s) against the accepted offer as set out in the contract. The bill(s) should also be in line with the Principle of transparency, containing all essential information presented in a clear, understandable manner, and consistent manner that can be traced back to the contract and the offer.

Make clear the choice of payment methods for bundled-only products

It should be clear in advance of signing the contract whom the customer pays and what payment method(s) may be used (see Principle 1 on transparency, regarding how much consumers are expected to pay).

Signpost the responsible (in-house or external) complaint handler

It is vital that consumers know who to contact (who is the case/complaint handler of the bundled product) when something goes wrong or when seeking advice or in the case of an emergency.

Principles for regulators overseeing and regulating sectors with bundled products:

Bundled products which cut across several sectors raise jurisdictional challenges between the authorities responsible for enforcing consumer rights. Cross-authority cooperation and coordination is key, as is close monitoring of the deployment of these products, to ensure consumers’ rights are correctly enforced. CEER recommends that, where bundled products exist, the following Principles be applied by public authorities charged with overseeing market developments and with managing complaint resolution processes for bundled goods and services:

- A. Clarify and educate companies on the rules and obligations applicable to bundles in general consumer law and in sectoral rules.
- B. Monitor
- C. Cooperate across sectors with relevant authorities

**6.- The EBA, the European Banking Authority, published a position on the exemption of the PSD2-requirements for providers of electronic communication services (2019).**

On 6 September 2019, the EBA issued an (unofficial) position on ‘*The Implementation of the electronic communications exclusion in the voiced-based premium rate services market*’ addressing the question (Ref. 2018\_4181) of whether the Payment Services Directive 2015/2366/EU (PSD2) applies to “intermediaries” (as premium rate operators or transit operators) implied in the delivery of the services and contents as well as in the

invoicing/cashing as the network operator. In particular, if the exclusion set out in its Article 3(l) 'cascades' to include the whole value chain and therefore, all the providers of electronic communications networks or services involved in payment transactions should not have to register as payment institutions or agents for these operations.

As a background, the document explains that the electronic communications exclusion (ECE) of Article 3(l) PSD2 excludes from the scope of this Directive the payment transactions by a provider of electronic communications networks or services where these are provided in addition to electronic communications services provided to a subscriber. Also, that the ECE is limited to the purchase of digital content, voice based services, electronic tickets or charitable giving charged to the subscriber's bill where these are provided in addition to electronic communications services, and with value limits of 50€ per single payment transaction and 300€ cumulative value for an individual subscriber per month.

The EBA position is that for the application of Article 3(l) PSD2, the electronic communications operator must provide the payment services in addition to the electronic communications services it provides to its subscriber. This implies that there is a direct contractual arrangement between the electronic communications operator and the subscriber for the provision of the electronic communication services and that the payment service is an additional service to these services. Therefore, in EBA opinion, Article 3(l) PSD2 does not apply to cases where the digital content provider or the provider of services ('intermediary') does not have a direct contractual relationship with the payer for the provision of electronic communications services.

## **7.- BEREC Report on Special Rate Services (2012).**

The BEREC Report on Special Rate Services discusses transparency problems and high level of prices, in relation to voice services with a special rate (not only PRS but also freephone services and shared cost numbers).

In general, the Report is written from an economical perspective, more specifically the perspective of price regulation, with a focus on the discussion of wholesale problems (Section 3) and wholesale or SMP remedies (Section 6).

BEREC concludes that Special Rate Service (SRS) voice calling to service providers at least in some countries have problems of (a) low transparency and (b) relatively high prices. This leads to several negative effects like – beside the high prices itself – reduction of demand, increased risk of fraud and loss of service diversity.

The Report points out problems can be, and often are already, addressed through transparency measures like pre call tariff announcements. However, the transparency measures do not always solve all the identified competition problems. Following this, the Report identifies a number of regulatory wholesale approaches that can be used - possibly alongside pure transparency (consumer protection) measures - to address these problems if they occur.

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## Annex 5 – Information not included in the Report

