



# Annual report 2021

OFFICE OF THE OMBUDSMAN  
FOR TELECOMMUNICATIONS



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# Mission

*Customers can contact 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 Ombudsman's Office does not take instructions from any authority.

The address and telephone number of the Office of the Ombudsman for Telecommunications are listed in 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 interests.

Complaints shall be admissible only if the complainant demonstrates 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 that complaint was submitted to the telecommunications company concerned more than a year ago, or if the complaint 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 Ombudsman's Office, or until the Ombudsman's 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 Ombudsman's Office is competent;
- to mediate in order to facilitate an amicable settlement of disputes between telecommunications companies and end users;
- to make 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 Ombudsman's Office will send a reminder to the company concerned. If the company concerned does not follow the recommendation, it has another period of 20 working days to make its reasons known. In such cases, the substantiated decision is sent to the complainant and the Ombudsman's Office.

- 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 Ombudsman's Office will agree to the request if the facts appear to be accurate and the request relates to precise dates.

The Ombudsman's Office may, in the context of a complaint submitted to it, inspect on site the books, correspondence, official reports and, in general, all documents and writings of the telecommunications company concerned that are directly related to the subject of the complaint.

The Ombudsman's Office is entitled to ask the managers and staff of the telecommunications company for any explanation or information and to carry out any verifications necessary for the investigation.

The Ombudsman's Office treats the information obtained in this way as confidential, if its dissemination could harm the company in general.



# Introduction

*In 2021, the Office of the Ombudsman for Telecommunications registered 13,355 written requests for intervention. The number of complaints thus shows a downward trend (-4.87%) as compared to 2020, when there were 14,039 complaints.*

*This decrease was noted both in the number of mediation requests (from 11,142 in 2020 down to 10,648) and in the complaints relating to malicious calls (from 2897 in 2020 down to 2706).*

*The same operators occupied the first five places of the top 10 as in 2020: Proximus is still in first place, followed by Telenet Group, Orange Belgium, Scarlet and VOO. Unleashed is ranked sixth.*

## HANDLING OF COMPLAINTS

In 2021, we analysed, handled and closed 14,049 cases, an increase over the number in 2020 (with 13,676 complaints). In 96.96% of the complaints, the telecom user agreed to an amicable settlement.

As usual, Chapter 3 lists the ten operators that generated the most complaints in 2021. We analyse the closure of complaints through settlement or recommendation using representative examples and figures.

## VARIOUS SELECT TOPICS

In Chapter 4, the Ombudsman's Office notes that despite the fact that the Easy Switch procedure dates from 2017, the issue of changing telecom operators is still topical and continues to give rise to hundreds of complaints per year.

In Chapter 5, we set out the reasons for filing complaints about nuisance calls and the possibilities for operators to block unsolicited calls. The Ombudsman's Office is also investigating the various forms of fraud that were identified in 2021.

In Chapter 6, we analyse complaints about the social tariff; we point to the structural problems that end users encounter and we also draw up some recommendations for the benefit of vulnerable consumers, who are often entitled to the social tariff.

Chapter 7 addresses complaints about Scarlet. Alongside the large number of disputes registered, the diversity and intractability of the problems and disruptions identified constitute a phenomenon that the Ombudsman's Office has rarely faced.

In Chapter 8, we devote our attention to electronic invoicing, which is becoming more and more common in the telecommunications sector and is increasingly widespread. At the same time, electronic invoicing is still a challenge for a substantial part of the population, in particular the elderly. As a result, the transition to digital bills means that operators need to provide added guidance to certain categories of vulnerable users.

In Chapter 9, the Ombudsman's Office deals with the problem of offers of unlimited service that end users thought they had received. They were faced with extra costs due to excessive use of the telephone or text messages, or their connection has slowed because the permitted volume was exceeded.

Chapter 10 focuses on digital inclusion as a true social challenge, given that electronic communication services occupy a central place in daily life and have become as indispensable as water, electricity or gas.

In mediation, the issue essentially comes down to finding a fair balance between the contractual freedom of operators to refuse services and prevent insolvency on the one hand, and on the other hand, universal access to electronic communication services in the light of increasing digitalization.



In Chapter 11, we look at the many complaints by end users who have returned their rented modem or decoder to their operator, but who are nevertheless facing high costs for failing to return them.

Lastly, Chapter 12 discusses the complaints of citizens who cannot accept an operator's request to use the façade of their house as a support for additional cables and devices needed to roll out its network.

You will find our rules of procedure and our budget at the end of this report.

I would like to conclude this introduction by thanking all the staff of the Ombudsman's Office, who have succeeded in finding solutions to many of the problems encountered by users. 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.

Please note that the annual report can also be found in full on our website

[www.ombudsmantelecom.be](http://www.ombudsmantelecom.be).



Brussels, 24 March 2022.

A handwritten signature in blue ink, consisting of a stylized 'L' followed by a horizontal line.

Luc Tuerlinckx, Ombudsman

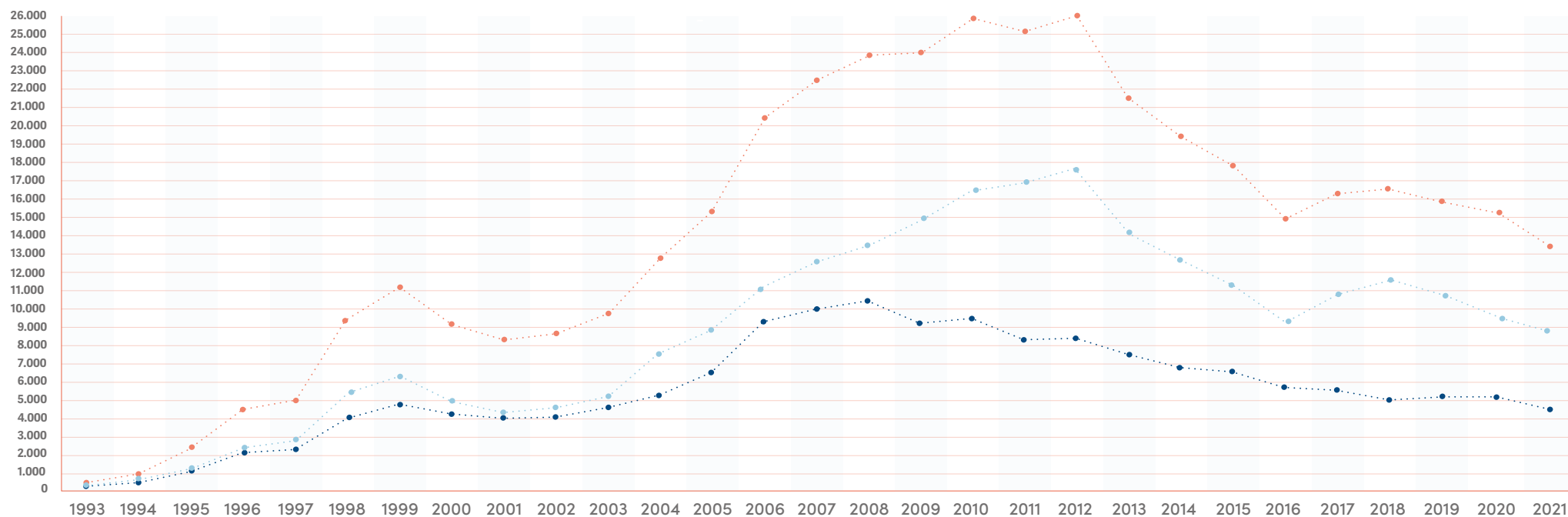
# Complaints submitted in 2021



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## A. OVERVIEW OF THE COMPLAINTS BETWEEN 1993 AND 2021

● N ● F ● Total



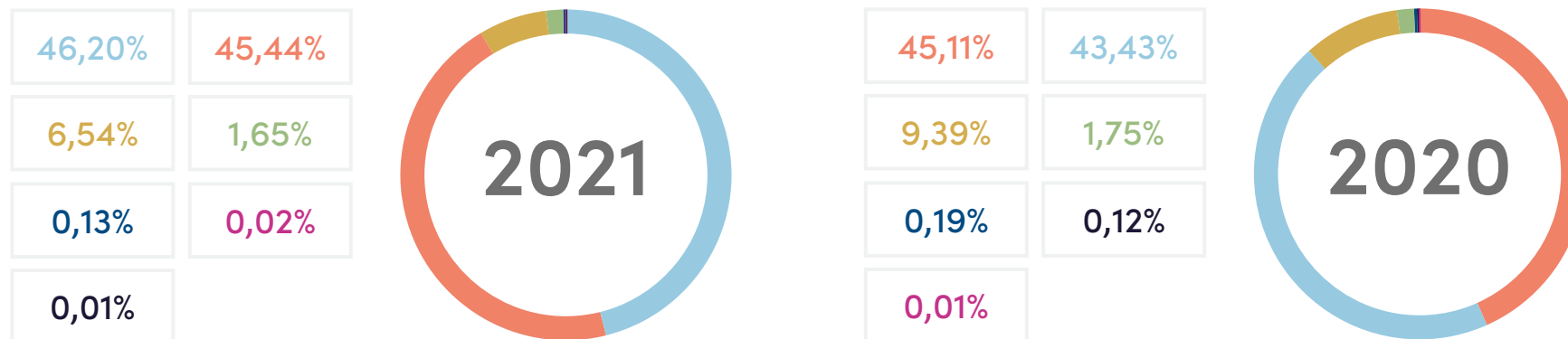
**Table 1**

We show here the evolution of the number of complaints submitted to our office. As can be seen, there was a decrease in the number of complaints in 2021: 13,355 complaints were submitted, compared to 14,039 in 2020, i.e. a decrease of 4.87%. We can see this decrease in both

French-language complaints (4,648 compared to 4,715 in 2020) and Dutch-language complaints (8,707 compared to 9,324 in 2020).



## B. SUBMISSION METHODS



	2021	2020
WEBSITE	6.161	6.097
E-MAILS	6.060	6.333
LETTERS	872	1.318
CONSUMER MEDIATION SERVICE	220	246
BELMED	18	27
ODR	3	1
VISITS	1	17

**Table 2**

In view of the legislation in force, we have only considered complaints submitted in writing and in person. Many end users fill in the forms on our website (46.20% as compared to 43.43% in 2020) or send us e-mails (45.44% as compared to 45.11% in 2020). In 2021, 6.54% of the complaints were submitted by letter (compared to 9.39% in 2020). The Consumer Mediation Service sent us 220 cases, representing 1.65% of the total number of requests. In 2021, 18 complaints were submitted via Belmed, the platform for online dispute resolution of the FPS Economy. Three complaints were submitted via the European Union's ODR (Online Dispute Resolution) platform. Only one visit to our offices in Brussels was recorded, due to the

continuing coronavirus measures and the requirement to make an appointment by phone. In the case of vulnerable people, however, the Ombudsman's Office accepted to take note of a few complaints after a telephone contact.

## C. DISTRIBUTION OF COMPLAINTS BY OPERATOR

### 1. Number of complaints per operator

sO: complaints concerning a simple operator, mO : complaints concerning multiple operators

	2021	% 2021	MO 2021	sO 2021	sO 2021 %	2020	% 2020	MO 2020	sO 2020	sO 2020 %
<b>PROXIMUS</b>	5.930	40,81%	708	5.222	42,65%	6.512	42,70%	702	5.810	45,01%
<b>TELENET GROUP</b>	3.181	21,89%	404	2.777	22,68%	3.342	21,91%	508	2.834	21,96%
<b>ORANGE BELGIUM</b>	2.008	13,82%	370	1.638	13,38%	2.590	16,98%	512	2.078	16,10%
<b>SCARLET</b>	1.606	11,05%	412	1.194	9,75%	896	5,88%	189	707	5,48%
<b>VOO</b>	584	4,02%	154	430	3,51%	672	4,41%	171	501	3,88%
<b>UNLEASHED</b>	123	0,85%	20	103	0,84%	140	0,92%	40	100	0,77%
<b>EDPNET</b>	60	0,41%	30	30	0,25%	56	0,37%	30	26	0,20%
<b>UNITED TELECOM</b>	43	0,30%	24	19	0,16%	21	0,14%	13	8	0,06%
<b>M7GROUP</b>	40	0,27%	4	36	0,29%	83	0,54%	10	73	0,57%
<b>FLUVIUS</b>	29	0,20%	29	0	0%	24	0,16%	22	2	0,02%
<b>LYCAMOBILE</b>	28	0,19%	0	28	0,23%	75	0,49%	16	59	0,46%
<b>COLT TELECOM</b>	28	0,19%	22	6	0,05%	9	0,06%	6	3	0,02%
<b>YOUFONE</b>	18	0,12%	5	13	0,11%	/	/	/	/	/
<b>FCR MEDIA BELGIUM</b>	15	0,10%	5	10	0,08%	21	0,14%	10	11	0,09%
<b>SYNC SOLUTIONS</b>	14	0,10%	0	14	0,11%	20	0,13%	4	16	0,12%
<b>OTHER OPERATORS</b>	825	5,68%	102	723	5,91%	790	5,18%	111	679	5,26%

**Table 3**

This year's top 5 consists of the same operators as in 2020, in exactly the same order: Proximus is still in first place, followed by Telenet Group, Orange Belgium, Scarlet and VOO. Scarlet saw a significant increase (11.05%, compared to 5.88% in 2020), which is examined in greater detail in Chapter 7 of this annual report. As was the case in 2020, Unleashed (best known to the public under the brand names

Mobile Vikings and Jim Mobile) is ranked sixth. Edpnet, United Telecom, M7 Group (TV Vlaanderen and Télésat) and Fluvius made up the remaining top ten as far as registered complaints are concerned. Under 'other operators' we have collected more than 20 operators, including Carrefour Belgium, Destiny, Hermes Telecom, Sewan, Tchamba Telecom and W-Connect. In many complaints,

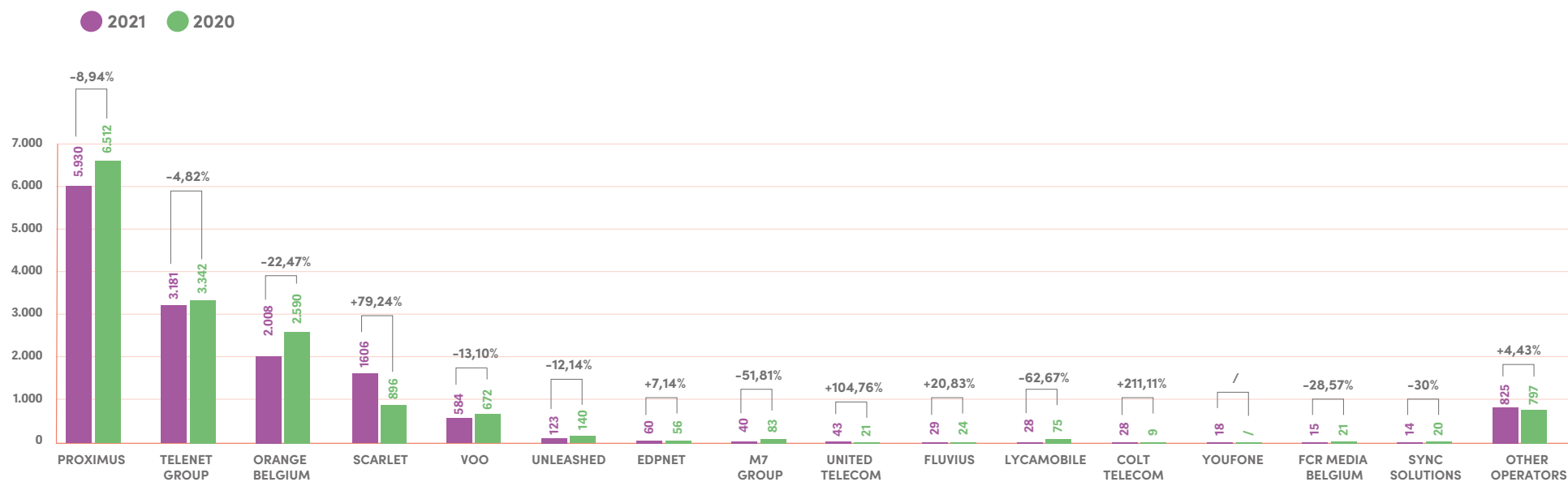
more than one operator is mentioned. Proximus, Telenet Group, Orange Belgium and Scarlet are often involved in a complaint together with another operator.

## C. DISTRIBUTION OF COMPLAINTS BY OPERATOR

### 2. Evolution in percentage of complaints per operator

Table 4

Some operators experienced a decrease in the number of complaints that far exceeded the average decrease (-4.71%). This decrease was more pronounced for Proximus (-8.94%), Orange (-22.47%), VOO (-13.10%), Unleashed (-12.14%), M7 Group (-51.81%), Lycamobile (-62.67%), FCR Media Belgium (-28.57%) and Sync Solutions (-30%). Contrary to the general trend, increases were noted at Scarlet (+79.24%), Edpnet (+7.14%), United Telecom (+104.76%), Fluvius (+20.83%) and Colt Telecom (+211.11%).



