



ANNUAL REPORT 2019

OFFICE OF THE OMBUDSMAN FOR TELECOMMUNICATIONS

CONTENTS

Mission	3
Introduction.....	4
1. Complaints submitted in 2019	6
2. Complaints handled in 2019.....	17
3. Top 10	26
4. Vulnerable groups: the case of the elderly	39
5. Customer service by phone.....	46
6. Nuisance calls	52
7. Phone scams and fraudulent commercial practices: operators' involvement?	60
8. Persistent complaints about charges for 'third-party services'	66
9. Late connections of fixed-line telecommunication services	72
10. Double charging of subscription fees after changing telecom operator with Easy Switch.....	79
11. Data charges in Belgium and abroad	86
Rules of procedure	93
Budget.....	98
Ombudsman.be	99

MISSION

Customers can seek help from the Office of the Ombudsman for Telecommunications, established by the Act of 21 March 1991 at the Belgian Institute for Postal Services and Telecommunications.

The Office of the Ombudsman for Telecommunications operates completely independently of the telecommunications companies. Within the limits of its powers, the Office does not take instructions from any government body.

The address and telephone number of the Office of the Ombudsman for Telecommunications are listed within the information pages of the telephone directories and are provided by the telecommunications companies at the customer's request.

The customer may choose to seek help from either the Dutch-speaking or the French-speaking Ombudsman.

Only complaints in writing are accepted. However, the customer may contact the Ombudsman's Office verbally in order to gain accurate information about his or her concerns.

Complaints are only admissible if the complainant indicates that he or she has already raised the matter with the telecommunications company concerned. The Office of the Ombudsman for Telecommunications may refuse to handle a complaint if it was submitted to the telecommu-

nications company concerned more than a year previously, or if it is vexatious.

If a user's complaint is declared admissible by the Ombudsman's Office, debt collection proceedings will be suspended by the operator for a maximum period of four months from the submission of the complaint to the Office, or until the Office has made a recommendation or an amicable settlement has been reached.

The investigation of a complaint will be terminated if an appeal against it is lodged with the court. Further legal proceedings are always possible.

The Office of the Ombudsman for Telecommunications has the following statutory duties:

- to investigate all complaints from end users relating to the activities of telecommunications companies for which the Office is competent;
- to mediate in order to facilitate an amicable settlement of disputes between telecommunications companies and end users;
- to formulate a recommendation to the telecommunications company if an amicable settlement cannot be reached; a copy of the recommendation is sent to the complainant; in this case, the telecommunications company has 20 working days to justify its decision if it does not follow the recommendation. After the expiry of this period, the Office will send a reminder to the company

concerned. The company then has a new period of 20 working days to justify its decision if it does not follow the recommendation. In such cases, the substantiated decision is sent to the complainant and the Office of the Ombudsman for Telecommunications.

- to examine a request from any end user claiming to be the victim of malicious use of an electronic communications network or service for information about the identity and address of the callers concerned.

The Office of the Ombudsman for Telecommunications will agree to the request if the facts appear to be accurate and the request relates to precise dates.

With reference to a complaint that has been submitted to it, the Office of the Ombudsman for Telecommunications may inspect books, correspondence, reports and in general any documents of the telecommunications company concerned, on its premises, that directly relate to the subject of the complaint.

The Office of the Ombudsman for Telecommunications may request explanations or information of any kind from the directors and personnel of the telecommunications company and perform any verification checks necessary for the investigation.

The Ombudsman's Office will treat the information obtained in this way as confidential if its distribution could damage the company in general.



INTRODUCTION



In 2019, help was sought from the Office of the Ombudsman for Telecommunications 15,816 times. This figure represents a slight decrease (-4.21%) compared to 2018.

The number of complaints in which the user wished to establish the identity of nuisance callers rose 8.92%, from 4,059 requests in 2018 to 4,410 in 2019. On the other hand, the number of requests for mediation in a dispute with a telecom operator decreased, from 12,452 in 2018 to 11,406.

The top 5 operators concerned in 2019 were the same as in 2018: Proximus was again in first place, followed by Telenet Group, Orange Belgium, Scarlet and VOO. Unleashed was ranked sixth.

HANDLING OF COMPLAINTS

In 2019, the Ombudsman's Office analysed, handled and closed 16,246 cases. The number of disputes handled in 2019 fell slightly compared to 2018 (16,720) – a logical sequel of the decrease in the number of complaints submitted.

In 96.51% of the complaints, an amicable settlement was reached between the user and the operator. If we also count recommendations to which the operator responded positively, 97.22% of cases were brought to a successful conclusion.

In Chapter 3, we analyse in detail the closing of complaints at the Ombudsman's Office in 2019. We discuss the top ten telecom operators, using representative examples and statistics.

HIGH-PROFILE ISSUES

Chapter 4 is devoted to various ways in which the elderly are vulnerable with regard to electronic communications. Operators need to take this issue more seriously: as well as being a matter of social necessity, it also presents a real opportunity in terms of technical, economic and commercial developments.

In Chapter 5 we focus on customer service by phone, which make a significant contribution to the image that end users have of an operator. Despite the legal provisions in this regard, many complaints are still being submitted, mainly relating to lack of effectiveness, long waiting times and inadequate customer focus. It is important for first-line services to receive the necessary resources to function properly and ensure customer satisfaction.

In Chapter 6 we focus our attention on the problem of nuisance calls and the lack of solutions to put a stop to this intrusive behaviour which has led in recent years to the submission of thousands of requests regarding malicious calls and hundreds of mediation requests aimed at getting unwanted calls blocked.

Chapter 7 deals with the significant increase in scams over the phone and other commercial practices. Despite the fact that the fraudulent nature of practices of this type has been clearly established and proved, the operators are doing little or nothing about them. This attitude inevitably leads to strong negative reactions from end users.

In Chapter 8 we focus on complaints regarding billing for M-commerce and premium SMS services. For the 17th year running, the Ombudsman's Office received hundreds of complaints from customers, mainly of Proximus, who found charges appearing on their bills for services they had not requested.

Chapter 9 addresses the large number of complaints that were submitted to the Ombudsman's Office in 2019 about the late installation of fixed-line telecom services. Scarlet customers in particular made extensive use of our mediation services because they often had to wait months for the telephone, Internet and/or digital TV to be installed.

In Chapter 10 we look into the numerous complaints made about irregularities in connection with switching telecom operators. Consumers used Easy Switch in order to ensure an efficient transfer process. However, some were surprised to find that the old operator had not stopped its services, so that they ended up being billed twice. The complainants were unable to resolve the dispute themselves because of the wall of incomprehension on the part of both the old and the new operator that they came up against.

In Chapter 11, we analyse complaints about billing for data usage. For mobile Internet, the Ombudsman's Office makes a distinction between consumption in Belgium, within the European Economic Area and outside the European Economic Area. Among other things, we raise the issue of unlimited data usage and the difficulties encountered by complainants while travelling abroad.



Finally, at the end of this report, our rules of procedure and our budget are presented.

I wish to end this introduction with a word of thanks to all the staff of the Ombudsman's Office, who have succeeded in finding solutions to a great many of the problems that users face. I also want to thank the management of the operators on the Belgian telecom market and their employees at all levels who have given us faithful support in the handling of our cases.

Finally, please note that the annual report can also be found in full on our website www.ombudsmantelecom.be.

Brussels, 26 March 2020.

Luc Tuerlinckx, Ombudsman





1

COMPLAINTS SUBMITTED IN 2019

<u>A. Overview of complaints between 1993 and 2019</u>	7
<u>B. Methods of submission</u>	8
<u>C. Distribution of complaints per operator</u>	9
1. Number of complaints per operator	9
2. Changes in percentage of complaints per operator	10
<u>D. Distribution of complaints submitted per procedure</u>	11
<u>E. Distribution of mediation requests per operator</u>	12
1. Number of mediation requests per operator	12
2. Changes in percentage of mediation requests per operator	13
3. Number of mediation requests B2C/B2B	14
<u>F. Distribution of mediation requests per category</u>	15
<u>G. Distribution of complaints about malicious calls per operator</u>	16

A. OVERVIEW OF COMPLAINTS BETWEEN 1993 AND 2019

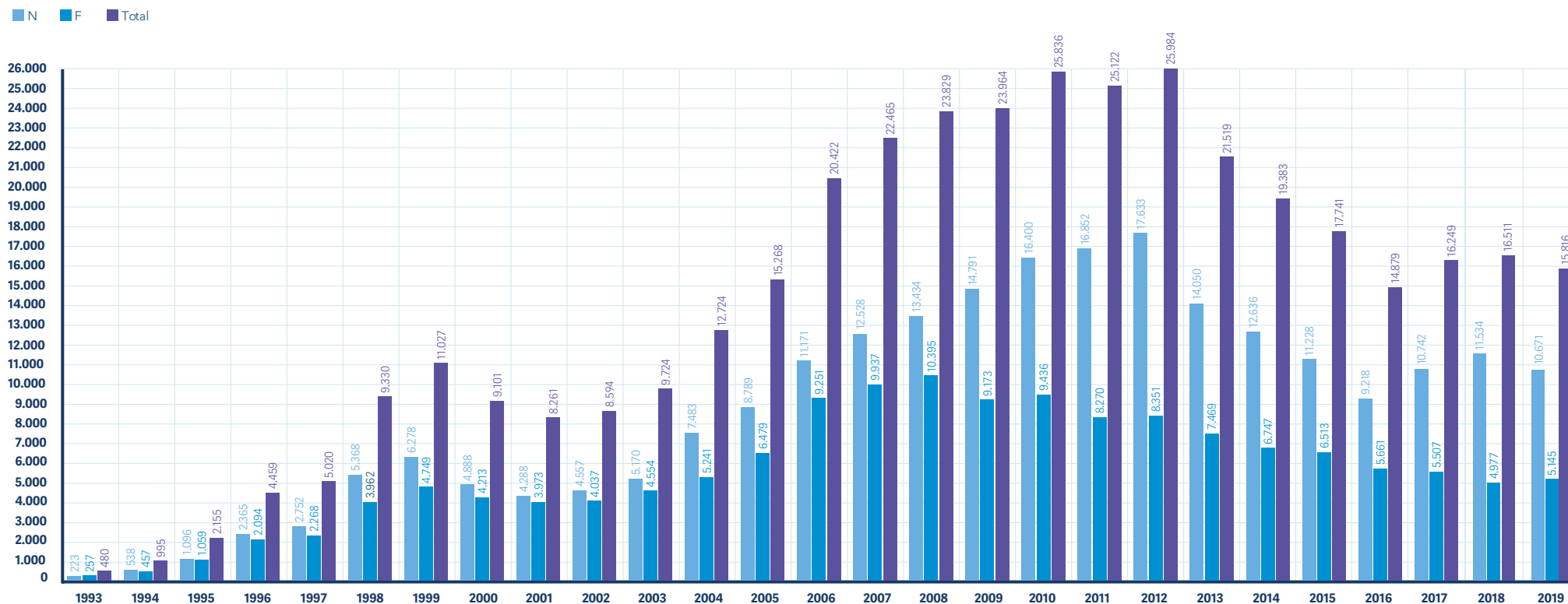


TABLE 1

Here we show the changes in the number of complaints that our office has received each year. As can be seen, the number of complaints fell slightly in 2019: 15,816 complaints were made, compared to 16,511 in 2018, a decrease of 4.21%.

French-language complaints increased (5,145 compared to 4,977 in 2018), while Dutch-language complaints decreased (10,671 compared to 11,534 in 2018).

B. METHODS OF SUBMISSION

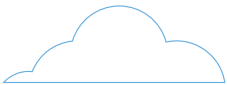
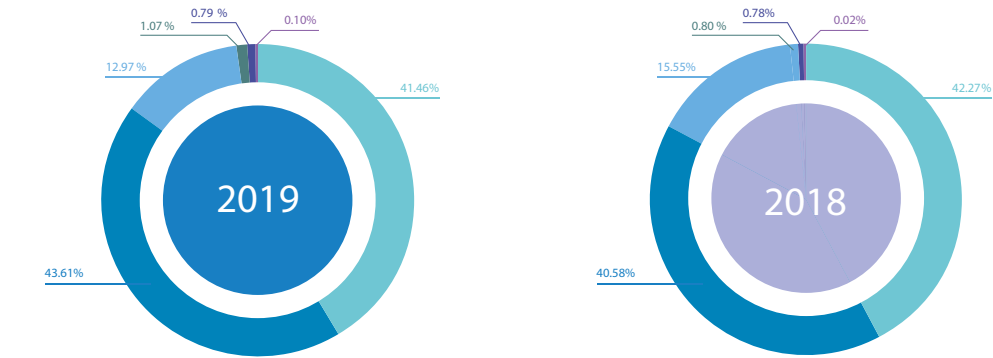


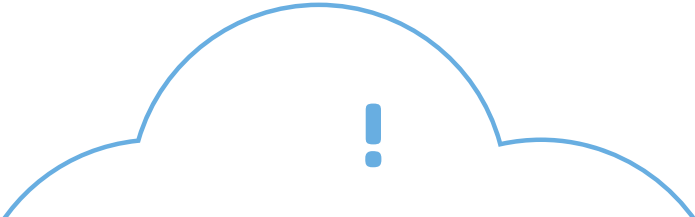
TABLE 2

As required by law, we have only taken into account complaints submitted in writing and in person. Telephone calls are therefore not included in these statistics. The vast majority of complaints (99.21%) are still submitted in writing.

Many consumers send us emails (43.61%) or complete the form on our website (41.46%). In 2019, 12.97% of the complaints we received were by letter (compared to 15.55% in 2018). The Consumer Mediation Service passed on 170 cases to us, or 1.07% of the requests for intervention in 2019. Just 0.79% of cases were opened after a personal visit to our offices in Brussels. In 2019, 15 complaints were submitted via Belmed, the platform for online dispute resolution of the FPS Economy.



	2019	2018
Emails	6,897	6,700
Website	6,558	6,980
Letters	2,051	2,567
Consumer Mediation Service	170	133
Visits	125	128
Belmed	15	3



C. DISTRIBUTION OF COMPLAINTS PER OPERATOR

1. Number of complaints per operator

sO: complaints concerning a single operator mO = complaints concerning multiple operators

	2019	% 2019	mO 2019	sO 2019	sO 2019 %	2018	% 2018	mO 2018	sO 2018	sO 2018 %
Proximus	7565	44.04%	837	6728	46.33%	8138	45.60%	761	7377	48.37%
Telenet Group	3951	23.00%	590	3361	23.14%	4344	24.34%	661	3683	24.15%
Orange Belgium	2260	13.16%	483	1777	12.24%	2394	13.41%	548	1846	12.10%
Scarlet	1288	7.50%	310	978	6.73%	926	5.19%	215	711	4.66%
VOO	590	3.44%	150	440	3.03%	550	3.08%	113	437	2.87%
Unleashed	290	1.69%	54	236	1.63%	367	2.06%	74	293	1.92%
Schedom-Dommel	155	0.90%	41	114	0.78%	115	0.64%	22	93	0.61%
Lycamobile	70	0.41%	13	57	0.39%	78	0.44%	20	58	0.38%
M7Group	61	0.36%	4	57	0.39%	81	0.45%	13	68	0.45%
Edpnet	60	0.35%	39	21	0.14%	64	0.36%	24	40	0.26%
FCR Media Belgium	34	0.20%	10	24	0.17%	33	0.19%	17	16	0.11%
United Telecom	20	0.11%	12	8	0.06%	13	0.07%	6	7	0.05%
Sync Solutions	18	0.10%	12	6	0.04%	13	0.07%	4	9	0.06%
Fluvius (Infrax)	17	0.10%	16	1	0.01%	10	0.06%	8	2	0.01%
Other operators	797	4.64%	82	715	4.92%	720	4.04%	110	610	4.00%

TABLE 3

The top 5 in 2019 consists of the same operators as in 2018, in exactly the same order: Proximus is again in first place, followed by Telenet Group (including SFR), Orange Belgium, Scarlet and VOO. As was the case in 2018, Unleashed (best known to the public under the brand names Mobile Vikings and Jim Mobile) is ranked sixth. For Scarlet, the number of complaints increased (7.50% compared to 5.19% in 2018).

The same was true of Schedom-Dommel (0.90% compared to 0.64% in 2018). Under 'Other operators' we have collected more than 20 operators, including Destiny, Voxxbone, 3Starsnet, Weepee and De Klapper. In many complaints, more than one operator is mentioned. Proximus, Telenet Group, Orange Belgium and Scarlet are often involved in a complaint together with another operator. If we disregard

the 'multi-operator effect', the top 5 remains more or less the same in percentage terms.

2. Changes in percentage of complaints per operator

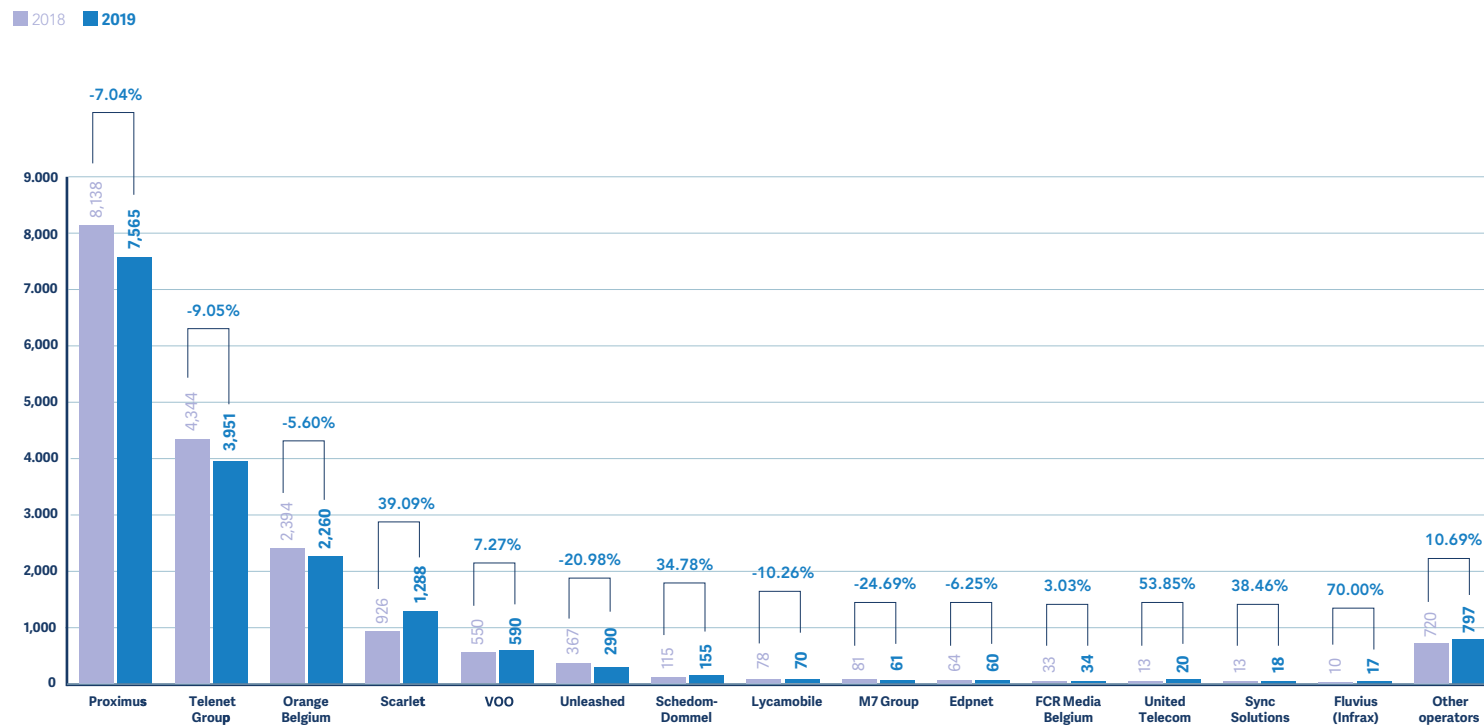
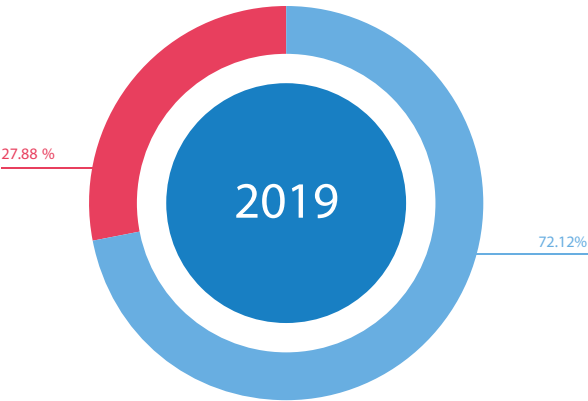


TABLE 4

Some operators experienced a decrease in the number of complaints that far exceeded the average decrease (-3.75%). The fall in the number of complaints was more pronounced at Proximus (-7.04%), Telenet Group (-9.05%), Orange Belgium (-5.60%), Unleashed (-20.98%), Lycamobile (-10.26%), M7Group (-24.69%) and Edpnet (-6.25%). On the

other hand, Scarlet (+39.09%), VOO (+7.27%) and Schedom-Dommel (+34.78%) experienced increases, against the general trend.

D. DISTRIBUTION OF COMPLAINTS SUBMITTED PER PROCEDURE



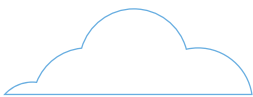
	2019
Mediation	11,406
Malicious calls	4,410

TABLE 5

We received 15,816 complaints in 2019. Of these, 11,406 involved a request for mediation and 4,410 related to the malicious calls procedure.



E. DISTRIBUTION OF MEDIATION REQUESTS PER OPERATOR



1. Number of mediation requests per operator

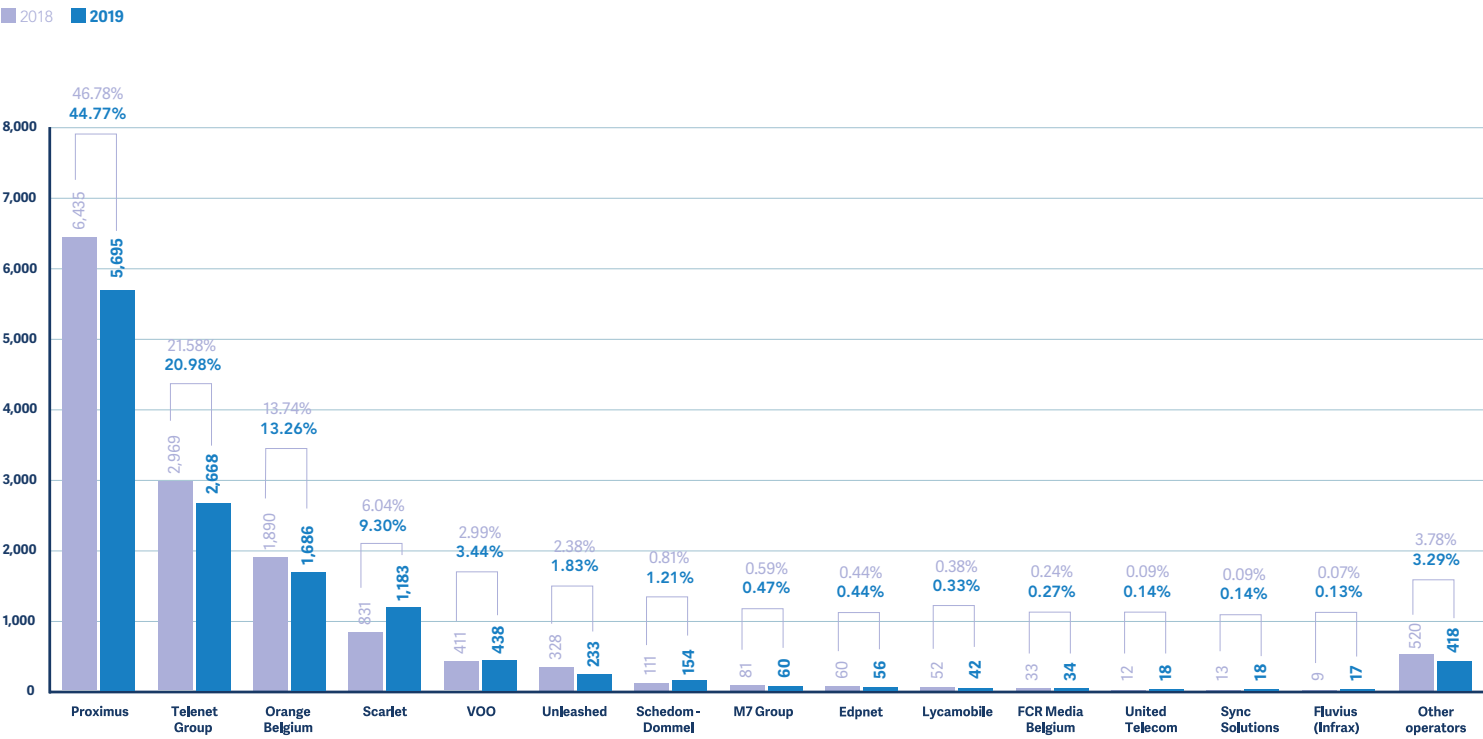


TABLE 6

Disregarding complaints about nuisance calls, the distribution per operator is identical to that in Table 3. Proximus was the subject of easily the most mediation requests with 5,695 cases (compared to 6,435 in 2018). Somewhat more than a third of the mediation requests to be dealt with concerned that operator (44.77% compared to 46.78% in

2018). The other operators in the top 5 are Telenet Group (2,668 cases compared to 2,969 in 2018), Orange Belgium (1,686 compared to 1,890 in 2018), Scarlet (1,183 compared to 831 in 2018) and VOO (438 compared to 411 in 2018). The percentages for the operators can be seen to be relatively stable, with the exception of Scarlet (9.30% compared to

6.04% in 2018). Unleashed comes sixth in the ranking, with 233 mediation requests in 2019 (compared to 328 in 2018).

2. Changes in percentage of mediation requests per operator

■ 2018 ■ 2019

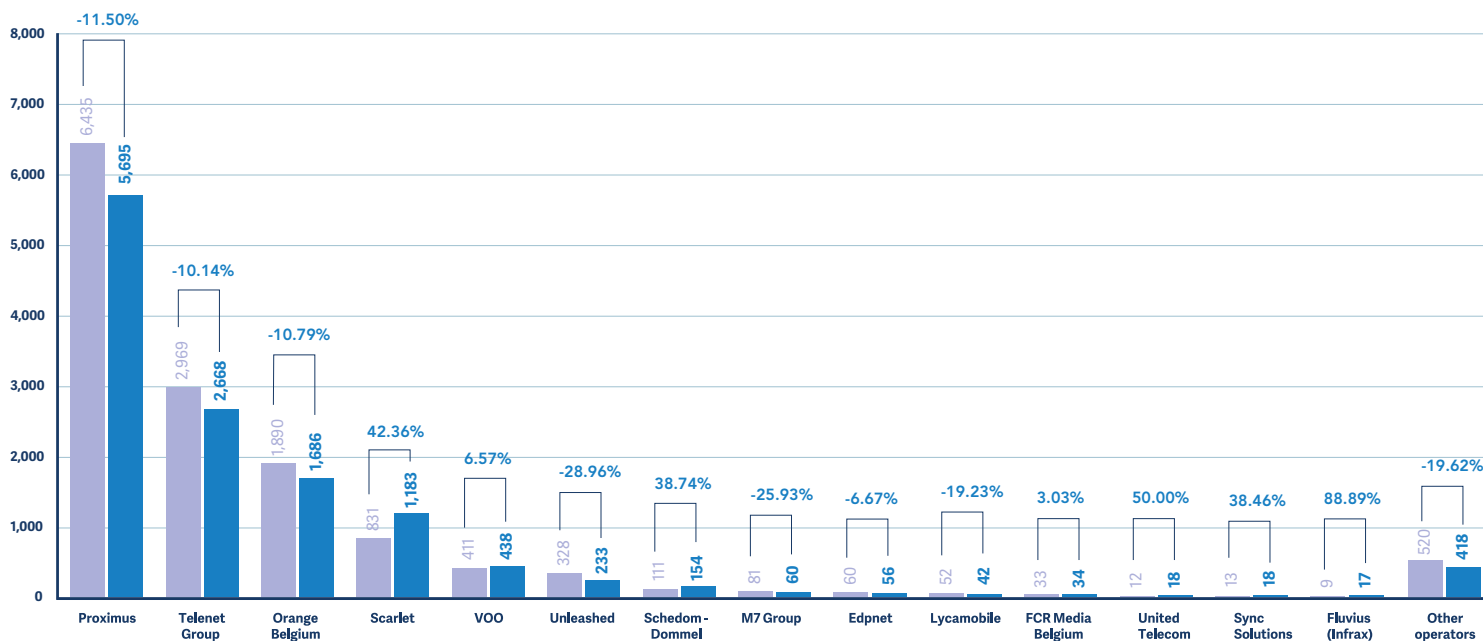


TABLE 7

In the case of Proximus (-11.50%), Telenet Group (-10.14%), Orange Belgium (-10.79%), Unleashed (-28.96%), M7Group (-25.93%) and Lycamobile (-19.23%), the percentage decrease was greater than the general trend (-7.52%). On the other hand, for Scarlet (+42.36%), VOO (+6.57%) and Schedom-Dommel (+38.74%), the percentage rose consi-

derably. This is partly explained by problems caused by Schedom-Dommel's temporary cessation of trading in 2019. Complaints regarding installations of fixed-line telecom services at Scarlet rose sharply in 2019, which is also reflected in these statistics.



3. Number of mediation requests B2C/B2B

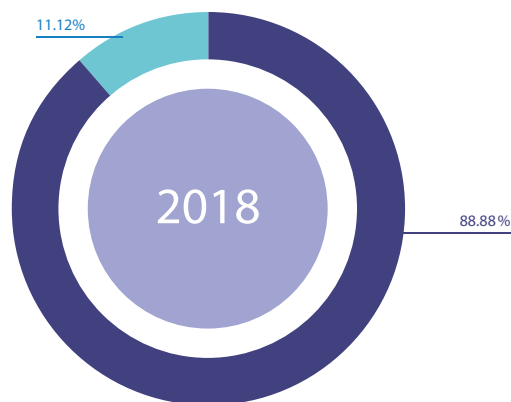
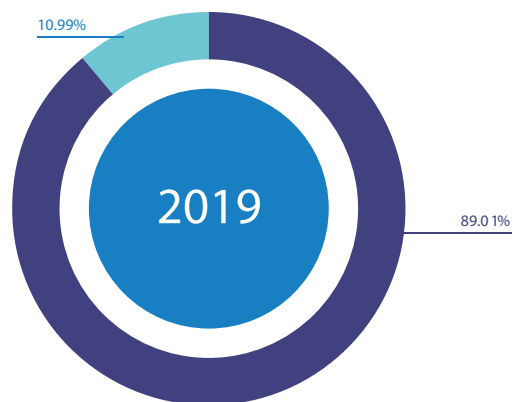
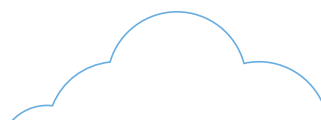


TABLE 8

The Ombudsman's Office is a service that is available to all private and business telecom users. In 2019, in its capacity as the competent body, it took up 10,153 mediation cases for business-to-consumer complainants, i.e. private individuals. Requests for intervention from private individuals represented 89.01% of all mediation cases, compared to 88.88% in 2018.