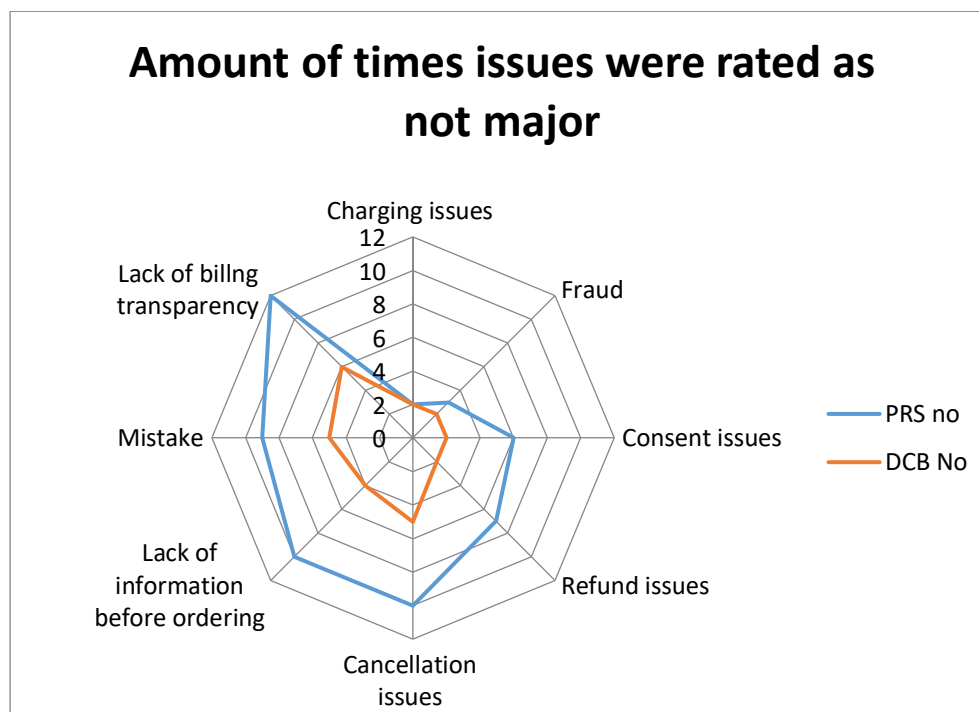
Question 11.B about obligation to provide detailed bill for premium rate services and question 12.B about obligation to provide detailed bill for direct carrier billing.

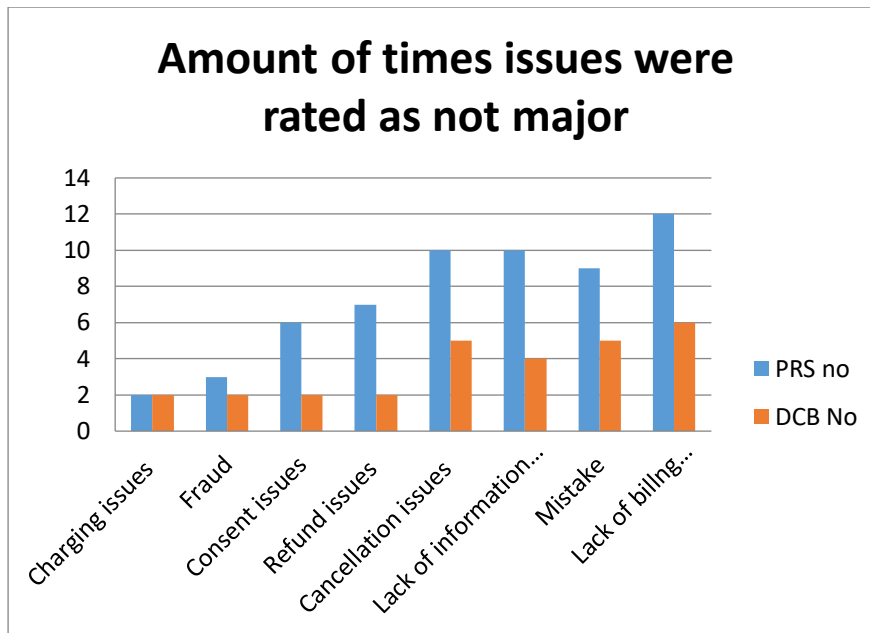
Obligation to provide a detailed bill		
Service	Premium rate services	Direct carrier billing
Country	17 (AT, BE, DE, EL, ES, FI, FR, HR, IT, LT, MT, NL, PL, PT, RO, RS, SE)	4 (DE, FI, FR, RO)

Question 25.C : NRAs/competent authorities were asked that if there is an obligation to provide a cancellation period whereby end-users can withdraw from PRS and/or DCB subscription services, how do end-users make this request.

Two (2) NRAs responded (IT, PT). One NRA (PT) confirmed that the request can be made through a customer area only (i.e. self-care application, personal area via website) and the other NRA indicated requests could be processed through both a customer area and customer support (telephone, email, chat, etc.).

Question 30.A: Would you consider the following issues as a major issue mentioned in complaints regarding third party billing?





- Charging issues PR: DK, IT
- Fraud PR: DK, MT, PT
- Consent Issues PR: DE, DK, ES, HU, MT, PL
- Refund issues PR: CZ, DK, EE, HR, HU, MT, PT
- Cancellation Issues PR: CZ, DE, DK, ES, FR, HR, IT, MK, MT, PL
- Lack of information before ordering PR: BE, CZ, DK, ES, HR, IT, MT, PL, PT, SK
- Mistake PR: DK, EE, ES, FR, HR, IT, MK, MT, PT
- Lack of billing transparency PR: BE, CZ, DK, EE, ES, HR, IT, MK, MT, PL, PT, SK
- Charging issues DCB: IT, SK
- Fraud DCB: PL, SK
- Consent Issues DCB: PL, SK
- Refund issues DCB: CZ, SK
- Cancellation Issues DCB: CZ, DK, IT, PL, SK
- Lack of information before ordering DCB: CZ, IT, PL, SK
- Mistake DCB: DK, ES, IT, PT, SK
- Lack of billing transparency DCB: CZ, DK, ES, IT, PL, SK