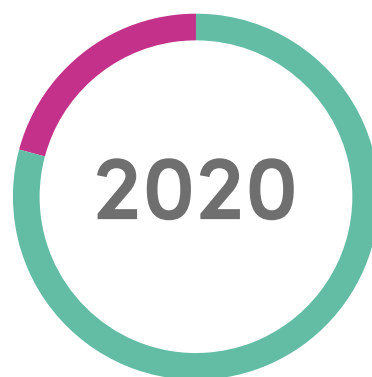


## D. DISTRIBUTION OF REGISTERED COMPLAINTS BY PROCEDURE



20,26%

79,74%



20,64%

79,36%

	2021	2020
<span style="color: green;">●</span> MEDIATION	10.648	11.142
<span style="color: pink;">●</span> MALICIOUS CALLS	2.706	2.897

**Table 5**

In 2021, we registered 13,354 complaints (compared to 14,039 complaints in 2020). 10,648 cases concerned a request for mediation (as compared to 11,142 in 2020) and 2706 cases (as compared to 2897 in 2020) concerned the procedure for malicious calls.

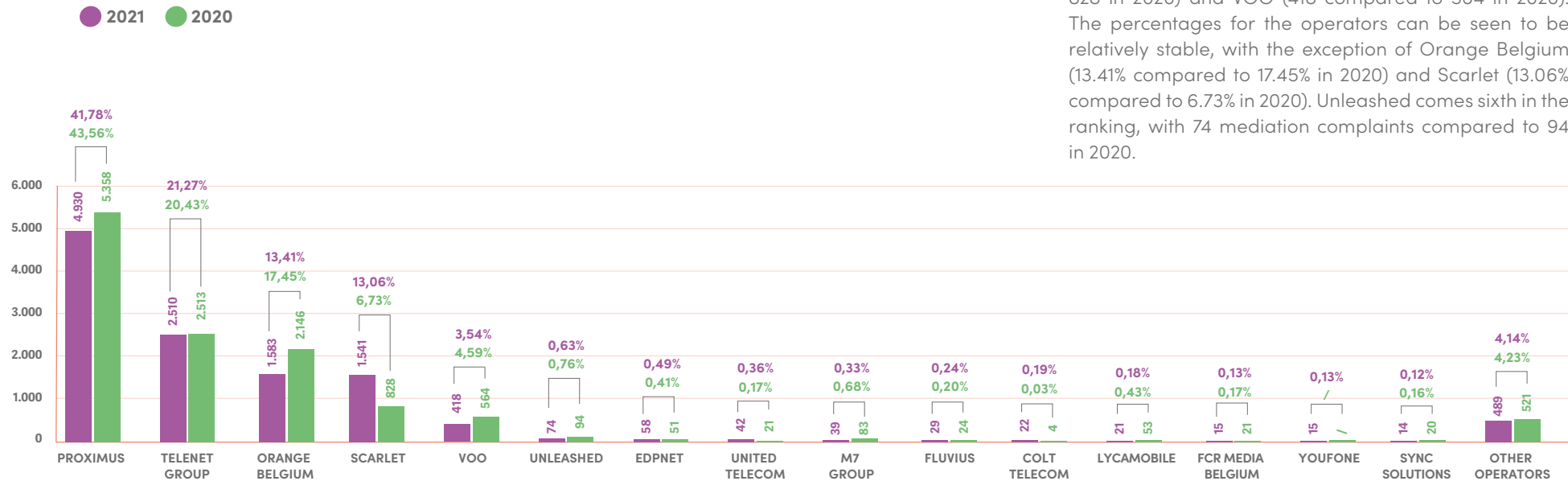


## E. DISTRIBUTION OF MEDIATION COMPLAINTS PER OPERATOR

### 1. Number of mediation complaints per operator

**Table 6**

Without taking into account the cases involving malicious calls, the distribution per operator was more or less the same as in Table 3. Proximus was the subject of easily the most mediation requests with 4930 cases (compared to 5358 in 2020). 41.78% of the mediation requests handled concerned this operator (as compared to 43.56% in 2020). The other operators in the top 5 are Telenet Group (2510 compared to 2513 in 2020), Orange Belgium (1583 compared to 2146 in 2020), Scarlet (1541 compared to 828 in 2020) and VOO (418 compared to 564 in 2020). The percentages for the operators can be seen to be relatively stable, with the exception of Orange Belgium (13.41% compared to 17.45% in 2020) and Scarlet (13.06% compared to 6.73% in 2020). Unleashed comes sixth in the ranking, with 74 mediation complaints compared to 94 in 2020.

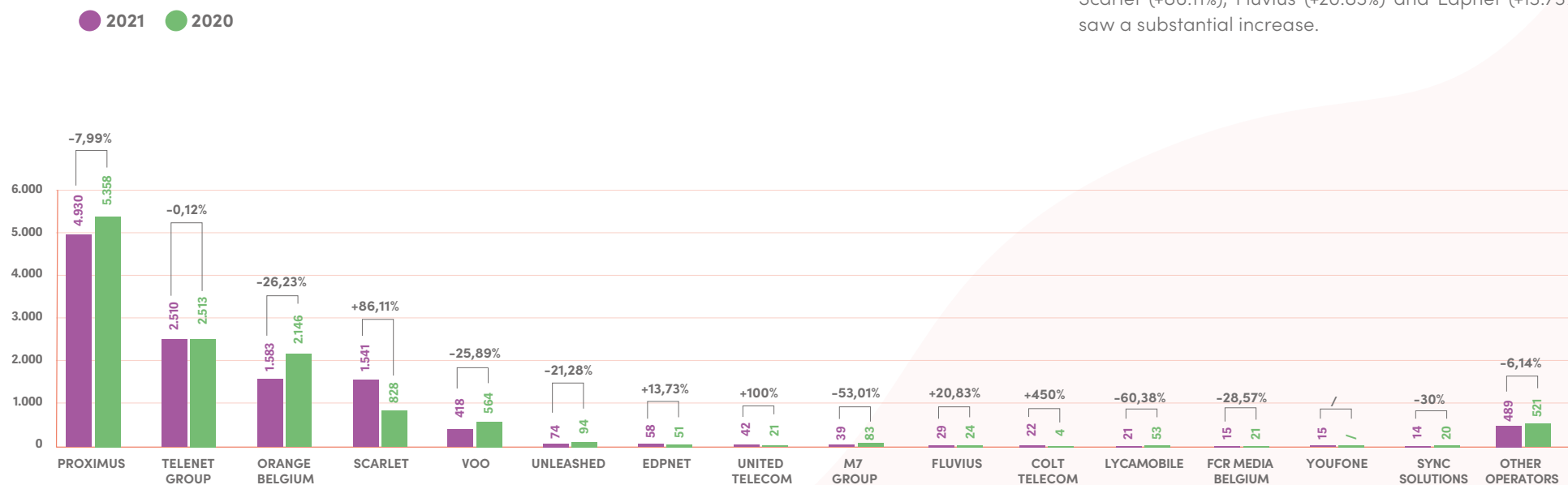


## E. DISTRIBUTION OF MEDIATION COMPLAINTS PER OPERATOR

### 2. Evolution in percentage of mediation complaints per operator

**Table 7**

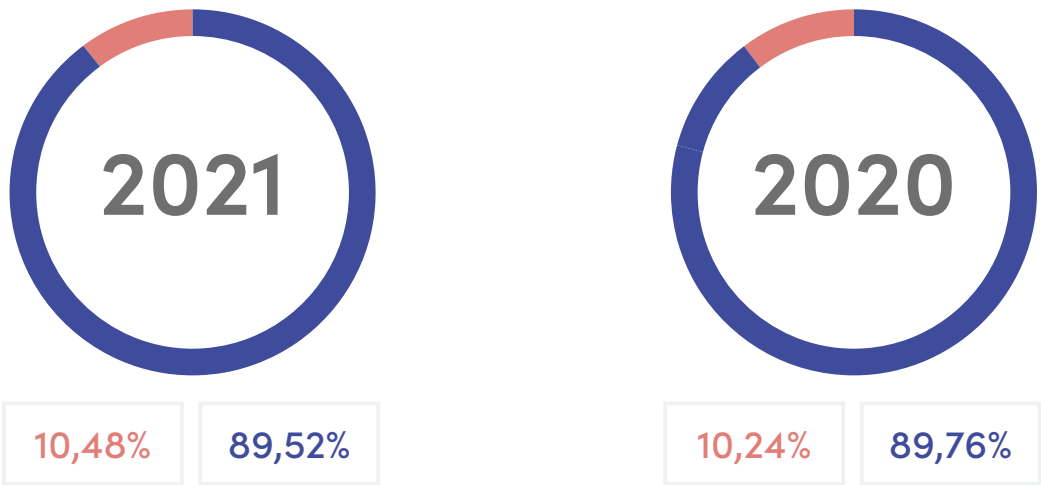
In the case of Lycamobile (-60.38%), M7 Group (-53.01%), FCR Media Belgium (-28.57%), VOO (-25.89%), Unleashed (-21.28%), Proximus (-7.99%) and Orange Belgium (-5.81%), the percentage decrease was greater than the general trend (-4.07%). It should be noted, however, that the operators Colt Telecom (+450%), United Telecom (+100%), Scarlet (+86.11%), Fluvius (+20.83%) and Edpnet (+13.73%) saw a substantial increase.





## E. DISTRIBUTION OF MEDIATION COMPLAINTS PER OPERATOR

### 3. Number of B2C/B2B mediation complaints



	2021	2020
<div></div> BUSINESS TO CONSUMER (NON-PROFESSIONAL COMPLAINANT)	9.532	10.001
<div></div> BUSINESS TO BUSINESS (PROFESSIONAL COMPLAINANT)	1.116	1.141

Table 8

The Ombudsman's Office is available to every private and business telecommunications user. In 2021, the Ombudsman's Office, as the competent entity, took on 9532 mediation cases for business-to-consumer complainants, i.e. private individuals. Requests for intervention from private individuals represented 89.52% of all mediation cases, compared to 89.76% in 2020. In 2021, we registered 1116 disputes (as compared to 1141 in 2020) relating to professional complainants, i.e. 10.48% of all mediation cases.



## F. DISTRIBUTION OF MEDIATION COMPLAINTS BY CATEGORY

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

	2021	% 2021	B2C 2021	B2C % 2021	mC 2021	sC 2021	sC 2021 %	2020	% 2020	B2C 2020	B2C % 2020	mC 2020	sC 2020	sC 2020 %
<b>INVOICING</b>	5.794	36,47%	5.226	36,82%	3.077	2.717	41,41%	5.880	38,08%	5.276	38,23%	2.591	3.289	43,35%
<b>CONTRACTUAL ISSUES</b>	3.387	21,32%	3.019	21,27%	2.237	1.150	17,53%	3.099	20,07%	2.807	20,34%	1.820	1.279	16,86%
<b>FAULTS AND MALFUNCTIONS</b>	1.880	11,83%	1.596	11,24%	1.089	791	12,06%	1.901	12,31%	1.615	11,70%	902	999	13,17%
<b>CUSTOMER SERVICE</b>	1.044	6,57%	929	6,55%	936	108	1,65%	765	4,95%	677	4,91%	645	120	1,58%
<b>OPERATOR CHANGE</b>	957	6,02%	875	6,17%	574	383	5,84%	910	5,89%	803	5,82%	493	417	5,50%
<b>INSTALLATIONS</b>	864	5,44%	769	5,42%	497	367	5,59%	847	5,48%	730	5,29%	425	422	5,56%
<b>PRIVACY</b>	631	3,97%	577	4,07%	255	376	5,73%	916	5,93%	877	6,35%	473	443	5,84%
<b>SECURITY</b>	350	2,20%	325	2,29%	252	98	1,49%	174	1,13%	158	1,14%	130	44	0,58%
<b>FOLLOW-UP COMPLAINTS</b>	300	1,89%	256	1,80%	147	153	2,33%	301	1,95%	260	1,88%	185	116	1,53%
<b>DAMAGE CAUSED BY INFRASTRUCTURE WORK</b>	186	1,17%	161	1,13%	68	118	1,80%	154	1,00%	144	1,04%	48	106	1,40%
<b>PRINCIPAL AFFAIRS</b>	181	1,14%	168	1,18%	135	46	0,70%	124	0,80%	110	0,80%	70	54	0,71%
<b>PREPAID CARDS</b>	150	0,94%	145	1,02%	45	105	1,60%	183	1,19%	180	1,30%	51	132	1,74%
<b>MISCELLANEOUS</b>	144	0,91%	132	0,93%	6	138	2,10%	165	1,07%	147	1,07%	14	151	1,99%
<b>TELEPHONE GUIDE</b>	18	0,11%	15	0,11%	7	11	0,17%	23	0,15%	18	0,13%	8	15	0,20%

**Table 9**

Complaints about 'invoicing' are still the majority (36.47% compared to 38.08% in 2020). As in 2020, the other categories in the top 3 were 'contractual issues' and 'malfunctions'. Complaints related to all aspects of front-line customer service, most of which, as in 2020, relate to a different category, come in fourth place (6.57% vs. 4.95%). The category 'operator change' (including disputes on Easy Switch and number portability) ranks fifth (6.02% vs. 5.89% in 2020).

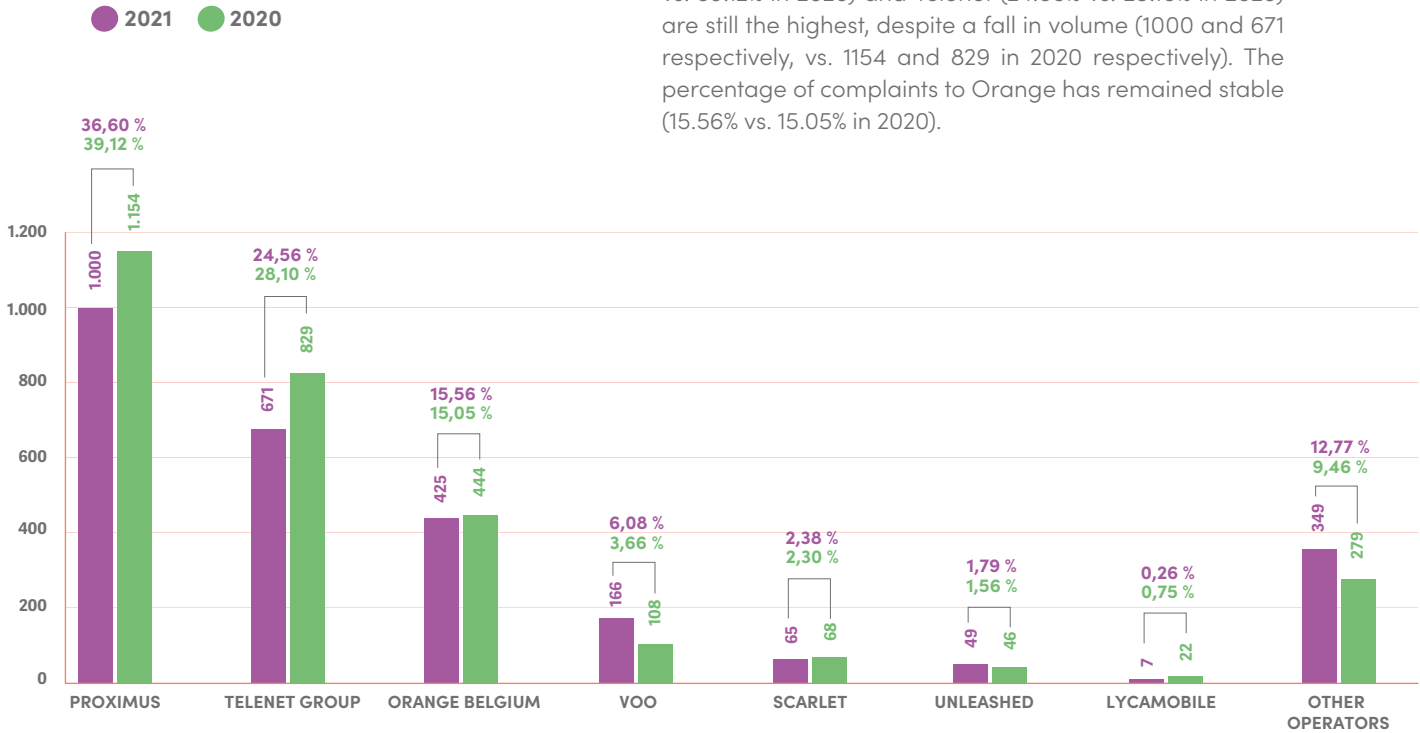
The Easy Switch procedure is analysed in greater detail in Chapter 4 of this report. The percentage of complaints about connections has remained stable (5.44% vs. 5.48% in 2020). As regards complaints from private individuals (business-to-consumer), the percentages are generally comparable.

G. DISTRIBUTION OF COMPLAINTS ABOUT MALICIOUS CALLS BY OPERATOR

Table 10

The number of cases of nuisance phone calls has fallen to 2732 requests, as compared to 2950 in 2020. We have taken into account the fact that some cases relate to one or more operators. The requests regarding Proximus (36.60% vs. 39.12% in 2020) and Telenet (24.56% vs. 28.10% in 2020) are still the highest, despite a fall in volume (1000 and 671 respectively, vs. 1154 and 829 in 2020 respectively). The percentage of complaints to Orange has remained stable (15.56% vs. 15.05% in 2020).

The same is the case for Scarlet (2.38% vs. 2.30% in 2020) and Unleashed (1.79% vs. 1.56% in 2020). The issue of nuisance calls is among other topics addressed in Chapter 5 of this annual report.