	2019	2018
■ Business to consumer (non-professional complainant)	10,153	11,067
■ Business to business (professional complainant)	1,253	1,385



F. DISTRIBUTION OF MEDIATION REQUESTS PER CATEGORY

B2C business to consumer (non-business complainants) mC = multi-category complaints sC = single-category complaints

	2019	% 2019	B2C 2019	B2C % 2019	mC 2019	sC 2019	2019 %	2018	% 2018	B2C 2018	B2C % 2018	mC 2018	sC 2018	2018 %
billing	6554	40.95%	5793	41.12%	3145	3409	43.87%	7581	42.71%	6717	43.12%	3799	3782	45.67%
contractual issues	3703	23.14%	3212	22.80%	2213	1490	19.17%	3923	22.10%	3428	22.01%	2566	1357	16.39%
faults and malfunctions	1844	11.52%	1572	11.16%	992	852	10.96%	2154	12.14%	1786	11.47%	1093	1061	12.81%
installations	1054	6.59%	923	6.55%	541	513	6.60%	984	5.54%	844	5.42%	504	480	5.80%
privacy	830	5.19%	779	5.53%	204	626	8.06%	783	4.41%	740	4.75%	159	624	7.53%
transferability	462	2.89%	391	2.78%	248	214	2.75%	513	2.89%	418	2.68%	282	231	2.79%
follow-up complaints	398	2.49%	352	2.50%	275	123	1.58%	388	2.19%	337	2.16%	240	148	1.79%
customer service	306	1.91%	269	1.91%	259	47	0.61%	562	3.17%	509	3.27%	494	68	0.82%
prepaid cards	244	1.52%	233	1.65%	87	157	2.02%	338	1.91%	329	2.11%	132	206	2.49%
security	213	1.33%	198	1.40%	120	93	1.20%	91	0.51%	80	0.51%	59	32	0.38%
points of principle	127	0.79%	116	0.82%	87	40	0.52%	123	0.69%	116	0.75%	70	53	0.64%
miscellaneous	121	0.76%	113	0.80%	12	109	1.40%	153	0.86%	142	0.91%	13	140	1.69%
damage caused by infrastructure work	104	0.65%	96	0.68%	35	69	0.89%	119	0.67%	98	0.63%	43	76	0.92%
telephone directories	43	0.27%	42	0.30%	14	29	0.37%	37	0.21%	33	0.21%	14	23	0.28%

TABLE 9

A clear majority of complaints was again related to billing (40.95% compared to 43.12% in 2018). As in 2018, the other categories in the top 4 were 'contractual issues', 'faults and malfunctions' and 'installations'. Complaints about contractual issues formed the second largest category and showed a slight increase in relative terms (23.14% compared to 22.10% in 2018). In 2019 there were proportionately

somewhat fewer complaints about faults and malfunctions (11.52% compared to 12.14% in 2018), whereas the opposite was true of disputes about a new connection (6.59% compared to 5.54% in 2018). Complaints about privacy occupy fifth place in the ranking (5.19% compared to 4.41% in 2018). Disputes concerning transferability remained stable in percentage terms (2.89% in 2019 and 2018). It is

noticeable that complaints about the help line (customer service) are usually linked to another category. The percentages of business-to-consumer complaints are generally comparable.



G. DISTRIBUTION OF COMPLAINTS ABOUT MALICIOUS CALLS PER OPERATOR

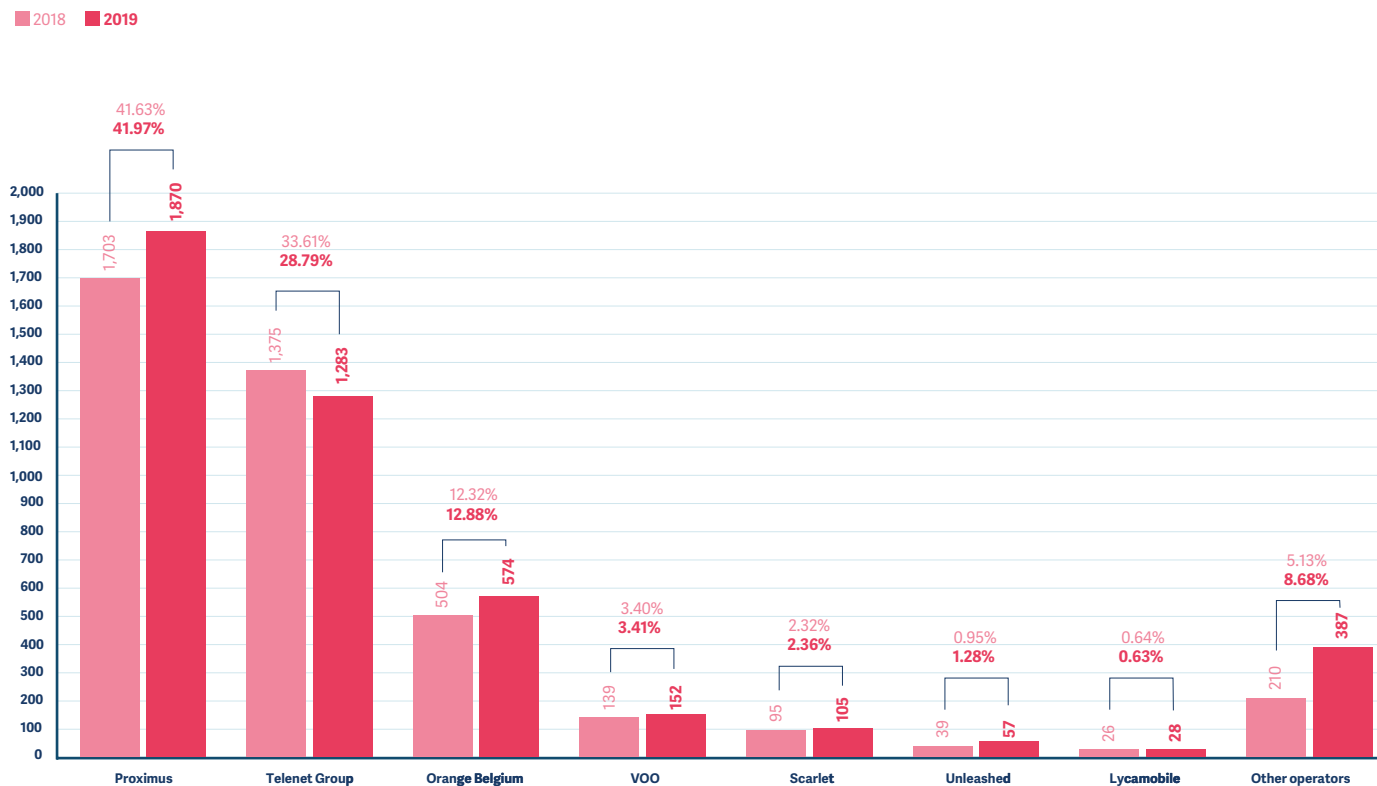


TABLE 10

The number of complaints relating to nuisance calls rose to 4,456 from 4,091 in 2018. The percentage of complaints about Proximus remained stable (41.97% compared to 41.63% in 2018), and the same was true for Orange Belgium (12.88% compared to 12.32% in 2018), VOO (3.41% compared to 3.40% in 2018) and Scarlet (2.36% compared to 2.32% in 2018). Complaints from Telenet Group users underwent a

further decrease to 28.79% compared to 33.61% in 2018. The problem of nuisance calls and the lack of solutions to put a stop to them are discussed in Chapter 6 of this annual report.





2 COMPLAINTS HANDLED IN 2019



<u>A. Overview of complaints handled between 2017 and 2019.....</u>	18
<u>B. Distribution of complaints handled per procedure.....</u>	18
<u>C. Average handling time.....</u>	19
<u>D. Complaints about malicious calls.....</u>	20
<u>E. Mediation requests.....</u>	21
1. Admissibility	21
2. Grounds for inadmissibility.....	22
3. Outcomes	23
3. Positive outcomes for users	24
<u>F. Telephone requests for information.....</u>	25

A. OVERVIEW OF COMPLAINTS HANDLED BETWEEN 2017 AND 2019

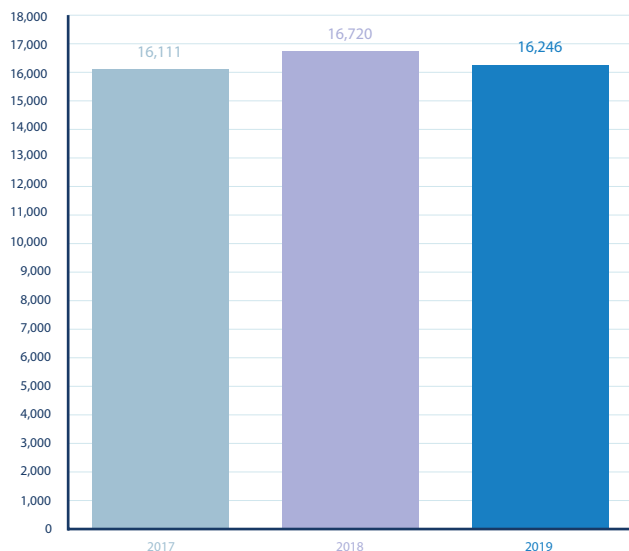
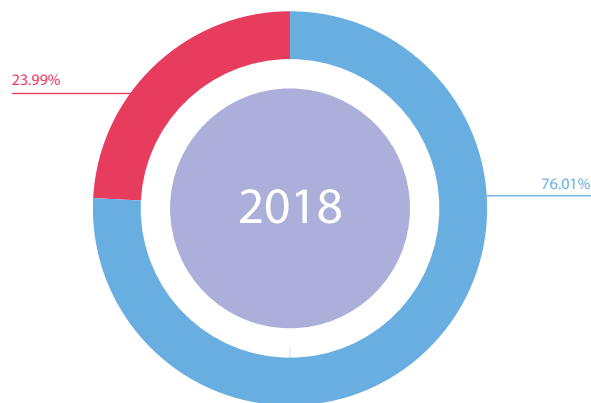
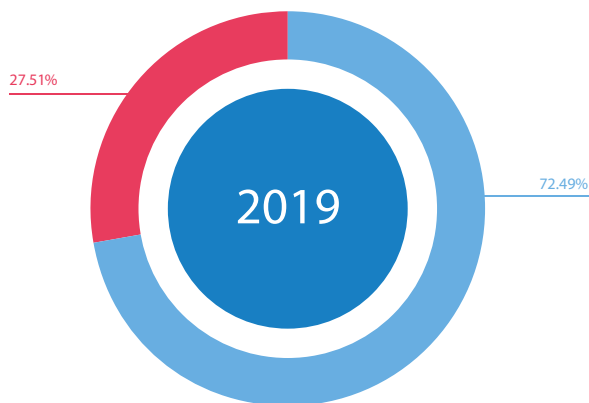


TABLE 11

Here we show the changes in the number of complaints that the Ombudsman's Office has handled during the last three years. In 2019, we analysed, handled and closed 16,246 cases. The number of disputes handled in 2019 fell compared to 2018 (16,720) – a logical consequence of the decrease in the number of complaints submitted.

B. DISTRIBUTION OF COMPLAINTS HANDLED PER PROCEDURE



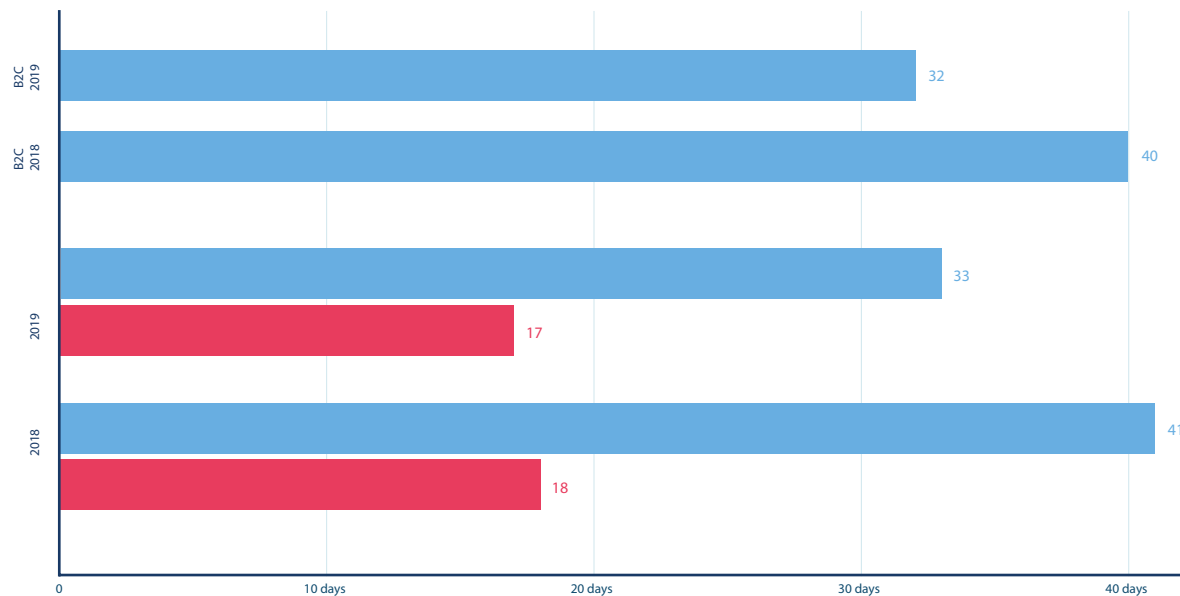
	2019	2018
■ Mediation	11,777	12,709
■ Malicious calls	4,469	4,011

TABLE 12

The number of closed cases relating to malicious calls increased from the previous year (4,469 compared to 4,011 in 2018), whereas the opposite was true of closed mediation cases (11,777 compared to 12,709 in 2018).



C. AVERAGE HANDLING TIME



	2019	B2C 2019	2018	B2C 2018
■ Mediation	33	32	41	40
■ Malicious calls	17	/	18	/

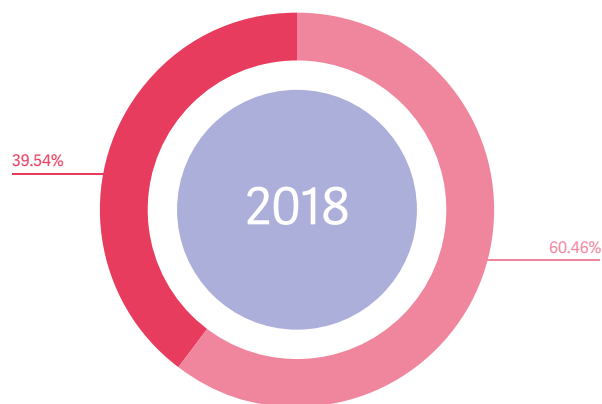
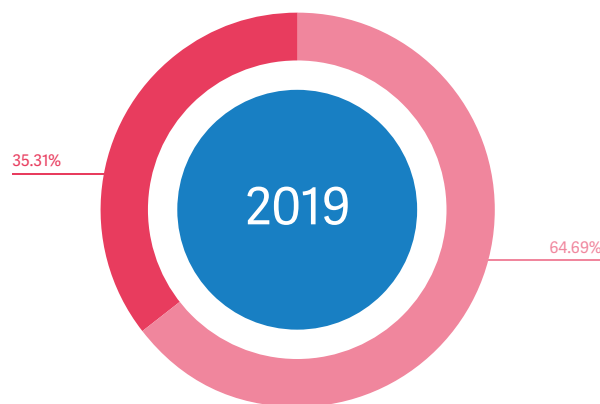
TABLE 13

In 2019, mediation cases were closed after 33 calendar days on average (compared to 41 in 2018). Requests for identification in connection with nuisance calls were handled in an average of 17 calendar days (compared to 18 in 2018).





D. COMPLAINTS ABOUT MALICIOUS CALLS



	2019	2018
Without identification	2,891	2,425
With identification	1,578	1,586

TABLE 14

A relative decrease can be seen in the number of complaints where it was possible to disclose an identity (35.31% compared to 39.54% in 2018). Nearly two-thirds of the cases relating to nuisance calls were closed without the likely perpetrator(s) of these calls or SMS texts being identified (64.69% compared to 60.46% in 2018). We deal with this issue in Chapter 6 of this annual report.

E. MEDIATION REQUESTS

1. Admissibility

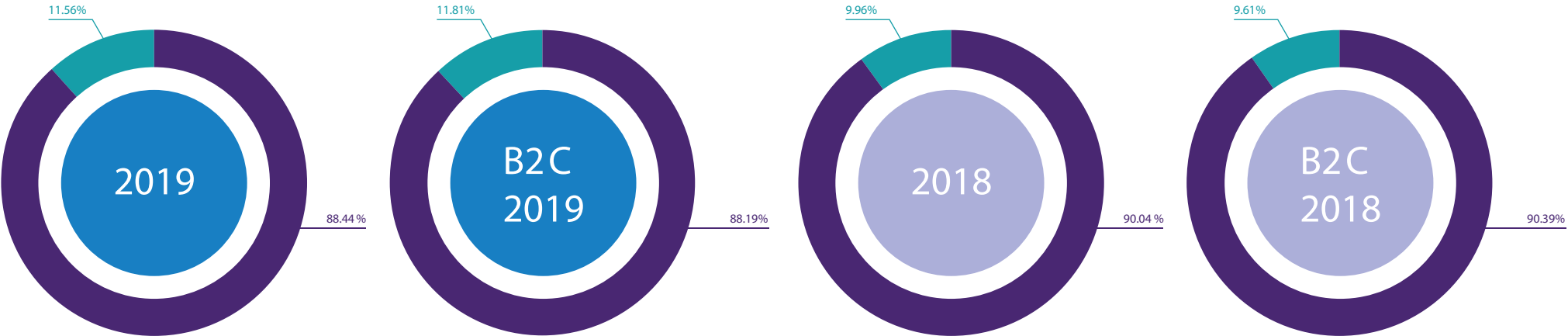


TABLE 15

The percentage of mediation disputes declared admissible fell slightly (88.44% compared to 90.04% in 2018). The percentage of mediation cases declared admissible for private individuals (B2C) remained practically the same in 2019 (88.19%).

	2019	B2C 2019	2018	B2C 2018
Admissible	10,416	10,888	11,443	10,888
Non-admissible	1,361	1,158	1,266	1,158



2. Grounds for inadmissibility

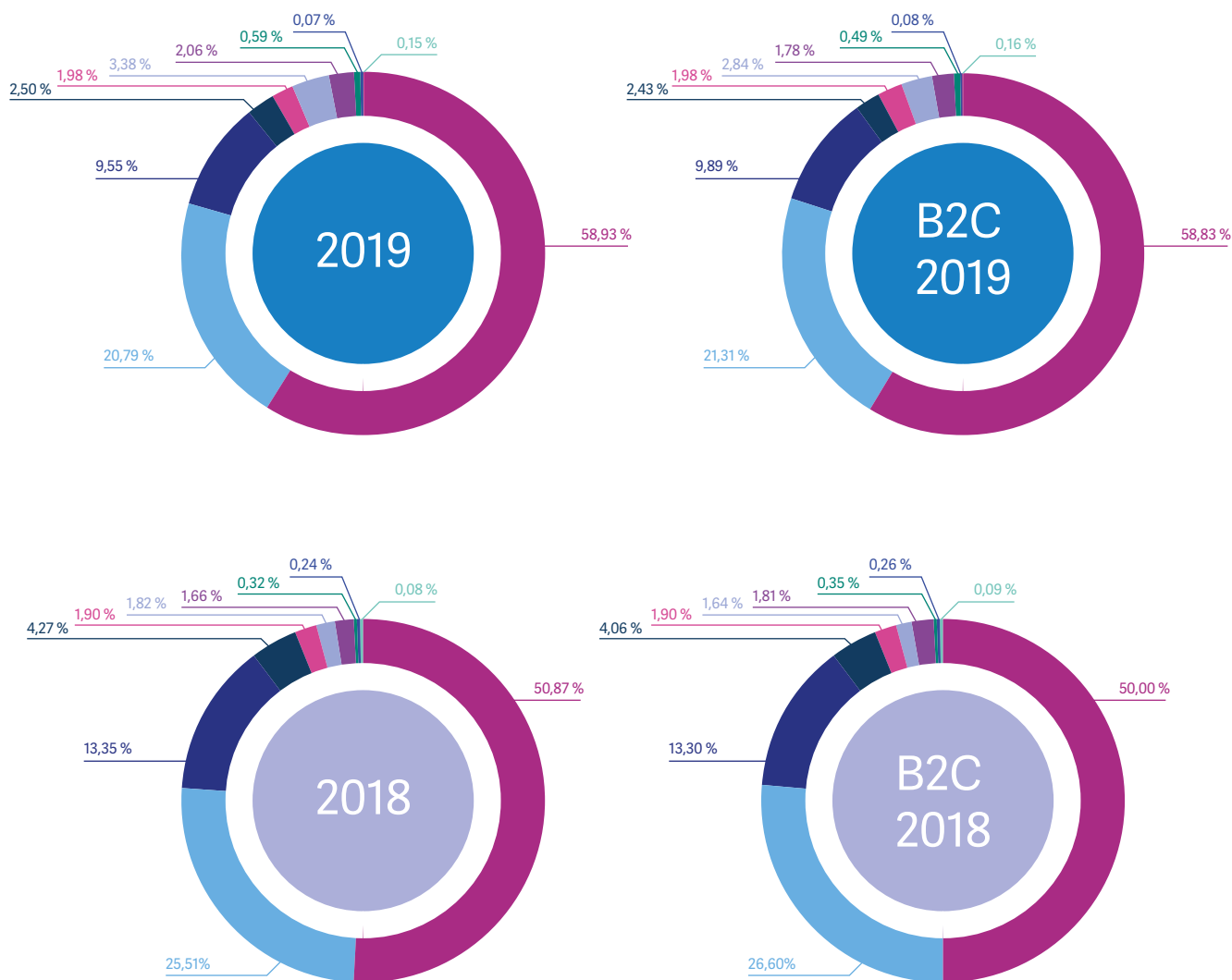


TABLE 16

In more than half (58.93%) of the rejected mediation cases, the Ombudsman's Office declared the complaint inadmissible because the relevant operator had not been contacted first (compared to 50.87% in 2018). Around a fifth (20.79%) of the inadmissible complaints in 2019 were found to be incomplete (compared to 25.51% in 2018). In 9.55% of the inadmissible cases, the complaint was rejected because the problem raised concerned a sector other than telecommunications. Of the disputes declared inadmissible, 3.38% related to circumstances from more than a year previously (compared to 1.82% in 2018) and 2.50% related to legal proceedings (compared to 4.27% in 2018). In 2019, 2.06% of the complaints declared inadmissible by our Office related to a private conflict (compared to 1.66% in 2018) and 1.98% of such cases involved a complaint that was unclear (compared to 1.89% in 2018). A further 0.59% of complaints were declared inadmissible in 2019 because they related to foreign operators, or were deemed offensive (0.15% compared to 0.08% in 2018), or lay outside the competence of the Ombudsman's Office (0.07% compared to 0.24% in 2018). With regard to complaints from individuals (business-to-consumer), the results in 2019 are generally similar.

	2019	B2C 2019	2018	B2C 2018
First-line complaint	802	726	644	579
Incomplete data	283	263	323	308
Other sector concerned	130	122	169	154
Circumstances more than a year before	46	35	23	19
Judicial proceedings	34	30	54	47
Private disputes	28	22	21	21
Unclear complaint	27	27	24	22
Foreign operators	6	6	4	4
Vexatious complaints	2	2	1	1
Outside competence	1	1	3	3

3. Outcomes

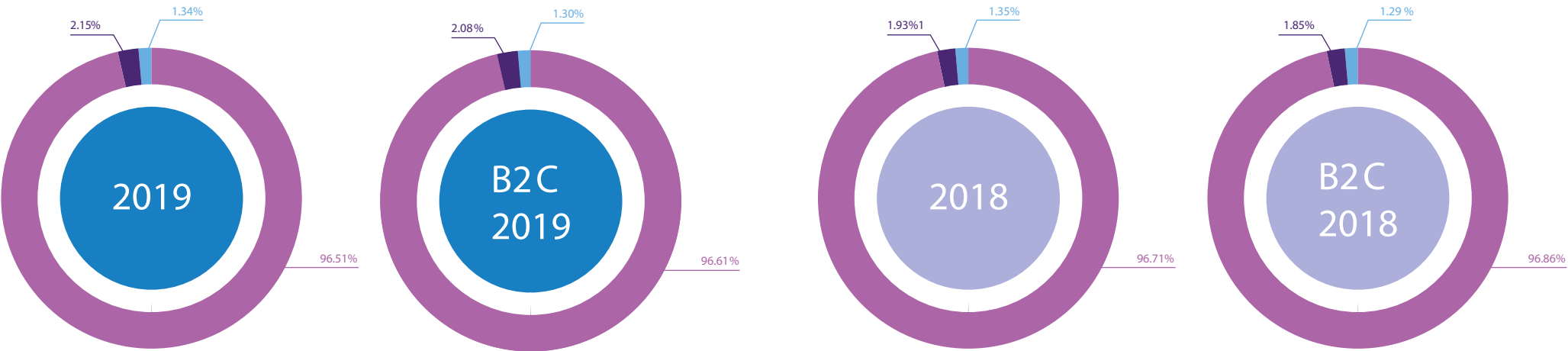
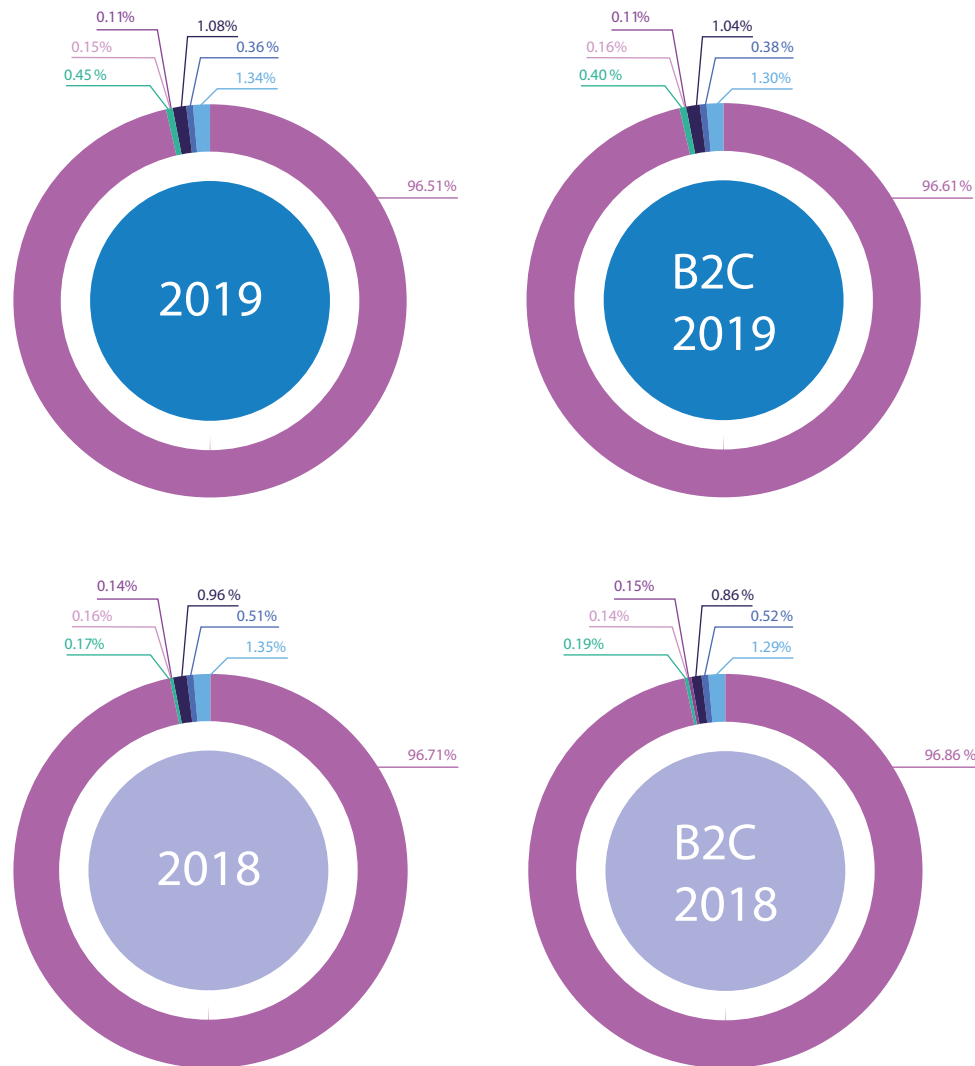


TABLE 17

In the overwhelming majority of cases handled, an amicable settlement was reached (96.51% compared to 96.71% in 2018). Recommendations, like amicable settlements, remained at a stable level, both in absolute numbers (224 compared to 221 in 2018) and in percentage terms (2.15% compared to 1.93% in 2018). The number of withdrawn complaints decreased, however (140 compared to 155 in 2018). Chapter 3 of this annual report looks in more detail at the percentages of amicable settlements for the ten operators concerning which the highest number of complaints was handled in 2019.

	2019	B2C 2019	2018	B2C 2018
Amicable settlements	10,052	8,899	11,067	9,771
Recommendations	224	192	221	187
Withdrawn complaints	140	120	155	130

4. Positive outcomes for users



	2019	B2C 2019	2018	B2C 2018
Amicable settlements	10,052	8,899	11,067	9,771
Recommendations favourable to complainants that were followed by the telecommunications company	47	37	19	19
Recommendations favourable to complainants that were partially followed by the telecommunications company	16	14	18	14
Recommendations not responded to by the telecommunications company after 40 days which became enforceable	11	10	16	15
Negative outcomes	1,139	6	1,108	7
Recommendations not responded to by the telecommunications company within the 40-day period	37	35	58	52
Withdrawn complaints	1,401	20	1,511	30

TABLE 18

Positive outcomes (97.22% compared to 97.18% in 2018) consist of the total number of amicable settlements (10,052), recommendations favourable to complainants that were followed by the company (47), recommendations favourable to complainants that were partially followed by the company (16), and recommendations on which the company did not act but which became enforceable (11).

Companies are obliged to inform the complainant and the Ombudsman's Office of their substantiated decision within 20 working days from the issuing of the recommendation by the Ombudsman's Office. After the expiry of this period, the Office sends a reminder to the company if the recommendation has not been responded to. The company then has another period of 20 working days to justify its decision if it does not follow the recommendation. The substantiated decision must be sent to the complainant and the Office. If these provisions are not complied with (see Article 43bis of the Act of 21 March 1991 on the reform of certain public economic undertakings), the company is obliged to implement the recommendation as re-

F. TELEPHONE REQUESTS FOR INFORMATION

gards the specific proposals in favour of the complainant concerned. Negative outcomes (1.08% compared to 0.96% in 2018) consist of the total number of recommendations in favour of the company (32) and recommendations favourable to complainants that were not followed by the company (81). On 31 December 2019, we also counted 37 recommendations that were ongoing, in other words to which the operator had not yet given a reasoned response, but for which the total period of 40 days had not yet expired. Like all previous years, 2019 can be seen as a positive year: in 97.22% of the closed cases (97.18% in 2018), we succeeded in achieving a positive outcome for the users of telecommunications services. With regard to complaints from private individuals (B2C), the percentages were generally the same.