# Complaints handled in 2021



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A. OVERVIEW OF COMPLAINTS HANDLED BETWEEN 2019 AND 2021

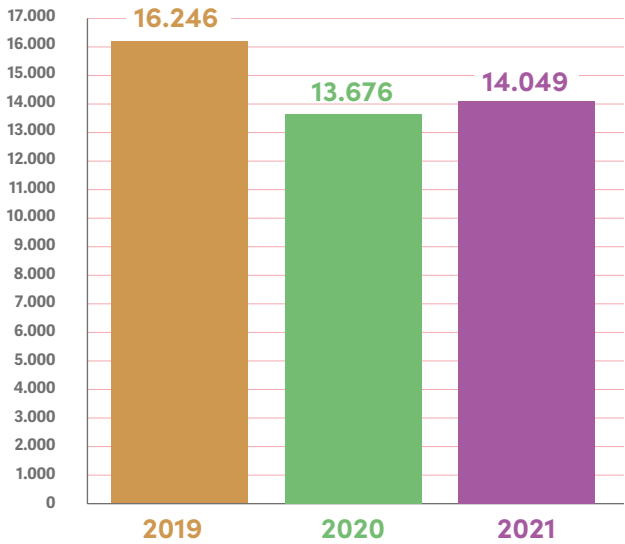


Table 11

Here we show the changes in the number of complaints handled by the Ombudsman’s Office over the last three years. In 2021, we analysed, handled and closed 14,049 cases. The number of disputes handled in 2021 rose over that of 2020 (13,676) but fell in comparison to that of 2019 (16,246).

B. DISTRIBUTION OF COMPLAINTS HANDLED BY PROCEDURE

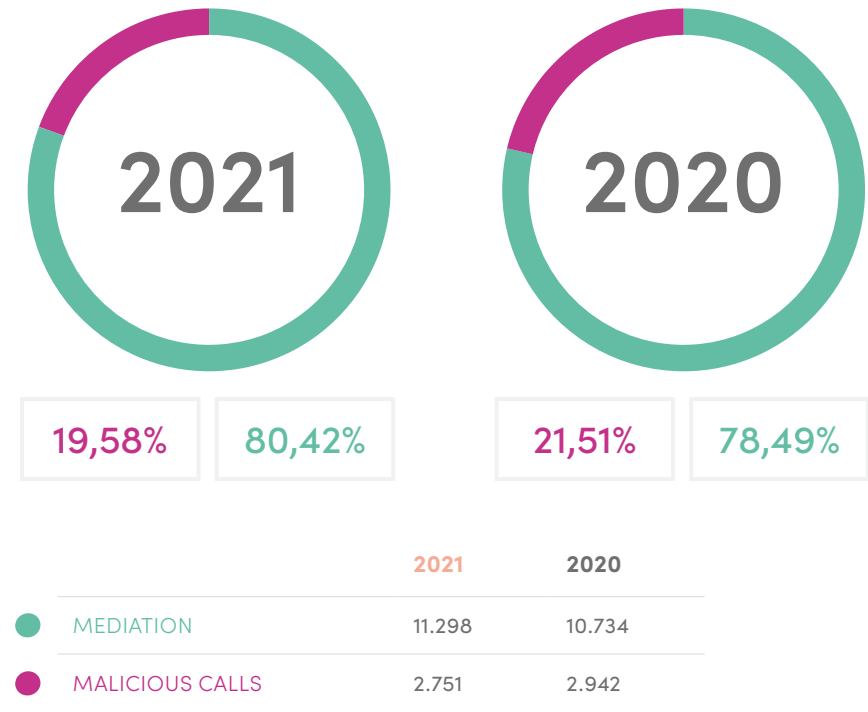
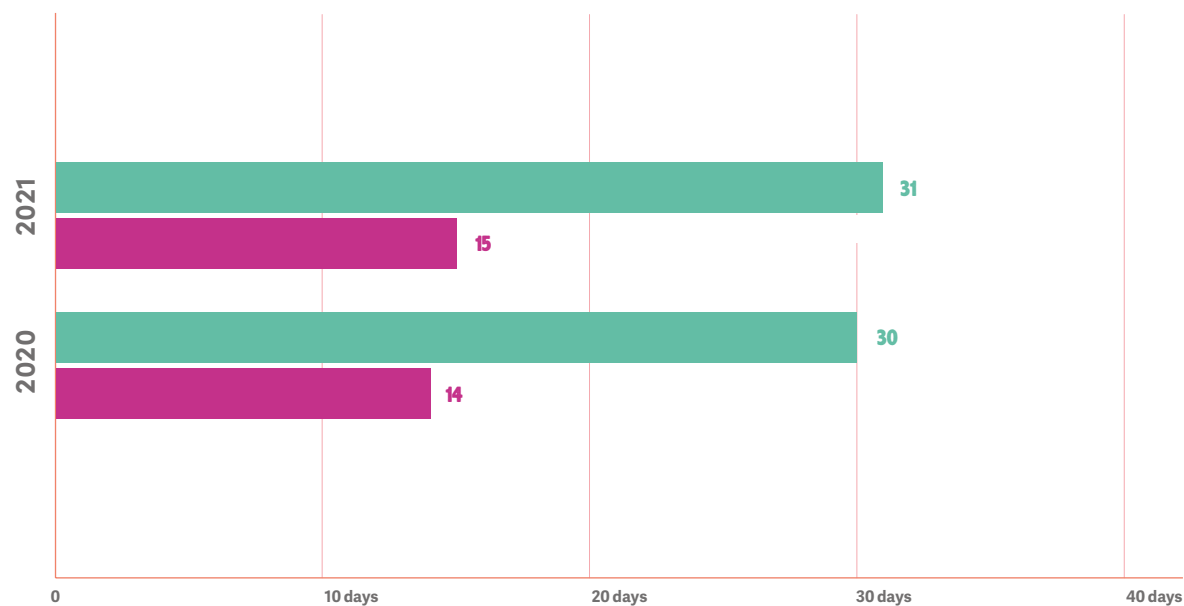


Table 12

The number of closed mediation cases (11,298) rose in comparison to last year (10,734 in 2020), by contrast with the number of cases of malicious calls that were closed (2751 vs. 2942 in 2020).

## C. AVERAGE PROCESSING TIME PER PROCEDURE

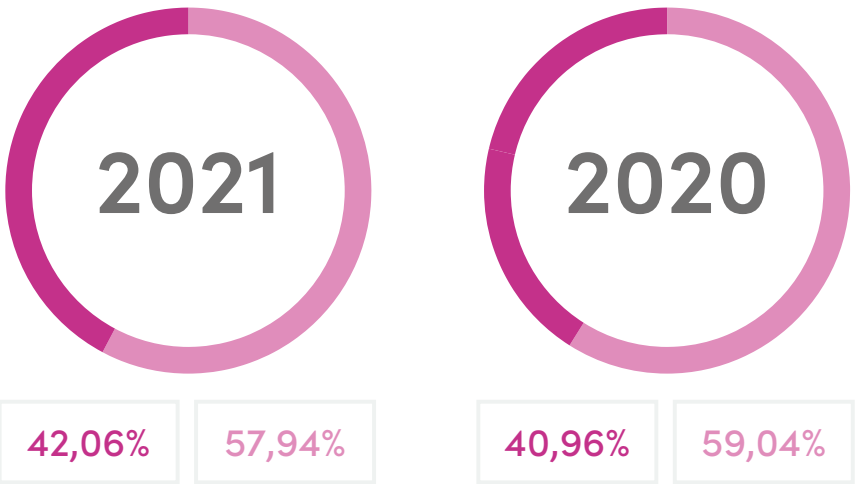


**Table 13**

In 2021, investigations to identify the suspected perpetrators of nuisance calls were handled in an average of 15 calendar days (compared to 14 days in 2020). Mediation cases were closed on average at 31 calendar days (compared to 30 in 2020).

	T2021	B2C 2021	T2020	B2C 2020
MEDIATION	31	30	30	29
MALICIOUS CALLS	15	/	14	/

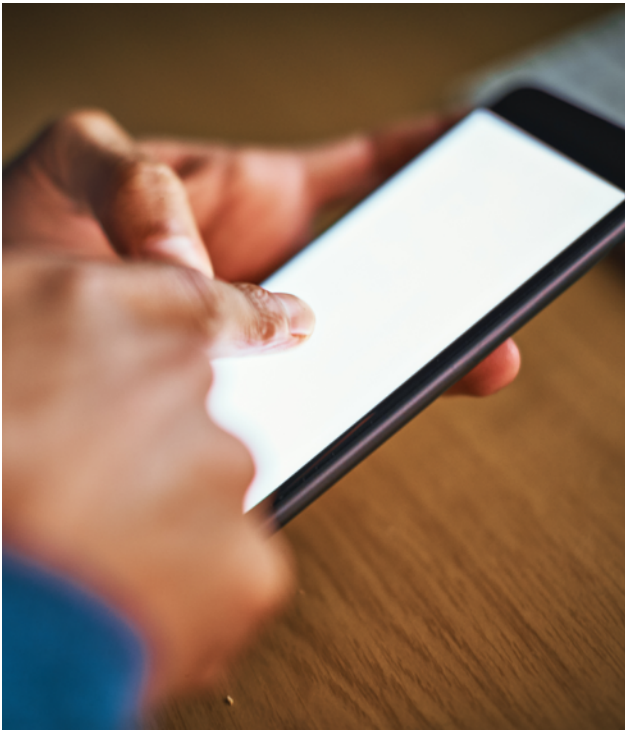
D. COMPLAINTS ABOUT MALICIOUS CALLS



	2021	2020
WITHOUT IDENTIFICATION	1.594	1.737
WITH IDENTIFICATION	1.157	1.205

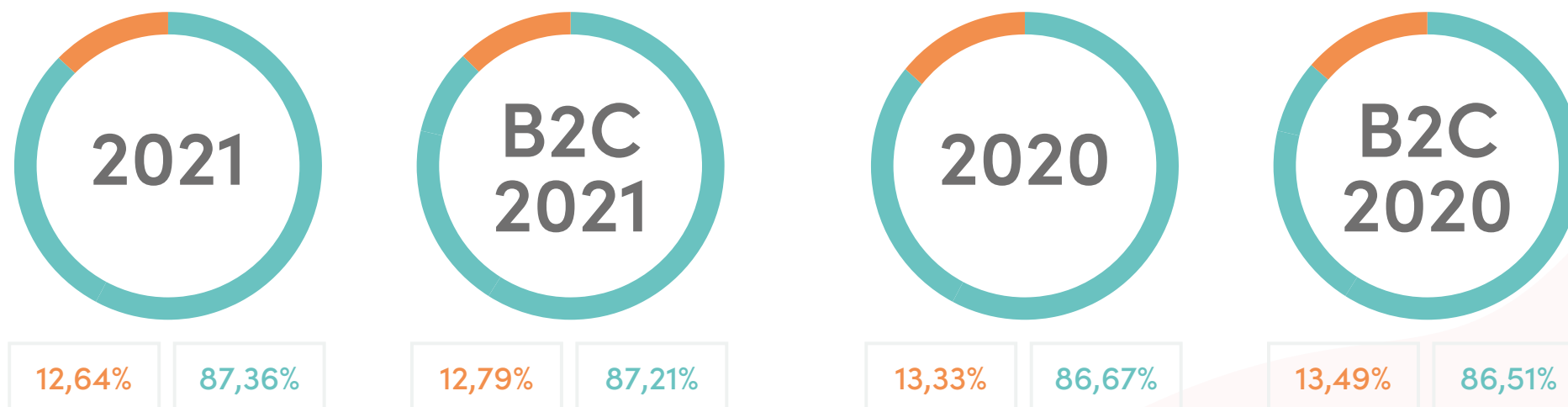
Table 14

A percentage increase can be seen in the number of complaints where it was possible to disclose an identity (42.06% compared to 40.96% in 2020). 57.94% of the cases involving nuisance calls (vs. 59.04% in 2020) were closed without the suspected perpetrator(s) of the malicious or nuisance calls/SMS being able to be identified. This topic is discussed in Chapter 5 of this annual report.



## E. MEDIATION COMPLAINTS

### 1. Admissibility



**Table 15**

The percentage of mediation disputes declared admissible remained stable (87.36% compared to 86.67% in 2020).

The percentage of mediation cases declared admissible for private individuals (business-to-consumer) remained practically the same in 2021 at 87.21% (compared to 86.51% 2020).

	2021	B2C 2021	2020	B2C 2020
● ADMISSIBLE	9.870	8.826	9.303	8.332
● NON-ADMISSIBLE	1.428	1.294	1.431	1.299

## E. MEDIATION COMPLAINTS

### 2. Reasons for inadmissibility

	T2021	T%2021	B2C 2021	T2020	%T2020	B2C 2020
<b>FIRST-LINE COMPLAINT</b>	880	61,62%	792	865	60,45%	789
<b>INCOMPLETE DATA</b>	223	15,62%	211	245	17,12%	229
<b>OTHER SECTOR</b>	163	11,41%	148	172	12,02%	159
<b>INCOMPREHENSIBLE</b>	53	3,71%	51	34	2,38%	30
<b>JUDICIAL PROCEEDINGS</b>	39	2,73%	36	47	3,28%	41
<b>FACTS OVER ONE YEAR OLD</b>	29	2,03%	20	41	2,86%	33
<b>PRIVATE DISPUTES</b>	21	1,47%	17	19	1,33%	11
<b>VEXATIOUS COMPLAINT</b>	14	0,98%	13	5	0,35%	5
<b>FOREIGN OPERATOR</b>	4	0,28%	4	1	0,07%	1
<b>OUTSIDE COMPETENCE</b>	2	0,14%	2	2	0,14%	1

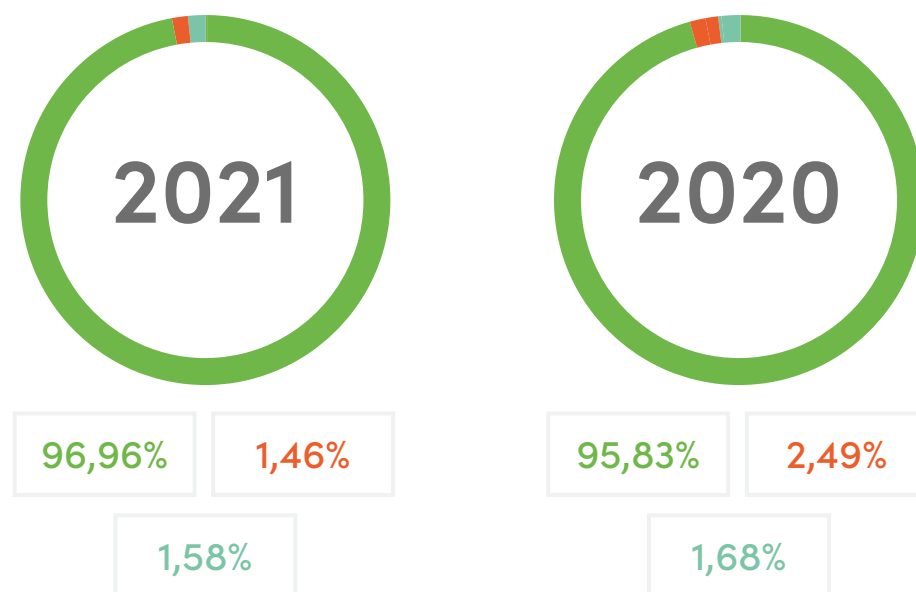
**Table 16**

In more than half (61.62%) of the rejected mediation cases, the Ombudsman's Office declared the complaint inadmissible because the operator concerned had not been contacted first (compared to 60.45% in 2020). As a qualified entity, we can intervene only if the complainant has already tried to submit the dispute to the operator in question. 15.62% of the complaints deemed inadmissible in 2021 were considered incomplete (vs. 17.12% in 2020). The Ombudsman's Office must, after all, have a minimum amount of information available to be able to handle a case. In 11.41% of the inadmissible cases (compared to 12.02% in 2020), the Ombudsman's Office rejected the complaint because the problem raised, concerned a sector other than telecommunications. 3.71% of the complaints deemed inadmissible were found to be incomprehensible (compared to 2.38% in 2020). 2.73% of the inadmissible disputes were the subject of a court case (as compared to 3.28% in 2020) and 2.03% of the inadmissible complaints concerned issues that had been submitted to the operator more than a year ago (as compared to 2.86% in 2020). 1.47% of the complaints deemed inadmissible by the office in 2021 concerned a private conflict or dispute between third parties (as compared to 1.33% in 2020).



## E. MEDIATION COMPLAINTS

### 3. Outcomes



	2021	2020
AMICABLE SETTLEMENTS	9.570	8.915
RECOMMENDATIONS	144	232
WITHDRAWN COMPLAINTS	156	156

**Table 17**

In the large majority of cases handled, an amicable settlement was reached (96.96% compared to 95.83% in 2020). The number of recommendations decreased (144 compared to 232 in 2020). It should be noted that the number of complaints withdrawn was identical to 2020 (156). Chapter 3 of this annual report looks in more detail at the percentages of amicable settlements for the ten operators who had the highest number of complaints in 2021.

## E. MEDIATION COMPLAINTS

### 4. Positive outcomes for users

	2021	% 2021	B2C 2021	B2C % 2021	2020	% 2020	B2C 2020	B2C % 2020
<b>Amicable settlements</b>	9.570	96,96%	8.574	97,14%	8.915	95,83%	7.994	95,94%
<b>Recommendations favourable to complainants that were followed by the telecommunications company</b>	28	0,28%	25	0,28%	38	0,41%	35	0,42%
<b>Recommendations favourable to complainants that were partially followed by the telecommunications company</b>	15	0,15%	9	0,10%	22	0,24%	21	0,25%
<b>Recommendations not responded to by the telecommunications company after 40 days: became enforceable</b>	16	0,16%	14	0,16%	14	0,15%	7	0,16%
<b>Total positive results</b>	9.629	97,56%	8.622	97,69%	8.989	96,62%	8.057	96,70%
<b>Negative outcomes</b>	59	0,60%	43	0,49%	111	1,19%	95	1,14%
<b>Recommendations not responded to by the telecommunications company within the 40-day period</b>	26	0,26%	20	0,23%	47	0,51%	39	0,47%
<b>Withdrawn complaints</b>	156	1,58%	141	1,60%	156	1,68%	141	1,69%
<b>Total complaints handled</b>	9.870	100%	8.826	100%	9.303	100%	8.332	100%

**Table 18**

Positive outcomes (97.56% compared to 96.62% in 2020) consist of the total number of amicable settlements (9570), recommendations favourable to complainants that were followed by the company (28), recommendations favourable to complainants that were partially followed by the company (15), and recommendations on which the company did not act but which became enforceable (16). Operators are obliged to inform the complainant and the Ombudsman's Office of their substantiated decision within 20 working days from the notification of the recommendation by the Ombudsman's Office. After the expiry of this period, a reminder is sent to the operator if the recom-

mendation has not been responded to. The operator then has another period of 20 working days to justify its decision if it does not follow the recommendation. The substantiated decision shall be sent to the complainant and to the Ombudsman's Office. If these provisions are not complied with (see Article 43bis, §5, paragraphs 2 and 3 of the Act of 21 March 1991 on the reform of certain state-owned economic companies), the operator is obliged to implement the recommendation as regards the specific aspects for the complainant concerned. Negative outcomes (0.60% compared to 1.19% in 2020) consist of the total number of recommendations in favour of the company (14) and rec-

ommendations favourable to complainants that were not followed by the company (45). On 31 December 2021, the Ombudsman's Office counted 26 recommendations that were ongoing, in other words to which the operator had not yet given a substantiated response, but for which the period of 2 x 20 days had not yet expired.

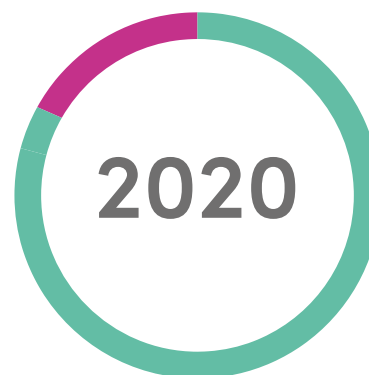
Like all previous years, 2021 can be seen as a positive year: in 97.56% of the closed cases (96.62% in 2020), we succeeded in achieving a positive outcome for the users of telecommunications services. With regard to complaints from private individuals (b2c), the percentages were overall identical.

## F. TELEPHONE REQUESTS FOR INFORMATION



15,79%

84,21%



18,28%

81,72%

	2021	2020
● INFORMATION ABOUT MEDIATION	6735	6704
● INFORMATION ABOUT MALICIOUS CALLS	1263	1500

**Table 19**

One of the tasks of the Ombudsman's Office is to provide information that is as accurate as possible to end-users who contact it verbally. Such direct telephone interventions do not always lead to a subsequent submission of a complaint or request for identification of allegedly malicious callers. Requests for information by phone (6735 as compared to 6704 in 2020) concerning a dispute with an operator have increased (84.21% vs. 81.72% in 2020). 1263 conversations (15.79% as compared to 18.28% in 2020) were intended to obtain information about nuisance calls and in particular about the identification procedure.



# Top 10



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## A. INTRODUCTION

The main task of the Office of the Ombudsman for Telecommunications is to investigate all complaints by end users and to mediate between them, the operators and other suppliers of electronic communication services with a view to reaching an amicable settlement of the disputes; it does so in accordance with Article 43bis, § 3 of the Act of 21 March 1991 on the reform of certain state-owned economic companies.

Where no amicable settlement can be reached, the Ombudsman's Office makes a recommendation to the company/companies concerned, a copy of which is also sent to the complainant. The recommendation is based mainly on common sense, fairness and the contractual or legal provisions, as the case may be.

After that, the telecommunications company has twenty working days to draw up a response to the recommendation and to justify why it will or will not abide by it. After the passing of that deadline, the Ombudsman's Office will send a reminder, after which the company once again has twenty working days to send its decision to both the Ombudsman's Office and directly to the complainant.

In failing to comply with the above deadlines, the company concerned commits itself to implement the recommendation as regards the specific and personal concession towards the complainant.

As is the case each year, this chapter contains a list of the 10 operators that have given rise to the most complaints in the past year. The top 10 in 2021 is, for the first six operators, comparable to those in 2020. Edpnet came

in seventh place, M7Group the eighth and Fluvius is still in last place. United Telecom is new on the list, and holds ninth place.

For each of the ten companies included in the list, special attention will be devoted to the most typical categories of complaints, those that have given rise to the greatest number of complaints. In addition, a few of the topics mentioned will be discussed in greater detail in the following chapters.

## B. HANDLED MEDIATION COMPLAINTS

### 1. Proximus

Proximus occupies first place in the top 10, with 5219 complaints handled. The number of cases is thus stable as compared to 2020 (5207). In 2021, the Ombudsman's Office reached an amicable settlement in 85.5% of all complaints (4453) against Proximus. Forty-four recommendations were made to Proximus.

The majority of the complaints handled in 2021 had to do with problems about the customer service (598), the invoicing of M-commerce services (439 complaints), the Easy Switch procedure (359), invoicing for packages (337), cancellation of subscriptions (271 complaints) and administrative problems relating to refunds and credit notes (207 complaints).







### 1.1. Inaccessibility of customer service via the 0800 number

The Ombudsman's Office handled 598 complaints about all sorts of problems relating to customer service, of which 201 were specifically about customer focus and 171 about accessibility.

The various testimonies of complainants show that it is difficult to reach the operator's front-line service, due to, among other things, long waiting times and/or a complicated automated reception system. Many complainants would like to see Proximus introduce tools that would make it easier for customers to contact them via an email address or an online form. In addition to being easy to reach, the quality of the initial handling of questions and complaints is also important.

*There is no way to submit a written complaint to Proximus by email or to contact their customer service in that way. Their website states that this is possible, but the navigation takes the user either to their call centre or their chatbot. When someone contacts their call centre in order to file a complaint, it is only Proximus that retains a record of it, since the conversations are recorded, but the complainant does not retain any record of the complaint. When someone contacts their online operators, they confirm that it is not possible to send an email to their customer service. Together with a call centre staff member, I looked on Proximus' website for a page with a complaints form that can be filled in online or sent to an email address, but our search was unsuccessful.*

In addition to the above-mentioned cases that were handled, the Ombudsman's Office also registered 784 phone calls that refer explicitly to the difficulty of reaching Proximus' customer service or the virtual impossibility of contacting one of the front-line services of the operator.

Many complaints date from the beginning of the year, as a result of the temporary unavailability of the chat and email function on the Proximus website. The Ombudsman's Office continued, however, to receive regular complaints all year long, among other things, about excessive waiting times at Proximus' customer service.

### 1.2. Invoicing for M-commerce

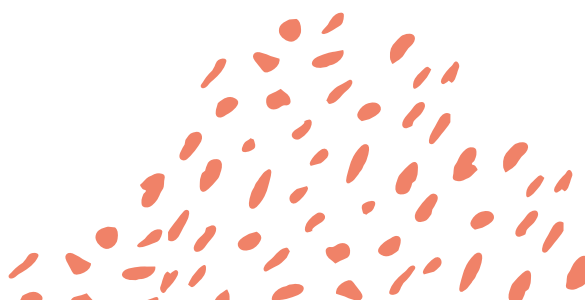
In 2021, 456 complaints were handled against Proximus regarding disputed bills for services provided by third parties (439 complaints about M-commerce and 17 about premium SMS services). Although this is a sharp decrease compared to 2020, with 714 and 82 complaints respectively, it remains a significant number.

The services of Demon Games (84 complaints), Wister (63 complaints), Rougeplay (45 complaints) and Veedz (42 complaints), in particular, continue to give rise to a large number of disputes. However, new third-party service providers such as MoxiGames (21 complaints) also appeared for the first time this year.

*It is impossible to submit the complaint via Proximus; we have to contact the provider of the game, which is based in the Netherlands. We reminded Proximus that we have not asked for anything and that this service was incorrectly activated and billed by Proximus (on behalf of the customer of Proximus, more specifically MoxiGames). We are unfamiliar with MoxiGames and don't want to waste any time by having to get in touch with them or even having to pay a premium rate number abroad in order to ask MoxiGames to correct this dishonest invoicing. The security of these payments by third parties really is inadequate at Proximus: we did not ask for this service, we are not familiar with the MoxiGames company and this company did not check the identity of the person who requested the service.*

The problem has been the same for the past 20 years: the users argue that they have not ordered these controversial services. They receive text messages, often in a foreign language, which they consider to be phishing messages, and a charge is made on their bills. The subscribers usually contact Proximus' customer service, which redirects them to the service provider or to the Ombudsman's Office. The service providers are not easy to reach, do not investigate the complaints adequately or do not fulfill their promise to refund the cost.

Despite the efforts by Proximus to improve their front-line complaints handling, it is clear that there is still a lot of work to be done to put an end to these reprehensible commercial practices. The Ombudsman's Office also







points out that it is important to inform end users about the possibility of blocking these paid services free of charge and on a preventive basis.

This topic has already been discussed in detail in Chapter 9 of the 2020 annual report.

### 1.3. Easy Switch procedure

The second most common problem this year was the application of the Easy Switch procedure (359 complaints).

*A series of surreal misunderstandings occurred when my (89-year-old) father's Orange subscription (internet + TV) was switched to Proximus in November 2020. In January 2021, I discovered that he was still paying for his Orange subscription, although I had personally sent back the decoder on 2 December 2020. I am his daughter and in the end I took things in hand personally, because it was much too complicated for him. I phoned Proximus (which I assumed had taken care of the matter) and they told me that the Easy Switch procedure had not been started.*

As in the case of many complaints, it also appears from this example that telecommunications users are experiencing difficulties despite the Easy Switch procedure, which is supposed to facilitate the change of operator. The old and the new operators blame each other and make contradictory statements. Chapter 4 of this annual report is dedicated to this issue.

### 1.4. Connection problems

The Ombudsman's Office registered 322 complaints about connection problems experienced by the complainants when signing up for a new connection. Although Proximus is actively rolling out its fibre optic network, new connections are sometimes refused in certain regions because of lack of space in the existing distribution boxes.

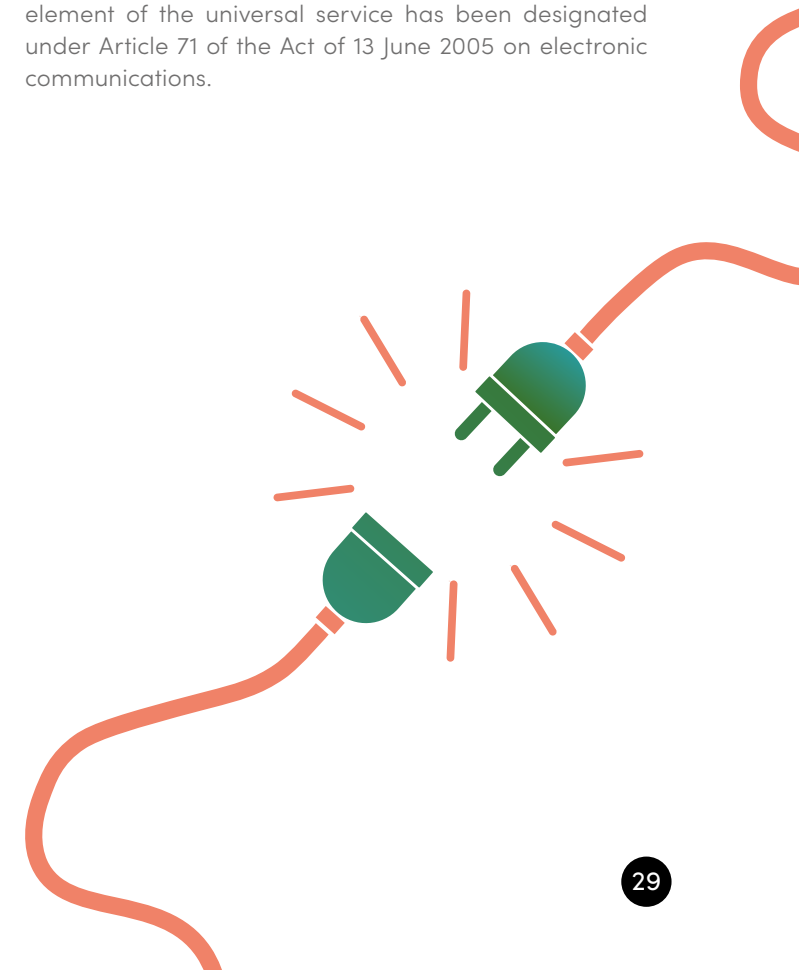
*I renovated a building in C. and Proximus refuses to install the telephone connection. This house is on the street side and the cable is on the other side of the road. The only existing connection is a VOO installation, which does not allow for internet access. The arguments by Proximus: waiting for the installation of the fibre optic cable; Proximus no longer crosses the road. The 'mobile' solution proposed in the letter from Proximus requires that I pay for the technical equipment (box with SIM card), which means that I am treated unfairly as compared to other subscribers (knowing that Proximus also avoids installation costs!). By way of information, a new neighbourhood has been built a little further on past my house, with buildings on both sides of the street.*

Proximus mentions, in Article 2.2 of its general terms and conditions, that the operator reserves the right to refuse to deliver telecom services without having to pay any compensation, for one of the following reasons: "The customer's infrastructure or Proximus' network does not

support the delivery of the service or makes it difficult, for technical or other reasons."

Providing a telephone and internet connection is, however, included in the standard geographical element of the universal service. Article 70 of the Act of 13 June 2005 on electronic communications provides for the mechanism for this.

Until 1 August 2013, Proximus was entrusted with the fulfilment of the above-mentioned universal service obligations. Until now, no supplier of the geographical element of the universal service has been designated under Article 71 of the Act of 13 June 2005 on electronic communications.



## 2. Telenet Group

Since 2017, Telenet Group has systematically been second of the top 10 operators. In 2021, 2595 complaints about Telenet Group were registered with the Ombudsman's Office. That is more than in 2020 (2460 complaints). This was an increase of 5.49%.

The intervention of the Ombudsman's Office resulted in an amicable settlement of the dispute in 89.7% of the cases (2328 complaints). Seventeen recommendations were formulated.

The main problems that gave rise to complaints against Telenet Group were internet malfunctions (202), change of operator via the Easy Switch procedure (194), blocking incoming calls (144), billing for subscription packages (140) and administrative problems of refunds and credit notes (119).



### 2.1. Internet malfunctions

The disputes handled (202) show a wide range of different internet malfunctions, both in terms of Telenet's infrastructure and of the customer's interior installation. In some cases, the complainant had endured interruptions over several months, while in other cases, the interruption lasted only a few days or even a few hours.

*Over the past six months, the services of this provider were regularly interrupted. Almost every week, there are various interruptions to their infrastructure. These were partly due to planned works, but mostly as a result of unforeseen malfunctions. At a time when people were required to work from home, this had consequences for the work/life balance of many residents of that street. Without a connection, I cannot do my work. In periods of malfunction, I was frequently not paid for several hours. My employer contributes to the costs of the internet subscription and therefore expects it to be operational.*

Many complainants indicate that they were inconvenienced by the malfunctions during times they were required to work from home. The complaints are clearly triggered by the ongoing coronavirus measures, and customers expect more than ever a very quick solution to the inconvenience they encounter when working from home. When such complaints reach the Ombudsman's Office, they often receive a very quick response from Telenet. If the origin of the problem is unclear, an intervention is planned as soon as possible. When the technical problems can be solved, a compensation is often given

for the inconvenience suffered with the first line client service, or for the long period of time to find a solution.

The latter is not a general rule, however, and the operator sometimes remains very strict in not awarding compensation when the telecommunication services are subject to general outages or interruptions as a result of works, whether or not caused by Telenet itself.

Telenet refers in this regard to its general terms and conditions that provide that the operator will do all it can to resolve interruptions, malfunctions or repairs in a short period of time and that the maintenance and development of the network may require the service(s) to be limited or suspended for a brief period without any compensation.

### 2.2. Easy Switch procedure

The second most common problem reported in complaints against Telenet had to do with Easy Switch, with a total of 194 complaints. Chapter 4 deals specifically with this topic.

### 2.3. Blocking incoming calls/ SMS/emails

Just as in 2020, the lack of ways to block incoming calls/ SMS/emails has been a source of complaints against Telenet. The operator tries to inform complainants as fully as possible, including the available tools, such as the contact point of the FPS Economy for nuisance sales calls or the 'Don't call me' list.

*For the past few months, we have been receiving up to 90 calls per day from foreign numbers (Brazil, etc.); it is always the same number ending in two different numbers. Blocking these numbers is useless, since the numbers at the end are always different.*

End users feel that it is their operator's task to protect them. The mediation complaints indicate that Telenet is able to block certain numbers in the case of phishing by phone, SMS and internet.

In Chapter 5 of this annual report, we discuss the various types of fraud seen in 2021 in greater detail.