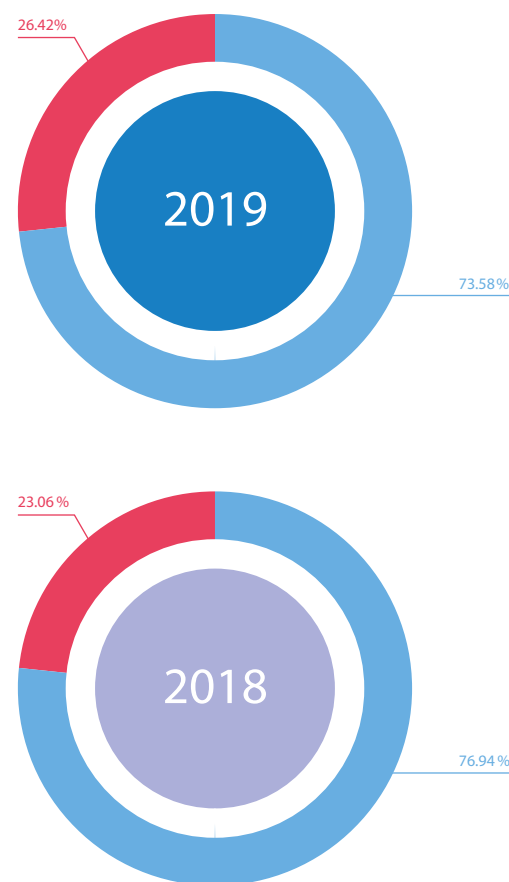


TABLE 19

One of the duties of the Ombudsman's Office is to give information that is as accurate as possible to end users who contact it verbally. This direct assistance over the telephone does not always lead to a complaint being opened. Of these requests for information by telephone, 6,422 related to a dispute with a telecom operator (73.58% compared to 76.94% in 2018). The purpose of 2,313 requests for information was to obtain information relating to nuisance calls, and in particular to the possibility of tracing the identity of the suspected perpetrator (26.42% compared to 23.06% in 2018).

	2019	2018
Information about mediation	6,442	4,967
Information about malicious calls	2,313	1,489



3 TOP 10

A. Introduction 27

B. Handling of complaints 27

1. Proximus 27

2. Telenet Group 29

3. Orange 31

4. Scarlet 33

5. VOO 34

6. Unleashed 35

7. Schedom Dommel 37

8. M7 Group, Edpnet and Lycamobile 38



A. INTRODUCTION

In accordance with Article 43bis of the Act of 21 March 1991 on the reform of certain public economic undertakings, the main role of the Ombudsman's Office is to mediate in complaints with a view to amicable settlement of disputes between telecom operators and end users. An amicable settlement – the achievement of a solution in a mediation – can vary from case to case. For example, it might involve the provision of an explanation by the operator in the event of an issue or bill that is unclear, an administrative correction or the elimination of a technical malfunction. An amicable settlement may also be achieved by the payment of a sum of money as a goodwill gesture. If the two parties cannot be reconciled, the Ombudsman's Office formulates a recommendation, assessing the dispute on the basis of the information present in the file, and taking into account the provisions of the law and of the contract (where applicable) and the principle of fairness. The telecom operators must then provide a substantiated response to both the Ombudsman's Office and the complainant.

By analogy with the reports from previous years, this chapter will be devoted to the mediation cases of the ten operators against which the Ombudsman's Office handled the most complaints in 2019. The most important issues are dealt with in separate chapters of this annual report. Several of these subjects of complaint have already been explained in detail in previous annual reports.

You will find more information in Chapter 2 of this annual report on the number of complaints handled in 2019 that were concluded with an amicable settlement or with a recommendation.

B. HANDLING OF COMPLAINTS

1. Proximus

Proximus heads the top ten list again in 2019, with 5,766 complaints handled. The Ombudsman's Office achieved an amicable settlement in 97.37% of these complaints against Proximus.

A clear majority of the complaints against Proximus handled in 2019 related to billing (3,623). As was the case in 2018, there was a remarkably high number of complaints (458) about billing for telecom packages. Disputes over the lack of options for blocking incoming nuisance calls were common again in 2019 (220 cases). We will discuss this persistent issue further in Chapter 6 of this annual report. With regard to the 'Easy Switch' complaints category, into which 333 complaints fell in 2019, and the closely related issue of terminating a telecom contract (420 complaints), see Chapter 10, where this question is described in more detail. We should also mention 386 M-commerce and 105 premium SMS complaints against Proximus that were handled in 2019. This familiar issue will be further explained in Chapter 8.

In this chapter, the Ombudsman's Office wishes to focus on two other issues that led to dozens of complaints against Proximus.





1.1. Delivery problems after the purchase of a device

I ordered a mobile phone via the Proximus webshop, and paid for it immediately. It was a joint offer in which you also had to take out a subscription and an additional data pack. It's now two months on and I still haven't received a mobile phone. I've phoned the Proximus customer service countless times, and I'm always told that I'll be contacted, which isn't true. Every time I get fobbed off and nobody contacts me. They've been promising a solution for weeks: a new mobile phone that will be sent and the cancellation of the purchase of the current one. I need a mobile phone for both private and work purposes. For the time being I have to use a broken old phone. What's more, I already have to pay the data pack subscription even though I haven't received the mobile phone yet. Proximus even had the cheek to transfer my number, without any notification or warning and without having received a SIM card, which meant that I could no longer use my previous SIM card. By doing so they literally forced my hand: I was compelled to switch over to their subscription, while they flagrantly violated their delivery obligation.

The Ombudsman's Office handled a total of 280 complaints relating to the non-delivery, late delivery or incorrect delivery of smartphones and TV sets; 189 (67.50%) of these related to Proximus. This is by no means a new problem.

The vast majority of complaints concerned the late delivery of smartphones purchased online, and to a lesser extent other devices such as tablets. The problems arose both

with devices that had been purchased separately and with combined offers. The delivery delay sometimes ran to several months. The Ombudsman's Office also received dozens of complaints from users who had ordered a device (usually a smartphone or tablet) from Proximus via the webshop, only for the operator to deliver the wrong model. These disappointed users then experienced great difficulties in their attempts to obtain the model they had ordered.

The complaints revealed that the complainants received a very poor response from the Proximus help line. The customer service and the sales points were unable to assist these users with correct information about the cause of the problem and the final delivery time. Proximus was also found to have provided incorrect information about the delivery date, causing complainants who had already been let down to stay at home waiting in vain for their package to arrive by post. Moreover, in some cases the operator had referred the complainants to Bpost, where they also received no help.

It was usually only once the matter had been referred to the Office of the Ombudsman for telecommunications that a solution was offered. In many cases the complainants were finally sent the device they had ordered. If the device could not be delivered because it was out of stock, a refund was given. Proximus was usually also willing to provide compensation for the complainants' inconvenience as a goodwill gesture. The discrepancy between Proximus' attitude in its initial handling of complaints and when they had been referred to the Ombudsman's Office could hardly be greater. We also include a separate discussion of the performance of customer services in Chapter 5 of this annual report. In any case, it is a

matter of regret that Proximus has not used the complaints of recent years to implement structural improvements.

1.2. The cancellation of external services

I cancelled my subscription with Proximus in June 2019. On 18 July 2019 I handed in my decoder. Out of the blue the operator told me that I had a membership with Netflix. I hadn't been informed about this. Apparently it was on my bill every month. I never signed anything; I don't even know what Netflix is. I received a proof of cancellation on 27 August 2019. No one can tell me who took out this subscription. I phoned Netflix, and they can only cancel with an email address. I don't know which address. I would like my money back.

Over the years, the Ombudsman's Office has noticed that operators are no longer confining themselves to collecting payment for the familiar 'third party services,' such as premium SMS services, M-commerce services or billing for 090x numbers, but are actively expanding their core activities with additional services such as Netflix, iTunes or insurance policies. At present, complaints about continued charging for Netflix after cancellation are only being submitted against Proximus.

From the description of the various complaints made to it, the Ombudsman's Office deduces that the conditions for cancellation were unknown to the complainants, partly because during the sales conversation the emphasis had

been purely on activating the service. Because Netflix was charged for on Proximus bills, many complainants were convinced that if they wished to cancel these services, they were supposed to request this from their operator. It is clear from the complaints that some users expected that when they changed operators or cancelled their telecom services with Proximus, Netflix would also be automatically unsubscribed from; however, the Ombudsman's Office wishes to emphasise that services such as Netflix or iTunes can continue to be used independently of a Proximus package. Even when individual services have not been cancelled, it is still odd and indeed confusing that they continue to be charged for on Proximus bills when the customer concerned is no longer affiliated with that operator.

Moreover, the complainants' narratives show that they were not the only ones who were unaware of the required cancellation procedures: the same was also true of the various first-line services within Proximus. Instances of poor communication and uninsightful analysis of complaints and rather limited enthusiasm on the part of the operator for

sorting out complaints about an external service in need of cancellation all demonstrated a lack of customer-oriented customer service. This shortcoming was particularly in evidence with regard to complaints about an insurance product.

2. Telenet Group

Just as in 2017 and 2018, Telenet which in recent years has expanded through the acquisition of Base and SFR, came second among the top ten operators in 2019. The number of complaints handled against this operator fell slightly this year to 2,746. An amicable settlement was reached in the case of 97.85% of Telenet complaints handled in 2019.

Easy Switch was the main source of complaints against Telenet Group (236 complaints). On this complaint category, see Chapter 10, where this problem is described in more detail. Complaints about billing for a telecom package came a close second (213 complaints). In addition, telecom users submitted 213 complaints about the inability to

block nuisance calls. We will describe this problem in more detail in Chapter 6 of this annual report, as we also did in Chapter 5 of the 2018 annual report, 'Growing demand to stop nuisance phone calls'. Disputes about charges for issuing payment reminders was another frequent subject in the complaints against Telenet handled in 2019 (181 complaints). We will take a brief look at this topic in the remainder of this chapter.

2.1. Reminder charges and letters and disputes in principle about charge rates

In mid-June 2019, Telenet Group customers received an announcement from their operator that from August 2019 a rate increase of 1.87% would be introduced because of 'the expected rise in the index to which most pay increases are linked'. A complainant found, after checking, that the anticipated index adjustment was not expected to take place until November 2019 at the earliest, and would take effect on wages from January 2020. He therefore wondered whether Telenet Group had the right to apply this increase six months in advance. Many other users have submitted hundreds of complaints to the Ombudsman over the years about the financial impact of the price increases that have been introduced on almost annual basis in recent years, and the application of high reminder charges when a telecom bill is not paid on time. In 2019, the Ombudsman's Office handled another 407 complaints about the use of reminder charges. Strikingly, almost half of these (181) were directed against Telenet Group.

Users who have opted to receive their bill on paper do not receive a first free payment reminder by letter. They are



informed by Telenet Group about their payment arrears by SMS or email, forms of communication that they have clearly not chosen. The Ombudsman's Office furthermore wishes to point out that the Article 119, § 2, 2° of the Act of 13 June 2005 on electronic communications provides for a maximum charge of €10.00 per subsequent written reminder letter; but operators are not obliged to charge this maximum amount. Given that compensation should be proportional to the damage in question, it is legitimate to ask whether a charge which in certain cases amounts to 50% of the monthly subscription fee can still be considered proportionate.

2.2. Amortization tables as a supplement to a contract

The Ombudsman's Office also mediated in an unusual complaint from a user who had purchased a mobile phone subscription with a smartphone in a Telenet Group store, but said he had not been informed that this was accompanied by a one-year contract. In this case, the Ombudsman's Office found that the legally required repayment table was not part of the contract as drawn up by the vendor and notified to the complainant during the (pre-)contractual phase of the sale. The Office of the Ombudsman for telecommunications believes that the table should be included in the paper contract drawn up by a vendor in a store. Sending the

table afterwards to the customer's email address means that the customer cannot find out about it before and during the conclusion of the contract, which constitutes a structural violation of Article 108 of the Act of 13 June 2005 on electronic communications. At the point where the customer reads and becomes aware of the relevant conditions, he is no longer in a position to cancel the sale by exercising his right of withdrawal, since the contract was concluded in a Telenet Group store and not by telephone or online.

2.3. Fraude/usurpation

My complaint relates to the mobile phone number 0475XXX. That was my mobile number from 1995 onwards. Then I started a business, so the number went to the business. I then handed over the running of the business on 1 October 2015. The number stayed at the business because I was still employed there. I then stopped working there on 17 October 2018. When we discussed this, I was told that I was definitely allowed to keep the number with the necessary signed form. Then, on 19 October 2018, the number was transferred in my name to Telenet Group. Then three weeks later he took the number that was already in my name. In other words my former business partner called Telenet Group – in my name and quoting my national register number – and nicked my number. Telenet Group wasn't prepared to do anything more for us.

In 2019, the Ombudsman's Office handled several dozen complaints in which complainants reported changes to their subscription on the initiative of a third party. New subscriptions were also sometimes concluded against the wishes of a complainant or certain telephone numbers were transferred to another operator – often in the case of this latter problem by former employees, former partners of businesses or former partners of private individuals. The Ombudsman's Office also handled cases from the parties just listed, who submitted a complaint because Telenet Group had revoked the transfer of the call number(s) at the request of its customer without taking the relevant contractual provisions into account. The Ombudsman's Office urges Telenet always to ensure that the document 'Request for takeover of Telenet services' is properly completed and to comply with the instructions of the parties involved. The financial impact of a customer or his or her relationship problems with a third party must not be a factor in an unjustified decision by Telenet Group to stay out of an individual conflict in complaints handled by the Ombudsman's Office.

3. Orange

The Ombudsman's Office handled 1,818 complaints against Orange in 2019. This operator remained in third place in the top ten ranking of operators. In 96.49% of the complaints against Orange in 2019, the Ombudsman's Office reached an amicable settlement. As was the case in 2018, complaints about Easy Switch topped the charts (209). On this subject, see Chapter 10, where this problem is described in more detail. Problems related to cancelling a subscription also led to a significant number of complaints handled (198).



3.1. Cancellation by private individuals and sole traders

I dispute the charging of a cancellation fee of €1,240 by my former provider Orange. I only had four mobile numbers. Orange claims that the cancellation fee derives from the fact that I signed a 24-month contract extension on 10 October 2018 which was breached on 11 February 2019 by the transfer of the four mobile numbers to another operator. Orange claims that the cancellation fee was charged correctly, as I was also using twelve fixed lines in addition to my four mobile connections. Apparently I have a CPS contract with Orange, but I wasn't aware of that. After all, I receive bills from Proximus.

The familiar problem of the free cancellation option for up to five numbers still often comes up in complaints against Orange submitted to the Ombudsman's Office. The difference in interpretation of the law as it stands (Article 111/3 § 3 of the Act of 13 June 2005 on electronic communications) between Orange and the Ombudsman's Office as to whether or not a CPS (carrier preselect) service and/or a data card can be regarded as a number is one of the few systematic points of contention encountered in 2019. In addition, certain cases showed that complaints to the Ombudsman's Office could be avoided by the correct handling of cancellation requests by Orange's first-line service.

3.2. The disputing of (time-barred) charges, discounts and credit notes

In 2019, the Ombudsman's Office handled 1,041 complaints against Orange because of an incorrect, unjustified or time-barred bill for their telecom package or mobile subscription.

The Office of the Ombudsman for telecommunications realises that the increase in bundled telecom services (packages) has automatically led to an increase in the number of disputes about billing for packages. However, Orange's billing system is so complex that many complainants were forced to turn to the Ombudsman's Office. Points raised by the Office of the Ombudsman for telecommunications included the way in which Orange awards discounts and credit notes. Credit notes are not always stated on the bill; the complainants were apparently expected to deduct these themselves. In contrast, Orange did show some discounts on bills. Sometimes the Ombudsman's Office also found that Orange deducted discounts itself on the first bill, but ceased to do so on subsequent bills, despite the fact that the complainants were still entitled to additional monthly discounts.

In the case of time-barred bills, Orange stated in 2018 that legal proceedings would not be taken against complainants, but that the disputed amount still remained due and had to be paid. This position disregards the fact that under Article 2277 of the Civil Code, telecom debt claims are time-barred after five years. Consequently, Orange does not have the right to demand payment of a time-barred debt. In addition, the disputed amount must be recorded from an accounting point of view as a bad debt, not as a receivable.



3.3. Complaints about mobile phone insurances

In late August I bought a Samsung Galaxy J6 mobile phone for my son in the Orange shop. With the subscription I also took out insurance for €8.00 per month. The salesman told me I could cancel the insurance at any time. On 22 December I went into the shop because my son's mobile phone had suddenly stopped working. Orange sent the device to Orange Repair and said that we would probably get it back on Friday 28 December, although it might take two to three days longer with the holidays. Finally, Orange called my husband on 8 January 2019 to say that the phone had been repaired and we could come and collect it. On 9 January I went to the shop and was told that the device could not be repaired due to moisture damage. This was strange, as I'd been told on the phone that the device had been repaired. There was no clear answer about whether this was covered by the insurance. Orange couldn't help me any further and referred me to the insurance service – a service external to Orange – and the customer service, both on different numbers. On 10 January my husband called the insurance service, which said that 'moisture damage' was not a valid reason for an insurance claim. Yes, my son sometimes took his mobile phone into the bathroom, but of course he didn't take it into the shower with him. I have no idea what exactly caused the fault. I take my mobile phone (also a Samsung) into the bathroom with me, and it still works after three years. On 11 January, I called the insurance company myself to explain that this wasn't the reason why the phone had stopped working, but I didn't get a particularly sympathetic reception. Finally, I called customer service to cancel the insurance. It turns out that I

can't cancel the insurance yet because you can only do so after six months, not after five months. Yet the salesman had said that the insurance could be cancelled at any time. I now have to call customer service again on 21 February to cancel the insurance, because that cannot be noted in the system either. Can you understand why I'm not happy?

In 2019, the Ombudsman's Office handled 25 complaints from users relating to insurance products sold by Orange. The basis for these complaints was that the complainants disagreed with the insurance company's refusal to pay out. From the complaints, it was clear to the Ombudsman's Office that many users assumed from the sales conversation that the insurance option would cover (almost) all claims, which was not the case in practice. Most of the complainants felt cheated and came to the conclusion that the insurance in question was a useless product – and one that also turned out to be very expensive. Following constructive cooperation from Orange for many years, mediation in these complaints proved more difficult this year, at least with regard to disputes concerning insurance cover for claims. Its arguments often revealed a one-sided interpretation of the general terms and conditions of the insurance product concerned.



4. Scarlet

The Ombudsman's Office handled 1,208 complaints against Scarlet in 2019. In the ranking of operators against whom the Ombudsman's Office handled the most complaints, Scarlet remained in fourth place. An amicable settlement was reached in the case of 93.08% of all complaints handled in 2019. The main topic of complaints was the problem of late installation of telecom services (172 cases). The associated problems of late activation of a fixed line (85 complaints) and the faults and malfunctions that users subsequently experienced with their line (124 complaints) were notable themes at Scarlet. This issue is analysed in more detail in Chapter 9. Billing for telecom packages also resulted in 76 complaints handled in 2019. Another important source of complaints related to the Easy Switch issue (131 complaints).

4.1. Billing by post

I currently receive Scarlet's monthly bills by email, despite the fact that I wrote a letter to Scarlet on 29 October 2018 in which I asked them to send all bills by post. I have tried, through the customer zone on Scarlet's website, to receive the monthly bills by mail, but this option has apparently been blocked.

Several complaints related to the situations that users experienced after they had opted to have their bills sent by post. In addition to the fact that some bills were not

received by the complainants or continued to be sent by email despite a request to change the sending method, Scarlet informed the Ombudsman's Office that the bills for a Poco subscription could only be sent by email. An adaptation to the system had proved to be impossible. The Ombudsman's Office notes that digitisation is becoming increasingly widespread; this is largely beneficial, but for a certain group of telecom users who are not familiar with the Internet and/or computers, it is clearly disadvantageous, as it limits their ability to take out cheaper subscriptions (see also Chapter 4 of this annual report).

4.2. Termination of prepaid cards

The prepaid card is being discontinued at Scarlet. I have two of them, and they have to be topped up every six months. My wife and I only use them in order to be contactable or for emergencies; one still has €45.00 on it and the other €35.00. At the beginning of September I then had to put at least €8.00 on each phone, or lose the balance on both of them. By that time there was therefore just under 100 euros on the two of them. That service will be discontinued at the end of November. My question to Scarlet was what happens to the balance at that point. The operator replied that we should ensure that the balance has been used by that date.

Scarlet announced during the year that it would cease to offer mobile services via a prepaid card on 30 November 2019. Scarlet had already stopped selling these cards in

September 2017. Some complainants contacted the Ombudsman's Office because they recently had to do an on-line top-up in order to keep their number active as required by Scarlet's terms and conditions; yet these prepaid cards would expire within a period of less than six months.

The biggest problem for complainants was the loss of their calling credit, without the operator spontaneously offering any means of recovering it. Scarlet then proposed that if users of a prepaid card opted for a subscription with them, it would offset the calling credit against the monthly subscription charge. However, for many users for whom the monthly charge was no longer affordable, no solution was offered by Scarlet. Although in cases mediated by the Ombudsman's Office in the past Scarlet had offset the unused calling credit against charges for fixed line or Internet services if the complainant had transferred his or her numbers to another operator, Scarlet no longer seemed willing to apply this option. The Ombudsman's Office therefore made several recommendations that calling credit remaining when a prepaid card was deactivated on the Scarlet network should be refunded to the complainant. Scarlet opted not to follow these recommendations from the Ombudsman's Office.

5. VOO

The number of complaints handled against VOO increased to 445 in 2019. Despite this, VOO remained in fifth place in the top ten ranking. An amicable settlement was reached in 95.70% of complaints against VOO handled by the Ombudsman's Office. The most common topic (99 cases) encountered in the handling of VOO complaints in 2019 was the Easy Switch issue. In addition, 92 complainants reported a problem with their own cancellation of their services. Incorrect charging for telecom packages also featured in 47 complaints against VOO handled in 2019.



5.1. Faults and malfunctions

I have a subscription with VOO for television in our holiday home. The house is occupied by us, but sometimes also rented by holidaymakers. Problem: I pay the subscription fee every month, but haven't received digital TV for three months (the problem has arisen several times in the past). So what am I actually paying to receive?

In 2019, 99 complaints were handled about faults and malfunctions experienced by complainants in their VOO connection. It is striking that 21.95% of complaints against VOO related to faults of various kinds.

On the positive side, VOO made every effort to investigate the technical problems, but further information about the cause of the faults and malfunctions was not provided. However, VOO regularly took action in these complaints to optimise the services provided to the complainants. In cases where the complainants remained dissatisfied with the quality of the services, the Ombudsman's Office felt that VOO should preferably offer the complainants the opportunity to cancel their contract free of charge, so that they could find another supplier.

5.2. The disputing of (time-barred) charges

Once a debt has become time-barred, the debtor is released from his or her payment obligation. In other words, at the end of the statutory five-year limitation period, which also applies to bills for electronic communication services,

the end user can in principle rely on the prescription and no longer has to pay the bill. At the same time, VOO loses the right to demand payment of a bill through a debt collection agency or judicial officer. The Ombudsman's Office notes that during mediations in 2019, VOO had adjusted its attitude to take account of this position of the Ombudsman's Office; we look forward to this approach being implemented systematically for all customers.

5.3. Termination of contract via the VOO website without giving a reason

Under Article 111/3, § 1 of the Act of 13 June 2005 on electronic communications, a subscriber may terminate his or her contract in any written medium and without giving reasons. The termination request may also be made electronically, for example by completing a form that is available on the operator's website. The VOO form, which requires the provision of a reason for terminating, can be seen as a breach of Article 111/3 § 2 of the Act of 13 June 2005 on electronic communications, which states that the termination of a contract may not have the effect of preventing or discouraging the switching of operator. For the sake of completeness, it should be mentioned that the Ombudsman's Office also received a small number of such complaints against Proximus and Orange.

6. Unleashed (Mobile Vikings/Jim Mobile)

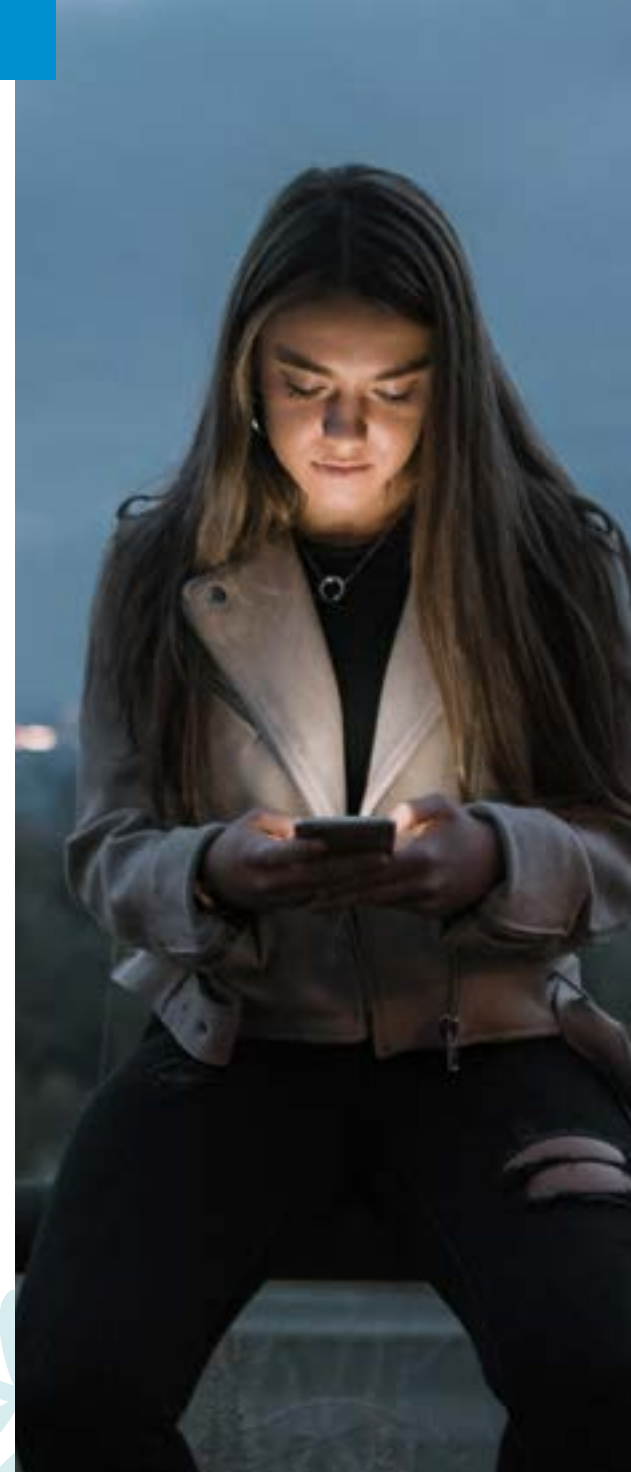
In 2019, the Ombudsman's Office handled 307 complaints against Unleashed, which is generally known to the public under the trading names Mobile Vikings and Jim Mobile. No fewer than 281 of these complaints were closed with an amicable settlement, which represents a percentage of 96.90%. The operator thus remained in sixth place in the top ten ranking. Faults and malfunctions were a significant source of complaints in 2019 (91 complaints). The Ombudsman's Office also had to mediate in various cases arising as a result of the transfer of mobile numbers (65 complaints) and the often associated request for compensation (33 complaints). We will briefly examine this issue in this chapter.

6.1. Problems with the transfer of mobile numbers: compensation not automatically paid in the event of a delay

The number transfer from my prepaid card with Orange to a subscription with Mobile Vikings has not been successful. The number is still stuck at Orange (on the website 1299, be I can actually see that it's still on Orange Mobile), yet they have told me that the number is 'gone' with the status 'to new provider' and my SIM card has apparently been blocked as a result of the number transfer.

In 2019, the Ombudsman's Office handled 65 complaints about problems encountered by complainants when transferring their mobile numbers. This represents something of an increase on 2018 (53 complaints).

In the case of some of these complaints, Unleashed could not find a request for a number transfer in its system. The operator declared that the system might have automatically refused the number transfer when incorrect information was provided. In other complaints, Unleashed confirmed that a process (open order) at the company had prevented the transfer. Various complaints showed that the switch to the new business software solution, launched in 2018, also caused numerous problems early in 2019. The Ombudsman Office particularly regrets Unleashed's systematic failure to grant compensation for late number transfer (as required by Articles 10 and 13 of the Royal Decree of 2 July 2013 on the transferability of numbers of subscribers to electronic communication services) when handling complaints.

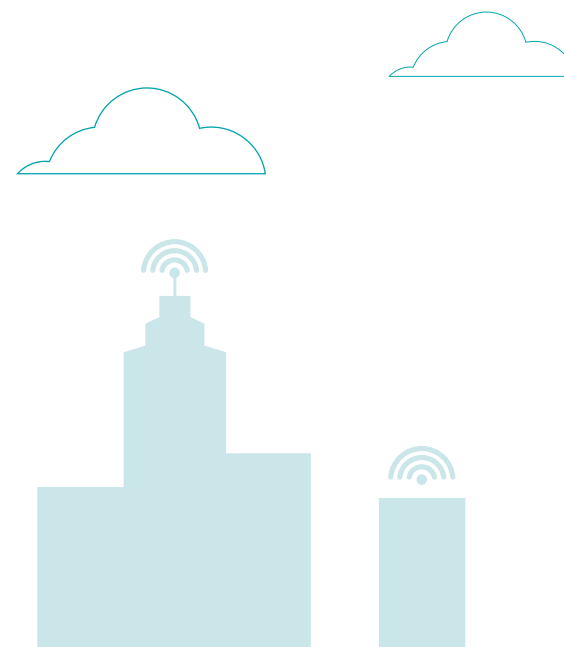




6.2. The allocation of Viking points

As most people know, they promote and advertise Mobile Viking points. These are points that can be saved up by making purchases from businesses/webshops with which Mobile Vikings has an agreement. The phone bill can be paid with these points (1 point = €1.00). On Saturday 23 November 2019, I bought a new iPhone via C. (with which Mobile Vikings has an agreement for the earning of Viking points). On the website of C., the following was stated under Viking deals: Special offer: receive an extra 2% on all purchases until 28 November 2019. In addition, there was a second deal: Viking points benefit on all Apple purchases until 28/11/2019 - 4%. I now have the 2% offer pending in Viking deals (until the product return period is over). However, the other promised 4% has not appeared. After I had contacted Mobile Vikings several times, they said that this deal only applied from 25 November 2019. Yet this deal was already being promoted on their website on 23 and 24 November. There was no mention of when it would start. Fortunately, I took a screenshot of the Mobile Vikings website on my phone. I also took a second one of the small print at the bottom of the website. These screenshots were sent to Mobile Vikings via Facebook Messenger on 24 November. Viking points are calculated on the amount net of VAT. The price net of VAT was around €1,300.00. As I have a total entitlement of 6% in Viking points, that represents about €78.00. That is a significant sum, proving that Mobile Vikings has no problem with advertising something and not following through afterwards. If these Viking deals hadn't existed, I would have made my purchase elsewhere.

The collection of Viking Points (as a multipurpose payment method) is an essential element of Unleashed's publicity towards its customers. However, several complainants submitted complaints to the Ombudsman's Office concerning lack of transparency about the procedure for obtaining these points. They also wondered whether collaboration with deal partners was limited in time, leaving it unclear whether or not a given partnership still existed. The Unleashed website had to be consulted first in order to find out, so that the chance of a deal being missed was high. Cookies on the partners' websites that the complainant did not want also put a spanner in the works when it came to collecting points. There was even a warning about this on the operator's website.



7. Schedom-Dommel

The number of complaints against Schedom-Dommel handled by the Ombudsman's Office rose from 93 in 2018 to 168 in 2019, partly due to this operator's provisional cessation of trading and its partial relaunch in 2019. Despite this, Schedom-Dommel remained in seventh place in the top ten ranking of operators. In 2019, the Ombudsman's Office succeeded in reaching an amicable settlement in 142 of the 168 complaints against Schedom-Dommel, representing 89.87% of cases.

7.1. Temporary cessation of trading

Schedom-Dommel's service came to an abrupt halt on 31 March 2019. As a result, I not only lost my provider with superfast internet, but I can no longer call 70 countries without extra charges. As a loyal customer, I always paid for a year in advance. It was easier than receiving a bill every month. I would like to have the excess money paid refunded or receive some alternative that would allow me to call 70 countries in the same charge category. I hope you can arrange this and/or start a mediation, so that I can get my money back or receive the same service.