#### 2.4. Non-spontaneous refunds

Many disputes with Telenet (119) deal with requests for the refund of undue amounts, such as charges after the cancellation of an order for a smartphone that was never received, regularisations after the cancellation of subscriptions or unjustified direct debits.

*On 21 January, they wrongly debited my account for €975.71 instead of the €110.00 that I pay each month. I responded immediately, and they admitted their error and informed me that they would correct it on the February bill. In February, on the next bill they deducted €110.00 from my balance; I responded to this and informed them that they must refund the money and are not supposed to keep it until it is used up. They told me by phone that the amount would be repaid with the next bill this week. Today, I received my bill and they once again reduced my remaining balance by €110.00, namely, my monthly payment.*

If subscribers have a positive balance with Telenet, some subscribers opt for an immediate refund rather than a reduction on subsequent bills. They are often disappointed that the planned reimbursement sometimes takes several months.

Telenet commits itself, however, as mentioned in its general terms and conditions, to refund any positive balances within an agreed period, and that the customer is entitled, after that period, to compensation equal to the costs charged for a reminder for late payment of a telecommunications bill. Unfortunately, it must be said that this contractual right, based on the principle of reciprocity, is not (always) respected, not even when the complainant explicitly asks for it. After mediation, complainants receive the expected refund, but do not automatically receive the compensation for delay to which they are contractually entitled.

#### 2.5. Intervention costs

The Ombudsman's Office registered 76 complaints involving disputes over costs charged for a technical intervention.

*The sound on the television did not work. After phoning customer service, they offered to send us a technician to check this at home. At no time they mentioned that we would have to pay for this service. It was offered and so we assumed it was a free service. The engineer was here for only 5 minutes and just pushed a few buttons. We were charged €85.00 for this, without being informed of this in advance!*

When an appointment is made with a technician, the customer must be informed whether or not there will be a charge for the intervention. If the problem is attributable to Telenet (e.g. defective modem/repeater, infrastructure), the intervention will be free of charge. However, if the cause of the technical issues lies with the user (e.g. outdated hardware or software, cables, PC, etc.), there will be a charge for the intervention. If it is likely that an intervention will be chargeable, the operator's staff must inform the customer in advance and state this in the technical file. Unfortunately, the complaints show that it is not always easy to determine the cause of the malfunction.



### 3. Orange

In 2021, like in 2020, Orange ranked third among the top 10. The Ombudsman's Office registered 1742 complaints handled against Orange, as compared to 2002 complaints in 2020, a decrease of 13%.

Thanks to the intervention of the Ombudsman's Office, 1600 complaints against Orange, or 91.8%, were resolved by an amicable settlement. Seventeen recommendations were formulated.

As in 2018, 2019 and 2020, the most common complaints had to do with the implementation of the Easy Switch procedure (213 complaints) and the cancellation of subscriptions (157 complaints). Bills for subscription packages (129), the transfer of mobile numbers (113) and billing for mobile subscriptions (97) are also recurring disputes.

#### 3.1. Transfer of mobile numbers

Various complaints (113) concern situations of end users that have opted to transfer their mobile number to another operator.

*On 12 January, I asked for the mobile number 04xx to be transferred from Proximus to Orange. Since 12 January, the number has been inactive. The message heard when this number is called is as follows: 'The number you have reached is not in service'. Between 13 and 19 January, I called the Orange helpdesk 11 times, without success. On 19 January, I went to the Orange shop in W. to find out what was happening. After checking with 1299, it turned out that the number was still hosted by Proximus. I then went to the Proximus shop next door to ask them*

*to reactivate the 04xx number. They told me that they could not do anything, given that the request for transfer was being processed. I did however get them to give me a new SIM card. 10 minutes later, I received a message on another phone that the card had been activated. But this turned out not to be the case. To this day, the number 04xx is still not active with either Proximus or Orange. At Proximus: transfer was initiated by Orange, and so no further action was possible, according to them, although the number in question was still registered with Proximus. At Orange: the salesperson in the shop phoned an internal department that is responsible for special problems relating to other operators. This service took on the case and I was given the personal mobile number of the salesperson, so that in this case I would not have to go through an incompetent helpdesk.*

Article 13 of the Royal Decree of 2 July 2013 on the transferability of numbers of subscribers to electronic communication services provides for mechanisms for compensation to be paid in the event of delays in carrying out the transfer of a number. In mediation, it is important to attend to what may be seen as an inefficiency on the part of the recipient operator and to intervene on behalf of the subscriber who is inconvenienced by this situation.

#### 3.2. Sales practices

The Ombudsman's Office concluded 96 complaints that illustrate the powerlessness of end users when they are faced with unwanted services or services that do not correspond to what was offered verbally, incorrect price quotes or a so-called unlimited flat rate.

Chapter 9 of this report addresses the latter issue, namely, unlimited service offers.

*At the end of August 2021, I signed a contract for internet and mobile phone with Orange. Since then, they are also billing me for a TV subscription, which I never requested, never received and for which I never had a decoder installed in my home. They are now asking me to pay, in addition to the TV subscription, €200.00 for a TV decoder that they claim I never returned. I have phoned them more than twenty times to explain that I never had their TV service. Each time, they promised me that it would be resolved and that they would contact me again within 48 hours, but that was never done. I also went to a mobile phone shop, but they said that they are not able to solve the problem; that everything had to be done via the call centre.*

The Ombudsman's Office can only regret such situations and emphasize the real importance of the information provided by sales staff, and in particular the pre-contractual information. Pursuant to Book VI of the Code of Economic Law – Article VI.2 and VI.3 – the consumer is protected by an obligation on the part of companies to provide information before signing a contract other than a remotely signed contract or a contract signed outside the sales premises.

### 3.3. Granting of the social tariff

The Ombudsman's Office handled 33 disputes in relation to granting a social tariff.

*On 24 December 2020, I received an attractive offer with social tariff because my daughter has a handicap, and I accepted it. On 15 January 2021, they installed the services but never granted me the social tariff. So I asked for my subscription to be transferred to the name of my handicapped daughter, but they never did it. I made more than 10 requests for the transfer, and they still haven't.*

This example illustrates the difficulties that end users encounter when taking steps to obtain this benefit. In Chapter 6 of this annual report, the topic of the social tariff is analysed in detail.

### 3.4. Changing the data use limit

In a dozen complaints against Orange, it appears that when changing the tariff formula, the previously set data limit has, strangely enough, disappeared.

*In the autumn of 2018, I signed a 'Koala' contract with Orange. I could use no more than €10.00 worth of mobile data outside of the package. Apparently, this formula was changed in September 2020 to GO Plus. I was never informed about this. I also did not know that the policy regarding extra*

*data use would be different. My bills had always been around €20.00–25.00. Suddenly, I got a bill for €332.00 and in the current month I appear to have already used €245.69 too much. Someone with more knowledge told me that apparently I was not surfing with Wi-Fi. He suspected that my consumption was due to excessive use of YouTube to listen to music. Apparently, text messages were sent to warn me of the excess use.*

The Ombudsman's Office regrets that Orange abused the gullibility of the complainant. Orange provides an overview of its old tariff plan and the new tariff plan and the complainant was promised more minutes and more data for the same price and everything else would remain unchanged. In addition, the complainants are thus convinced that they cannot get out of the package, as was actually the case with the previous tariff plan.

The operator was therefore asked to inform its customers transparently about the limit to data usage, in order to prevent unexpectedly high bills.



## 4. Scarlet

Scarlet has stayed at fourth place in the top 10. In 2021, the number of complaints against Scarlet increased (1633 complaints). In 2020, 735 complaints about Scarlet were handled by the Ombudsman's Office. That is a remarkable 122% increase.

In 2021, 1521 complaints, or 93.1% of all the complaints against Scarlet, led to an amicable settlement between the parties, and 30 recommendations were formulated.

The majority of these complaints concerned the cancellation of subscriptions (290 complaints), the Easy Switch procedure (258 complaints), billing for subscription packages (209 complaints) and the transfer of mobile numbers (109 complaints).

Chapter 7 of the 2021 annual report contains a detailed analysis of the complaints against Scarlet.



## 5. VOO

VOO is still at fifth place in the top 10, despite a decrease in the number of complaints handled in 2021, i.e. 462 complaints as compared to 556 in 2020. This corresponds to a decrease of 17%.

The Ombudsman's Office succeeded in reaching an amicable settlement in 399 cases, that is, 86.4% of all the complaints against VOO. Sixteen recommendations were formulated to the operator.

The most frequent complaints against VOO had to do with the application of the Easy Switch procedure (107 complaints), problems with billing for subscription packages (60 complaints) and the termination of contracts and subscriptions (46 complaints).

### 5.1. Invoicing of packages

*They called me to offer me a 'Quatro relax' subscription with a special offer of 6 months for €34.47. And to my surprise, I received a higher bill that did not correspond to the special offer. I would therefore like to receive the bills for the amount of €34.47 that corresponds to the special offer.*

The Ombudsman's Office has in recent years seen a real growth in packages on the telecommunications market. This growth has made the operators' billing process more complex. Thus, the Ombudsman's Office is frequently approached by complainants who point out unjustified or incorrect charges for one or more components of their pack (60 complaints).

It appears that bills for packages are less legible and comprehensible for end users, who do not always analyse them in detail and therefore overlook irregularities that they only notice much later. As a result, it is more difficult to resolve the issue and possibly obtain compensation.

### 5.2. Termination of contracts

*Request by phone to cancel cable TV service on 10/01/2021, confirmed verbally by the correspondent with the promise of a credit note for the period between 11 and 31/01/2021. At the beginning of February 2021, I received a new bill that I did not pay. I did not hear anything further, and submitted the request for cancellation several times again via the available online form.*

As in 2020, cancellation of subscriptions was a source of complaints for VOO (46). These complaints result, among other things, from the fact that billing continued despite confirmation of the cancellation by the operator and from the lack of processing and follow-up of the request for cancellation.

By way of reminder: VOO must, pursuant to Article 111/3, § 1 of the Act of 13 June 2005 on electronic communications, take note of the termination at the time chosen by the subscriber, even immediately, and close down the service concerned as soon as possible. The subscriber may terminate the contract by any written means and without giving reasons. VOO is also asked to confirm the termination to its customer.

### 5.3. TV malfunctions

The Ombudsman's Office handled 105 complaints about malfunctions, of which 16 were about TV malfunctions.

*Hello, I am writing to ask you for information. I have been a subscriber to VOO for three years now, and for three years I have been trying to get them to resolve a pixel problem of my image. When I watch programmes, a bunch of little squares appear. They came to my house, replaced all the cables and in the end said that the problem is outside. It continues to be a problem. They tell us that they have to replace a cable. When we have the problem, we phone and they tell us that the problem has been resolved. We were told at least 10 times that the problem has been resolved, but we see that nothing has changed and we wonder if they are doing what needs to be done. Can you tell me where I can get information about this problem? I am attaching three photos so you can see the problem. This problem occurs almost every day. We pay for cable TV in order to get quality.*

The problems encountered by the complainants are diverse: loss of signal, problems with recording a programme, pixilation, inability to receive certain channels, malfunctions of the decoder, etc.



## 6. Unleashed

The operator Unleashed (Mobile Vikings and Jim Mobile) is in sixth place in this ranking. That is the same position as in 2020.

The Ombudsman's Office handled 83 complaints, as compared to 89 complaints in 2020.

Fifty-seven cases led to an amicable settlement and 4 recommendations were formulated to Unleashed.

The most frequent complaints have to do with the transfer of mobile numbers (18 complaints), blocking incoming calls (17 complaints) and incorrect or unjustified billing for a mobile phone subscription (8 complaints).

### 6.1. Viking points

*My Viking points from 2 purchases on the website of Farmaline (perhaps in future a third, that is still in process) have wrongfully not been granted. I would like to receive the properly earned Viking points and be sure that Farmaline is managing the points correctly in the information management system.*

As mentioned in the 2019 annual report, the Ombudsman's Office noted in several complaints (7) that the operator was unable to clarify the source of this structural malfunction in the granting of points, although an advertising campaign had been conducted for these points. The Ombudsman's Office can only invite Unleashed to offer a commercial gesture to its customers who have been inconvenienced.

### 6.2. Expiry of the credit on prepaid cards

Complaints about the credit on prepaid cards expiring (5) were, as in 2020, a source of disputes with Unleashed.

Some consumers do not seem to be aware of the principle that their prepaid card is deactivated if they have not reloaded it for twelve months.

*JIM Mobile informed me that a credit remaining on the 'Pay and Go' card expires after 12 months and says that this is legal. As you can see below, I discussed this with Jim Mobile, but they continue to maintain their position. I am asking you the following questions: Is it true that the law allows for credits to expire after 12 months? Does it make sense that people pay in advance for a (future) service, but that in the end, the provider says that this 'advance' expired because of late usage? The customer cannot determine whether this is true, given that I don't know how the usage costs were billed in the event of multiple reloads. The usage costs were billed. Do they deduct this from the oldest credit, the most recent or some random credit? JIM Mobile notified us a few days before the credit expired. The notification is correct, but a few days is not sufficient. Should they have been required to inform us sooner?*

As regards Unleashed, which emphasises its general terms and conditions, the Ombudsman's Office often considers that users did not have enough time to reload their prepaid card after the operator's warning about the future deactivation of the number. The Ombudsman's

Office can therefore only urge the operator to inform its customers correctly and in good time.



## 7. Edpnet

Edpnet is at seventh place in the top 10. In 2021, 63 complaints about the operator Edpnet were handled by the Ombudsman's Office. The number of complaints handled remained stable as compared to 2020 (51 complaints).

Fifty-eight (58) mediation cases led to an amicable settlement and one recommendation was made to Edpnet.

The categories of complaints are quite diverse. The Easy Switch problem (11 complaints) is the category that occurs most frequently. For more details on this issue, please see Chapter 4 of this annual report. Problems with the transfer of mobile numbers (8 complaints) come second.

*Because I no longer had internet, I contacted Edpnet, which checked the connection and decided to send an engineer on Monday. In the meantime, I noticed on Saturday that my electric socket was defective. I immediately notified Edpnet that the problem had been resolved and cancelled the engineer. On Monday morning, the engineer phoned me and I explained to him the reason for the malfunction, and therefore he did not come to my house. But Edpnet charged me €199.00, which I disputed several times, and is now threatening to disconnect the service.*

The Ombudsman's Office was consulted by various complainants who disputed bills for technical intervention services (3 complaints).

Edpnet hides behind its concept of 'unnecessary intervention', as described in point 12 of its general terms and conditions. The operator takes the view that the mere opening of a technical dossier (with a network test, for example, carried out by Proximus) justifies billing for technical costs, even if the source of the problem does not lie with the subscriber. After mediation, the operator cancelled the costs.

## 8. M7 Group (TV Vlaanderen/TéléSat)

M7 Group (TV Vlaanderen/TéléSat) has fallen this year from seventh to eighth place, with 47 complaints handled as compared to 79 in 2020.

Of these cases, 41 were closed with an amicable settlement and five led to a recommendation.

The most frequent complaints against TV Vlaanderen/TéléSat have to do with the cancellation of subscriptions (11 complaints), administrative problems of refunds and credit notes (10 complaints) and defects and malfunctions in TV broadcasting services (8 complaints). The defects mostly involve common problems with antennas, decoders, modules for conditional access and reception issues with Eleven Sports.

*On 27/10/2020, I reported to TV Vlaanderen that their application correctly displayed all channels (Eén, Canvas, VTM, etc.) on my newly purchased Philips Smart TV, but that Eleven Sports channels cannot be received on this television set. All other applications, such as Netflix, YouTube, etc., work perfectly on this Philips TV. I reinstalled the TV, followed the TV Vlaanderen application again... With no results: Eleven Sports continues to be blocked in the TV Vlaanderen application.*

## 9. United Telecom

In 2021, United Telecom came ninth with 39 complaints handled, as compared to 22 in 2020.

The Ombudsman's Office succeeded in reaching amicable settlements in 27 complaints, and one recommendation was formulated to the operator.

*I have a contract with United Telecom, to be billed via CPS. Since July, United Telecom is no longer billing me for my calls. Instead, they were billed by Proximus at a much higher rate. I was charged €97.16 extra (€50.62 for usage in July and €46.54 in August).*

The main complaints about this operator concern CPS (Carrier Pre Select) billing on landlines (17 complaints) and the accessibility of customer service (17 complaints).

## 10. Fluvius

Fluvius comes last in the ranking, as it did in 2020, with 30 complaints handled in 2021. Of these 30 complaints, 29 were resolved with an amicable settlement. One complaint gave rise to a recommendation by the Ombudsman's Office.

As a cable company and provider of access to telecommunication services in the Flemish Region, Fluvius almost always serves as the contact point in addition to the operator that is responsible for the end installation.

Recurring complaints had to do with general defects or malfunctions (11), connectivity problems (7) or problems with the façade infrastructure (8).

*Since mid-February, we have been having enormous problems with the stability of the internet. Because of the coronavirus situation, my husband and I as well as my two children, who are university students, had to work from home and study online. On 23 February, 30 March and 12 April, an engineer from Telenet came to take a look at what was wrong. An engineer from Telenet came to see where our internet problem lay. Each time, they determined that the signal we received from outside, which is managed by Fluvius, was unstable and often of poor quality. In each case, Telenet put in a request to Fluvius for inspection/repair. Weeks later, there has still been no solution. Telenet says that Fluvius is supposed to solve it, and Fluvius said that cable television service errors should be reported.*

The participation of Fluvius in the context of mediation complaints about connections and malfunctions seems to facilitate the necessary faster interventions on the network, in consultation with the operator concerned, and therefore offers a certain added value in achieving an amicable settlement.