After Schedom-Dommel and Billi announced on 27 March 2019 that they would temporarily cease trading with effect from 31 March 2019, this became the most common subject of complaint, accounting for 59 complaints in total. The complaints addressed to the Ombudsman's Office

most frequently amounted to demands for extra time. The complainants could not accept the *fait accompli* that the operator had ceased trading and that they were obliged to look for another telecom solution. The cessation of trading occurred as a result of a legal conflict with access operator Proximus, and meant that within the extremely short period of four days, Schedom-Dommel customers suddenly faced the prospect of lacking a service provider for their mobile and/or fixed line subscriptions or for their Internet connection. The operator said that it was looking for an alternative access operator, but nevertheless advised its customers to look for a new operator in the meantime. For many com-

plainants, it seemed impossible to find a new operator and complete a transfer of services within three working days. An operator suspending its services or completely ceasing trading in Belgium is of course not unheard of. The Aldi Talk/Simyo affair from 2017 comes to mind (see also Chapter 8 B. 1.2. of the 2017 annual report, 'Registration, identification and other problems with prepaid cards'). However, the timeframe in which this was announced to the customers was very short and justified various recommendations by the Ombudsman's Office against Schedom-Dommel.

7.2. Failure to refund credit

In 2019, the Ombudsman's Office handled 27 complaints against Schedom-Dommel from users about the operator's failure to refund credit, or lateness in doing so. Some complainants had to submit a complaint to the Ombudsman's Office up to three times before Schedom-Dommel actually paid the money it owed. Needless to say, such behaviour is unacceptable. This problem had already occurred regularly in the past, and Schedom-Dommel has a poor reputation in this respect.





8. M7 Group, Edpnet and Lycamobile

8.1. M7 Group (TV Vlaanderen / TéléSat)

A total of 69 complaints against TV Vlaanderen (62) and TéléSat (7), the commercial names of the telecom operators belonging to the M7 Group, were handled by the Ombudsman's Office in 2019. This put M7 Group in eighth place, the same position in the top ten ranking of operators as last year.

Of the 69 complaints against M7 Group handled in 2019, 41 were concluded with an amicable settlement, or 95.70%.

The most important topic that came up in the cases handled in 2019 was the problem of cancelling services (13 complaints).

8.2. Edpnet

The Ombudsman's Office mediated in 52 complaints against operator Edpnet in 2019. This put Edpnet in ninth place, the same position in the top ten ranking of operators as last year.

Amicable settlements were reached in 95.92% of these cases.

The complaints handled by the Ombudsman's Office in 2019 related to a wide range of topics. The problem of Easy Switch was the clear leader, with 14 complaints handled. In addition, the Ombudsman's Office handled 12 complaints about faults and malfunctions. Twelve complainants also encountered problems with a (late) connection to the Internet or other bundled service.

8.3. Lycamobile

In 2019, the Ombudsman's Office handled 42 complaints against Lycamobile. This company mainly specialises in mobile phone services via prepaid cards. Of the 34 admissible complaints in which Lycamobile was involved, 31 were concluded with amicable settlements. This international player stayed in tenth place in the ranking of number of complaints handled.

Most disputes concerned identification and other problems with prepaid cards (23 complaints).

8.4. Functioning of customer service

A number of complainants experienced technical faults, malfunctions or connection problems with their services in 2019 and reported these to the first-line complaint service of their operator. In the cases against the M7 Group, Edpnet and Lycamobile that were handled by the Ombudsman's Office, some complainants felt that they had not been listened to properly, that their technical problems had not been taken seriously or analysed thoroughly enough, and that they had received little help from their operator's customer service personnel.

A number of complainants also indicated that they wanted to receive a technical solution first before they were prepared to meet their payment obligations. The Ombudsman's Office also deduced from the complaints that important information provided by the complainants in their initial contact with the operator was not consistently passed on by the operator's financial service to its technical help desk or vice versa, which in some complaints led to the termination of contracts due to non-payment.

In addition, mention was made of unanswered emails, the length of time it took to get through to someone on the phone, the cost of calls to customer service and the unacceptable behaviour of some employees (including in customer service). The Ombudsman's Office has taken these complaints seriously and examined them more closely in Chapter 5 of this annual report, which contains further discussion of the problems encountered by complainants with their first-line service.



4 VULNERABLE GROUPS: THE CASE OF THE ELDERLY

A. Introduction: context	40
B. Different dimensions of vulnerability of the elderly in terms of electronic communications and telecommunications.....	40
1. Socio-economic or individual vulnerability.....	40
2. Medical, psychological or cognitive vulnerability.....	42
3. Increased exposure to unfair and fraudulent commercial practices	43
C. Complex and inappropriate offers from operators and providers of electronic communications services	44
1. Complex offers from operators.....	44
2. Inappropriate offers from operators: misunderstanding of the user's medical situation.....	45
D. Conclusion	45



A. INTRODUCTION: CONTEXT

Information and communication technology (ICT) is completely bound up with our daily and social life nowadays. In addition, our life expectancy has also increased considerably: in 2018 it was 81.5 years on average across the entire population. Unfortunately, for the elderly, this technological progress is often accompanied by dependence, frustrations or even exclusion.

Most elderly people are quite incapable where ICT is concerned, and this really makes them a vulnerable group in this respect. This vulnerability is mainly due to socio-economic factors and to personal factors such as a person's medical or mental state.

It is important to pay attention to the different forms that vulnerability can take. This will both ensure that the elderly are better able to participate in social and economic life and mean that operators and providers of electronic communications services are made aware of the business opportunities presented by this specific category of users.

The Ombudsman's Office sees examples of this vulnerability coming up on a daily basis when handling complaints, and tries to find an appropriate solution for each case in close cooperation with the operators.

Here, we focus on analysing these vulnerabilities. In the first part, we use the complaints that were submitted to the Ombudsman's Office in 2019 to identify the types of vulnerabilities to which the elderly are subject in the field of ICT. The second part is about the service offer, which is complex and not always well suited to the needs of older users.



B. DIFFERENT DIMENSIONS OF VULNERABILITY OF THE ELDERLY IN TERMS OF ELECTRONIC COMMUNICATIONS AND TELECOMMUNICATIONS

1. Socio-economic or individual vulnerability

1.1. Obtaining and applying the social phone tariff

The Act of 13 June 2005 on electronic communications states that the social tariff can be granted on request. The customer must submit an application for this to his or her operator. The conditions for eligibility mainly relate to age, disability and income.

Ms D. (89 years old) is a Proximus subscriber who is on the social phone tariff. Ms D. could not find the social tariff discount on her bills (€8.40). She submitted a complaint to the Ombudsman's Office about this in August 2019.

In response to Ms D.'s complaint, Proximus sent a copy of the bill of 07/08/2019 to the Ombudsman's Office showing the discounted rate and confirmed that Ms D. had in fact received the social tariff since 1 August 2019.

Mr E. had a subscription with Proximus and wanted to request the social phone tariff. His daughter contacted Proximus for the necessary information about the conditions. Proximus referred her to BIPT, which told her that it could not help because the application procedure had not been followed properly. In the end, Mr E.'s daughter asked the Ombudsman's Office to intervene.

After mediation, Mr E. received confirmation that the social phone tariff would be applied from 1 April 2019.

The two cases above show that the conditions for requesting and applying the social phone tariff are not always known. In addition, those concerned display a certain anxiety.

This ignorance again raises the question of simplifying and automating the social phone tariff (see 2017 annual report).

1.2. Vulnerability related to the digital divide: lack of hardware or skills

The digital divide is one of the most striking expressions of vulnerability among the elderly. It is usually the result of lack of skills or hardware.

In a letter on 31 March 2019, Mr T. pointed out that he had agreed to a service that Proximus had offered him. Mr T. did not provide any details about the offer he had accepted. He attached a copy of his identity card and his access codes for an online account. The complainant also mentioned that he tried unsuccessfully to contact Proximus. He then went to a Proximus store, where he was advised to activate the above-mentioned service online. However, the complainant did not have a computer.

The Ombudsman's Office has inquired Proximus about this. Apparently, the complainant had received a message from Proximus inviting him to create a profile on 'MyProximus'. He would then be able to view his (phone) use at any time and add or say off products and services. This was an offer free of any obligation.

1.3 Elderly people in a residential care centre

Regardless of socio-economic circumstances, the vulnerability of the elderly in the field of ICT may result from the context in which they find themselves. Elderly users' access to telecommunications and other electronic communications services in a residential care centre largely depends on the options and facilities available in their place of residence.



The case of Mr L. is a good example of this.

Mr L. had an Internet subscription with VOO. On 14 December 2018, his Internet connection suddenly ceased. Mr L. wanted it to be restored immediately, but after several phone calls and a visit from a technician, it turned out that residents were no longer allowed to have an Internet connection due to the installation of a new video surveillance system.

For this complaint, the Ombudsman's Office referred Mr L. to an authority that is competent to intervene in disputes between residents and residential care centres.



2. Medical, psychological or cognitive vulnerability: impaired physical, psychological or cognitive skills for the exercise of consumer or end-user rights

Mr B. submitted a complaint to the Ombudsman's Office on behalf of his 85-year-old mother, who lived alone and had Alzheimer's disease. In her apartment she had an Internet and fixed telephone service bundle with Scarlet. As her illness was progressing rapidly, cameras were also installed in every room, so that her family members could check every day that everything was going well with her and thus enable her to carry on living independently. In September 2018, Mr B. found that his mother was no longer answering the phone. Moreover, he discovered that her phone number had been assigned to someone else. Whenever Mr B. contacted Scarlet, they told him that the problem would be sorted out. Mr B. felt powerless in this situation. Lack of telephone contact was making his mother even more isolated. She had a mobile phone, but couldn't remember how to use it.

After mediation, the technical problem was finally resolved and a discount of €98.76 was granted.

Like any consumer, older users have resources available to them in order to assert their rights if there is a problem in the execution of their contract. However, the use of those resources mainly depends on their cognitive skills and how vulnerable their physical and psychological condition is.

Once they get into a dispute with their operator, they depend on the help of their family or social workers to legally assert their rights.

The use of dispute resolution for electronic communications services also involves specific procedures, rules and conditions that must be complied with (the complaint can only be submitted in writing, within a specified period, with an obligation to take preliminary steps with the operator concerned, etc.). These conditions and rules form a stumbling block for many elderly people when it comes to asserting their rights as consumers and end users – especially as the procedures are increasingly digital.

Mr J. had a Bizz Mobile S subscription with Proximus. The bill was normally €12.10 per month and was paid by direct debit. Mr J. had a motor disability and lived in a residential care centre. He had no Internet connection there and received no help with his administration. He phoned the Ombudsman's Office in August 2019 asking for more information about the amount of €33.02 that Proximus was asking for.



Under Article 5 of the rules of procedure of the Ombudsman's Office, complaints may only be submitted in writing. That condition was not met in the case of Mr J. In view of the circumstances, the Ombudsman's Office deviated from the procedure in this case, and Mr J.'s telephone complaint was duly recorded.

The Ombudsman's Office is aware of the difficulties experienced by the elderly, and usually takes a flexible approach. The specific circumstances of vulnerable users, and in particular elderly users, are taken into account in handling their complaints. It is important for those who have become vulnerable because of their age or health to continue to be able to assert their rights and interests as end users and consumers.



3. Increased exposure to unfair and fraudulent commercial practices

Due to their impaired physical and cognitive skills, older users are more exposed to unfair trading practices.

Mr D. submitted a complaint on behalf of his 86-year-old father, who had Parkinson's. On behalf of Proximus, a representative of the company One Telecom had twice visited his father's home and had got him to take out a subscription for fixed-line and mobile telephony and Internet. Mr D. stated that his father didn't know how to use a mobile phone, or even how to switch one on. He also declared that during the sales rep's second visit, his father couldn't even sign the contract, so the rep got him to put his 'mark' on a tablet with one finger. Mr D. regarded this as a scandalous and dishonest way of doing business. Proximus agreed to terminate the subscription, but at that moment a sum was still outstanding from the period prior to termination. Eventually, Mr D. asked that Proximus deals exclusively with him for any changes to his father's contract.

After the Ombudsman's Office had intervened, Proximus issued a credit note to refund the costs charged. However, Proximus believes that Mr D. cannot act on his father's behalf as his father is not subject to a protection arrangement due to lack of legal capacity.

Unfortunately, the abuse of elderly people in the electro-

nic communications or telecom sector is still common. And aggressive commercial practices, nuisance marketing calls, pay numbers (090x) and so on are even more frequent problems.



C. COMPLEX AND INAPPROPRIATE OFFERS FROM OPERATORS AND PROVIDERS OF ELECTRONIC COMMUNICATIONS SERVICES

1. Complex offers from operators

Mr G. (80 years old) had a Mobilus S subscription with Proximus. That subscription included 120 call minutes, unlimited texting and 3 GB of data in Belgium and the EU. Mr G. wanted more information about a charge of €59.99 that had appeared on his bill, for mobile Internet use in Switzerland. He wanted to know what steps one should take when going on holiday abroad. He felt that he hadn't been properly informed when he purchased his mobile phone, and also said that being 80 years old he wasn't as handy with ICT as young people. As a loyal customer, he asked for a goodwill gesture from Proximus.

Proximus explained that Switzerland is not a member of the European Union and that the use of mobile Internet is therefore not included in the Mobilus S bundle. To avoid the charges, Mr G. should have switched off his 4G connection. Proximus is not responsible for its customer's mobile phone use. Mr G. was also expected to understand what his subscription involved. The charge was therefore not dropped.

In September 2018, Mr D. received a subscription offer from VOO. When he signed up for it, Mr D. stated several times (he is hard of hearing and partially sighted) that he would like to be able to make unlimited calls to mobile and land-line numbers. The sales representative confirmed that this option was definitely included in the proposed subscription. In December 2018, Mr D. was admitted to hospital. His wife (80 years old) called him on his mobile several times a day. The phone service was stopped on 21 January 2019 due to excessive use. Mrs D. was surprised by this: firstly, the subscription was supposed to include unlimited calls to mobile numbers, and secondly, the bills were normally paid by direct debit. The current bill was paid (due date 27 January 2019), but VOO still refused to reopen the service until the next bill was paid. Unhappy, their daughter-in-law decided to involve the Ombudsman's Office, on the grounds of 'abuse of trust of the "vulnerable"'.

Older users are often poorly informed about the service they use. In accordance with Article VI.2 of the Code of Economic Law and the principle of the performance of contracts in good faith (Article 1134, paragraph 3 of the Civil Code), operators must not only provide clear, understandable and transparent information about the service they offer, but also adapt that information to the context and if necessary take the consumer's advanced age into account.



2. Inappropriate offers from operators: misunderstanding of the user's medical situation

Ms D.'s husband had a Proximus prepaid card for mobile phone use. She wanted his phone to ring for longer: the voicemail was activated after three rings, but following a thrombosis, Mr D.'s motor skills had greatly deteriorated and he had trouble answering the phone quickly. Mr and Ms D. wanted the voicemail service to be activated only after eight or nine rings.

Initially, Proximus made no attempt to meet the complainant's request. Only customers with a subscription could have their phone ring for longer. After the Ombudsman's Office got involved, Proximus made an exception in view of the situation and increased the number of rings.

Most studies agree that ICT services and devices often make too little allowance for the motor or cognitive limitations of older users. Nevertheless, after mediation, the operators usually show an understanding of this problem and adopt a flexible approach, examining how they can solve the problem or problems on a case-by-case basis.

D. CONCLUSION

The Ombudsman's Office calls for electronic communications and telecom services that are better suited to older users.

This is a social necessity, but also an economic or com-



mercial opportunity. It will also lead to technological developments in the fields of medical aid and gerontechnology, and offers various opportunities in this respect.

This should be combined with strengthening the rights of the elderly as consumers and end users. Here, procedures need to be made more flexible, whether for obtaining a social phone tariff or seeking out-of-court settlement of a dispute in connection with an electronic communications service.

Making such adaptations also means taking the needs of older users more into account and ensuring that they are better informed about offers or the scope of subscriptions they already have.

Operators are encouraged to show initiative in helping older people to fully enjoy their rights as consumers and end users. They will then be able to benefit from modern tech-

nology as much as possible.

The Ombudsman's Office remains vigilant about the issues facing vulnerable users, in particular the elderly, and continues to involve operators; this area of its work has proved to be a success story during mediation.



5 CUSTOMER SERVICE BY PHONE

A. Introduction: context 47

B. Problems with the performance of customer service phone lines 48

1. Cost of calls to customer service phone lines..... 48

2. Waiting time or response time of customer service phone lines 49

3. Effectiveness of customer service phone lines..... 49

C. Conclusion..... 51



A. INTRODUCTION: CONTEXT

In 2019, the Ombudsman's Office received 305 complaints from users who explicitly expressed their dissatisfaction with their operator's customer service phone line. These complaints mainly concerned Proximus (172 complaints), Telenet Group (55 complaints), Orange (31 complaints) and Scarlet (19 complaints).

The Office of the Ombudsman for Telecommunications also handled 320 telephone calls about the poor performance of customer service phone lines of operators and providers of electronic communications services. These calls mostly concerned Proximus (240 calls), and to a lesser extent Scarlet (27 calls), Telenet Group (25 calls) and Orange (14 calls).

Most of the complaints made during these telephone contacts related to the cost of the calls, the waiting time and the lack of effectiveness and customer focus.

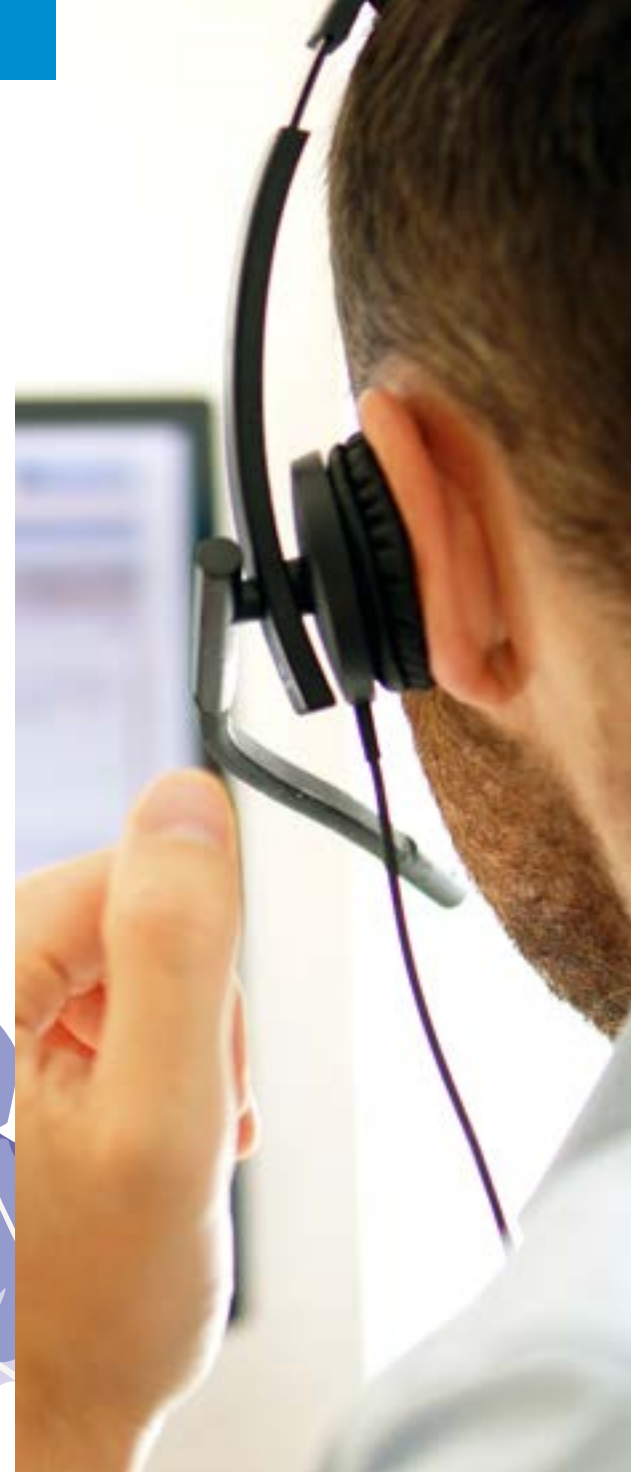
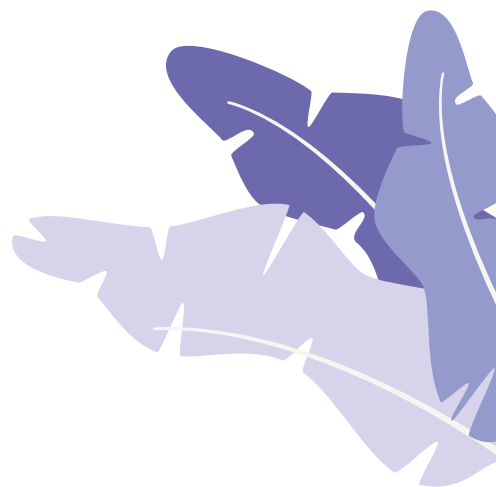
Each of these identified issues is relevant to the conditions and legal requirements that customer service phone lines are in principle supposed to meet: both the Code of Economic Law (CEL) and the Act of 13 June 2005 on Electronic Communications (AEC) set out clear rules for the operation of the customer service phone lines of operators and providers of electronic communications services.

Compliance with these conditions and requirements sometimes leaves much to be desired, however.

This is unfortunate, as the customer service phone lines contribute significantly to the image that end users have

of the operators and are a factor in their level of satisfaction. As the first level at which complaints are handed, they should be capable of resolving a large number of technical problems or questions, including billing and subscription terms and conditions.

Based on the complaints submitted in 2019, this chapter evaluates the performance of the customer service phone lines according to three criteria (charges, waiting time, effectiveness) and the applicable legal provisions.



B. PROBLEMS WITH THE PERFORMANCE OF CUSTOMER SERVICE PHONE LINES

1. Cost of calls to customer service phone lines

Under Article VI.40 of the CEL, companies are forbidden to charge consumers for the content of a phone call as well as the cost of making it, if that call relates to the performance of a contract that has already been entered into.

Specifically for the electronic communications sector, Article 116, paragraph 1 of the AEC states the following: 'When operators provide end users with a telephone help line, that help line may be accessible on a geographical or a non-geographical number, provided that the call charges per minute do not exceed those for a geographical number.'

Clear though these legal provisions are, the complaints submitted to the Ombudsman's Office show that the call charges per minute often exceed those for a geographical number. The problems mentioned varied greatly, including – as illustrated in the examples below – 0800 numbers which are believed to be freephone numbers but turn out to be paying in the end, the provision of geographical numbers which are also subject to additional charges, the use of paying numbers, and so on.

The complaints also show that end users often do not know the operator's customer service line numbers. Better communication and a higher profile for these numbers could undoubtedly remedy this potentially confusing situa-

tion. Ideally, they should be clearly legible on any document issued by the operator. Customer service contact details should also be clearly displayed on the operator's website.

Mr W. was unable to switch on his new HD television. He decided to call the Telenet Group helpdesk via a 0904 number. As the problem had not been resolved after 15 minutes, Mr W. suspected that it had to do with the HD card. He went to a Telenet store, where it turned out that the vendor had forgotten to activate the HD card. Mr W. disputed the charges for the call (€31.77), which Telenet Group had billed under the heading 'services to third parties'. He believed that the vendor alone was responsible, and that Telenet Group's customer service had not helped him.

Telenet Group mentions its general phone number 015 66 66 66 on its website as well as on all documents sent to customers (bills, purchase confirmations, etc.). The number can also be found if you enter the search query 'technical support Telenet' in Google. Telenet Group could not understand how Mr W. had got hold of the 0904 number that he used. The operator indicated that it called the 0904 number and pointed out that the call charges of €2.00 per minute were clearly stated at the start of the call. Nevertheless, Telenet Group decided to grant Mr W. compensation of €36.00 as a goodwill gesture.



2. Waiting time or response time of customer service phone lines

End users often find the customer service waiting time or response time too long. This is one of the most common complaints about telecom operators' first-line services.

Mr V. had a subscription with Proximus. Neither the Internet connection nor the television service had worked for the past few weeks. More than a week after he had reported the problem, it had still not been sorted out. Mr V. also pointed out that he had had to wait 22 minutes before he got someone on the line the last time he contacted Proximus' customer service.

As a Proximus subscriber, Mr M. complained about the slowness of his Internet connection. He was also unhappy with the extreme length of the waiting time (about 30 minutes) when he contacted Proximus' customer service.

Although it has fallen somewhat into disuse, the Customer-Friendly Service Charter of 15 May 2011, which has been in force since 1 January 2012, contains a series of measures to remedy excessive waiting times. The Charter stipulates a maximum waiting time of 2.5 minutes. If this is not possible, the subscriber should in principle be able to leave his or her contact details, so that the operator can contact him or her free of charge the next working day at the latest. Operators are also expected to adjust their re-

corded message at peak times or in exceptional circumstances (see our 2011 annual report).

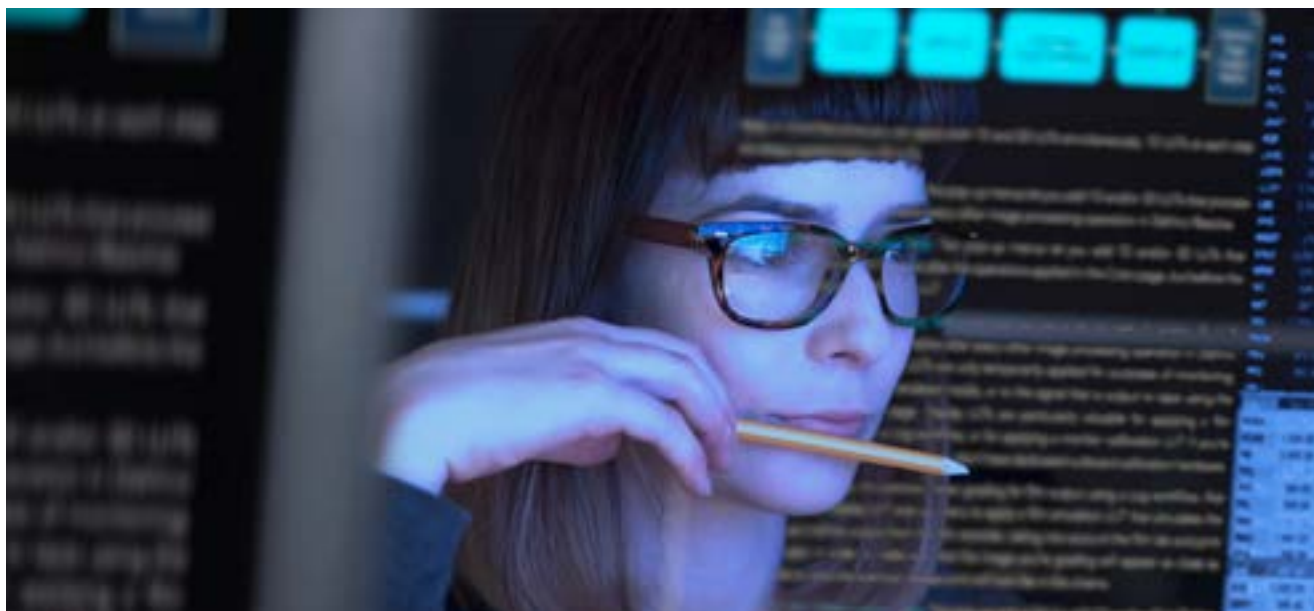
However, the AEC does not yet contain any provisions regarding the waiting time. Article 116, paragraph 2 indicates that it should be set by a Royal Decree, which is not yet in force.

Article 116, paragraph 2 of the AEC also states that, if the waiting time is too long, operators are obliged to offer end users the opportunity to leave their contact details and a short message if they wish to be called back. In addition, the user should have the option to specify when he or she may be contacted. Such a system seems to be very rarely used by operators.

3. Effectiveness of customer service phone lines

3.1. Ability to resolve problems

The effectiveness and solution-oriented approach of customer service phone lines is very important. They serve as the initial response in the handling of complaints, and end users expect to have expert telephone operators on the line who can provide an effective answer right from the first telephone contact. This applies to both technical problems and billing irregularities. In reality, end users are seldom satisfied with the first contact with a customer service phone line, and the problems are not resolved. This is clear from the two examples below.



Mr S. was a Proximus customer. He was unable to insert the SIM card into his new smartphone. He wanted reasonable compensation for more than ten hours of time that had been wasted, some in the Proximus store and the rest on useless and tiring calls to Proximus' customer service. Mr S. explained that he and his wife were 76 years old and that such 'stress' resulting from a completely dysfunctional organisation was very upsetting. He also said that he had sent six emails. The only answer he received was an acknowledgement of receipt, with a case number each time.

Ms V. had three mobile subscriptions with Proximus. She was unable to receive or make calls with any of these three lines. Ms V. expressed her dissatisfaction at having to wait more than an hour and a half to get someone at the operator on the phone. The person was unable to sort out the problem immediately and passed it on to another service, which was supposed to call Ms V. back within 15 minutes. An hour later, nobody had called Ms V. back. She found this unacceptable.

The extent to which problems with customer service phone lines are resolved depends very much on the level of competence and training of the personnel. It is therefore important to allocate the necessary resources to these services so that they can respond effectively to the questions they are presented with.

In light of Mr S.'s account, which does not actually refer to a customer service phone line, we should bear in mind that

the operator concerned must give a written, detailed and complete answer to any written request for information regarding the duration of the contract, the cancellation conditions and the charge rates for all services or compensation that may be applied by the operator, or any written complaint from an end user regarding the performance of his or her contract for the supply of networks or services for electronic communications (Article 116, paragraph 3, AEC).

3.2. Customer focus

The term 'customer focus' usually refers to a company's efforts to achieve maximum customer satisfaction and ensure that all employees really share that ambition.

The following two examples illustrate a lack of customer focus on the part of some telephone operators.

Ms A. complained about the attitude of Proximus employees: 'The contact people (...) are quite unpleasant and are not honest.' Ms A. was a Proximus customer, and every month she found problems with her bills, which were too high. No useful solution was suggested to her during several phone calls to Proximus' customer service. Ms A. wanted the Proximus telecom operators to listen to her and do their work properly.

Mr L. was extremely annoyed by the amateurism and dishonesty of Proximus and the rudeness of the operator who answered his call and eventually simply hung up.

With a trip to Canada coming up, Mr L. had activated the Travel Passport Outside EU & Top option on the two mobile phones included in his package. On 22 December 2018, Mr L. had to call Proximus again from Montreal because this option appeared not to have been activated. The telecom operator apologised and said he would take the necessary action. However, over the next few days Mr L. continued to receive warning messages that he was exceeding his permitted use. When he got back to Belgium, Mr L. found that his phone use had been billed 'out-of-bundle'. He called Proximus to report the problem and cancel the Travel Passport Outside EU & Top option. The person on the line was completely incompetent and admitted that she had only been working there for a few days. She cancelled the option, but only on one of the two mobile phones, and asked Mr L. to submit a complaint to recover the amounts that had been wrongly charged out-of-bundle (€159.00). She added that there was nothing she could do over the phone and hung up.





Proximus felt sorry about the attitude of the telecom operators handling these cases and apologized via the Office of the Ombudsman for telecommunications to the complainants.

The Ombudsman's Office wishes to stress that it is imperative that customer service phone line personnel really listens to end users and is customer-focused. Every call is an opportunity for interaction, a direct exchange with the customer. As such, it is an opportunity to enhance the operator's commercial image. Politeness, empathy, resilience, adaptability and clear communication are therefore minimum requirements for operators. Operators must ensure that customer service phone line personnel meets these quality requirements.

C. CONCLUSION

The Ombudsman's Office wishes to emphasise once again (see our 2013 annual report) that operators and providers of electronic communications services must allocate the necessary resources to their customer service phone lines to ensure that they function properly. This benefits both the operators themselves and the end users. If problems are effectively dealt with, this can prevent disputes from reaching a deadlock or even being aggravated, and the contractual and commercial relationship will not be jeopardised.

The accessibility and effectiveness of customer service phone lines is a priority in this regard and should be improved. A first step here is strict compliance with the legal

provisions of Article 116 of the Electronic Communications Act and in the Code of Economic Law.

Finally, operators must ensure that customer service phone lines provide quality service and promote a customer-focused policy.



6 NUISANCE CALLS



A. Introduction	53
B. Statistics.....	53
1. Requests for information in relation to malicious calls.....	53
2. The contexts for the submission of requests for identification in relation to malicious calls	53
C. Blocking incoming calls	58
D. Conclusion	59

A. INTRODUCTION

The problem of nuisance calls and the lack of solutions to put a stop to this intrusive behaviour have led in recent years to the submission of thousands of requests regarding malicious calls and hundreds of mediation requests aimed at getting unwanted calls blocked.

In 2019, the Ombudsman's Office noted that nuisance calls were becoming even more frequent, and that many complainants felt helpless and angry about this type of harassment, which in some cases takes place day and night.

In this chapter, based on examples and available statistical data, we will analyse the various grounds for submitting complaints and whether or not there is a solution that enables unsolicited calls to be blocked.

B. STATISTICS

1. Requests for information in relation to malicious calls

The Ombudsman's Office receives dozens of calls every day from people claiming to be victims of unwanted calls. In 2019, the Ombudsman's Office registered 2,313 requests for information in relation to malicious calls, compared to 1,489 in 2018. Such requests for assistance over the telephone do not always lead to a case being opened, for the following reasons:

- the necessary conditions for identifying the suspected perpetrator of the malicious calls/texts are not met, in particular in the following circumstances: the calls/texts

come from a number that belongs to a foreign network, the calls could not be answered, the calls/texts date from more than a year ago, the calls were made via WhatsApp or Skype, the messages come from anonymous messaging platforms or social networks such as Facebook (Messenger);

- the complainants have been reassured during their telephone conversation with the Ombudsman's Office, or are unwilling to follow the procedure;
- the complainants do not necessarily want to know the identity of the suspected perpetrator of the unwanted calls/texts, but instead want them to stop.

2. The contexts for the submission of requests for identification in relation to malicious calls

In 2019, the Ombudsman's Office registered 4,410 cases involving identification requests in relation to nuisance calls. In 2018, 4,059 such complaints were registered. The Ombudsman's Office thus notes a slight increase, which is undoubtedly due to the ever more intensive use of new technologies, in particular the mobile phone, increased sensitivity to the protection of privacy and numerous attempts at fraud.

For 2019, the Ombudsman's Office has complete figures available for the first time regarding the grounds for submission of complaints about malicious calls according to the classification mentioned in the 2018 annual report (Chapter 5). The possible contexts are as follows: the nuisance calls may be related to a private dispute, they may be

a form of phishing (with or without financial loss), they may take the form of robocalls, or they may consist of calls from call centres. The Ombudsman's Office notes with regret that nearly one in two cases concerning malicious calls (45% of all such cases registered) currently involve fraud (phishing, robocalls) and cold calling/hard selling.



2.1. Private disputes

Unsurprisingly, a quarter of the cases arise from a dispute in the complainant's private life (1,105 complaints or 25.06% of all cases concerning malicious calls): disputes between family members or neighbours, at work, etc.

I received a call on the landline at my school. It was from an inspector who told me that the parents of some pupils had reported an incident to the police involving Ms L., a teacher at my school. She asked me to 'give her a telling off'. After speaking to Ms L., I had serious doubts about the authenticity of the call, which was clearly intended to harm her, especially as no parents had complained [...].

In handling these cases, the Ombudsman's Office notes that, although it is no longer faced with the problem of the anonymity of prepaid cards as a result of the government's counter-terrorism measures (see previous annual reports), it is still confronted with certain other difficulties.

The situation proved complex when the complainants had received calls from a 'direct deposit' with the operator Orange. This function allows you to leave a message directly in the correspondent's voicemail. His or her mobile will not ring, but he or she will be notified that there is a new message. Orange was the only operator to cite technical reasons and being unable to identify the suspected perpetrator of a direct deposit. The operator must make every effort to ensure that it can inform the competent authorities and in particular the Ombudsman's Office. The

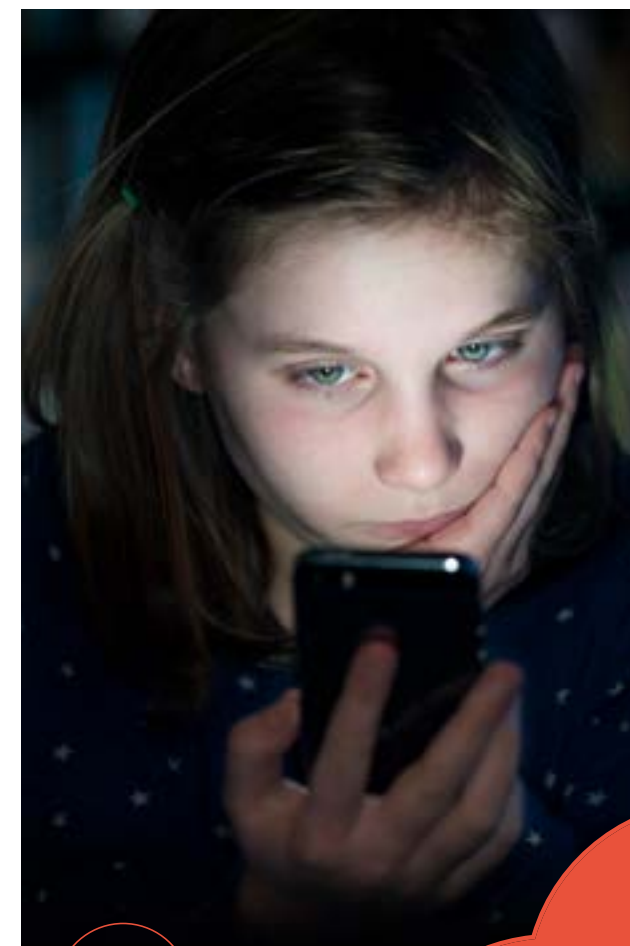
latter finds this situation regrettable, because there seems to be an assurance of anonymity for all customers, despite the fact that the cases in question that the Ombudsman's Office was unable to handle involved serious problems such as death threats and attacks targeting minors.

In the context of the management of cases involving identification requests, the Ombudsman's Office must also report that the operator Lycamobile did not initially pass on the full details of its customers with prepaid cards. The Ombudsman's Office needs this information in order to identify the suspected perpetrator of the calls/texts. The operator only provided an identity card number. Following pressure from the Ombudsman's Office, Lycamobile now sends a photo or a copy of the identity card showing the surname and first name of the suspected perpetrator of the calls/texts.

This still violates Art. 43bis § 3 7° of the Act of 21 March 1991 which defines the Ombudsman's Office's mission: 'to examine a request from any person claiming to be the victim of malicious use of an electronic communications network or service for information about the identity and address of the users of electronic communications networks or services who have harassed that person, insofar as such information is available. The Ombudsman's Office shall grant the request if the following conditions are met: **a)** the facts appear to be accurate; **b)** the request relates to precise dates and times.'

Lycamobile therefore complies with the Royal Decree of 27 November 2016 on the identification of the end user of mobile public electronic communications services provi-

ded by means of a prepaid card, as identification does take place on the basis of an identity card, but it does not comply with the obligations regarding identification requests for malicious calls, in that it does not provide the address of the suspected perpetrator of the calls/texts.



2.2. Phishing

In 2019, 18.21% of all cases concerning malicious calls related to phishing without financial loss (803 cases) and 1.50% to phishing with financial loss (66 cases). Fraudsters are increasingly trying to trick citizens by phone or text message in order to steal their bank details or personal data.

New forms of nuisance calls and of dishonest and fraudulent calls are thus illustrated by these complaints. Telephone phishing can have serious consequences for the telecom users who fall victim to it: the complaints analysed show that the loss sometimes amounts to more than €10,000. If the victim immediately contacts his or her bank, the fraudulent transaction may still be stopped.

Someone claiming to be a clairvoyant phoned me and asked me to do certain things for my own good. After the calls, Proximus informed me that my telephone bill was abnormally high.

This incident occurred last Thursday 18 April 2019 between 9.30 and 10.45 am. During several calls from French numbers, attempts were made to trick me in the name of Microsoft Global Security, allegedly based in California. As I was a victim of the same criminals in August 2018, I would like to ask you to identify the origin of the calls for the investigation that is ongoing at the public prosecutor's office of N. Please note that I deliberately let these people keep talking about the high risk that my PC was supposedly at (without acting on their advice!) to increase the chance of tracing the origin of the calls and to ensure that they really were the same perpetrators.

The second example concerns 'Microsoft' phishing, something already mentioned in previous annual reports. These fraud attempts continue year after year.

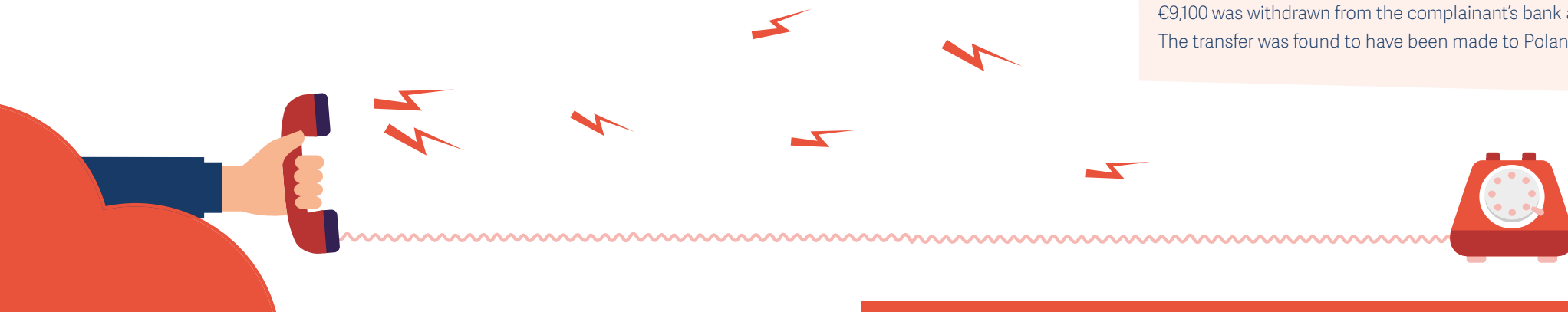
In 2019, the Ombudsman's Office also received numerous complaints about malicious calls in which the perpetrators claimed that the victim had an outstanding debt which had to be paid to a collection agency.

On 13 and 16 May 2019, the complainant received multiple calls on her fixed line during which the caller invariably introduced himself as an employee of a debt collection agency. He put the complainant under pressure on the phone to pay an ever higher sum (€400, €500, €700 and finally €1,200). If the complainant refused, he said he would call in a judicial officer and the police. The unpaid amount supposedly related to a traffic fine.

Investigations revealed that the calls on the dates and at the times concerned came from abroad, and specifically from the Netherlands. As a result, the Ombudsman's Office was unable to provide the complainant with any identification.

The last example below illustrates a fraud relating to the so-called Telenet Security Department.

On 23 July 2019, the complainant received a call on her landline from someone posing as an employee of Telenet's Security Department. He claimed that the complainant's computer had been hacked and that he urgently needed to install security software. During the phone call, an amount of €9,100 was withdrawn from the complainant's bank account. The transfer was found to have been made to Poland.



Immediately after the call, the complainant phoned Telenet's customer service to check whether Telenet had contacted her. That turned out not to be the case. It was clear from the call that Telenet was aware of this new form of telephone phishing. The complainant blamed the operator for not proactively informing its customers about this.

After the Ombudsman's Office got involved, Telenet confirmed that the complainant had been defrauded by foreign hackers. The operator referred to the website <https://www.safeonweb.be/en/i-receive-call-unknown-person-about-problem-my-pc>. An investigation found that the calls came from Cyprus and Greece, but Telenet warned that the numbers used might have been spoofed. The operator stated that it could not block the numbers, that it intended to file a complaint itself against unknown parties for abuse of a brand, and that its website contained a lot of information about phishing and other scams.

2.3. Call centres

In 16.17% of the cases relating to malicious calls, the suspected perpetrators were call centres in Belgium (448 cases) or abroad (265 cases).

I received unwanted sales calls for energy management services, supposedly from the Walloon Region, despite the fact that we were on the 'Do not call me' list.

For telephone sales via Belgian numbers, the applicable legislation is set out in the Code of Economic Law, and the situation can in principle be tackled via the 'Do not call me' list, managed by the non-profit organisation DNCM. DNCM was established by the Royal Decree of 28 June 2015 (Royal Decree recognising a non-profit organisation referred to in Articles VI.114 and XIV.81 of the Code of Economic Law on unwanted telephone communications).

This also applies to foreign call centres that work for a Belgian advertiser. If the user continues to receive calls despite registering, he or she can report this via <https://meldpunt.belgie.be/meldpunt/en/welcome>. The Ombudsman's Office concluded from certain complaints that call centres are continuing to call subscribers who are registered on the 'Do not call me' list.

Some domestic call centres have been identified in complaints about unwanted calls for many years, although the Ombudsman's Office has already drawn their attention to the problem on several occasions. Other call centres that were informed in the past about the existence of such complaints seemed no longer to be causing problems in 2019.

2.4. Robocalls and spoofing (usurpation)

9.09% of complainants who were victims of malicious calls (401 cases) received the calls from an automated calling system without human intervention or a fax machine used for direct prospecting. Such ghost calls can take the form of spoofing.

The calls have come every night since early August. I didn't make a note of them at first because I didn't know that your Ombudsman's Office existed. I hope they stop soon. The regularity of the calls suggests that they use an automatic process. The phone rings the same number of times each time. The times and the number of rings are thus identical.



Since 2 October 2019, lots of people (twenty to thirty) have called me on my landline. They say I've called them, as my number 071xx is displayed on their phone. But I haven't called anyone. I reported the problem to my operator (Proxi-mus). It sent round an engineer who couldn't find anything wrong with my line. He said that people abroad were using my phone number to conceal their own numbers when calling third parties. The engineer's colleagues told me it would take two to three weeks before they switched from my number to a new one. Fortunately, the calls don't seem to be billed.

This last example is a case of spoofing, in which fraudsters making a call cause a number to be displayed on the recipient's phone that is not theirs and may belong to another customer who also becomes a victim of their fraud. The aim is to reassure the recipient of the call by using a domestic number instead of a suspicious-looking international number.

The callers launch a wave of robot-generated calls. The recipients apparently do not usually get anyone on the phone, or can only hear buzzing in the background. These robocalls are thought to be fraud-related. The fraudsters are probably trying to find out which phone numbers are active or inactive; they may also make a note of the names of those who answer the calls, so as to be able to approach them more confidently afterwards. Robocalls very often happen with spoofed numbers. Anyone who calls back a spoofed number either gets nobody on the line or an unsuspecting

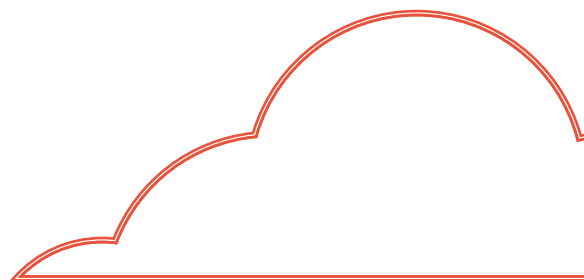
subscriber who has nothing to do with the robocalls. This subscriber is often also a victim of the fraudsters in that he or she then receives numerous unwanted calls, or may even be threatened with a complaint to the police.

Often, the potential victims are not just private individuals or businesses, but public services and hospitals. It is very difficult for such organisations to respond to the phenomenon, because they cannot simply request a new number from the relevant telecom operator – a measure that the operators often recommend.

2.5. Indefinite context

The context of 1,322 complaints (or 29.98% of all cases concerning malicious calls) was unclear. In most cases this was due to the fact that the application form had not been completely filled in.

Someone is making nuisance calls to me from the number starting 047. Can I obtain a list (date/time/number) of incoming calls and texts from 8 August 2019 to 7 November 2019?



C. BLOCKING INCOMING CALLS

In 2019, the Ombudsman's Office registered 249 telephone requests for information about the possibility of having unwanted incoming calls and sales calls blocked by telecom operators. In 2018, 210 telephone requests for information relating to this issue were registered.

In 2019, the Ombudsman's Office received 512 mediation requests arising from a request to block unwanted incoming calls. In 2018, 461 cases were created in connection with the impossibility of blocking incoming calls.

I've just contacted Proximus' customer service via chat to tell them about the nuisance calls I've been receiving on my mobile phone since the beginning of August 2019. I've blocked all unwanted numbers on my mobile and on the 'Do not call me' website, but the calls have continued. I find these incessant calls irritating, and I want to pass on to you the list of all unwanted numbers so you can set up a system to detect the call servers and phone numbers of Proximus or other operators that are used by these callers.

I've been phoned every hour since Friday 10 May until now, 13 May, even at night, from the number +322xx. Is it possible to block this number? Proximus says that it is not possible and I can't get any help with this. I hope that you can help me, though?



The examples from 2019 may seem to be taken from previous annual reports, but they are in fact recent examples. The difference from the examples of cases about malicious calls is minimal. In fact, the difference lies purely in the document that the complainant has completed: the form to request the identification of malicious calls or the general complaint form.

The Ombudsman's Office first considered Article 120 of the Act of 13 June 2005 on Electronic Communications: 'At the request of the subscriber, operators offering an electronic communications service shall block messages, communi-

cations or calls, incoming or outgoing to specific numbers or certain categories of numbers, free of charge, in accordance with the rules laid down by the Minister, after advice from the Institute.' It also took account of the ministerial decree of 12 December 2005 establishing the categories of outgoing calls and categories of the numbers called of which the blocking must be offered free of charge to end users.

However, these legal provisions only concern the blocking of calls to paying numbers, and not those that are currently proving such a nuisance to people, such as robocalls, silent calls or Belgian or foreign sales calls.

For these calls, see Art. VI.110 ff. of the Code of Economic Law: 'Unwanted communications for direct marketing using techniques other than automated calling systems and faxes are permitted in the absence of a clear objection from the individual or legal entity that receives them.'

For telecom subscribers, the operator must take the following steps: register subscribers' objection to the use of their telephone number in a database within five working days of the request; communicate the registration date to the subscriber in writing on a durable medium; expressly draw the subscriber's attention, in writing or on another durable medium, to his or her right to object when entering into the contract; ensure that the subscriber can submit an objection free of charge by telephone, email or post; maintain the database; and make the database available to parties engaging in direct marketing. The recipient may not be charged any costs for exercising his or her right to object.

In the performance of its duties, the Ombudsman's Office has observed that operators do not necessarily apply these provisions.

The settings can be used to block nuisance numbers on mobile phones, and consumers can buy systems to install on a fixed line.

In view of the many complaints, the Ombudsman's Office considers it regrettable that end users do not have real blocking options available through their operator.

D. CONCLUSION

The statistics and classification for 2019 have given the Ombudsman's Office a much more precise overview of the issue of nuisance calls, and it will now be able to follow developments in the different contexts more closely.

As was the case in the 2018 Annual Report, the Ombudsman's Office has seen a real shift in the activities it is expected to perform: as well as the 'standard' requests for identification of a suspected perpetrator, it is receiving numerous requests to put a stop to unwanted calls – mostly fraud-related and to a lesser extent unsolicited sales calls – where it is powerless to provide any real assistance.





7

PHONE SCAMS AND FRAUDULENT COMMERCIAL PRACTICES: OPERATORS' INVOLVEMENT?

A. Introduction	61
B. Main types of phone scams reported to the Ombudsman's Office	62
1. Fraud via Messenger (Facebook)	62
2. Mobile phone spam, ping calls, wangiri fraud	62
3. Phone scams involving 090x numbers	63
C. Clear elements of fraud: applicable legal provisions	64
1. Articles 1109 and 1116 of the Civil Code: lack of valid permission	64
2. Article 6, 1° and 3° of the Royal Decree of 12 December 2018 determining the applicable obligations relating to the provision of premium rate services: practices which are not fair, transparent and lawful	64
3. Article VI.93 of the Code of Economic Law: unfair commercial practices	64
4. Article 442quater of the Criminal Code: exploitation of people in a vulnerable state of mind or conditions	64
D. The operators' attitude	65
E. Conclusion	65

A. INTRODUCTION

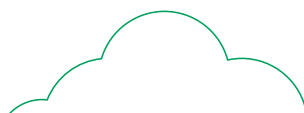
In 2019, several hundred complaints concerning phone scams or fraud were submitted to the Office of the Ombudsman for Telecommunications. This phenomenon is becoming more and more common and takes various forms: phone spam, ping calls (wangiri), fraud via Messenger, and so on.

However, the modus operandi is always the same: a trick is used in an attempt to get citizens to phone international or paying numbers. The consequences of these fraudulent practices are mainly financial. The operators pass on the costs of these calls to the end users. As with any traffic through their network, they keep a margin and transfer the balance to the firm that manages the relevant international or paying numbers. Large amounts are usually involved, sometimes as much as several hundred euros.

Unsurprisingly, the end users involved will contest such charges. The continued insistence on the payment of amounts clearly obtained through fraudulent commercial practices or phone scams is, of course, unacceptable to the customer. It also has an impact on the operator's image in the eyes of its defrauded customers. Such a breach of trust is very damaging to any commercial or contractual relationship.

There were a large number of complaints in this area, mainly due to the operators' initial refusal to intervene. The complaints also related to a lack of preventive measures and security in operator networks against phone scams.

This chapter consists of three parts. The first part gives an overview of the different types of phone fraud that the Ombudsman's Office encountered when investigating the complaints. The second part identifies the fraudulent nature of the identified phone scams in light of the applicable legal provisions. Finally, part three considers the attitude and action taken by the operators.



B. MAIN TYPES OF PHONE SCAMS REPORTED TO THE OMBUDSMAN'S OFFICE

1. Fraud via Messenger (Facebook)

On 17 July 2019, Mr B. received a request from one of his contacts on Messenger. He wanted to know Mr B.'s mobile number in connection with texting an entry to a competition. Without hesitation, Mr B. gave his mobile number and received the codes he needed to enter the competition. After he had entered the codes, Mr B. found that his contact's profile was no longer available and that the chat was no longer active. The next day, Mr B. received a message that he had used €80 outside his bundle. On 22 July 2019, Mr B. went to the Base store to ask for more information about this additional use. The person in the shop said that he was unable to help, and advised Mr B. to contact the Ombudsman's Office.

Telenet Group was initially unwilling to cancel the bill, as it felt that the purchases via Boku (a payment platform for online purchases via a mobile phone number) were correct. Telenet Group suggested that Mr B. should file a complaint with the police. That complaint would then be referred to the service provider, Boku. However, the Ombudsman's Office did not think a police report should be drawn up, as the facts clearly demonstrated abuse. The hacking of the profile of an acquaintance of the person concerned in order to

evade suspicion was undeniably fraud. The Ombudsman's Office reached out to Telenet Group and was able to get the disputed amount cancelled.

Ms G. challenged €25 of charges billed by Proximus for Allopas, a virtual payment platform. Ms G. stated that she had never given permission for this service and suspected that hacking or phishing was involved. Her daughter had previously received a request via Facebook Messenger in which a friend asked her for her mobile number. She then received three text messages from the number 8120.

The complaints described above concern the same trick. In both cases, the unhappy tale begins with a request from a friend, acquaintance or family member whose Facebook profile has presumably been hacked. Some pretext is used to persuade the person concerned to text a code that has been sent to him or her. This information is then used to make purchases via Boku and Allopas. The costs of these purchases are charged to the customer's telecom bill.

2. Mobile phone spam, ping calls, wangiri fraud

Mr V. received several international calls, always with the prefix +247 (Ascension). The phone would ring just once. At first, Mr V. would call back the number in question. He then tried to block the nuisance numbers manually. However, this was not feasible due to the large number of mobile phone numbers involved (around 20). Mr V. got in touch with the Ombudsman's Office in the hope that these calls would not be billed and that Telenet Group would be able to block them in order to stop this fraud.

Telenet Group activated a block on calls to Ascension (+247) on its network, so that customers could no longer call the fraudulent numbers in question. The telecom operator also pointed out that there were various ways of blocking unwanted incoming and outgoing calls on a mobile phone. In the end, Telenet Group decided to cancel the charges associated with the disputed calls, as a one-off goodwill gesture.

Mr E. received several calls from Samoa (+685). He stated that he had never called that country, but Telenet Group still charged him for a 15-minute call. When the Telenet Group customer service was contacted, it confirmed to Mr E. that he would be charged. Mr E. demanded that this situation be sorted out, and called it theft.



In September 2019, the Ombudsman's Office received nearly 70 complaints about unwanted calls from international numbers. More specifically, the calls would stop after a single ring, as a result of which the recipient often called back the international number. The fraudsters would then use tricks such as remaining silent in order to stretch the callback out for as long as possible. Fraudsters also use more sophisticated tactics such as disguising an international number as a national number. This is especially the case with wangiri calls from Ascension: the prefix +247 followed by five digits resembles the telephone numbers of the Brussels zone. This resemblance is deliberately used by fraudsters to mislead the recipient.

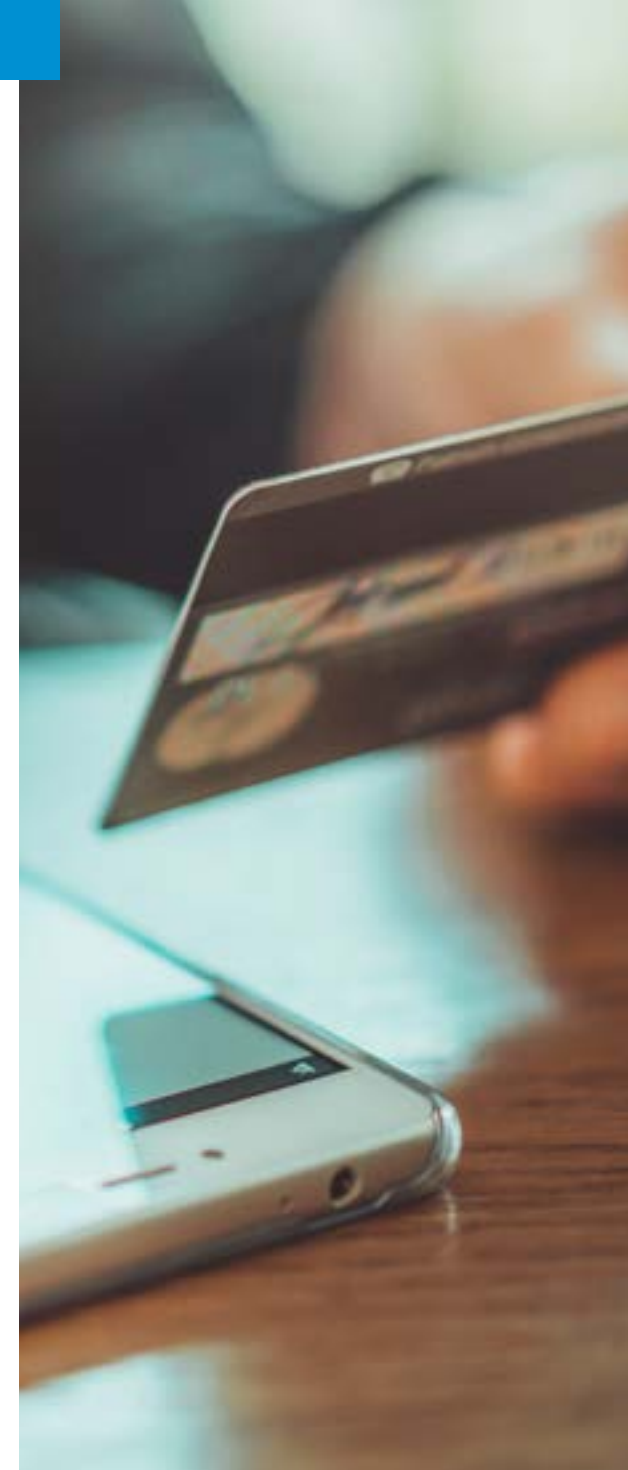
3. Phone scams involving 090x numbers

Mr M. contacted the Ombudsman's Office on behalf of his 79-year-old parents, who were Proximus customers. They had been the victims of unwanted calls from a clairvoyant service. Mr M.'s mother was suffering from Alzheimer's disease, and answered every call. Their phone charges had skyrocketed since December 2018. They can be summarised as follows: December 2018: €186.27 – January 2019: €199.84 – February 2019: €149.32 – March 2019: €245.15 – April 2019: €163.75 – May 2019: €250.00 – June 2019: €396.82. The situation had become unsustainable, both psychologically and financially.

Mr H. represented his 91-year-old mother. He disputed a bill from Proximus with a total charge of €529.03. Most of this amount was attributed to 'services provided by third

parties': €474.23. Mr H. explained that his mother had been 'forced' to call paying numbers on various pretexts. He considered the disputed amount excessive and stated that it was almost half of his mother's monthly pension. When he phoned Proximus' customer service, they said that they considered the complaint unfounded as the calls had indeed taken place. The operator ignored clear evidence of nuisance calls and scammers who were phoning elderly people using 090 numbers. Mr H. wanted compensation for the financial loss suffered by his mother.

Several dozen similar complaints were submitted to the Ombudsman's Office, mainly relating to charges from Proximus and Telenet. Most of them involved older people between the ages of 80 and 90. They said that they had been encouraged to call paying numbers. A check revealed that these calls to paying numbers had been made shortly after several calls by the fraudster, who clearly intended to get the victim to call the paying numbers concerned. In a large majority of cases, these were clairvoyant or 'medical assistance' services.



C. CLEAR ELEMENTS OF FRAUD: APPLICABLE LEGAL PROVISIONS

The practices revealed by the above complaints are in breach of a number of legal provisions.

1. Articles 1109 and 1116 of the Civil Code: lack of valid permission

The tricks, ruses and pretexts used by the perpetrators of phone scams constitute fraud within the meaning of Articles 1109 and 1116 of the Civil Code. In principle, the customer's 'informed and free' consent is required prior to any provision of electronic communications services. Failing this, there is a lack of valid consent, and the customer can justifiably dispute and seek the cancellation of the billing of the associated amounts.

2. Article 6, 1° and 3° of the Royal Decree of 12 December 2018 determining the applicable obligations relating to the provision of premium rate services: practices which are not fair, transparent and lawful

In this connection, Article 6, 1° and 3° of the Royal Decree of 12 December 2018 determining the applicable obligations relating to the provision of paying services states that a paying service must be provided in a way that is fair, transparent and lawful. The following practices are not fair, transparent and lawful:

1° offering or providing pointless services or paying services the purpose of which is to extend the duration of the call as long as possible without this being necessary for the provision of the paying service concerned (wangiri);

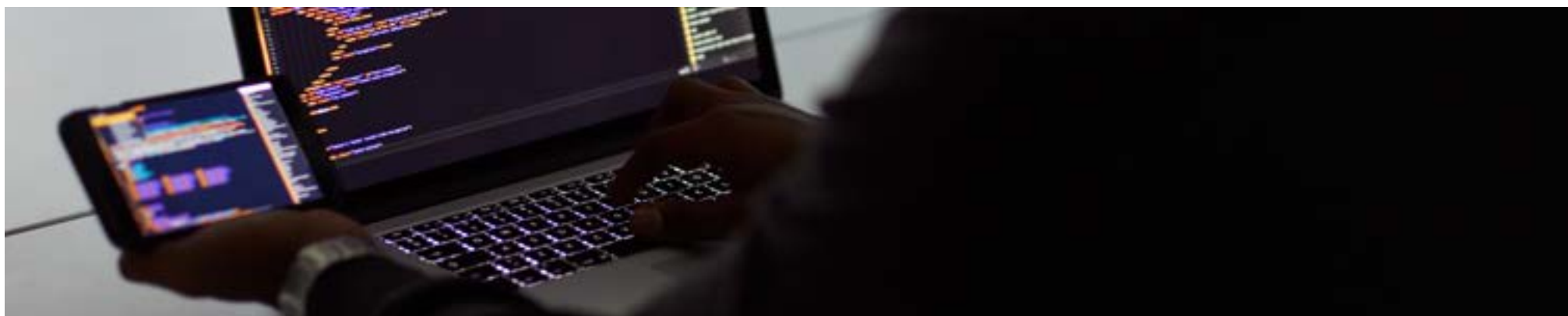
3° starting to provide a paying service without first having received clear consent from the end user.