A decorative graphic on the left side of the page. It features a stylized hand in shades of red and orange holding a circular icon with a white arrow pointing clockwise. Below the hand is a large, bold number '4' in a dark purple color. The background of the graphic is a mix of grey and black speckles, with some orange dots scattered around the number '4'.

# Changing operators via Easy Switch – ongoing issues

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## A. INTRODUCTION

Better quality or lower prices – there are various reasons for changing one's telecom provider. The Easy Switch procedure, which has been in force since 1 July 2017, basically facilitates the switch to another operator for internet and television services, as well as bundled fixed line telecom services. Passing on the Easy Switch ID should be sufficient to leave the necessary steps for the requested transfer to the newly selected operator. The new operator will then be responsible for terminating the contract with the donor operator without any further administrative action being required from the consumer. Only the rented device has to be returned.

The purpose of the standard procedure laid down in the Royal Decree of 6 September 2016 on the migration of fixed line services and bundles in the electronic communications sector (Easy Switch Royal Decree) was to prevent any double billing.

In the first year that this Easy Switch Royal Decree was in force, the BIPT (Belgian Institute for Postal Services and Telecommunications) noted that 17% of the acquisitions of internet and TV or bundles were already handled via Easy Switch. The use of this procedure remains on the low side, since only 23% of transfers were processed through Easy Switch in 2020, so there is certainly room for operators to improve its use.

In 2021, the Ombudsman's Office registered 560 complaints (489 complaints in 2020), that were related to operator changes via Easy Switch. Most of the problems were noted in the event of a transfer among the five major operators on the market, namely, Proximus – Scarlet (180 complaints), Proximus – Telenet (100), Orange – Proximus (93), Orange – Telenet (85) and Proximus – VOO (77).

With four examples from everyday consumer life, the Ombudsman's Office has illustrated what was still going wrong in 2021 when switching providers.



## B. CHRONIC PROBLEMS WITH EASY SWITCH

### 1. Double invoicing

*I changed operators two months ago (Telenet to Orange). They were supposed to terminate all my contracts and subscriptions. But that was not done. I phoned Orange to take care of it. I have received €300.00 in bills from Telenet for these last two months, whereas I am now with Orange and have paid a total of €285.00 to that operator.*

The standard mandate issued by the Belgian Institute for Postal Services and Telecommunications (BIPT) contains the option to tick off manually that a telecom user wishes to turn down the standard procedure. Some contracts, such as the one from the example cited, are drawn up in such a way that the Ombudsman's Office cannot determine whether the complainant has made a deliberate choice to turn down the Easy Switch procedure, or whether the new operator may have deviated from the standard procedure without the consent of the new customer. As a consequence, the old operator continues to bill. When generating contracts, via remote sales or at physical points of sale, which may or may not then be sent and confirmed digitally, it is not possible to determine whether the vendor has explicitly mentioned that Easy Switch is the standard application used.

In this context, thousands of complainants mentioned since 2017 that they do not know why they would have opted for their own notice instead of a simplified Easy Switch system.

## 2. Unclear procedure

*I recently switched from Telenet to Proximus. Everything would be stopped at Telenet using the Easy Switch number. When I brought in the decoder, Telenet confirmed that everything had been settled. Therefore I no longer checked my customer area. So I was very surprised when I received a (final) reminder by post in my letter box. Telenet blamed Proximus. I contacted Proximus, but they referred me back to Telenet.*

Both, landline and mobile number portability, where the cancellation of the contract with the old operator happens automatically when a request is made to a new operator, is already well known among telecom users.

The Easy Switch procedure follows the same process of one-stop shopping. But for many telecom users who switch operators, it is often not clear what the more recently developed Easy Switch procedure actually entails. They believe that this procedure serves to transfer all their services (both telephony and fixed line services), which many have combined in one package. They interpret this possibility as a kind of successor to the older procedure of number portability which would make their lives even easier. And yet, the Easy Switch procedure is used to transfer only internet and digital TV, but landline and mobile numbers remain active with the original operator unless one explicitly indicates that one also wishes to transfer them via a number transfer.

The communication in the mandates generated by the new operator also plays a crucial role. If an operator states that it will take care of terminating the services with

the previous operator without specifying exactly which products and services will be included, the telecom user will immediately presume that all products and services will be handled. The Ombudsman's Office notes that by not applying the Easy Switch procedure as standard (often still unclear or even unknown to the consumer), more complaints and similar problems arise than before the Easy Switch Royal Decree, when only telephone numbers were transferred and the fixed services remained administratively active after the transfer.

## 3. Non-processing of Easy Switch requests by the operators

*When requesting connection to Telenet, the staff member asked me whether Telenet should terminate the Proximus subscription, and I said yes. They then asked me for the switch ID number, which I gave them. Now I have received a document that says that only the telephone line has been disconnected as well as a bill that I am supposed to pay. I contacted Proximus and asked that everything be terminated. Now, this can only take effect today, instead of two weeks ago, resulting in having to pay these costs.*

Due to administrative errors at a recipient operator, it happens that requests are not always sent to the donor operator. In the example, the procedure for transfer of phone numbers was followed, but not the Easy Switch procedure. Because these are two different procedures, it still happens frequently that one of them is overlooked.

In the context of mediation, operators confirm by means of a screenshot from their system that the Easy Switch request was indeed sent through. If no response was received, the new operator often has to send repeated automated reminders. It is noteworthy that the old operator cannot always find the transfer/termination request, although the email address to which it was sent was always correct.

According to the operators, there are several reasons why requests can sometimes go awry. The Ombudsman's Office took note of the fact that, for example, there was an extra space when typing a customer number or Easy Switch ID, incorrect or outdated customer profiles were used or there was a technical problem with one of the two companies in question.

The requirement to provide both the Easy Switch ID and the customer number does not necessarily make the transfer process easier for the subscriber. Most operators use individual, long and complex numbers that are not harmonized with each other, which increases the risk of data being transferred incorrectly by the customers. It also happens that the information is not correctly submitted to the database by a shop assistant.

Both technical and human factors and the lack of a unified system, analogous to the synchronized process in number portability, therefore prevent Easy Switch from working properly. The only victim in this story is the telecom user because in first line client service, as the ombudsman's complaints show, neither of the two operators involved take any action to further investigate the matter internally. All that follows is a game of ping-pong that is of no interest to consumers. The Ombudsman's Office also observed that the problems sometimes drag on for weeks and months.



#### 4. Scarlet's new IT system threw a spanner in the works

*On 23 November 2020, I switched my fixed line, TV and internet from Scarlet to Proximus via Easy Switch. I received confirmation of this on 7 December 2020. On 24 December 2020, I phoned the Scarlet customer service. They said that there is a problem with their Easy Switch programme and that they were going to put this in an email to me, but I never received it. On 19 January 2021, I called back because I kept on receiving bills, although I always got a credit note for them. In February and the beginning of March, I phoned customer service again. They said that everything was going to be sorted. On 12 March 2021, I received an email from Scarlet saying that there were still problems with the transfer. On 10 April 2021, I received another email confirming the termination. On 16 April 2021, I received yet another bill. On 27 April 2021, I went to the pop-up Scarlet store in Deinze. The manager contacted customer service, but they said once again that they would sort everything out. For the bill of 16 April 2021, I did not receive a credit note, but on 5 May 2021 I did receive an SMS with a reminder. What steps can or should I now take?*

From November 2020 to June 2021, the Ombudsman's Office received noticeably more complaints about Scarlet (see Chapter 7). This has gone hand in hand with the switch to a new IT system which manages all interactions with their customers. That system was intended to make various improvements, but alas, the transition did not go

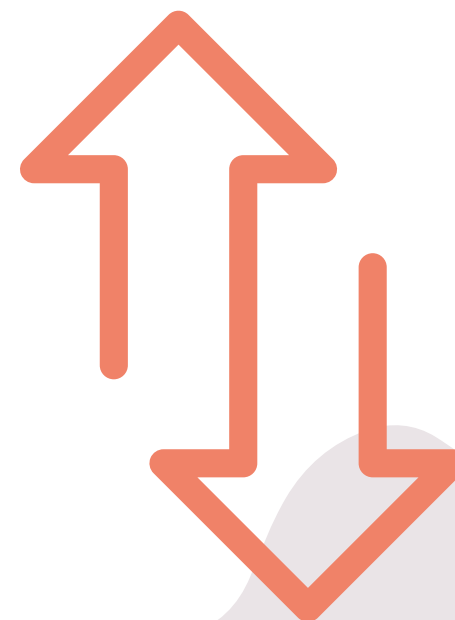
without a hitch, and also led to multiple complaints about Easy Switch (251 complaints in 2021, 79 in 2020).

### C. CONCLUSION AND RECOMMENDATIONS

The Easy Switch mandate was set up to make it even easier for telecom users to switch between operators. Despite the fact that the Easy Switch Royal Decree dates back to 2016, the Ombudsman's Office notes that this issue remains relevant and continues to give rise to hundreds of complaints each year, with a rising trend.

The complaints show that Easy Switch is still too little regarded as the standard procedure for switching operators. It is up to the operators to apply the Easy Switch system by default. After all, it is important for subscribers that the switch from one operator to another is as easy as possible. Telecom users should not experience periods of double billing. Logically, it is always the task of the new operator to proactively inform telecom users and to steer the process in the right direction.

Active follow-up by both the recipient operator and the donor operator is more necessary than ever. This task should not be shunted off to the telecom user, who does not have the necessary knowledge and tools to succeed in this task. Ultimately, the user is still too much in charge of the notice, which is contrary to the aims of Easy Switch.



# Complaints on malicious and fraudulent electronic communications

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## A. INTRODUCTION

Almost every end user is confronted with malicious and annoying, but often also fraudulent telephone calls, text messages and emails. The Ombudsman's Office is called upon by subscribers for advice about these malicious communications on an almost daily basis and handles not only hundreds of requests for investigation of malicious calls every year, but also many mediation complaints on, for example, precautionary and blocking measures to be taken by the operators. This expanding problem and the influx of complaints continued unabated in 2021. Both private and professional users have reported blatant cases, ranging from telephone threats and sexually explicit messages to fraud, whether successful or not, and stalking via one or other form of electronic communication. The victims sought help from the Ombudsman's Office and expressed their anxiety as well as their anger and frustration.

Pursuant to Article 43bis of the Act of 21 March 1991 on the reform of certain economic state-owned companies, the Ombudsman's Office is authorised both to mediate in complaints by end users against telecom operators and on the other hand to try to discover the identity of suspected perpetrators of malicious calls.

In this chapter, we will try to determine what reasons lead people to submit a complaint regarding malicious calls and whether a solution is already being offered by operators to block these unsolicited communications. Furthermore, the Ombudsman's Office will also examine the various forms of fraud that were identified in 2021.

## B. COMPLAINTS REGARDING MALICIOUS CALLS AND TEXT MESSAGES

In response to the complaints about malicious calls, an attempt is made to identify the presumed perpetrator of nuisance calls and to inform the complainant accordingly. In 2021, the Ombudsman's Office registered 2706 complaints about malicious calls and text messages. In 1157 cases, the identity of the suspected perpetrators of the malicious calls and text messages could be provided, which comes down to a success rate of 42.06%. The identification rate remains stable compared to 2020 (at 40.96%).

The reasons for submitting complaints about malicious calls and text messages differ widely. In some cases, the victim is harassed by nuisance and threatening calls in the private sphere, while in other cases it are commercial call centres or suspected phishing and fraud attempts.

Despite the fact that the Ombudsman's Office cannot determine specific numbers of malicious calls by spoofed numbers, it is plausible as indicated by some of the results that a considerable number are triggered by fake created numbers to mask the callers' true identity. Sporadically, mediation complaints are also submitted, where the subscriber's own number is spoofed and used to make malicious calls. The Ombudsman's Office states that it is technically possible to falsify a number, since telephone networks are connected to the internet. With VoIP, a caller has the possibility to freely define the telephone number sent, so that he can conceal his identity. This requires neither the consent nor the assistance or knowledge of a telecom operator.

### 1. Unwanted calls and/or text messages due to private conflicts

*This gentleman called my father to say that they were going to behead me and that they want to kill me.*

-

*In our care home, we have for some time been receiving phone calls in the evenings/nights from an unknown number. The person begins to make sexually explicit comments to our staff, which makes our staff feel uncomfortable and unsafe in these already difficult times for care staff.*

-

*I accused my ex-partner of stalking, disturbing the peace at home and battery and injuries. He did two months in prison for this. He now has conditions imposed on him. One of those conditions is that he may not contact me in any way (directly or indirectly) and he may not come within 1 km of my workplace or home. He has continued to this day to phone me anonymously. It is important for the investigation that the police, as well as myself, find out that this is his number.*

Six hundred and sixty-four (664) of the complaints identified (1157) were categorised as being related to private conflict. This means that once again in 2021, as in 2020,

just over half of the identified cases (57%) were suspected to be caused by private individuals.

Many perpetrators used secret numbers, possibly with the assumption that their identity could not be determined that way. It is remarkable that harassment of another person no longer happens exclusively via a landline or mobile phone, but increasingly also via social media channels such as WhatsApp or Facebook.

The identified suspected perpetrators in the private conflicts turned out to be mostly from the same municipality/region. The ex-partners, rejected lovers, pranksters or others acted out of personal motives. Some victims reported that there was a link between the calls or text messages and criminal offences.

The Ombudsman's Office emphasises that those who contact their fellow men by telephone and seriously affect the victim's way of life through the use of telecommunications, may be subject to criminal penalties. As we can read in the complaints, there has to be sufficient public relevance for any prosecution. If this is not the case, it often leads to victims feeling left alone in their attempts to mount a legal challenge to an all too powerful perpetrator. The telecom users affected often spoke of a terrible psychological impact, sometimes with traumatic consequences.

Aggravating circumstances (early morning or late night calls, multiple attempts on the same day, etc.), intimidation or financial loss, which often goes hand in hand with malicious calls and text messages, can also be punished, pursuant to Article 145, § 3bis of the Act of 13 June 2005 on electronic communications with a fine of €50.00 to €300.00 and with a prison sentence of 15 days to 2 years. The perpetrators are, after all, using an electronic com-

munication network, service or other electronic means of communication to cause nuisance to the complainants, (financial and/or mental) damage or at least make an attempt to do so.

## 2. Domestic and foreign call centres

### 2.1. Domestic call centres

*I have already received two calls from the number 051xxx. The communication was immediately interrupted when I answered. I see that there is now a message on my mobile phone stating 'suspected spam'.*

The phenomenon of 'cold calling' – so named because the person being called is surprised by an unknown person on the phone – is not over yet. Two hundred and twenty-seven of the complaints received in 2021 were categorized as originating from a domestic call centre. This means that in almost one in five of the identifiable cases (20%), the nuisance was caused for commercial purposes. 3% of the non-identifiable cases also had their origin in a domestic call centre according to the description of the complaints.

It is remarkable that in some cases the identified Belgian call centres are located in a different region than the geographical number used to make the call. Presumably they use the above-mentioned VoIP technique to create a phone number that cannot be called back. This category of phone calls requires the prior expressed consent of the consumer.

Some operators, such as Telenet, followed the example of the Ombudsman's Office to write to call centres if they

received multiple first-point-of-contact complaints from their customers. Orange launched an app with which customers can block unwanted calls, among other things. The Ombudsman's Office applauds such measures.

### 2.2. Foreign call centres

*I don't know anyone abroad. And they never phone for more than 30 seconds.*

Foreign call centres are also required to compare their contact list with the 'Don't call me' list when they are acting on behalf of a Belgian advertiser and phone Belgian telephone subscribers. Nevertheless, 67 of the identified requests revealed the involvement of a foreign call centre. This represents 6% of all identified perpetrators of malicious calls. Five percent of the unidentified cases were also caused by a foreign call centre, according to the complainants' description.

Interestingly, in some cases these call centres phoned with a Belgian number which made telecom users feel more inclined to take the call. The United Kingdom's major telecom operators agreed, in the second half of 2021, to automatically block almost all internet calls from abroad if they allegedly originate from British numbers.



### 3. Phishing

*I received two calls. The second call lasted two hours. The caller claimed to be a member of the European Commission. She promised me financial compensation due to the coronavirus. I was asked to give her my banking details, which I did. A large sum was withdrawn from my bank account. This was a fraudulent call.*

Within this category, the Ombudsman's Office regularly received complaints about smishing (phishing via SMS) or phishing by telephone claiming to represent banks, postal services, government bodies or telecom companies, among others.

In 2021, as part of an investigation where financial damages were sustained via phishing, a presumed perpetrator could be identified on seven occasions. In 38 complaints, the perpetrator could not be identified, but the complainant made it clear that it was about phishing resulting in loss.

On the other hand, the Ombudsman's Office was able on 63 occasions to identify the suspected perpetrator of phishing attempts that did not cause any loss. This represents 5% of all identified complaints handled in 2021 (6% in 2020).

It should be noted that determining the identity of suspected perpetrators is nearly always impossible in the case of calls originating from abroad, which applies to a large proportion of fraudulent calls. Telephone phishing claiming to be from Microsoft, among others, turns

out to be carried out using a wide range of foreign numbers. It should be mentioned that it is always possible that spoofed numbers are used. In 18% of the complaints that reported phishing without financial loss, no identification could be made. Where calls are made via mobile data or social media, identification is currently also impossible.