3. Article VI.93 of the Code of Economic Law: unfair commercial practices

Phone scams are an unfair commercial practice as referred to in Article VI.93 of the Code of Economic Law, as they can materially distort the economic behaviour of a clearly identifiable group of consumers.

4. Article 442quater of the Criminal Code: exploitation of people in a vulnerable state of mind or conditions

Finally, phone scams, in particular those involving 090X numbers, fall under Article 442quater of the Criminal Code on the exploitation of people in a vulnerable state of mind or conditions. Exploitation of people in vulnerable states consists of taking advantage of a person's vulnerability or ignorance, or encouraging a person to make a decision whose consequences he or she is unable to assess.



D. THE OPERATORS' ATTITUDE

After a phishing attempt, I was charged €5.00 for a service I hadn't used. Proximus declines all responsibility, so the fraud can carry on being practised. This fraud is brought up on forums, as is the attitude of Proximus, which refers people to a paying number or an email address that is no longer in use. Scams of this kind work well and nobody seems to be prepared to put a stop to them!

I was shocked to see Proximus simply denying any responsibility in a case of fraud, despite its obligations as a financial intermediary.

How can it be that Proximus can accept a third party ordering services in my name, without my permission, purely on the basis of a mobile phone number?

Customer reactions to the billing of services supplied as a result of phone scams are usually heated. In particular, customers are unhappy about their operator continuing to insist (with reminders and the pursuit of debts) on the payment of sums obtained through phone fraud or scams. This negative image and these negative reactions are even more pronounced when the fraudulent nature of the practices is clear and not in any doubt.

Customers also criticise their operator's lack of understanding. Operators' first-line services are usually inclined to keep the disputed charges despite evidence of fraudulent practice. This is because they believe that those charges comply with the applicable legal requirements, such as the

indication of the price. In addition, in some cases, these customer services advise those involved to submit a complaint to the police or refer them to the administrator of the disputed numbers.

Customers have also criticised a lack of proactivity, for example in the form of preventive, call blocking and network security measures. Blocking incoming or outgoing calls to specific numbers or a certain type of number is often only done afterwards, in the context of mediation and at the express request of the Ombudsman's Office.

At the instigation of the Ombudsman's Office, Proximus and Telenet Group have decided to take structural measures (a message advising customers never to share their PIN code) in connection with fraud via Messenger and the payment platform Boku, causing complaints about this type of phone scam to decrease sharply.

In most cases, intervention by the Ombudsman's Office results in the cancellation of the disputed charges.

E. CONCLUSION

The provision of electronic communications services always requires the end user's informed and free consent.

As phone fraud and scams are becoming increasingly common, it is important for operators to respond with measures to systematically prevent this type of unfair commercial practice, such as blocking certain incoming calls or securing their networks more effectively.

They need to do so not only to avoid damaging their image

in the eyes of customers who have lost out, but to distance themselves from commercial practices that are clearly fraudulent and safeguard the trust that is necessary in any commercial relationship.



8 PERSISTENT COMPLAINTS ABOUT CHARGES FOR 'THIRD-PARTY SERVICES'

<u>A. Introduction</u>	67
<u>B. Seventeen years of complaints about charges for 'third-party services'.....</u>	68
<u>C. Unsolicited third-party services: the attitude of the operators in their initial response and in complaints to the Ombudsman's Office</u>	68
<u>D. Regulatory framework</u>	70
<u>E. Conclusion.....</u>	71



A. INTRODUCTION

In 2019, for the 17th consecutive year, charging by telecom operators for so-called third-party services gave rise to a significant number of complaints to the Ombudsman's Office. The Ombudsman's Office was contacted 730 times in 2019 to mediate with telecom operators because of their billing of disputed charges for so-called third-party services. The use of such services appears on the telecom operators' bills, but the services in question are not provided by them. Instead, the operators make their network available to enable transactions to take place in connection with these paying services. This explains why the Office of the Ombudsman for Telecommunications is turned to by users when they become involved in a dispute with their telecom operator about charges for such paying services. Third-party services come in many applications and have a wide variety of content. Examples include participating in televoting by text message, purchasing mobile credits to play games or watch video clips, purchasing parking tickets by text, downloading ringtones and logos, receiving sports results, traffic information or horoscopes, supporting charities, and so on. In terms of medium, third-party services can be divided into three main groups: premium SMS, M-commerce and finally consultiel numbers (090x numbers).

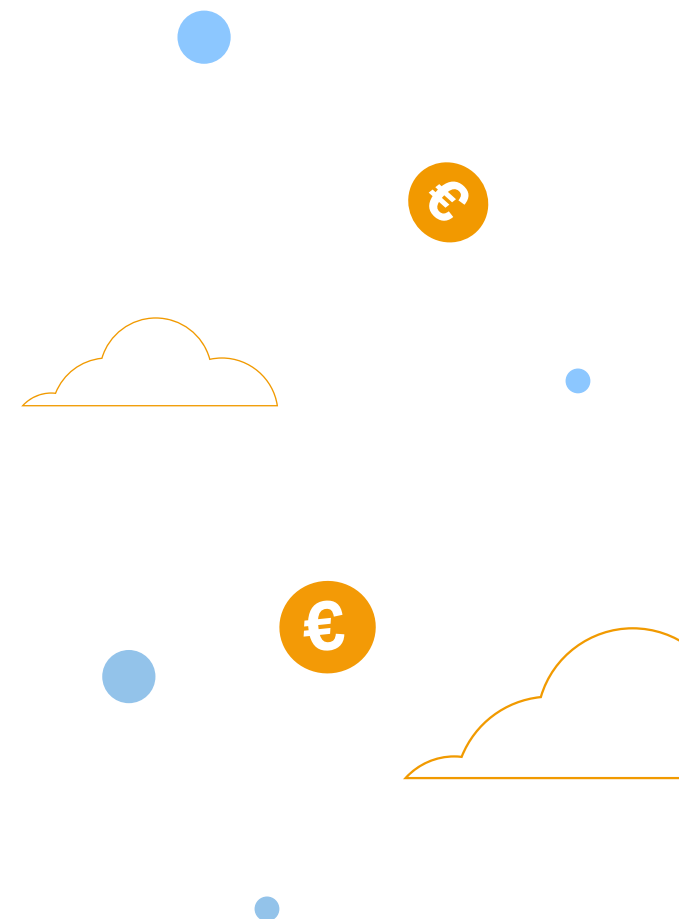
Well-known bona fide premium SMS applications include paying for a parking ticket or a De Lijn travel ticket by sending a text message to a four-digit code. However, the appearance of charges for premium SMS services has been a very longstanding source of complaints to the Ombudsman's Office. In 2019, there were 166 such disputes, in which the contested services mainly related to quizzes,

horoscope services, dating and so on. The services linked to the abbreviated numbers 9599, 9989, 9772, 9336, 9997, 9737 and 9636 attracted the most complaints in 2019. In most cases, the customer was charged for both sent and received text messages (reversed billing).

The content of M-commerce services that frequently feature in complaints to the Ombudsman's Office is somewhat similar: they usually relate to games, sports results and porn. Mobile commerce (M-commerce) involves ordering products or services (sometimes on a subscription basis) by smartphone. Again, the user may opt to pay for the service via his or her telecom bill. The Ombudsman's Office has been receiving complaints about telecom operators' billing of M-commerce services non-stop since 2013. In 2019, disputes about these charges were the subject of 445 complaints to the Ombudsman's Office. The services 'Demon Games', 'LiveFootball.tv' and 'Wister' in particular came up in dozens of cases. Charges for 'Veedz', 'Fuzeforge' and 'Phonecrush' were also disputed by a significant number of telecom users.

A third form of paying services that regularly features in complaints consists of calls to consultiel numbers, better known as 090x numbers. As with premium SMS and M-commerce, a significant proportion of the revenue flows to the business running such numbers. In 2019, the Ombudsman's Office was asked to mediate about charges for calls to 090x numbers 119 times. Horoscope and astrology services in particular often crop up in such complaints, and questionable or downright fraudulent practices are often brought to light in this context during mediation. Com-

plaints about charges for 090x calls are treated separately as a specific issue in Chapter 7 of this annual report.



B. SEVENTEEN YEARS OF COMPLAINTS ABOUT CHARGES FOR 'THIRD-PARTY SERVICES'

The Ombudsman's Office first received complaints from users about charges for third-party services, and premium SMS services in particular, in 2002. The very first complaints brought to light various irregularities which exposed users to aggressive and unethical commercial practices such as the unsolicited activation of premium SMS subscriptions, lack of transparency about charges and difficulties experienced in unsubscribing from such services.

Despite the initiative to self-regulate the sector of these paying services (the GOF guidelines), the Ombudsman's Office has continued to receive hundreds of complaints year after year about charging, mainly for premium SMS services and, since 2013, M-commerce services. More and more complaints have been made to the Office of the Ombudsman for telecommunications, revealing some terrible situations. For example, users faced telecom bills for thousands of euros, usually after participating in dating by premium SMS. Although the gradual tightening up of self-regulation in this area on the one hand and the introduction of legal provisions (see further in this chapter) on the other led to a decrease in such shocking situations, premium SMS, M-commerce and consurtel numbers cannot be described as a complaint-free area in 2019. Indeed, with 652 and 730 complaints in 2018 and 2019 respectively, we are forced to conclude that the disputed billing of third-party services is still a growing problem and remains one of the main subjects of complaints to the Ombudsman's Office. Disputes about M-commerce services in particular have

been on the rise in recent years.

The distribution of complaints to our Office across the different telecom operators is very uneven. Of the 730 complaints submitted in 2019, 590 were directed against Proximus as the billing party. The share of Proximus complaints among all disputes about third-party services rose significantly, from 67% in 2018 to 80% in 2019. In contrast to Proximus, the other operators recorded a decrease in the number of complaints to the Ombudsman's Office about charges for third-party services in 2019. For example, 61 complaints against Telenet were submitted in 2019, compared to 92 in 2018. Orange also recorded a downward trend, from 85 complaints in 2018 to 50 in 2019. This clearly points to the fact that Proximus customers in particular are vulnerable to controversial charges for third-party services.

C. UNSOLICITED THIRD-PARTY SERVICES: THE ATTITUDE OF THE OPERATORS IN THEIR INITIAL RESPONSE AND IN COMPLAINTS TO THE OMBUDSMAN'S OFFICE

On my Proximus bill I suddenly saw a service called 'Demon Games 0800 20 567'. After making some inquiries, I found that I was not the only one this had happened to. I found advice to phone the company, which I did. They were able to cancel the subscription, but not to reimburse me. Even though I hadn't signed a contract! They claimed the fault lay with Proximus. It seems strange to me that such things can happen in the era of GDPR. That a company such as Proximus can just bill charges without evidence of contract, and that a service can even be started without a contract. (...) I really don't feel like paying this €14.48, because then anyone can start sending bills like this...

In 2019, the Ombudsman's Office received more than 120 complaints from users about charges for 'Demon Games' on their telecom bill. All but one of these was directed against Proximus, which acts as the collector of the disputed charges. 'Demon Games' is an M-commerce subscription service from PM Connect providing access to a collection of online games. The user is charged €3.99 per week until he or she unsubscribes.



The complainants all claimed that they had not registered for the services of 'Demon Games'. When they discovered on their bills and/or online customer zone that they were being charged by Proximus for these services, contact was made with the billing party. Initially, Proximus almost invariably referred them to PM Connect, the provider of 'Demon Games'. Some customers understandably refused to contact a business that was completely unknown to them. Others discovered that the company was difficult to reach. From other cases, we infer that there is a language barrier due to the fact that PM Connect's customer service is based in the United Kingdom and its employees are English-speakers.

In the context of a complaint to the Ombudsman's Office, the operator was willing to ask PM Connect to investigate. This external service provider usually failed to answer Proximus's questionnaire promptly, and the operator was then prepared to cancel the disputed charges on the next bill. In most other complaints, Proximus inferred from PM Connect's replies that the provider had violated the regulatory framework (see further in this chapter), so that the operator likewise decided to cancel the disputed charges.

Incorrect bill for third-party services, namely 'LiveFootball.tv', for an amount of €4.99. We aren't even football fans and have absolutely no idea where this comes from. We called 0800 20 567, the number shown on the Proximus invoice, but only got music while we were kept on hold. We therefore contacted Proximus itself, but it had nothing to do with the matter and recommended that we contact the Office of the Ombudsman for Telecommunications. According to the operator, my husband probably accidentally clicked on something on his mobile phone... My husband doesn't know how that could have happened, as he is very careful.

In 2019, the Ombudsman's Office received more than 70 complaints arising from a dispute about charges for the M-commerce service 'LiveFootball.tv'. Like 'Demon Games', 'LiveFootball.tv' is operated by PM Connect, and the complaints were directed almost exclusively against Proximus as the billing party. All complainants claimed not to have (knowingly) ordered this service.

In most cases, the complainants initially contacted Proximus, but got nowhere. The telecom operator's customer service distanced itself from the complaints and usually referred the user to PM Connect. When the customer subsequently contacted this unknown British company,

its customer service often could not be contacted either by telephone or email. Thus users who had already been let down were driven from pillar to post and ultimately not offered a solution. The Ombudsman's Office was the last resort in such cases, as it was out of the question for the complainant to take legal action given the relatively low amounts involved.

Once the matter was in the hands of the Ombudsman's Office, Proximus would finally raise the matter with PM Connect. A standardised questionnaire was sent to the service provider with the aim of finding out whether the GOF regulations (see further in section D of this chapter) had been complied with. In a significant number of cases, PM Connect failed to respond to the questionnaire in time, after which Proximus proceeded to cancel the disputed charges. In other complaints in which PM Connect did send feedback, Proximus often found that the operator had breached the guidelines. In these circumstances, Proximus also cancelled the charges for 'LiveFootball.tv'.

Based on the accounts of the many complainants, it is clear that PM Connect uses over-aggressive sales tactics for its services 'Demon Games' and 'LiveFootball.tv'. Merely clicking on an online banner advertising these services was all it took to activate a paid subscription. This would explain why the complainants unanimously claimed that they

were unaware of having ordered these services from PM Connect in any way.

I received an unsolicited text message from the company Comizzo on the number 9636. I sent STOP but it didn't work. I emailed Comizzo and sent a chat message on their Facebook page. No reply... Meanwhile, I have to pay charges to Telenet for something I never requested...

The complaint to the Ombudsman's Office about charges for premium SMS services did not essentially differ much from the complaints about M-commerce charges, in that the basis of all these disputes was the user's denial of having registered for the paying service in question. In addition, several complaints showed that difficulties were experienced in unsubscribing. Premium SMS services with an abbreviated number from the 9xxx series were especially likely to give rise to complaints. This series was created within the numbering plan for so-called reversed billing messages, meaning that the subscriber also pays for text messages received.

Although they are responsible for the billing and collection of the charges, the telecom operators (in these complaints mainly Proximus) all too often absolve themselves of responsibility in their initial handling of complaints and offer inadequate solutions. In some cases, the customer is advised to send a stop message, but an investigation into the correctness of the amounts charged is often not car-

ried out. In the context of the complaint to the Ombudsman's Office, this investigation does take place, although it is sometimes cursory. It is not uncommon for the operator's attention to be drawn during the mediation to a lack of evidence or to one or more fundamental breaches of the regulations. In most cases this eventually leads to compensation for the complainant. It is also noticeable that complainants are not systematically informed about the possibilities for blocking such paying services, either when they initially contact the operator or in the context of a complaint to the Ombudsman's Office.

D. REGULATORY FRAMEWORK

A self-regulatory code of conduct on premium SMS services has existed for 15 years. This code of conduct, called the 'GOF guidelines for SMS/MMS/LBS services', has been amended and extended several times over the years. On 1 September 2015, a number of guidelines also came into force specifically in relation to M-commerce, at that time a new platform for offering mobile purchases and paying services. These regulations, called the 'GOF guidelines for direct operator billing services', addressed a large number of concerns that the Ombudsman's Office had noted while handling complaints over the years. On 26 January 2019, a new legal framework for third-party services entered into force: the Royal Decree determining the applicable obligations relating to the provision of paying services, as referred to in Article 116/1, § 2 of the Act of 13 June 2005 on electronic communications. At the same time, the Royal Decree of 9 February 2011 laying down the Telecommunications Code of Ethics, which had previously regulated the operation of paying services, was repealed.



This amalgam of regulatory frameworks applicable to premium SMS and M-commerce services, had essentially the same objective: to develop a safe, reliable and user-transparent market for mobile (Internet) services. In theory, misleading advertising has been curbed and pricing has been made subject to strict rules, with a strong emphasis on transparency. Paying services should on the face of it only be capable of activation at the express request of the user, who also has to go through a 'full purchasing expe-

rience'. Thus selling services (or foisting them on users) through a banner or pop-up page is no longer tolerated. Particular attention has been paid to the protection of minors, and users should from now on be systematically informed of the charges for their use as it progresses. The regulatory framework also envisages that the operators of paying services should inform their customers in a clear, transparent way about how to terminate subscriptions. In addition, a framework has been created in which the user can contest charges for paying services in an efficient and simple way where necessary.

E. CONCLUSION

The Ombudsman's Office cannot avoid the conclusion yet again in 2019 that many telecom users are still victims of charging for third-party services that they have not ordered. Various developments in the regulatory framework have not stopped the Ombudsman's Office from receiving hundreds of requests for mediation with the telecom operators, which not only make their networks available to providers of such paying services, but also undertake to bill and collect the charges for these services. In 2019, the Ombudsman's Office found that Proximus customers in particular were involved in a large number of disputes with their operator regarding charges for M-commerce and, to a lesser extent, premium SMS services.

In many cases, users who had been mistreated and had taken their complaint to the billing party and/or service provider got nowhere; all too often they were sent back and forth between the various actors involved. In some cases, the billing telecom operator admitted outright that the

customer was the victim of fraud and referred him or her to the police without correcting the billing. When the user brought in the Ombudsman's Office, the telecom operator immediately adopted a different tune. While invariably explaining once again that the contested paying service was not supplied by them, they looked into the matter in almost every case, checking whether or not the provider of the service had complied with the regulatory framework. In very many cases, the operator found either that the service provider failed to cooperate with the investigation or that the regulatory framework had been violated, and the complainant was reimbursed. Mediation by the Ombudsman's Office therefore ended with a satisfactory solution for the victim in the vast majority of cases.

However, the fact remains that no structural solution to this persistent problem has been found for many years now. Above all, Proximus, as a billing operator, fails to protect its customers adequately from dubious paying services that are activated without their knowledge. Other telecom operators, such as Telenet Group and Orange, seem to have reviewed their cooperation with operators whose paying services have caused too many complaints, with a positive impact on the numbers of complaints submitted to us. The Ombudsman's Office hopes that Proximus will also take the measures that will systematically reduce the number of disputable charges for third-party services.





9

LATE CONNECTIONS OF FIXED-LINE TELECOMMUNICATION SERVICES



A. Introduction	73
B. Mediation in complaints about extremely late connections to fixed telecom services by Scarlet	74
1. Examples and analysis	74
2. Structural problems with extremely late Scarlet connections	75
3. Complaints about late connections against other operators	77
C. Conclusion	78

A. INTRODUCTION

When telecom services are ordered, the subscriber and operator are supposed to come to a clear agreement about the delivery time. It is very important to most users for continuity of telecom services to be ensured, for example in the event of a house move or change of operator. In the latter case, continuity is in principle always guaranteed, as number portability and Easy Switch should make it possible to continue to use the telecom services provided by the old operator while awaiting connection to the new one. However, the complaints show that the Easy Switch facility in particular is not yet well known and its application is often problematic (see Chapter 10 of this annual report), which means that many telecom users are still personally responsible for terminating the services of their old operator. If the new operator adheres to the mutual agreements about the delivery time, a smooth transfer of telecom services can reasonably be expected. However, since the end of 2018, the Office of the Ombudsman for telecommunications has noted that Scarlet in particular has had structural problems in delivering fixed telecom services (fixed telephony, Internet and TV connection) within the agreed timeframe.

Of the 1,183 mediation requests received concerning Scarlet in 2019, no fewer than 353 dealt with connection issues. Only 12 of these 353 complaints related to problems with mobile connections. The remaining 341 complaints indicated often very serious problems in obtaining a Scarlet connection for fixed telecom services. Although the Ombudsman's Office registered a spike in such complaints against Scarlet mainly during the first five months of 2019,

the problem continued for almost the entire year. Complaints against Scarlet regarding fixed telecom connections skyrocketed in 2019 to many times their number in previous years. It is also striking that irregularities with fixed telecom connections generated more complaints to the Ombudsman's Office against Scarlet (341) than against the larger Belgian operators, in particular Proximus (323 complaints) and Telenet (176 complaints) in 2019. The complaints against Scarlet also stand out for extreme lateness of the connections. Comments from Scarlet subscribers, some of which are quoted below, indicate that they often had to wait many months for the telecom services to be delivered, which is obviously highly unusual. Disputes with other operators about late connections are different, in that the delayed delivery period tended to be a matter of a few weeks and only exceptionally more than a month. This chapter therefore focuses on the phenomenon of extremely late Scarlet connections, a specific topic of complaint that was prominent during 2019. We will also briefly discuss the structural problems that came up in the complaints



made against other operators regarding late connection of fixed telecom services.

B. MEDIATION IN COMPLAINTS ABOUT EXTREMELY LATE CONNECTIONS TO FIXED TELECOM SERVICES BY SCARLET

My switch from Telenet to Scarlet was supposed to happen on 4 February 2019 and they have blocked my fixed number. Scarlet (and Proximus, since apparently they need to come too) were supposed to visit me on 19 February, 20 March, 15 April, 26 April, 10 May, 17 May, 20 May and 23 May, but never showed up. Whenever no one showed up for an appointment (they only cancelled once in advance), a new appointment was made, but now I haven't heard anything more from them.

1. Examples and analysis

The customer who had been inconvenienced in this way eventually decided to cancel her Trio subscription with Scarlet, consisting of fixed telephony, Internet and TV, and switch back to her previous telecom operator. She had waited seven months for Scarlet to deliver one specific component of her package, namely fixed telephony. The

We have been waiting for our Internet and TV for almost two months now. There is an internal issue that has prevented Scarlet from activating our service. They cannot tell us what the problem is, and they cannot give us any time-frame either. We already had a Scarlet subscription in our previous home. We expected that moving and simply 'taking the subscription with us' would be a smooth process. After all, this is what Scarlet boast about this on their website. However, the opposite is true. We don't intend to wait forever. (...) We work partly from home. Because it's a new-build, 4G connection is not possible. There's only a connection at the entrance to the house. All of this has meant that we have been in urgent need of an Internet connection for some time now. How will we be compensated for this? Our solar panels also need Internet, and so does our alarm system. We're hugely disappointed with the way they have dealt with this problem. They don't give their customers a clear answer to a single questions. If we're forced to switch to another provider, we expect Scarlet to reimburse the installation costs. We also want compensation for all the inconvenience and loss suffered over the past few weeks.

contract was cancelled by the operator free of charge, but no compensation was offered.

During the mediation by the Ombudsman's Office, Scarlet took the necessary steps to ensure that fixed telecom services were delivered to the new address of the complainant, who ended up waiting three months before she and her family could use the Internet and TV via their Scarlet subscription. Following the complaint to our Office Scarlet

I want to switch from my current operator Proximus to another operator, Scarlet. On 7 April 2019, I received notification from Scarlet that my connection request had been approved and that installation would follow shortly. Despite this confirmation, I am still waiting for a connection today [23 July 2019]. I have already made a complaint, repeatedly asked for an explanation both by telephone and by email, and requested compensation, but none of this has brought any positive result. The only explanation that Scarlet's customer service could give me was that Proximus had not yet released the line for technical reasons. Such a reason may cause a few days' delay to the connection, but it cannot be a reason for not being able to transfer to an existing line after more than three months. Since Scarlet is a subsidiary to Proximus, and offers significantly cheaper rates, I suspect that Proximus knows what it's doing and doesn't want to release the line.

offered the affected customer compensation in the form of a credit note for €145.10.

During the mediation, Proximus informed the Ombudsman's Office that, in line with the procedures, an order for number transfer had been automatically cancelled on 28 May 2019 via the CRDC database, since the takeover by Scarlet had not been technically completed within ten working days. Proximus concluded that Scarlet was responsible for the delay in connecting the complainant to the service. Scarlet informed the Ombudsman's Office three weeks after the start of the complaint that an installation appointment had been made for 28 August 2019. The connection was eventually completed on 29 August 2019,

We had Proximus as a telecom provider, but weren't satisfied with them, so in early April [2019] we began the process of changing provider and requested the Easy Switch procedure, which ensures a continuous service. We chose Scarlet as the new provider. The equipment in our flat was replaced by Scarlet on 13 May and we thought we had Scarlet as a supplier from that point onwards. Our service was then stopped by Proximus on 3 June, and since then we haven't had any telecom services (Internet or TV). It's already been four weeks now. We've contacted Scarlet and Proximus, by both email and phone, but without any success. All Scarlet told us was to wait. Please help us to reinstall our network, as we find this situation unacceptable in our country today. Without an Internet connection, we can't work and live, not to mention the lack of TV...

more than four and a half months after the order. Because of this extremely long delay, Scarlet granted compensation of €321.00 after further mediation.

Scarlet did not make any comment on the case at all until a month and a half after the complaint had started. It merely stated that a specialist team had been appointed to look into the cause of the problem. A concrete date to implement the connection for the complainant was not set. This ultimately prompted the complainant, four months after placing the order with Scarlet, to have the contract with it terminated and to opt for another telecom operator. However, the complainant pointed out that she had been greatly inconvenienced by the extremely long unavailability of Internet and TV services and expected to receive compensation from Scarlet. Scarlet showed no inclination

to comply with this, but following extensive mediation, it eventually offered compensation of €378.00.

2. Structural problems with extremely late Scarlet connections

This is the first time since it came into existence that the Ombudsman's Office has received such a large number of complaints about extremely long delivery times for fixed telecom services relating to one specific operator. The first of these complaints date from November 2018 and stemmed from an internal problem at Scarlet, which the operator itself described as the 'November problem'. According to Scarlet, the cause of this problem was not detected until

May 2019; its discovery led to a gradual decrease in the number of related disputes. During several meetings with Scarlet, the Ombudsman's Office was informed that an IT problem to do with the alignment of data between different databases was at the root of the complaints in question. As a result, Scarlet's goal of delivering telecom services within eight days of ordering could no longer be achieved for a large number of new customers or customers who needed to have their telecom services moved to another address. The problems were mainly experienced by customers who wished to have a Trio subscription, consisting of fixed telephony, Internet and TV. The extremely late delivery applied either to the full package or to certain components of it. The telephone connection in particular was often affected. In some of the cases handled by the Ombudsman's Office, Scarlet activated a temporary new number pending the entry into service of the customer's normal phone number.

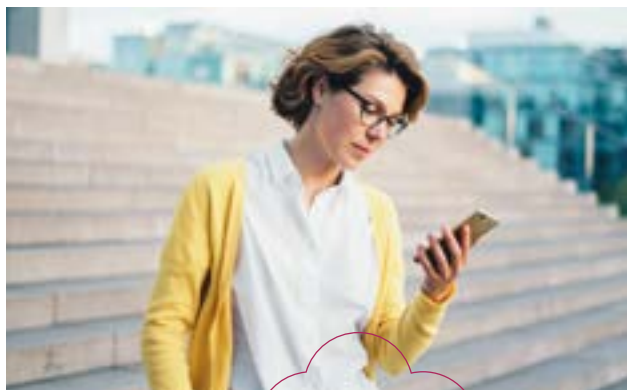
2.1. Consequences for the Scarlet subscriber

Some complaints to the Ombudsman's Office revealed absurd and extreme situations. It was by no means exceptional to encounter cases where customers had to wait more than five months for their connection. In particular, those who had already terminated their telecom services with their previous operator or were without functional fixed telecom services due to other circumstances were often severely inconvenienced by Scarlet's structural problem with late connections. Telecom services play an increasingly important role in our society and their applications are extremely diverse. The unavailability of Internet, fixed telephony and even TV can have far-reaching consequences for the user. Mobile telecom solutions do not always offer



a satisfactory alternative and are often more expensive too. The complaints therefore include numerous accounts that show how the users in question experienced problems because they were unable to work from home, because studying children no longer had access to the Internet, because self-employed people were unavailable by phone for a long period of time, because alarm systems reliant on the proper functioning of the Internet were no longer functional or because the unavailability of a familiar phone number led to social isolation for older people, for example.

An additional detrimental consequence for this large group of Scarlet customers was that they often had to take unnecessary time off work when Scarlet told them that an engineer would be coming to install their system, only for that engineer not to show up. Finally, Scarlet's late connections also had financial repercussions for many complainants. In some cases, they were forced to remain a subscriber with their previous operator, which usually offered less favourable rates, or were obliged to make more use of mobile Internet and mobile telephony, resulting in a higher telecom bill. The point should not be overlooked that many Scarlet



customers deliberately choose this operator because of its lower rates – a fact which, incidentally, was often raised in the complaints.

2.2. Disinformation by Scarlet regarding initial complaints

Prior to mediation by the Ombudsman's Office, the user is supposed to contact the telecom operator against which the complaint is directed and attempt to sort the matter out with it. This legal principle also applies to problems with the delivery of telecom services by Scarlet. The complainants' accounts indicate that this operator handled the initial customer complaints according to a fixed pattern. When subscribers contacted Scarlet's customer service about the fact that their connection had not happened, they were asked to be patient. The customer was not even given an estimated date on which the connection would actually be made. In addition, some complaints, of which the first account quoted above is a textbook example, show that Scarlet often sent these customers text messages in which a connection date was given, but that this was repeatedly shifted to a later date. The customers were kept on tenterhooks in this way. The Ombudsman's Office finds this deplorable. Telecom users should be correctly informed by their operator about the date of performance of the contract. If circumstances prevent delivery of the services within an agreed period, the operator should inform the customer in a fully transparent manner so that he or she can decide whether or not to look for an alternative solution.

An additional phenomenon that came up in some complaints to our Office was that Scarlet sometimes referred the customer in the first instance to Proximus, which it claimed was at the root of the problem. When the finger of blame was pointed at the access operator in this way, Scarlet subscribers often took the initiative of contacting Proximus's customer service. Not surprisingly, this got them nowhere, as they had no contractual relationship with Proximus. The Ombudsman's Office deplores the fact that the complainant, through the information provided by Scarlet after the initial complaint, was sent back and forth between the two operators in this way. This only served to increase the frustration and annoyance experienced by users who had already been inconvenienced.

2.3. Compensation resulting from the intervention of the Ombudsman's Office

As explained above, extremely lengthy delivery times for telecom services can have a serious impact on users. Scarlet does not make any contractual provision for compensation for late connections in its general terms and conditions. In the context of initial complaints, Scarlet occasionally offered a small amount of compensation, which was usually dismissed by the complainants as a 'sweetener' because it in no way reflected the actual damage suffered.

In this respect, Article 1147 of the Civil Code states: 'The obligor shall, if there is a ground thereto, be ordered to pay damages, either because of the non-performance of the obligation, or because of delay in performance, if he does not prove that the non-performance is the consequence of an extraneous event for which he cannot be held account-

table, provided there is no bad faith on his part.’

In the opinion of the Ombudsman’s Office, Article 13 of the Royal Decree of 2 July 2013 on the transferability of numbers of subscribers to electronic communication services constituted the right legal principle on which to base compensation for inconvenienced Scarlet customers. In simple terms, this legal principle states that the user is entitled to compensation of €3.00 per day in the event of a late transfer of a number between two operators.

During mediation, the Ombudsman’s Office sought to ensure that complainants, who often had to endure extremely long waiting times for Scarlet connections, received compensation based on this progressive compensation mechanism. The level of compensation would thus depend on the waiting period between the originally planned delivery date and the actual connection date. The Ombudsman’s Office also pushed for this compensation to be granted to complainants who had eventually decided to terminate their contract with Scarlet due to the long waiting period. Consi-

deration was given to whether or not the complainant still had access to the telecom services of their previous operator while they waited for Scarlet to perform its contract. Other circumstances also had to be taken into account in determining the amount of compensation, for example situations in which the customer was wholly or partly responsible for the delay in the delivery of the Scarlet services.

This system was gradually applied by Scarlet in complaints handled by the Ombudsman’s Office in 2019. Contrary to its initial response to customer complaints, in most cases Scarlet offered compensation which ultimately satisfied the hundreds of disgruntled complainants. However, it must be said that achieving fair compensation for the complainants often required persistent mediation.

In a large number of complaints, Scarlet was found to have failed to keep to several appointments with the customer with regard to the connection. Complainants who had opted for Easy Switch were entitled in such cases to statutory

compensation of €10.00 per missed appointment. This is confirmed by Article 19 of the Royal Decree of 6 September 2016 on the migration of fixed-line services and bundles of services in the electronic communications sector. During mediation in connection with these complaints, the Ombudsman’s Office naturally pressed Scarlet also to pay this compensation to its inconvenienced users.

3. Complaints about late connections against other operators

Although other operators also faced significant number of complaints regarding late connections to fixed telecom services in 2019, the circumstances that came to light were generally less shocking. Situations such as those found with Scarlet customers, many of whom had to wait more than half a year for the activation of their telephone, Internet and/or TV subscription, only arose very occasionally in complaints made against Proximus, Telenet, Orange and the other operators.

3.1. Proximus and Telenet

To the extent that information was available, our handling of complaints about late connections against Proximus and Telenet usually revealed that the technical conditions at the customer’s premises meant that work (such as welding) had to be done in order to be able to deliver the services. It was not always possible, based on the details of the complaints, to determine with certainty whether the operators were fully aware of the existing technical situation at the customer’s address at the time that the contract was concluded. It is therefore not impossible that such problems for the most part only came to light on the





scheduled date of delivery of the connection. What the complaints do clearly show, however, is that the operators, like Scarlet, often communicate poorly with the customer when a connection cannot be made at the planned time.

3.2. Orange

A distinctive situation arises with complaints about late delivery of fixed telecom services by Orange ('Love packs'). Unlike operators such as Scarlet, who provide their telephone, Internet and TV services via the Proximus network, Orange's fixed telecom services are run via Telenet's cable network. In 2019, as in 2018, the Ombudsman's Office received dozens of complaints revealing a structural problem in the cooperation between these two operators. In order to resolve such complaints quickly, the Ombudsman's Office regularly seeks information from the network supplier Telenet during its mediation, so that the cause of the late connection can be determined.

From a comparison of the information provided by Orange and Telenet to the Ombudsman's Office, the impression cannot be avoided that communication between the two operators is problematic. During the handling of these complaints in the last quarter of 2019, the Ombudsman's Office also noted that Orange has changed its policy and general terms and conditions, so that it now refuses to accept requests for connections if the customer does not have an active Telenet main cable. Strict application of these new sales conditions means that anyone who decides to opt for an Orange connection for their new-build home will have their request turned down, as the installer will find that an active Telenet cable is not present.

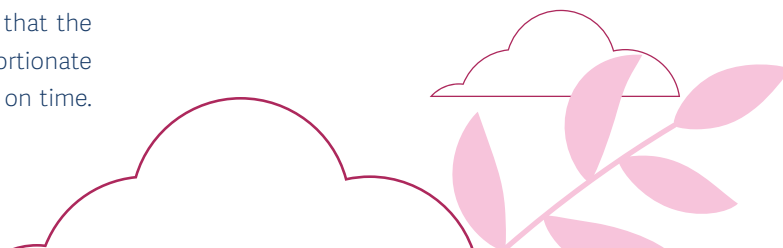
Even if the user was previously a Telenet customer and a filter has been activated on the cable as a result of their cancellation request, more recent complaints show that Orange refuses to provide services over this cable. Since 1 July 2019, Orange technicians have also been allowed to perform certain actions on the cable network (such as removing filters); however, Orange can still ask Telenet to carry out such interventions.

The Ombudsman's Office is therefore surprised at Orange's unhelpful attitude with regard to these connection complaints. In addition, mediation in these complaints is becoming less and less successful, in that Orange subscribers are increasingly forced to subscribe to another fixed telecom service provider in such cases. In a sense, this is leading to a restriction in the choice of the user within the liberalised telecom market.

C. CONCLUSION

With the exception of a few cases in which a connection could not be made due to non-compliant infrastructure at the customer's premises (such as internal cabling and cables on private land), problems with the delivery of telecom services are in principle the responsibility of the contracting operator. In return for the subscriber's payment of his or her bills, the telecom operator is expected to deliver services within the agreed period. Just as the customer is charged reminder and debt collection costs if he or she is late in paying a bill, it is reasonable to expect that the operator will be liable to pay the customer proportionate compensation if it fails to deliver the connection on time.

However, the Ombudsman's Office notes that such compensation is not part of the standard contracts between telecom operators and users. Proximus used to provide in its sales conditions for compensation of two months' telephony subscription fee in the event of late connection of the telephone service, but removed this provision from its general terms and conditions on 1 November 2019. This raises the question whether a balance can still be said to exist between the rights and obligations of the telecom operator and the subscriber in the event of non- or late performance of the sales contract.





10

DOUBLE CHARGING OF SUBSCRIPTION FEES AFTER CHANGING TELECOM OPERATOR WITH EASY SWITCH



A. Introduction 80

B. Mediation in complaints about Easy Switch..... 81

C. Structural problems with the application of Easy Switch 83

1. Easy Switch not applied as the standard solution 83

2. Problems with bilateral communication between operators..... 83

3. Possible negligence in processing Easy Switch requests..... 84

4. Lack of clarity about the scope of application of Easy Switch 84

5. Handling of Easy Switch complaints by first-line customer service:
complainants sent back and forth between two operators 85



A. INTRODUCTION

Easy Switch is a facility that has been offered to telecom users since 1 July 2017 when they decide to transfer their Internet and digital TV subscription to another operator. It seeks to ensure that the switch of operators goes smoothly by mandating the new provider to terminate the subscription with the old operator. This prevents the user from being billed double subscription charges.

Prior to the introduction of Easy Switch, users had to cancel their Internet and TV subscription themselves when switching telecom operator, by writing to the old provider. It was clear from complaints at the time that many users were unaware of this and were often misled by the new operator's sales representatives. In such circumstances, the double charging of subscription fees for a certain period of time by the old and new operators was inevitable.

In an effort to ensure that telecom users were not discouraged from looking for the telecom operator offering best value for money, policymakers sought a solution to this structural problem. They were inspired by the principle of number porting, a facility that has been applicable to land-line and mobile numbers since 2000 and 2002 respectively. When a number is transferred between two operators, the associated subscription with the old operator is automatically terminated, so that in principle there can be no overlapping subscription charges. The complaints to the Ombudsman's Office from 2019 show that while number portability may be subject to delays, it has given rise to relatively few billing problems.

The regulations set out in the Royal Decree of 6 September 2016 on the migration of fixed-line services and bundles of services in the electronic communications sector were designed to introduce a similar user-friendly facility when changing telecom providers, this time with reference to Internet and TV services. Easy Switch became the standard procedure on 1 July 2017. Since then, at the time of placing an order users have simply had to give the new operator the old operator's Easy Switch ID (shown on the bill) so that the new operator can arrange the termination of the Internet and TV subscription with the old operator at the moment of activation of the new services. This prevents the user from facing either a significant interruption of service or overlapping billing from the two telecom operators concerned.

In its 2017 annual report, the Ombudsman's Office found that between 1 July 2017 – the date of implementation of Easy Switch – and 31 December 2017, its mediation services were requested by dozens of customers who had used this procedure. These complaints revealed that in a number of cases the Easy Switch procedure had failed to work properly, so that the user, after changing operator, still faced charges from his or her former Internet and/or TV provider. Its observations in the complaints handled in 2018 prompted the Ombudsman's Office to again focus attention on Easy Switch in its annual report. On the basis of 529 complaints, our Office concluded in 2018 that it had never previously faced so many mediation requests in connection with double billing for Internet and TV subscriptions after a switch of operator. In 2019, the Ombudsman's Office notes that complaints regarding the application of Easy Switch have still not significantly decreased: in 2019, 498 users sought an out-of-court sett-

lement in a dispute over the charging of double subscription fees after switching operators using Easy Switch. Complaints about Easy Switch fall into the category of multi-operator complaints, in that the views of both the old and the new provider are requested in order to reconstruct the facts as accurately as possible and improve the mediation's chances of success. The combination of operators against which the most complaints to the Ombudsman's Office were submitted in 2019 were Proximus – Telenet Group (140 complaints), Orange – Telenet Group (99 complaints) and Proximus – Scarlet (95 complaints). The operators individually involved in the most disputes on the basis of the complaints about Easy Switch to our Office in 2019 were Proximus (313 complaints), Telenet Group (215 complaints), Orange (184 complaints), Scarlet (127 complaints) and VOO (99 complaints).

B. MEDIATION IN COMPLAINTS ABOUT EASY SWITCH

At the beginning of May [2019] I changed my operator from Telenet to Proximus. I have now received a bill from Telenet of €86.50 for June. I've contacted Telenet's customer service by phone. Their explanation is that Proximus hasn't taken the necessary steps to notify Telenet of the switch, and that I have to pay the bill and recover the costs from Proximus. I don't understand how Proximus was able to make the connection without Telenet being deactivated. Proximus claims that I shouldn't be paying anything to Telenet any more ...

Telenet Group confirmed to the Ombudsman's Office that it had not received an Easy Switch request from Proximus. The subscriptions were not terminated until 14 June 2019, after the complainant had phoned about the matter. However, Telenet Group found that a cancellation request had already been made by a store assistant on 7 May 2019, but had not been acted on. Telenet Group therefore carried out the cancellation retroactively and issued a credit note for the last two bills. Proximus provided very little information to the Ombudsman's Office. The operator merely pointed out that following a direct contact with the complainant, it had been decided to issue a credit note of €135.00.

The transfer from Proximus to Orange went wrong because Orange's sales representative in the retail chain M. didn't communicate the automatic code for cancelling Proximus to Orange. As a result, I'm being billed twice over. I've already contacted both operators, but neither of them is willing to grant compensation.

Orange confirmed that the complainant's Internet and TV subscription was activated on 7 March 2019. According to Orange, the subscription request stated that the complainant did not wish to use the Easy Switch procedure. Orange therefore did not regard itself as responsible for the double billing. Proximus confirmed to the Ombudsman's Office that it had not received an Easy Switch application. After further mediation, Proximus expressed its willingness to cancel the final bill; however, this only represented a partial solution to the double billing. The mediation discussion also revealed that the complainant had not yet returned his rental modem and decoder, so this could not be used as an argument to get Proximus to cancel the subscription retroactively.



Apparently something went wrong during the switch from Orange to Telenet on 5 May 2019, as I'm still receiving bills from my old operator. Telenet used Easy Switch and assured me that I didn't have to do anything else. I've called Orange and they deny that an Easy Switch request for TV and Internet was received. Orange has sent me a reminder to pay the outstanding bills that I dispute and told me to get in touch with Telenet. When I call Telenet, I'm told to contact Orange.

Telenet Group confirmed to the Ombudsman's Office that the complainant had indeed signed the Easy Switch mandate at the time of installation. According to Telenet Group, this procedure was initiated but not completed by Orange. As the new operator, Telenet Group expressed its willingness to assume its responsibility and asked for the disputed Orange bills, after which compensation was paid for the overlapping bills. Orange, for its part, claimed that an Easy Switch request had not been received by Telenet Group. Orange's services were eventually cancelled on 13 July 2019, following a written request from the complainant. Orange further informed the Ombudsman's Office that the complainant had returned his rental modem and decoder on 7 May 2019, but that this had not automatically led to the cancellation of the subscription. The outstanding balance of €42.88 was cancelled as a goodwill gesture.

I've changed providers from Proximus to Orange. The previous provider is still billing me, even though the service has been cancelled. After several phone calls and emails and going round to talk to them in person, I'm nowhere nearer a solution ...

Orange, as the new operator, informed the Ombudsman's Office that the Internet and TV subscription with it was activated on 17 May 2019. In this connection, an Easy Switch request was indeed sent to Proximus, according to Orange, which added that this request was accepted on 20 May 2019. Proximus admitted that the complainant's products were cancelled late due to a database problem. Proximus believed that its services should have been cancelled on 9 May 2019. The correction performed by the historical operator consisted of issuing a credit note for all subscription fees after 1 May 2019. Furthermore, Proximus pointed out to the complainant that she herself was supposed to cancel the Netflix service with Netflix, even though it was part of the telecom package. The complainant was satisfied with this mediated solution, but pointed out that she was unable to terminate the Netflix subscription herself as she no longer had access to the necessary codes. After further mediation, Proximus finally indicated that it had taken the necessary steps to terminate the complainant's Netflix account.

Using Easy Switch, I transferred from Proximus, with which I had a professional subscription, to Scarlet. Despite the switch, Proximus continues to send me bills. I've already contacted Proximus several times, which has confirmed that it's not possible to subscribe to two operators, but continues to demand payment of its bills anyway. Scarlet's initial response was to make it clear that I shouldn't pay the Proximus bills and that I should keep Scarlet's bills as proof that I had subscribed to it.

Scarlet told the Ombudsman's Office that the complainant had ordered an Internet connection in addition to four mobile phone subscriptions. According to Scarlet, an Easy Switch request was sent to Proximus, but was immediately rejected. Scarlet claims to have sent the complainant an email informing him of this and advising him to contact his old operator himself in order to cancel the services there. However, according to Proximus, no Easy Switch request was received. In response to the complaint to the Ombudsman's Office, Proximus cancelled the complainant's "Bizz All-in" package. However, the outstanding balance of €305.11 to Proximus remained due.



C. STRUCTURAL PROBLEMS WITH THE APPLICATION OF EASY SWITCH

1. Easy Switch not applied as the standard solution

Article 3 of the Royal Decree of 6 September 2016 on the migration of fixed-line services and bundles of services in the electronic communications sector states that Easy Switch is the standard procedure for switching fixed telecom services between two operators. The essential point is that the conclusion and performance of the contract with the new operator must simultaneously lead to the termination of the fixed telecom services with the old operator. The subscriber must explicitly inform the new operator if he or she does not wish this to happen. However, it is clear from quite a few complaints, of which the first and second accounts quoted are representative examples, that Easy Switch is in reality not automatically used by the new operator, which leads to double billing. Orange and Scarlet in particular seem to regularly violate this legal provision.

The complainants often say that the sales representatives have assured them that they do not need to do anything to stop the services with the old operator, and that the new operator will take care of cancelling the Internet and/or TV subscriptions with the former provider. It then comes to light during the mediation that the Easy Switch procedure has not been initiated by the new operator. It is not unusual for this operator to be able to show that the complainant has in fact signed a bundle of documents or accepted a

contract stating that he or she is responsible for cancelling the old operator's services. These complaints suggest that the complainants concerned have not read the contracts, which sometimes run to more than ten pages, in their entirety, and that the sales representatives have abused their trust. After all, there are few circumstances imaginable in which a customer would knowingly choose not to use Easy Switch.

One issue that occasionally comes up is that the user, especially when he or she concludes a telecom contract at a point of sale, is not in possession of the Easy Switch ID, which is shown on the old operator's bills. Unless this identification code is passed on to the new operator, Easy Switch cannot be initiated. Arrangements are sometimes made between the customer, if he or she does not have a bill from the old operator with him or her, and the sales representative to pass on the Easy Switch ID at a later time. However, this often runs into practical problems and does not ultimately lead to the initiation of Easy Switch.

The Ombudsman's Office discovered from a survey that the transfer of operator is only carried out by means of Easy Switch in a minority of cases. The Office believes that the success of Easy Switch will largely depend on the extent to which the operators offer it as a standard procedure to customers who are eligible. The complaints submitted to the Ombudsman's Office also show that there is still much work to be done by the various telecom operators in this area.

2. Problems with bilateral communication between operators

It is up to the new operator to launch the Easy Switch procedure correctly, by instructing the former operator to terminate the customer's Internet and/or TV subscription at the time of transfer of these services. It is not uncommon for complaints to the Ombudsman's Office to identify problems in this area, as illustrated by the third and fifth of





the complainants' accounts quoted above. During mediation by the Ombudsman's Office, the new operator claimed to have initiated Easy Switch, but the old operator said that it had not received a request. This is a disturbing finding, suggesting that structural problems are arising on the communications platform through which bilateral contacts between operators about Easy Switch take place.

Only in some cases does the new operator state that it has received a refusal after sending the Easy Switch request. In such cases, the new operator usually sends an email to its customer informing him or her that Easy Switch has failed and advising him or her to arrange the cancellation of the subscription with the old operator. Experience in complaints mediation shows that, for whatever reason, this communication does not always get through or is not always picked up by the user. It is also striking that neither the new operator nor the user is informed of the reason for the request's refusal. When the Ombudsman's Office is asked to mediate in such complaints, it sometimes turns out that a refusal is based on a trivial factor such as an unnecessary space in the Easy Switch application.

In order to avoid complaints, it is therefore very important for the bilateral exchange of information between operators in connection with Easy Switch to be conducted efficiently

so that the objective of this procedure can be achieved. The aim should be to use a uniform system analogous to the platform for number portability, as the number of disputes in that context is much lower.

3. Possible negligence in processing Easy Switch requests

Another structural issue at the basis of numerous disputes is the possible negligence of operators when a customer uses Easy Switch. Negligence occurs in various forms on the part of both the new and the old operator. The mediation by the Ombudsman's Office often reveals that the new operator has omitted to launch Easy Switch, despite the use of this procedure having been agreed with the customer. In the context of a complaint to our Office, the old operator also sometimes has to admit that a request to terminate a subscription has been received without any action being taken. Problems of this type, which lead to double billing for the user, is often blamed by operators on system errors or pending orders. The fourth complaint quoted above is an example of this structural problem, which should not be underestimated.

Obviously, operators should strive to avoid any form of negligence. The aim should be for customers who are eligible for Easy Switch to be able to rely on the operators involved

to take the necessary steps between themselves to ensure a smooth transition, without double billing. Since the implementation of Easy Switch on 1 July 2017, the Ombudsman's Office has noticed that system errors and pending orders are already being blamed by operators for the failure of this procedure. It is regrettable that this structural problem, which could be indicative of carelessness or negligence, is still at the basis of numerous disputes about Easy Switch in 2019.

4. Lack of clarity about the scope of application of Easy Switch

The report to the King accompanying Article 1 of the Royal Decree of 6 September 2016 on Easy Switch states the following: 'The field of application *ratione personae* of this decree is, in view of market demand during the public consultation, no longer confined to consumers. Small-scale self-employed persons and businesses which have opted for a residential tariff plan with the donor operator, but (also) use that tariff plan for their professional activities, may also make use of the simplified migration process set out in this decree.'

As in previous years, the Ombudsman's Office has been forced to conclude from the complaints submitted in 2019 that there is a lack of clarity about the scope of Easy Switch. Some self-employed people or business managers of SMEs with a subscription intended for the professional market segment mistakenly assume that they can use Easy Switch. The new operator has a crucial role to play in this respect: it must give its professional customers accurate information about the scope of application of Easy Switch

and its limits. When the new operator initiates Easy Switch for a customer who is ineligible, the request will not be accepted by the old operator, as is illustrated by the fifth complaint quoted. Often this refusal notification fails to reach the customer, with double billing as the inevitable result.

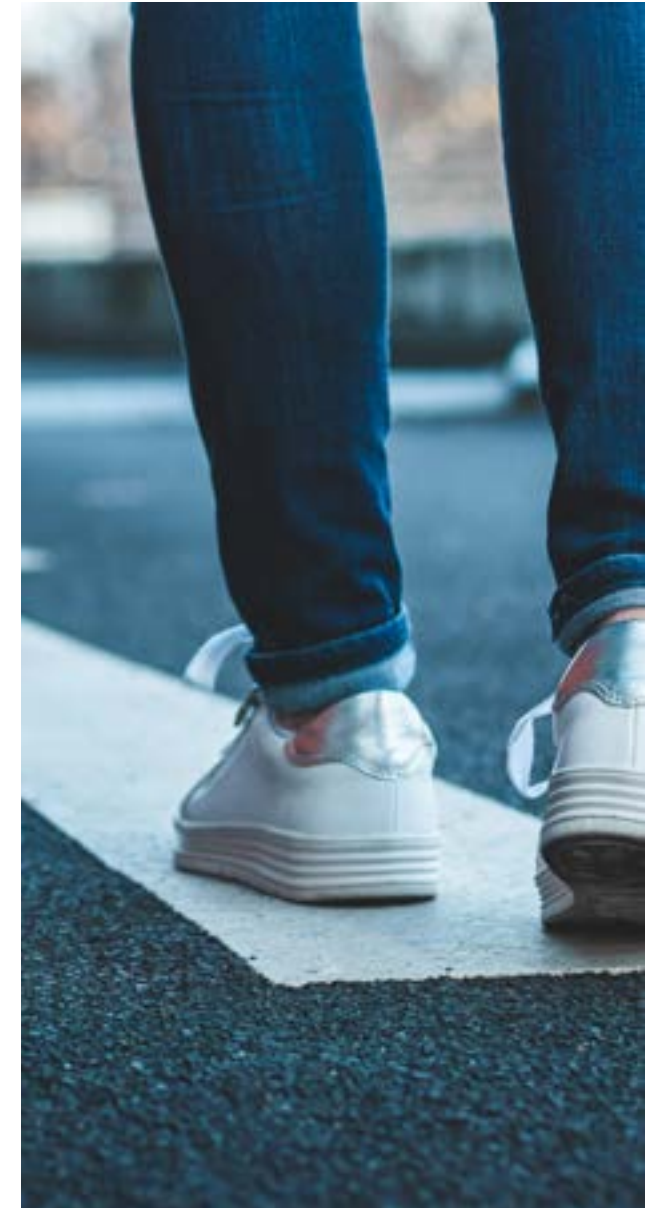
Uncertainties and confusion about the scope of Easy Switch extend beyond subscriptions for the professional market, however. As the analysis of the fourth complaint quoted shows, there are components of telecom packages that are not terminated by Easy Switch, even though they are clearly linked to Internet and/or TV services, such as Netflix. It is therefore important for lessons to be learned from such complaints. In particular, a structural solution needs to be found to ensure that the use of Easy Switch also leads to the cancellation of associated services.

5. Handling of Easy Switch complaints by first-line customer service: complaints sent back and forth between two operators

When a user wishes the Ombudsman's Office to mediate, it is assumed that he or she has attempted to resolve the dispute beforehand by contacting the telecom operator(s) concerned. Most complainants' accounts show that they contacted both the new and the old operator. The complaints quoted earlier in this chapter show the same thing. All too often the complainant turns out to have been systematically sent from pillar to post. The old operator claims not to have received a request to cancel the subscription in question, while the new operator states that Easy Switch was in fact initiated. The operators are clearly making an

insufficient effort to investigate the cause of double billing properly. Instead, customers are being fobbed off for the sake of convenience and sent to the other operator without justification.

The Ombudsman's Office concludes for the third consecutive year that complaints about Easy Switch disputes are not always properly handled in the first instance by telecom operators. Some arrangement is therefore urgently needed between the operators to ensure that these complaints are taken seriously and analysed jointly, instead of having the customer act as a go-between.





11

DATA CHARGES IN BELGIUM AND ABROAD



A. Introduction	87
B. Unexpectedly high mobile data usage in Belgium	87
1. Unlimited data usage.....	88
2. Free apps	88
3. Warning messages	88
C. Unexpectedly high data usage within the European Economic Area.....	89
1. Subscriptions with unlimited Internet	89
2. Within the European Economic Area, yet outside Europe	89
3. Outside the European Economic Area, but still in Europe.....	90
D. Unexpectedly high data usage outside the European Economic Area.....	91
E. “Unlimited” fixed Internet in Belgium	92
F. Conclusion.....	92

A. INTRODUCTION

These days, a smartphone is more than just a mobile phone: its multiple other applications include taking photos, browsing the Internet, listening to music, watching films, chatting, and so on. The smartphone has become an integral part of daily life for many people. At the same time, the emergence of streaming services such as Netflix and YouTube, and online video games, is leading to ever higher data usage at home on the fixed Internet. This frequent online use can sometimes give rise to significant charges, which end users often discover too late, at the point when they receive their telecom bill.

In 2019 the Ombudsman's Office received 666 complaints about increasing and unexpected charges for their mobile and, to a much lesser extent, fixed Internet use. In 2018 the Ombudsman's Office received 783 complaints on this subject. Telenet Group led the field in 2019 with 241 complaints, followed by Proximus with 151 complaints. Orange had 116 complaints and Scarlet 100 complaints. Unleashed was the last of the top 5, with 37 complaints.

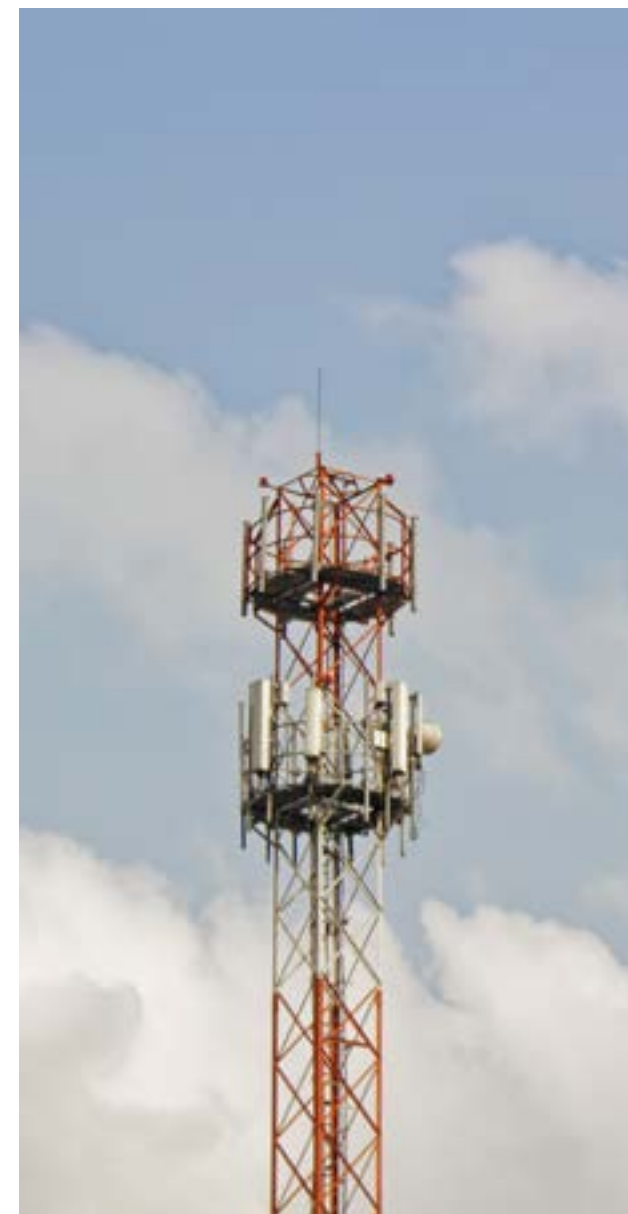
In this chapter, we will analyse these complaints, making a distinction on the basis of whether end users were using mobile Internet in Belgium, in the European Economic Area states or further afield. The European Economic Area (EEA) consists of 31 member states: all 28 member states of the European Union, plus the 3 member states of the European Free Trade Association (EFTA) other than Switzerland, namely Iceland, Liechtenstein and Norway. We will also briefly discuss the main problems end users experience with the use of their fixed Internet connection.

B. UNEXPECTEDLY HIGH MOBILE DATA USAGE IN BELGIUM

An absurd, incomprehensible and unacceptable charge from Telenet Group. On the evening/night of 28 to 29 June 2019, while we were at home, we were charged for national mobile data traffic outside our bundle. Telenet Group claims that 20447.275MB outside our bundle was used on that evening/night and they charged an extra €1,689.9231 for this. In fact we hardly used the Internet that evening. They said they are unable to trace where this usage comes from. Firstly, we don't understand why so much mobile data was used – in fact, it seems impossible to us – and secondly, we find it absurd how much Telenet Group dares to charge for one evening/night of mobile data, when we were simply at home. And all this when there are mobile subscriptions with unlimited calls, texts and mobile data for €20.00 to €40.00 with other providers!

More than half the complaints about mobile Internet (382) submitted to the Ombudsman's Office in 2019 related to unexpected charges for data usage in Belgium. The Office registered 136 such complaints against Telenet Group, 90 against Proximus, 62 against Orange, 61 against Scarlet and 18 against Unleashed.

I have a contract with Proximus for my mobile phone. Epic beats / €25.00 / month. But this month I was charged €60.00 extra for just 0.6GB of extra data. I don't think this is a fair price.





1. Unlimited data usage

The big operators, Proximus, Orange and Telenet Group, currently offer several mobile subscriptions featuring “unlimited” data usage. However, the term “unlimited” calls for qualification. The general terms and conditions of such contracts often turn out to include a fair use policy or volume restriction. Thus in the case of the second example above, the complainant supposedly had access to an unlimited volume (advertised as “endless data”), which in practice meant 20GB of Internet at normal speed. During mediation it became clear that listening to music had led to high data usage in a short space of time. After the complainant had used up that data, he received extra charges from Proximus. Other operators opt for a drastic reduction of Internet speed in such circumstances.

Thus consumption is no longer regarded as “normal” by Telenet Group if a customer regularly uses ten or more times more mobile data every month than the average usage of all customers on an unlimited package. The Ombudsman’s Office believes that it is impossible to ascertain what these notional limits are, and complainants are therefore unable to assess their actual usage limits. The Ombudsman Office regrets this lack of transparency on the part of the operators, and their use of inappropriate and misleading names for their services.

2. Free apps

In some packages offered by operators, the data usage of one or more mobile applications does not count towards the total billed usage. Certain social media apps such as WhatsApp and Facebook Messenger, or apps from the operators themselves such as Yelo Play and Play Sports, can in theory be used on a smartphone in such cases without the included data volume being affected. However, the Ombudsman’s Office has discovered from certain complaints that complainants who had used certain “free” apps were shown content for which data usage was charged if it was viewed. For instance, the use of Facebook might be free of charge if it was selected as the customer’s favourite app, but data counted towards the usage limit for videos viewed via the app, for instance, or linked newspaper articles that were read. Transparency is often lacking about what is and is not included in the data volume or subscription.