## C. MEDIATION COMPLAINTS CONCERNING FRAUD

For years, fraud has been one of the most significant topics in the complaints to the Ombudsman's Office. The complainants have over the years often reported their negative experience with a suspected fraudulent practice via one or other electronic means of communication. The telecom users expect from the telecom operators to take more measures in improving the safety of electronic communication. In 2019, 2020 and 2021, this concerned 512, 652 and 367 complaints respectively, with a request for blocking, of which 260 were categorised under the heading of fraud in 2021. Based on these complaints, we discuss the main issues within the fraud cases. If we take a closer look at the fraud complaints, we come to the following top 3 list of operators: Proximus 143 complaints, Telenet 142 complaints and Orange 31 complaints.

In mid-December 2021, the Belgian Chamber of Representatives voted on the draft law transposing the European Electronic Communications Code and amending various provisions on electronic communications. The new telecom law will make it possible, among other things, to screen suspicious text messages more quickly for possible fraud. The old Article 125, § 1, 4° of the Act of 13 June 2005 on electronic communications will be supplemented by two paragraphs, which read: "If the intended investigation reveals fraud, operators shall take concrete measures to combat the fraud, such as blocking the messages or replacing the URLs in the messages that

point to a fraudulent website by a warning message or a URL with a warning message.

By 1 February, the operators must file an annual report to the Institute in which they mention at least the measures they have taken in the past year to combat fraud, the effectiveness of those measures and the developments in the area of fraud."

### 1. Wangiri

*I have repeatedly received a call from various numbers abroad on my mobile phone, and even though I don't pick up, they begin to surf on my account and at my cost. I have blocked these numbers on my mobile phone but since they always use a different number, that doesn't help. I asked Telenet to block all calls from abroad to my mobile phone, but that wasn't possible. I would like them to block these calls.*

The Ombudsman's Office received 64 complaints about Wangiri fraud in 2021. This form of fraud, in which the callers attempt to get the end users to call back on expensive paid phone numbers, is not a new phenomenon and has given rise to regular complaints in recent years. The complaints show that this form of fraud is becoming even more ingenious. By contrast with 2020, ping calls were more often made from concealed numbers from larger countries where the authorities have not made sufficient efforts to call a halt to fraudulent practices carried out from their territory. It is more difficult to block countries like Algeria, Morocco or Syria because there is a risk that this will also make bonafide telephone traffic impossible. The remaining calls were made mainly from

Ascension, Eritrea, Iraq, the Maldives, the Republic of the Congo and Rwanda.

The operators cannot be criticised for not deploying resources to combat this persistent form of fraud. Based on complaints to the Ombudsman's Office, various numbers used to commit Wangiri fraud were effectively blocked for outgoing calls. The question arises whether the operators could not have imposed these blocking measures earlier, for example as a result of first line reports, and whether amounts charged as a result of such fraud could not be refunded or credited spontaneously, given that the operator in principle is the one collecting the costs resulting from criminality.

## 2. Suspicious email messages

*I just received an email from the Flemish government saying that I can receive €120.00 in the form of support for my loss of income due to the coronavirus. But the message comes from the Netherlands; it seems very suspicious to me.*

The Ombudsman's Office registered 41 complaints in 2021 about fraudulent, suspicious or at least unwanted email messages. The Ombudsman's Office wishes to emphasise that phishing emails may constitute criminal offences, such as the fraudulent abuse of a data processing system.

The operators indicated, during mediation, that they can only act if the messages are sent from an email address with their domain name. Also they mention that custom-

ers are safer if they use Gmail or Microsoft than if they use the operator's own domain. In many cases it is almost impossible for the average user to recognise whether phishing is involved or not, given the excellent quality of forgery nowadays.

## 3. Microsoft scam

*In recent weeks I have received frequent calls from the same person, claiming to be from Microsoft and that a program had to be installed on my PC.*

Microsoft scam is a form of cybercrime that has been addressed in complaints to the Ombudsman's Office since 2014. In 2021, the Ombudsman's Office still registered 35 mediation complaints from consumers who were contacted, generally on the landline, by fraudsters acting as employees of Microsoft or another computer company, as well as 51 requests regarding malicious calls. The cases handled in previous years have led to greater efforts by the operators, who responded to the complaints by blocking incoming traffic from certain numbers. However, we cannot help noting that these efforts have made little structural difference, since the fraudsters simply continue their malicious practices with another number. The measures taken by the operators in response to the complaints were solution-oriented, and the telephone traffic was better monitored in order to be able to respond more quickly by blocking specific, mostly foreign, numbers in the event of suspicious volumes of calls.

## 4. Whaling and fraud via social media apps

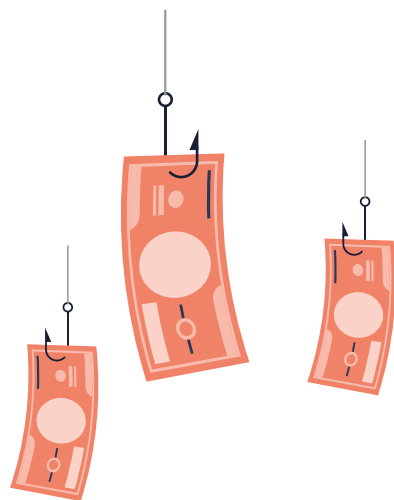
*Today I would like to report internet fraud. The situation is that I received a message on Instagram from a friend, but this appeared to have been a fake account. She sent me a message asking if I could give her my mobile phone number. After that, she said that she was taking part in a competition and would send me codes to my mobile phone, and I would then have to send the codes to her. I forwarded five codes via Instagram. I see that there are sums of money mentioned in the message (€1.51 and €24.61), but I did not enter them myself. I don't know how they wound up in the conversation. I received a message from Proximus that I was €50.00 over my limit. After that, I received a message that my M-Commerce product from Proximus was deactivated. Now I am €110.32 over my subscription costs. I went to the Proximus store, but they told me that I had to submit a complaint to the Ombudsman's Office. I have already filed a complaint with the police.*

Whaling is a form of fraud in which a swindler claims to be a person known to the complainant, often even a relative. This type of scam gave rise to 28 complaints in 2021. This type of fraud is not new. However, while this used to happen mainly by email, since 2019 and especially since the summer of 2020, we have been seeing that the fraud is taking place via social media, probably because the identity of the perpetrators is much more difficult to trace this way. This is possible because the email or social media account of the complainant's contact person was hacked, or because a profile was skilfully replicated



with, for example, the photograph and details of the acquaintance. It is also possible that the phone number or contact list of friends fell into the hands of the fraudsters. Apart from providing some information, the operators only indicated that they are completely powerless in their fight against whaling and social media fraud, much to the frustration of the complainants.

The problem is that the fraudulent messages were generated by means of an app, so they can hardly be identified by the operators, even though most complainants expected identification and blocking of the perpetrator's account/number. Until further notice, it are the companies behind the used applications to provide the necessary reporting and blocking possibilities.



## 5. Fraud in name of telecom operators

*I suspect that I have been the victim of phishing. I thought I had ordered services from Proximus. But I received a strange message regarding a late payment. €2034.00 was deducted from my account. Proximus was supposed to come and install the services today, but we did not let these two men in (usually one installer comes alone) because we didn't trust them. They were completely filthy and dishevelled, in a blue van that was a complete wreck, with a little Proximus sticker on the door of the vehicle. It just didn't seem right to us. When we asked them to identify themselves, they couldn't really show anything. They didn't even mind, and offered to come back, for example, in a month's time.*

The Ombudsman's Office counted 24 requests for mediation in 2021 where cybercriminals committed (attempted) phishing, claiming to be acting on behalf of operators. The complainants expressed their dissatisfaction with the fact that their telecom operator offered them too little protection against such fraudulent practices. The operators committed to combat the fraud phenomenon, although the Ombudsman's Office could only define that the complaints kept on coming.

The phishing messages are of high quality. On the other hand, the Ombudsman's Office also received several complaints from users who assumed that a certain communication from their telecom operator was fraud-related, while this was in fact not the case because the emails and text messages in question actually originated from these operators. There is a lot of doubt, in particu-

lar, in cases where links were provided in an SMS from third-party service providers that many users ignore for safety concerns, whereby in fact an unwanted paid subscription service is activated.

## 6. Fraud in name of public services

*Today, my wife received a suspicious SMS from the Federal Public Service Finances in Brussels. Allegedly, she owes €15.88. Threats were made with a bailiff. Can I ask Orange to do what is necessary to block the number.*

Fraud in name of a (federal) public service caused 17 complaints for reconciliation in 2021 and 16 requests about malicious calls. It is mainly the identity of the Federal Public Service Finances that is misused, but sometimes also of the Flemish government. The fraudsters sent, for example, communications about tax refunds or late payments, and used a variety of different Belgian mobile phone numbers for the purpose, making it in principle possible for the police and judicial authorities to identify and combat these forms of cybercrime.

There were also attempts to commit fraud under the pretext of corona. The operators informed the Ombudsman's Office that the numbers concerned had been blocked on their network in response to the complaints. The reality is, alas, that this does not stop the malpractices, as the offenders continue their activities by using different mobile phone numbers.

## 7. Alleged banks

*We have been experiencing phishing calls for several months now (ten/twenty daily), supposedly coming from ING Bank. In each case, we deleted the number. Today Proximus asked us by email to file a complaint with the Ombudsman's Office. Today, we were also in touch with the police in Ostend, who explained that they are familiar with this case and that they have no solution.*

*My mom became a victim of phishing by email. Via the email address info23@argenta-verbeteren.com it appears that they use Orange's mail server. I would be happy to submit a complaint about the aiding of criminal activities.*

Bank fraud caused 15 complaints to the Ombudsman's Office in 2021, as well as 18 requests about malicious calls. These cases were usually about a new security system or payment control system. Fraudsters have also been known to be so cunning as to mimic the numbers or e-mail addresses of, for example, local Argenta agencies.

Some victims were swindled out of large sums of money because the fraudsters created a panic situation and succeeded in winning over the confidence of the persons they called, who then transferred money to a so-called safe account. Telecom operators claim to be powerless against such practices, even though the fraud is carried out through their electronic communication networks.

## D. POTENTIALLY UNSAFE NETWORKS

*As a user, I would like to have the same options for a landline as for a mobile phone. I would like to be able to block numbers. And I would like to be able to block a number from abroad. We use the 'don't call me' list, but unfortunately that applies only locally. I am more than fed up with phone calls from abroad, such as the well-known calls supposedly from Microsoft staff. Since my telecom operator is not planning to do anything about it, I am turning to you with this question. Can this be discussed, as I can't imagine that I am the only one with such a remark.*

Access to telecommunication is abused by criminals. Operators respond by, among other things, providing their customers with extensive information on their website about this phenomenon. The responsibility for avoiding harm is thus shifted to the end user, who is assumed to be able, on the basis of the information provided by the operators, to recognise calls with deceptive intentions, phishing emails, fake text messages or fraudulent messages received via social media channels, and not to fall into the trap.

Phishing attempts are becoming more and more sophisticated and the calls, messages and emails received by the complainants seem more than ever to be genuine. It is therefore essential for operators to take additional measures to protect their customers in the best possible way and keep the chance of fraud to a minimum.

Blocking access to numbers or services in the case of fraud seems to the Ombudsman's Office to be absolutely essential. At the moment, this is already happening by means of intensive monitoring. The question is, how can this be done preventively. A balance must be maintained between free telephone traffic and stopping fraudulent traffic.

The new telecom law will represent a major step that will give operators new powers to better protect their customers against cyber-criminal activities. The annual report to the Belgian Institute for Postal Services and Telecommunications provided for in the telecom law, in which telecom operators report in greater detail on the measures they took in the previous year to combat fraud, the effectiveness of those measures, as well as developments in the area of fraud, should bring some comfort and provide a broader view of this ongoing problem and thus lead to better protection for all subscribers.



## E. CONCLUSION

The internet and social media have substantially changed our daily lives and communication practices. Modern information and communication technology offers advantages that no one – whether private or professional – would want to miss. At the same time, however, new active platforms and opportunities for committing crimes are opening up every year. Fraud, therefore, occurs in many forms, from Wangiri and email messages with fraudulent purposes to Microsoft scam.

Telephony and the internet make things easy for fraudsters, since many potential victims can be reached within a very short time, and there are many different ways to gain money or services with the data obtained from unsuspecting citizens.

It is not always clear to users where they can turn to in case of fraud: the operators, the police, the courts, the Belgian Institute for Postal Services and Telecommunications or Safe on Web. The Ombudsman's Office is faced with an amalgam of phenomena that cause thousands of complaints about malicious and/or fraudulent use of electronic communication.

The complaints show that fraud via electronic communication continues to flourish, despite the efforts of the operators. In order to be able to combat criminal activity effectively, the authorities and operators must try to establish a clear and up-to-date view on the constantly changing situations, the profile of the perpetrators and the way in which the crimes are committed. Swift response is crucial. But the Ombudsman's Office is still noticing, structurally as well, that both telephone and written harassment and fraud attempts seem to continue

unabated. Depending on the circumstances, this occurs over a longer or shorter period, thus making it possible for certain proactive measures to be taken to protect the operators' network and thus ultimately the end user.

The procedure for complaints about malicious calls and text messages offers victims the opportunity to obtain, often within a very short time, the identity of the suspected perpetrators in order to take further legal steps, if required. This procedure, that was initially mainly used by victims of private conflicts, is now increasingly used as a tool for identifying phishers. The Ombudsman's Office regularly succeeds, in response to complaints of fraud, in identifying the suspected perpetrators of malicious calls and text messages.

Dealing with telephone and e-mail scams in the context of mediation complaints is however a complex problem where it occurs to the Ombudsman's Office that a coordinated effort by the police, the government, the regulatory authorities and, last but not least, the telecom companies, is required.



# Structural user problems around the social tariff



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## A. INTRODUCTION

The social tariff consists of various discounts on telecom bills for users who meet certain eligibility criteria. The legal framework for this social tariff within the telecom sector is laid down by Article 74 of the Act of 13 June 2005 on electronic communications, as well as by Articles 22 and 38 of the annex to the same Act.

The eligibility criteria include factors such as age, income, family structure and health condition. The social tariff is not automatically granted to entitled telecom users. This service must be requested via the operator, who then forwards the application to the Belgian Institute for Postal Services and Telecommunications (BIPT), which, among other things, is authorised to verify the right to social tariff. When the BIPT approves an application, the consumers' operator is informed. The given reductions are threefold, but are subject to significant limitations. First, a 50% discount is granted on installation costs for a fixed telecom connection. Second, every month there is a 40% discount (with a maximum of €8.40) on the subscription fee for a fixed phone line, fixed internet or bundled telecom services. Third, there is in principle a monthly discount of a maximum of €3.10 on the cost of calls made via the landline.

Although some operators voluntarily apply the social tariff to mobile phone connections, this is not required by law. In addition, not all telecom companies are obliged to grant the discounts to beneficiaries. Only those operators that have a turnover of more than €50,000,000 have to apply the social tariff. In practice, this means that subscribers who are not with Proximus, Telenet or Base (both brand names belong to the Telenet Group), Orange, Scarlet or VOO are in fact excluded from the above-mentioned discounts. More detailed information

about the eligibility criteria, application procedure and discounts is available on [www.bipt.be](http://www.bipt.be).

In 2021, 174 telecom users contacted the Office of the Ombudsman for Telecommunications about a problem with the social tariff. In the course of 2020, when a contribution addressing this problem was included in the annual report, 167 requests for mediation were submitted for a dispute between a user and a telecom company about the social tariff. Analysing the numbers in 2021 shows that Telenet Group gave rise to the most complaints (45), ahead of Proximus (43), Scarlet (40) and Orange (33). Lastly, in 2021 six complaints against VOO were submitted to the Ombudsman's Office. Scarlet is the only operator that saw more than a doubling of the number of cases handled about the social tariff as compared to 2020 (16 complaints).

In this chapter, the Ombudsman's Office describes various structural users' issues with the social tariff; to illustrate these, it will cite one or more examples of complaints made to the Ombudsman's Office in 2021. To conclude, a few recommendations will be made in order to reduce the number of complaints and handling them properly in regard to this vulnerable group of users.

## B. ONGOING USER PROBLEMS

### 1. No automatic granting of the social tariff

*In May 2019, I phoned Scarlet for the first time to subscribe to TV, fixed telephony and internet. I said that I have the right to social tariff (+80% disability) but the staff member claimed that Scarlet does not work with social tariffs. Some time at the beginning of 2020, I found out and saw on their website that they do in fact work with social tariffs. At that time, however, I spent ten weeks in the hospital and then spent ten weeks recuperating at my mother's place, and so I missed out on the social tariff.*

From various complaints, it appears that users who in principle meet the eligibility criteria to receive the social tariff can be significantly disadvantaged because the legally defined discounts are not automatically applied. A presumably large number of consumers do not receive the social tariff at the moment, although they are certainly eligible for it. They may be unaware of this, give up because of the application procedure or are prevented, by medical or other reasons, from submitting an application for the social tariff. The above-mentioned complaint also illustrates the fact that entitled customers are not always aware if, at a certain point, their operator becomes obliged, because of an increase in turnover, to offer the social tariff. Such complaints could well be prevented if the social tariff were automatically granted to subscribers who are entitled to it.