3. Alert messages

After years of drawing attention to the issue of the proper sending of alert messages, the Ombudsman’s Office concludes that the legal requirement to send SMS notifications about domestic data usage has not brought about a significant reduction in the number of complaints. Under the Royal Decree of 9 July 2013 on warning messages for the management of charges for electronic communications services, telecom operators are supposed to warn their customers when they reach their monthly data cap. When further data usage gives rise to a charge outside the package, operators are also required to inform their customers when they exceed their limit. Despite this, operators’ failure

especially to send alert messages on time, or in the case of under-age users to inform the account owners (the parents), is often a source of unexpectedly high bills. Again, in the employer-employee relationship, the other party is often not automatically informed when the data usage has exceeded or is about to exceed the limits of the package. Some alert messages are regarded by professional and residential end users as misleading. The Ombudsman’s Office believes that there is definitely room for improvement as regards the issuing of timely warnings to end users and those responsible for paying telecom bills when the maximum data volume has been or is about to be exceeded.



C. UNEXPECTEDLY HIGH DATA USAGE WITHIN THE EUROPEAN ECONOMIC AREA

In 2019 the Ombudsman's Office received 65 complaints about the billing of mobile Internet in the European Economic Area. It registered 19 such complaints against Telenet Group, 16 against Orange, 15 against Proximus, 7 against Scarlet and 4 against Unleashed.

1. Subscriptions with unlimited Internet

The Proximus offer "Mobilus XL unlimited" is not unlimited in another EU country: it's limited to 16GB. After that, it's just a paying roaming service.

The abolition of European roaming charges since 15 June 2017 and the application of the "roam like at home" principle means that people can make phone calls, send text messages and use the web in the EEA just like in their European home country.

However, as the above example illustrates, there are exceptions to this. For example, certain tariffs may not give you your full data volume while you are abroad. It is also the case that if you live permanently in one country but have taken out a mobile phone contract in another country, you are not entitled to free roaming.

If you exceed the limited volume available under your tariff plan while using your phone on a roaming basis in Eu-

rope, you will be charged extra by the operators. However, according to Article 1 (4) of Regulation (EU) 2017/920 of the European Parliament and of the Council of 17 May 2017 amending Regulation (EU) No. 531/2012 as regards rules for wholesale roaming markets, these extra charges must not exceed the upper price limit of €4.50 per GB plus VAT (2019). Here, too, the Ombudsman's Office has observed that an unlimited volume that in reality is limited can lead to complaints about unexpected high charges due to the use of an inappropriate term.

2. Within the European Economic Area, yet outside Europe

When I was on holiday on the Greek island of Corfu at the end of May, I received a text message from Telenet Group on the first day stating that I had already used 14MB via a foreign operator costing an extra €141.00. When I spoke to Telenet Group about this, I was told that I had probably connected with a Turkish operator. Corfu is more than 100 kilometres from Turkey. Friends who were there with me and who subscribed to Proximus were asked if they wanted to be connected to another operator. At Telenet Group this was just done automatically, and the result was that I received a terribly expensive bill. What's more, my subscription was set so that I was supposed to receive a message as soon as I reached €5.00 of extra spending, but I didn't ... I only received one when I reached €80.00 and my wife €61.00.

I received an outrageous bill for €1,596.92 from my operator Tellink after a trip to Cyprus. I didn't receive any notifications by text message or any warning that my usage was excessive. I made a voluntary payment of €400.00. This is more than sufficient for my minimal usage, as I have been informed even by a Tellink employee.

The Ombudsman's Office received several complaints from complainants who were absolutely certain that they were on European territory at times when the telecom bill indicated they were connected to a mast miles away and outside the European Economic Area. Such situations are familiar on the Greek islands near the border with Turkey or Albania, Normandy near the Channel Islands and Gibraltar opposite Morocco. A technical explanation for this is that radio waves for mobile phone use do not stop at national borders and the sea does not present a natural obstacle.

Being in a border zone of the European Economic Area can therefore be a treacherous business. If a mobile phone connects to the network of a provider located outside the European Economic Area without the user noticing, then the use of that phone becomes very expensive, even though the person remains physically in European territory.

Text message notifications giving the rates on arrival in a country and information about the amount of data consumed also largely lose their relevance in this context. The rates are so high that these text messages, which are intended to protect the customer, either follow each other in very rapid succession or are not received in real time. In the

earlier Corfu example, Telenet Group charged €10.00 per MB for use of the Internet (calculated per 10 KB).

The Ombudsman's Office deplores excessive charging for unintended roaming near the border of the European Economic Area. It recommends that operators clearly inform customers when they are incurring excessive charges through connection to a non-EEA network, possibly via an opt-in procedure, given that these customers evidently intended to keep their phone charges low when they opted for a subscription with a fixed monthly fee. Article 15.5 of Regulation (EU) No. 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union already states that roaming providers must take reasonable measures to protect their customers from charges for roaming services used unintentionally within their home Member State. In the same context, it seems self-evident to the Ombudsman's Office that operators must actively inform their customers if they unintentionally end up using a non-EEA mast in a border area.

3. Outside the European Economic Area, but still in Europe

I received a bill for €6,492.49 from my operator Orange, mainly relating to two connections in the territory of Andorra. I tried everything to get this bill completely cancelled. Orange remains deaf to my arguments and is threatening to involve a bailiff to collect the debt.

My bill shows that I've been charged €2,343.98 by Proximus for downloading less than 200MB in Montenegro. 200MB is about 20 photos. When I complained to the Proximus customer service, I was told that in 2017 I had asked for the automatic cap on my spending to be removed. Yet in 2018 I had expressly asked for the cap on all my mobile numbers to be reactivated. I have learnt that this was not done.

During the spring break my wife and I went to Switzerland. We both have a prepaid card from Mobile Vikings. As usual, we received text messages at each border we crossed with rates for data and calls. This also happened when we drove into Switzerland. The text clearly stated that Mobile Vikings regarded Switzerland and Monaco as part of Europe. On 06/03/2019, however, they decided without sending any warning by email, text message or any other means to stop including Switzerland in the countries that are part of the EU for roaming purposes. Yet before we left we had checked this on their site, and it said that Switzerland was part of the EU roaming countries where the bundling conditions apply. The result is that I have lost about €90.00 and my wife about €25.00. I never received a message informing me

that I had gone over a certain amount or asking whether I wanted to continue using data.

In 2019 the Ombudsman's Office was contacted dozens of times to mediate about disputed data roaming charges when the user had not left the continent of Europe.

The vast majority of complaints arose from charges resulting from the use of mobile Internet in Switzerland. Andorra and Monaco are other locations where data usage led to high charges. Finally, the Ombudsman's Office also registered complaints about data charges incurred during stays in some Balkan countries, such as North Macedonia, Serbia, Albania and Montenegro.

Regulation (EU) No. 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks applies to the 28 EU Member States and the EEA (European Economic Area) states, but not, for example, to Switzerland or to satellite communications from ships. Hence the EU Roaming Regulation does not apply to San Marino, the Isle of Man and the Faroe Islands, the Channel Islands, Gibraltar, the Vatican City and overseas territories, including the Caribbean.

Many end users are particularly surprised that high roaming rates are charged for some small states. As the third example illustrates, it is sometimes also confusing to consumers that some providers offer roaming at EU rates



in countries that are not members of the European Economic Area, but others do not, and that this can change from year to year and even within the year. After extensive mediation, many of these complaints were settled amicably by applying a “first bill shock” principle, resulting in one-off full or partial refund of the high data charges applied in these areas.

D. UNEXPECTEDLY HIGH DATA USAGE OUTSIDE THE EUROPEAN ECONOMIC AREA

On the last bill I received from Telenet Group, I was charged €3,597.45. This year we travelled to Ukraine for the fourth time and we are well aware of the problem of mobile phone usage outside Europe. Our two phones with Telenet Group were limited to €50.00 of data and we had our own number there. We can't understand this.

The Ombudsman's Office received 131 complaints about disputed billing of data roaming charges outside the European Economic Area in 2019. A large proportion of these complaints related to the use of mobile Internet on continents other than Europe, in particular in countries such as Canada, Colombia, Costa Rica, Dubai, Egypt, Israel, Kenya, Oman, the Philippines, Russia, South Africa, Thailand, Tunisia and the USA, where the “roam like at home” principle does not apply. The Ombudsman's Office registered 76 complaints against Telenet Group, 39 against Proximus, 33 against Orange, 27 against Scarlet and 15 against Unleashed.

Certain operators surprised the Ombudsman's Office by stating that in such cases the usage of mobile data could not be blocked during a data session and/or that no warning could be sent, as a result of which the complainants ended up exceeding the statutory or individually set limit.

The Ombudsman's Office urges operators to take responsibility and strengthen measures to protect their customers against unexpectedly high roaming charges which can amount to thousands of euros. It is clear from the complaints that the complainants have very little idea of the high charge rates (sometimes as much as €15.00 per MB) and that they are difficult to find out about on the websites of the various operators.

The Ombudsman's Office definitely advises air passengers

to switch off their mobile phone before boarding. Failure to do so can easily mean that when travellers want to change their phone from flight mode to a Wi-Fi connection in the foreign airport and/or hotel or to switch it off completely, they can incur high data charges for this action of a few seconds, in sharp contrast to the charges applied at home or in the European Economic Area. It is also important for travellers on ships to find out properly in advance about the charges for the available means of communication, such as satellite connections.



E. “UNLIMITED” FIXED INTERNET IN BELGIUM

Whenever we use our Internet our data is completely used up within two weeks or even less. As a result, we can scarcely go online to do anything, including doing business. Unlimited Internet isn't unlimited: it means 750GB. Once you've reached this, Telenet Group limits your Internet speed and doesn't offer the option to remove the limit. After talking on the phone to Proximus I've found that they too have a limit of 750GB, but you can always request an extra 150GB. I would like the limit to be lifted, since I switched to a more expensive subscription in order to have unlimited data.

Every year the Ombudsman's Office receives various complaints from telecom users who tell us that they have been misled by so-called unlimited subscriptions, because it turns out that a restriction does in fact apply. It was clear to the Ombudsman's Office from an analysis of the complaints that the complainants had trusted product descriptions such as “unrestricted” or “unlimited” and, on the assumption that they were accurate, subscribed to a contract for Internet access via the fixed network, with a fixed price, for a certain data speed, without restrictions.

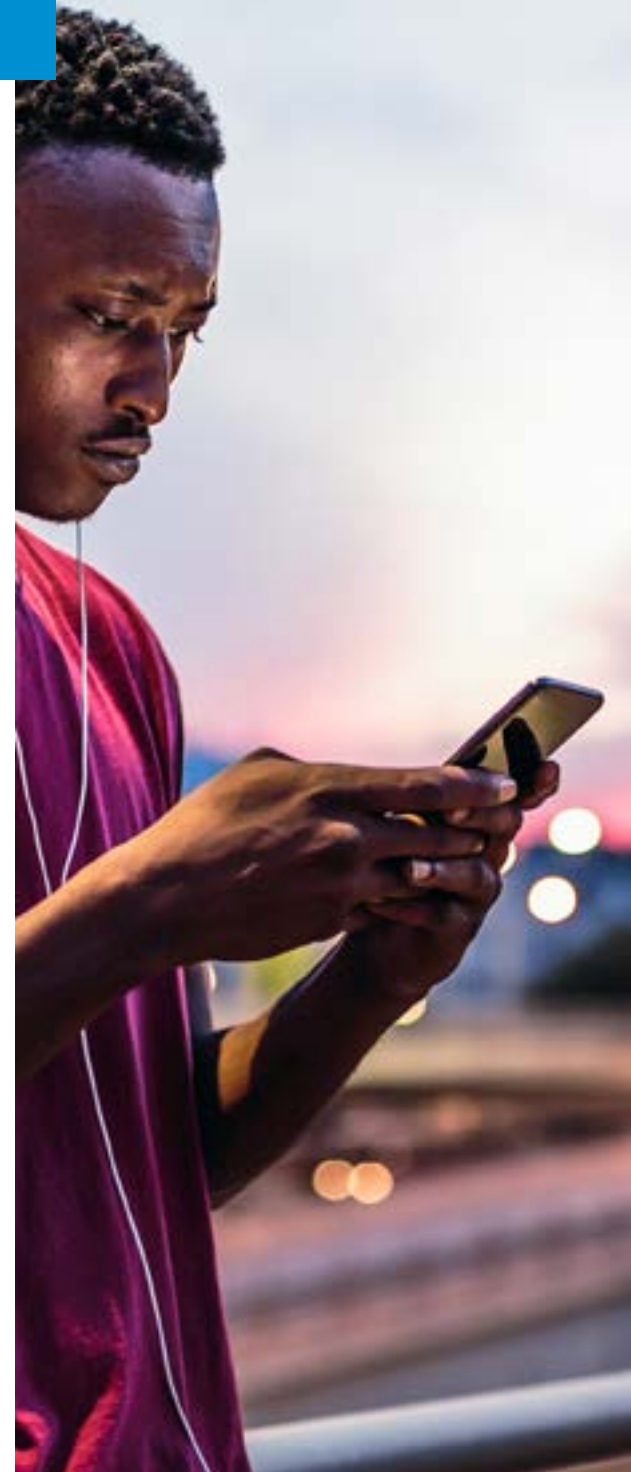
The Ombudsman's Office's position is that restrictive measures, often described as “fair use policy” (which may not even be included in the terms and conditions), disadvantage customers inappropriately and are unlawful if the product names, data sheets and/or web pages refer to unlimited data usage for the fixed line.

F. CONCLUSION

Both fixed and mobile data usage have become well-established habits, yet complaints continue to pour in to the Ombudsman's Office. It should not be forgotten that new users are added to the telecom market every year, both young and old, and these new users are repeatedly tripped up by the issues raised by the Ombudsman's Office over the years. It is clear that demand is growing for a higher, genuinely unlimited data volume for both fixed and mobile usage, partly due to the ongoing digitisation of society, as well as, for example, changing viewing behaviour as a result of watching TV on the Internet.

More and more complainants are reporting surprise at the high charges they receive as soon as they exceed their data bundle. It is striking in this respect that there is so little clarity about the limitations of commercial offers.

The possibility of setting a usage limit is only rarely included in subscription packages (see Chapter 9 D. of the 2018 annual report). In order to avoid unwitting connections to a non-EEA network, the Ombudsman's Office also calls on Belgian operators to ask roaming customers for explicit permission to connect to expensive foreign networks. This opt-in principle already applies if customers wish to continue their data roaming after reaching the standard legal upper limit of €50.00.



RULES OF PROCEDURE

In accordance with the Code of Economic Law, Book XVI and the Royal Decree of 16 February 2015 clarifying the conditions that the accredited entity referred to in Book XVI of the Code of Economic Law must meet, the Office of the Ombudsman for Telecommunications has rules of procedure that apply to the out-of-court settlement of disputes. These rules apply to both end users and telecom companies. These companies are also supposed to sign a protocol with our Office.

CHAPTER I: DEFINITIONS

End user: a user who does not offer a public electronic communications network or public electronic communications services within the meaning of the Act of 13 June 2005 on electronic communications.

Consumer: a natural person who uses or requests a public electronic communications service for purposes other than business or professional purposes within the meaning of the Act of 13 June 2005 on electronic communications.

Telecommunications company (hereinafter “the company”): any operator; any person who makes, sells or distributes a telephone directory; any person who provides a telephone directory inquiry service; any person who operates electronic communications systems; any person who provides public encryption services and any person who offers other activities relating to electronic communications, within the meaning of the Act of 13 June 2005 on electronic communications.

Complaint: any dispute between a user and a telecommunications company regarding the performance of a sales or service agreement or the use of a product.

Consumer dispute: any dispute between a consumer and a company with regard to the performance of a sales or service agreement or the use of a product.

Accredited entity: any private or government-established entity that engages in out-of-court settlement of consumer disputes and that appears on the list drawn up by the Federal Public Service for the Economy, SMEs, the Self-Employed and Energy and notified to the European Commission.

CHAPTER II: HANDLING OF COMPLAINTS BY THE TELECOMMUNICATIONS COMPANIES

Article 1: Internal complaints handling service

In the event of a dispute, the end user may submit a complaint directly to the service responsible for handling complaints of the telecommunications company concerned.

Article 2: Deadline and handling of complaints by the companies

The company shall respond to complaints as quickly as possible and make every effort to find a satisfactory solution.

If a complaint is not resolved within a reasonable period of time, the company must, on its own initiative, provide the end user with the contact details of the Office of the Ombudsman for Telecommunications, specifying that it is an accredited entity.

This information shall be provided in writing or on another durable medium.



CHAPTER III: THE OFFICE OF THE OMBUDSMAN FOR TELECOMMUNICATIONS

Article 3: The nature of the Office of the Ombudsman for Telecommunications

The Office of the Ombudsman for Telecommunications, established at the Belgian Institute for Postal Services and Telecommunications by the Act of 21 March 1991 on the reform of certain public economic undertakings, is responsible for relations between the end users, within the meaning of the legislation in force on electronic communications, and the telecommunications companies. Within the limits of its powers, the Office does not take instructions from any government body.

Article 4: Powers of the Office of the Ombudsman for Telecommunications

The Office of the Ombudsman for Telecommunications has the following assignments:

- 1° to investigate all complaints from end users relating to the activities of the telecommunications companies;
- 2° to mediate in order to facilitate an amicable settlement of disputes between the companies and end users;
- 3° to make a recommendation to the companies if an amicable settlement cannot be reached; a copy of the recommendation shall be sent to the complainant;

4° to inform end users who contact the Ombudsman's Office in writing or verbally as accurately as possible about their interests;

5° at the request of the minister responsible for telecommunications, the minister responsible for consumer affairs or the Belgian Institute for Postal Services and Telecommunications or the Advisory Committee on Telecommunications (or the Community ministers responsible for broadcasting and the Community regulators as regards issues of broadcasting falling under the competence of the Office of the Ombudsman for Telecommunications), to issue formal opinions within the framework of its assignments;

6° to examine a request from any person claiming to be the victim of malicious use of an electronic communications network or service for information about the identity and address of the users of electronic communications networks or services who have harassed that person, insofar as such information is available. However, a request of this type is not subject to these rules of procedure;

7° to work with:

- a) other independent sectoral disputes committees or independent mediators, including by forwarding complaints that do not fall within the competence of the Office of the Ombudsman for Telecommunications to the competent disputes committee or mediator;
- b) foreign ombudsman services or functionally equivalent authorities that operate as an appeal body for handling

complaints for which the Office of the Ombudsman for Telecommunications is competent;

c) the Community regulators.

CHAPTER IV: HANDLING OF COMPLAINTS BY THE OFFICE OF THE OMBUDSMAN FOR TELECOMMUNICATIONS

Article 5: Submitting a complaint to the Office of the Ombudsman for Telecommunications

A request for an out-of-court settlement of a dispute may be submitted to the Office of the Ombudsman for Telecommunications on the spot, by letter (8 Bd. du Roi Albert II, box 3 - 1000 Brussels), by fax (02 219 86 59), by email (klachten@ombudsmantelecom.be) or by completing the form on the website of the Office of the Ombudsman for Telecommunications (www.ombudsmantelecom.be). Requests may be submitted in Dutch, French, German or English. The procedure may be conducted in these languages.



Article 6: Rules and legal provisions on which the Office of the Ombudsman for Telecommunications is based

In the performance of its assignments, the Ombudsman's Office shall refer to all legal provisions applicable to the specific case under consideration. The Ombudsman's Office may take as its basis, without this list being comprehensive, international treaties, European directives or regulations, Belgian law (the Civil Code, the Code of Economic Law, the Electronic Communications Act, the Royal Decree establishing the Code of Ethics for telecommunications, other sectoral legislation, etc.) and codes of conduct (e.g. the GOF guidelines).

Article 7: Complete request

Once it has all the documents necessary to examine the admissibility of the request, the Office of the Ombudsman for Telecommunications shall inform the parties concerned of its receipt of the complete request and of the date of receipt.

Where applicable, the previous request submitted to the internal complaints handling service within the telecommunications company concerned and details of any action in response thereto shall be included with the request for an out-of-court settlement that is sent to the Office of the Ombudsman for Telecommunications.

If this is not done, the end user shall be requested to supplement his or her submission on a durable data medium.

Article 8: Inadmissibility of a request for an out-of-court settlement

The Office of the Ombudsman for Telecommunications shall refuse to handle a request for an out-of-court settlement:

- 1° if the complaint in question was not previously submitted to the company concerned;
- 2° if the complaint in question was submitted to the company concerned more than a year ago;
- 3° if the complaint is fabricated, offensive or defamatory;
- 4° if the complaint is submitted anonymously or if the other party is not or cannot be identified;
- 5° if the complaint aims to settle a dispute that is or has already been the subject of a legal claim;
- 6° if the request does not fall within the scope of the disputes for which the Office of the Ombudsman for Telecommunications is competent;
- 7° if handling the dispute would seriously compromise the effective functioning of the Office of the Ombudsman for Telecommunications.

Article 9: Decision to pursue or refuse the handling of the request for an out-of-court settlement & Provision of information to the parties

The Office of the Ombudsman for Telecommunications shall inform the parties of its decision to pursue or refuse the handling of the request within three weeks of receipt of the complete request.

Any refusal shall be duly justified.

If the Ombudsman's Office decides to pursue its handling of the request, it shall also inform the end user of his or her right to withdraw at any stage from the procedure. It shall also make it clear to the parties that they are free to accept or reject the proposed solution (except in the case of a recommendation that becomes enforceable with respect to the company – see Article 12), that the solution may differ from a court decision and that participation in the procedure does not preclude legal proceedings. It shall also inform the parties that the solution is not mandatory (except in the case of a recommendation that becomes enforceable with respect to the company – see Article 12) and has no technical or legal consequences (unless the parties ask the court to ratify the arrangements that have been made or in the event of a recommendation that becomes enforceable with respect to the company – see Article 12). The said information shall be communicated on a durable data medium.



Article 10: Means of exchanging information

The parties may exchange information with the Office of the Ombudsman for Telecommunications by email, letter or fax. If the consumer so wishes, he or she may also visit the premises of the Office of the Ombudsman for Telecommunications.

The parties involved shall have a reasonable period of time to become acquainted with all documents, arguments and alleged facts put forward by the other party. This period is specified in Article 11.

Article 11: Deadlines

Within a period of 90 calendar days after receipt of the complete request, the Office of the Ombudsman for Telecommunications shall inform the parties of the outcome of the dispute settlement procedure on a durable data medium.

This period may be extended once by the same length of time in exceptional circumstances, provided that the parties have been informed thereof before the first period expires and the extension is justified by the complexity of the dispute.

The parties shall have a period of 10 calendar days to express their position (in the absence of some stipulation to the contrary in a cooperation protocol that has already been concluded with a company). They shall have the same period to familiarise themselves with all documents, arguments and facts put forward by the other party or any question from the Office of the Ombudsman for Telecommuni-

cations (in the absence of some stipulation to the contrary in a cooperation protocol that has already been concluded with a company).

Article 12: Closing of the case

If the Office of the Ombudsman for Telecommunications has reached an amicable settlement, it shall close the case and send confirmation thereof to all parties, in writing or on another durable data medium.

If an amicable settlement cannot be reached, the Office of the Ombudsman for Telecommunications shall inform the parties of this in writing or on another durable data medium, and may formulate a recommendation to the company concerned, with a copy to the complainant.

The company concerned then has a period of 20 working days to justify its decision if it does not follow the recommendation. The duly justified decision shall be sent to the complainant and to the Ombudsman's Office. After the expiry of the 20-day period, the Ombudsman shall send a reminder to the company concerned. The company then has a new period of 20 working days to justify its decision if it does not follow the recommendation. The duly justified decision shall be sent to the complainant and to the Ombudsman's Office.

In failing to comply with the above deadlines, the company concerned undertakes to implement the recommendation regarding the specific and personal compensation to the complainant concerned.

Article 13: Consultation of an expert

If the complexity of the request so requires, the Office of the Ombudsman for Telecommunications may seek the assistance of experts. Any such consultation shall not entail costs for the parties involved.

Article 14: Powers of the Office of the Ombudsman for Telecommunications

In connection with a complaint that has been submitted to it, the Office of the Ombudsman for Telecommunications may inspect books, correspondence, minutes and in general any documents of the company or companies concerned, on its or their premises, that directly relate to the subject of the complaint. The Office may request explanations or information of any kind from the directors and personnel of the company or companies concerned and perform any checks necessary for the investigation.

Article 15: Confidentiality

All information received by the Office of the Ombudsman for Telecommunications for the handling of a complaint shall be treated as confidential.

It may only be used in the context of the out-of-court settlement, with the exception of processing for the annual report.



Article 16: Impartiality

The Ombudsman's Office shall consist of two members; they shall belong to different linguistic registers. The Ombudsman's Office shall act on a collegiate basis. A member of the board of Ombudsmen shall immediately notify the other member of any circumstances affecting or likely to affect his or her independence or impartiality or giving rise to a conflict of interest with one of the parties to a procedure for the out-of-court settlement of a dispute for which he or she is responsible. The other member shall then be charged with the out-of-court settlement of the dispute. If this is not possible, the entity shall propose to submit the dispute to another accredited entity to handle; if it is not possible to submit the dispute to another accredited entity, the parties shall be informed thereof and shall have the option of objecting to the continuation of the procedure by the natural person in the said circumstances.

Likewise, personnel members involved in out-of-court dispute settlement procedures shall promptly inform the board of Ombudsmen of any circumstances affecting or likely to affect their independence or impartiality or giving rise to a conflict of interest with one of the parties to a procedure for the out-of-court settlement of a dispute in which they are involved.

Article 17: Suspension of limitation periods

If the end user is a consumer, the limitation periods under ordinary law shall be suspended from the date of receipt of the complete request.

The suspension shall run until the day on which the Office of the Ombudsman for Telecommunications informs the parties:

- that the handling of the request has been refused; or
- of the outcome of the amicable settlement.

Article 18: Suspension of debt collection procedures

Once the company has been notified of receipt of the complete request by the Office of the Ombudsman for Telecommunications, it shall suspend any debt collection procedures for a maximum period of four months or until the Ombudsman's Office has made a recommendation or an amicable settlement has been reached.

With regard to the complaints referred to in Article 19 § 3 of the Act of 15 May 2007 on the protection of consumers in relation to broadcasting transmission and broadcasting distribution services, debt collection procedures shall be suspended by the company until the Ombudsman's Office has made a recommendation or an amicable settlement has been reached.

Article 19: Freedom of charges

The end user shall not be charged for the handling of a request for out-of-court settlement of a dispute by the Ombudsman's Office.

Article 20: Withdrawal of the complaint

The end user may withdraw from the procedure at any time. He or she shall inform the Ombudsman's Office thereof on a durable data medium.

Article 21: Representation

If the parties so wish, they may be assisted or represented by a third party. They may also seek independent advice at any time.

BUDGET

To finance the services of the Office of the Ombudsman for Telecommunications, the companies referred to in Article 43bis, § 1 of the Act of 21 March 1991 on the reform of certain public economic undertakings pay an annual contribution determined on the basis of the financing costs of the Office of the Ombudsman for Telecommunications, known as the "Ombudsman's contribution". This contribution is paid to the Belgian Institute for Postal Services and Telecommunications, which maintains a separate item in its budget for the operating costs of our service.

The King determines by a decree deliberated upon in the Council of Ministers, on the advice of the Institute, the human and material resources that the Belgian Institute for Postal Services and Telecommunications must make available to the Office of the Ombudsman for Telecommunications.

Every year the Institute determines the amount of the Ombudsman's contribution payable by each company referred to in Article 43bis of the Act. No later than 30 June every year, the companies referred to in Article 43bis, § 1 of this Act notify the Belgian Institute for Postal Services and Telecommunications of the turnover generated in the previous year from each of the activities that fall within the competence of the Ombudsman's Office.

The amount of the contribution of the Office of the Ombudsman for Telecommunications corresponds to the amount of the financial resources necessary for the operation of the Office of the Ombudsman for Telecommunications, as recorded in the budget of the Belgian Institute for Postal Services and

Telecommunications for the current year, after advice from the Inspectorate of Finance and of the Advisory Committee on Telecommunications, multiplied by a coefficient equal to the company's share of the turnover generated by all companies concerned during the previous year from the activities falling within the competence of the Office of the Ombudsman for Telecommunications.

The first €1,240,000 of each company's turnover is disregarded when calculating the Ombudsman's contribution. Ombudsman's contributions must be paid by 30 September of the year for which they are due. Contributions that have not been paid by the set due date are subject to interest at the statutory rate, increased by 2% by operation of law, without notice of default. This interest is calculated pro rata on the basis of the number of calendar days by which payment is overdue. The Institute notifies the companies referred to in Article 43bis of the Act of the amount of the contribution payable no later than one month before the due date.

The ombudsmen submit the draft budget of the Office of the Ombudsman for Telecommunications to the Advisory Committee on Telecommunications every year. The budget of the Office of the Ombudsman for Telecommunications constitutes a separate part of the budget of the Belgian Institute for Postal Services and Telecommunications.

Note to the reader: The difference between income and expenditure can be explained by the surplus carried forward from the previous year.

The Office of the Ombudsman for Telecommunications has no legal personality. It is an independent service set up at the Belgian Institute for Postal Services and Telecommunications, with enterprise number 0243.405.860. Its registered office is located at 35 Bd. du Roi Albert II, 1030 Brussels.

2019 BUDGET

INCOME

Sector refunds and contributions	€ 2,378,636
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EXPENDITURE

PERSONNEL COSTS

Salaries and allowances	€ 1,642,691
Financial support for personnel	€ 532,600

OPERATING RESOURCES

Rental and maintenance	€ 35,000
Maintenance work	€ 6,000
Vehicle maintenance	€ 33,000
Insurance	€ 9,000
Taxes	€ 42,000
Umbrella organisations	€ 1,000
Information technology	€ 35,000
Work by third parties	€ 719,400
Training	€ 26,000
Assignments in other countries	€ 8,000
Telephony, postage and transport	€ 85,000

INVESTMENT EXPENDITURE

Office equipment	€ 26,000
IT equipment	€ 82,000
Technical equipment	€ 0
Purchase of vehicles	€ 0

TOTAL	€ 3,282,691
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OMBUDSMAN.BE

This portal site is available to all Internet users who want to find the right ombudsman to help them solve their problem. Below we give a brief overview of the useful information available on the website www.ombudsman.be.

The word “ombudsman” comes from Sweden and literally means “one who represents another person”. In the original sense, an ombudsman is an independent official appointed by Parliament.

If there is a complaint, an ombudsman offers a mediation service to the users of the institution that appointed him or her and makes recommendations for that institution. Although all ombudsmen engage in mediation, not all mediators are ombudsmen.

All ombudsmen undertake to apply the following four basic principles:

- They are professional bodies that serve the public;
- They work independently;
- They have the necessary resources to initiate investigations and assess the situation;
- They publish a periodic activity report that is accessible to all.

In principle, an ombudsman will only handle a complaint if the person has first taken steps to obtain satisfaction from the institution concerned. After hearing the complainant’s version, the ombudsman will listen to the version of the facts given by the service against which the person wishes to complain.

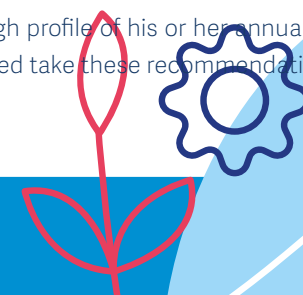
He or she always acts as an impartial outsider between the complainant and the service concerned.

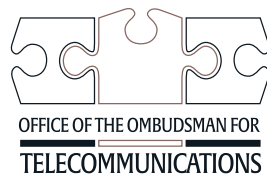
Ombudsmen have proper investigative powers, including the power to request and consult the case documentation, receive any relevant information, etc. They are also bound by professional secrecy.

As well as providing individual solutions to complainants’ problems, they also work preventively and search for long-term structural solutions. Their task is not just to criticise mistakes and incorrect working methods, but to formulate proposals or recommendations for improvement.

A recommendation is a formal opinion or proposal drawn up by the ombudsman on the basis of the complaints examined. Recommendations are central to its annual activity report – which is accessible to both the press and the general public – and essential to addressing identified shortcomings.

In view of the ombudsman’s competence and the high profile of his or her annual report, the decision-makers of the institutions concerned take these recommendations into account.





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