*In February 2019, my social tariff appears to have been terminated without any justification. I now have the social tariff again, but Telenet doesn't even respond to my complaint/question about having the social tariff applied with retroactive effect. According to a conversation with BIPT, Telenet is supposed to refund me with retroactive effect. My status as more than 66% disabled, with a certificate from the Federal Public Service Social Security, has been unchanged since 1 February 2016.*

Several complaints to the Ombudsman's Office indicate that if a customer cancels certain components in his or her package, the social tariff is not always automatically transferred to the remaining telecom service(s) to which the social tariff also applies. A change to a subscription formula can also lead to the termination of the social tariff. It comes down to the fact that in such cases, the user has to resubmit and go through the application procedure again to receive the social tariff. This not only entails bureaucratic red tape, but it also increases the chance that those who are entitled to the social tariff, but are unaware of it, end up not receiving the discount on their telecom bill for a period of time. The principle of automatically granting the social tariff could be a structural remedy in these circumstances as well.



## 2. No social tariff on mobile services with certain operators

*I wish to file a complaint against Orange. I have been a customer for twelve years at least, and they are now telling me that my monthly discount of €12.00 has been cancelled and I now have to pay €28.00. Until now, I have received the discount because of my disability, approved by the Federal Public Service Social Affairs.*

Various complaints came with the decision by Orange to wind down the social tariff on mobile subscriptions and pre-paid cards. After Orange launched the Go formulas in March 2020, this operator systematically moved existing customers to these mobile phone subscriptions. From the complaints, it appears that this switch led to dropping the social tariff on the mobile phone bills of beneficiaries who previously had received a monthly discount of €12.00. Orange's stopping the social tariff on mobile services is a consequence of a decision made by the Constitutional Court on 2 February 2016, which itself was a consequence of a ruling by the European Court of Justice on 11 June 2015.

That ruling states that applying the social tariff and its financing under the terms of the directives on universal service provision apply only to the universal services themselves, which do not include mobile phones but only fixed phone and fixed internet. Orange thus followed the exam-

ple of Scarlet, which had already stopped granting the social tariff on mobile phone subscriptions. Only customers of Proximus, Telenet, Base and VOO, if they met the eligibility criteria, could still obtain the social tariff discounts in 2021.

The complaints against Orange show that this operator did not sufficiently inform its customers about the consequences that came with the switch to the new Go-formulas. This criticism had already been mentioned in the 2020 annual report, the year when some 40 complaints of this nature had been handled against Orange. Unfortunately, based on a similar number of complaints submitted in 2021, the Ombudsman's Office can only determine that Orange did not take any structural measures on behalf of a vulnerable group of users.

## 3. Problems applying for the social tariff

*Scarlet refuses to grant the social tariff to a welfare recipient. The application was submitted to our office via email.*

The Public Welfare Centre (OCMW) of Antwerp had filed an application, accompanied by a certificate, for the social tariff on behalf of one of its clients to a Scarlet email address, because the client was not able to email it personally. The OCMW received the following response from Scarlet:

*"We are sorry but we have not been able to process your application for the moment. The email*



*address to which you sent the application is not registered as an email address in our files for this customer number. What now? Send an email from the email address linked to your customer number. Or send us an email with a copy of the front of your identity card. The identity card information (surname, given name, etc.) must be the same as the data we have on file."*

Those who are entitled to the social tariff are often vulnerable users who are not always able to follow the application procedure themselves. They often ask family members and acquaintances, or OCMWs, Centres for general welfare (CAWs), mutual health insurers and civil society organisations, to help them in such circumstances. In order to ensure that the procedure runs smoothly, such institutions often opt to submit the application, along with the necessary certificates, by electronic means (email) to the operator to which the customer entitled to the social tariff subscribes. The faster the application is initiated, the greater the chance that their client will in fact see the legally mandated discounts appear on his or her telecom bill.

Based on the received complaints, the Ombudsman's Office notes that Scarlet is the only operator that automatically rejects applications for the social tariff if they are submitted with an email address that is not linked to the subscriber's own account. In this way, Scarlet raises unnecessary additional barriers for a vulnerable target group when it comes to applications for the social tariff. It is also worth noting that Scarlet only accepts applications by email, unlike other operators that usually offer options of applying by phone, post or online in addition

to the possibility of applying for the social tariff by visiting a physical point of sale.

*Both the customer and I (employee of the Sociaal Huis Ronse) have already requested the social tariff for her several times (by phone – via the contact form – by complaint) to Proximus, and she was always promised that documents would be sent, but to this day the person in question has still not received anything. The person in question is however eligible for the social tariff for telephone, but is not able to apply for it directly to the BIPT but has to go via the operator.*

The Ombudsman's Office regularly receives letters from users and intermediaries who experience great difficulty when they apply for the social tariff. Some complainants have described a lack of clear information about the procedure to be followed. Others are frustrated that their telecom operator neglects to provide them with the necessary forms to submit an application for receiving the discounts.

Every year, the Ombudsman's Office receives a number of application documents that are intended for an operator. This also illustrates the lack of clarity experienced by certain customers who are entitled to the social tariff, when it comes to the application procedure for receiving the social tariff. Such faults could probably be prevented by an automatic granting of the social tariff. The complaints also emphasise for a better first line customer service on the part of operators when they are faced with questions or complaints about the social tariff.

#### 4. The social tariff is applied late or not at all

*On 29 January 2021, I switched from Proximus to Scarlet. At the time, I asked for the social tariff to be applied, which I also had obtained from Proximus. Scarlet ultimately installed the services on 24 April. On the bill for April, no social tariff was applied. On 11 May, I received an email that the social tariff had been activated and would be applied to the next bill. However, the May bill still did not show the social tariff. On the bills for July, August and September, too, no social tariff was applied. Between the first request I made on 29/1 and today, I have phoned them several times without success. I was informed that Proximus would not give out the social tariff, that the BIPT had apparently turned down my application, and that I had to phone Proximus, and so on. I was clearly being sent from pillar to post by Scarlet.*

The sharp increase in the number of complaints against Scarlet regarding the social tariff is mainly due to a structural problem, in which the operator neglects to apply the discounts to the bills, even though they have in fact been confirmed by the BIPT. Scarlet attributes this problem to an internal IT issue.

Because of the many complaints, the Ombudsman's Office called upon Scarlet to carry out a regularisation for all customers entitled to the social tariff, regardless of whether they have submitted a complaint or not. Scarlet has not responded to this request, as a result of which there is likely to be a significant number of entitled subscribers who have unjustifiably not been given the discounts over a long period of time.

## 5. The social tariff is not applied to call charges

*I have the social tariff and receive a discount of €8.40. Proximus refuses to give me the discount on call charges of €3.10, notwithstanding the fact that this is clearly provided for by the terms and conditions for granting the social tariff.*

Customers entitled to the social tariff are in principle entitled to a monthly discount on call charges of a maximum of €3.10. If the user's call charges are lower than that amount during the period of a month, the discount is applied to the entire cost of the communications.

Occasionally, customers entitled to the social tariff contact the Ombudsman's Office when they see that they have not received any discount on their call charges and have not been offered a solution by their operator's client service. The cause of these complaints lies in the fact that some operators offer formulas in which the customer is charged a flat rate for a subscription that includes a given amount of minutes. These operators argue that the customer is receiving free phone calls and is therefore not entitled to discounts on call charges under the terms of their right to the social tariff. The Ombudsman's Office considers that this argument leads to an erosion of the social tariff. The price setting for the formulas in question is based on a combination of subscription charges and calls. As a result, operators should grant those entitled to the social tariff both the legally mandated discount on the subscription and the maximum reduction on the calls.

## 6. The social tariff is unjustifiably terminated

*On my bill of 19 May 2021, the social tariff, to which I am still entitled, was no longer applied. But there is no reason at all for this. Orange claims that the certificate of the BIPT has expired. A new certificate has to be submitted to Orange!!!*

The complainant therefore turned to the BIPT, which confirmed by email that he does indeed have a right to the social tariff. Sporadically, the mediation of the Ombudsman's Office is requested because of a dispute between a customer entitled to the social tariff and an operator, after the complainant has noticed that the discounts were no longer being applied. In the first instance, he was told that the social tariff had been terminated because of a decision of the BIPT. When the complainant then contacted the BIPT, this was contradicted. In other words, the subscriber is given contradictory information and sees no other way out than to turn to the Ombudsman's Office, if he or she doesn't give up during the dispute process. In the course of mediation, the Ombudsman's Office often learns that a billing error or IT issue at the operator is behind the problem.

## 7. Inadequate complaint options for vulnerable users

*I am tired of discussing this with Orange. I'm fed up. They keep on dragging things out until they wear you down..*

*For two months I've been applying to Telenet for the social tariff and sent them the certificate from the Federal Public Service. They keep promising, but have still not applied it. After I've been their customer for 17 years, they hung up on me when I asked when the social tariff would take effect.*

*One of my clients would like to apply for the social tariff with the provider Scarlet. But it is never clear just how this is to be done. On Scarlet's website, I can find some information about sending a web-mail, but then you have to log in. I also find it personally a very unfriendly website, since you can't phone anyone or even send an email.*

From numerous stories by complainants who request mediation from the Ombudsman's Office for a dispute about the social tariff, it seems that the telecom operators are not sufficiently customer friendly or solution-oriented in the first instance. Some of those entitled to the social tariff come up against customer services that are not easily accessible, they are given promises that are

never kept, or the customers are constantly sent from pillar to post.

Customers entitled to the social tariff are generally speaking vulnerable individuals. They are often older people with a physical disability and limited financial means. From experience, the Ombudsman's Office knows that a considerable number of them are not digitally savvy and some are even unable to submit a written complaint. However, this group of vulnerable users clearly needs easily accessible first line services, preferably available via a wide range of different channels, as well as a listening ear from employees who are specially trained to handle their issues in an efficient and customer-friendly manner. From conversations with these persons, it appears that they give up when a telephone options menu presents too high a barrier to speaking with an operator's employee. They are also often quickly discouraged if they are transferred to another service, institution or channel in order to ask their question or file their complaint.

In the United Kingdom, various telecom operators have already taken measures to meet the needs of vulnerable users for support. The British Communications Ombudsman has noted that if an operator offers such tailor-made support in first line and meets specific requests, this has a beneficial impact on the number of complaints. Concrete measures can include the customer service worker serving as the single contact person within the company, who handles the vulnerable user's question or complaint in full and personally gets back to them within a reasonable, previously announced time.

## C. CONCLUSION AND RECOMMENDATIONS

As in previous years, the Ombudsman's Office noted a significant number of complaints in 2021 that brought to light a set of structural user's problems relating to the social tariff. A number of complaints could perhaps be prevented if the social tariff were automatically granted to all subscribers who are entitled to it. This would not only make for less bureaucratic red tape for users and operators, but would also lead to greater righteousness. Automation might also put an end to complaints that indicate that those entitled to the social tariff unjustifiably lose out if they change their telecom subscription, switch to a different operator or even if they relocate.

Orange in particular continues to cause a significant number of complaints following their decision in March 2020 to gradually phase out the social tariff on mobile services. In order to reduce telecom costs, a number of customers entitled to the social tariff have opted not to acquire a broadband internet connection and to limit themselves to a mobile phone. This vulnerable group is thus disadvantaged by the fact that Orange, as a result of a ruling by the European Court of Justice, has followed the example of Scarlet and now offers the social tariff only on internet and fixed telephone subscriptions.

Scarlet itself saw a noticeable increase in the number of complaints about the social tariff in 2021, due mainly to the greater obstacles that Scarlet has put in place for applying for the legally mandated discounts, and then, after approval by the BIPT, also actually applying these discounts to the bills. The Ombudsman's Office once again calls upon Scarlet to address these structural shortcomings and to carry out a regularisation of the discounts that had not been granted to eligible subscribers, even where the latter have not submitted a complaint.

The same is true, by the way, for other operators who apparently regularly encounter billing problems, as a result of which the social tariff of some entitled customers is terminated without justification. The Ombudsman's Office also asks operators always to apply correctly the social tariff discount to phone calls, even where these costs are included in a flat rate within the subscription.

Lastly, the Ombudsman's Office would also like to encourage the operators to take measures that ensure an easily accessible, efficient and empathetic first-line response to questions or complaints by vulnerable users, many of whom are entitled to the social tariff.



# Scarlet: an excess of complaints



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## A. INTRODUCTION

Since November 2020, the Office of the Ombudsman for Telecommunications has seen a substantial increase in the number of complaints against Scarlet. This increase continued in the following months, with a peak in February 2021 (215 complaints). Since March 2021 (209 complaints), there has been a decrease in the number of complaints against Scarlet. By way of information: in 2020, 828 complaints were submitted about Scarlet, as compared to 1541 in 2021, representing an increase of 86.11%.

Alongside the large number of complaints submitted, the diversity and intractability of the problems and disruptions identified, constitute a phenomenon that the Ombudsman's Office has rarely faced. The exceptional nature of this situation justifies a more detailed look, given that the purpose is to provide an overview of the most striking events that mark the past year.

The problems thus identified will be inventoried, described and illustrated by examples. In addition, special emphasis will be placed on compliance with the legal provisions governing electronic communications and the rights of the end user. Lastly, recommendations and suggestions are given to Scarlet.

Ultimately, it is of great importance that the Ombudsman's Office finds a solution for all subscribers concerned, taking into account the legal provisions on electronic communications and on the protection of consumers and of end users more generally.

## B. VARIOUS PROBLEMS EXPERIENCED BY END USERS

### 1. Problems relating to the implementation of the Easy Switch procedure

In 2021, 251 complaints about Scarlet's application of the Easy Switch procedure were submitted to the Ombudsman's Office. For a more extensive description of this problem, please see Chapter 4 of this annual report.

### 2. Failure to process requests for termination

*I terminated my Scarlet Trio on 12/12/2020. Scarlet keeps on billing me, however, for this subscription. I have contacted their customer service countless times. Each time, I was assured that I only had to pay for my mobile phone subscription because, according to their system, I have indeed terminated my package. In the meantime, Scarlet continues to remind me that I immediately have to pay €93.18.*

In 2021, 290 complaints were formulated against Scarlet about the termination of subscriptions. The main problem in this regard is that Scarlet continues billing despite termination, which Scarlet says is due to an IT problem that already became evident since the beginning of 2021.

On the one hand, we can only regret the lack of care and professionalism on the part of Scarlet on this point, and on the other hand remind them that pursuant to Article 111/3, §

1, of the Act of 13 June 2005 on electronic communications, Scarlet must in principle terminate the service (and the billing for it) as soon as possible and send written confirmation to the subscriber that it has done so.

### 3. Late activation of fixed phone lines

*In October 2020, we switched from Proximus to Scarlet. Seven months later, we still don't have a fixed phone line! Scarlet promises a lot, and each month it sends bills for that service, but we have no fixed line. We are elderly and persons at high risk. The vaccination centre is unable to phone us. We used to have the phone number XXX, but Scarlet activated a different number.*

In 2021, dozens of complaints about late activation of landlines were submitted to the Ombudsman's Office. This is a recurring problem that dates back to November 2018, in other words more than three years ago, and is one that Scarlet evidently is unable to solve. This is all the more regrettable since the end users in question opt for Scarlet mainly because of the 'competitive' prices of this operator.

Additionally, Scarlet is for the most part unable to provide the end users in question, clear and accurate information about the date when their fixed line will be activated.

Pursuant to Article 108, § 1, b, third paragraph, of the Act of 13 June 2005 on electronic communications, every contract between a subscriber and an operator must state, among other things, the waiting period for the first connection. In each case, this period may not exceed reasonable limits. The Ombudsman's Office considers that a reasonable connection period should not exceed 30



working days. At the end of the period that has been set in this way, the subscriber can terminate the subscription at no cost and ask for a refund of the paid amounts.

In order to compensate for the delay in activating the landline, Scarlet will offer promptly to activate a new number, even where the subscriber has decided to transfer his or her fixed phone number. This practice is not appreciated by the subscribers, and it is mostly carried out without first informing them or asking for their consent.

Lastly, end users can, under Article 1147 of the Civil Code, claim compensation for the losses sustained by the delay.

#### 4. Late transfer of mobile numbers

*In October, I asked to transfer two numbers from Scarlet to Proximus. One of the numbers was transferred within two days, but the other is still blocked. Three tickets were opened and they made various promises to me. Today, I see that the number is with Proximus, but it has not been terminated with Scarlet. I spent hours on the phone trying to move forward in this matter. Scarlet answers either that everything is in order, or that everything will be taken care of. I would like to transfer the number in question to Proximus in order to be able to benefit from the prices and terms and conditions of that operator.*

In 2021, 106 complaints were submitted to the Ombudsman's Office about Scarlet and the transfer of mobile numbers, as compared to 42 in 2020. These complaints kept increasing in the past year, and were often accompanied by the above-mentioned matter of late activation of fixed lines.

In principle, the transfer of numbers must be done within one working day (Article 10, paragraph 7, of the Royal Decree of 2 July 2013 on the transferability of the numbers of subscribers to electronic communication services). In the event of late transfer of mobile and/or fixed numbers, subscribers are entitled to compensation of three euros per day for a simple transfer and five euros per day for a complex number transfer.

In practice, Scarlet very rarely provides this legal compensation, and even in the course of mediation, it has to

be reminded repeatedly by the Ombudsman's Office of the compensation guidelines in force.

#### 5. Problems applying for the social tariff

For 2021, the number of complaints against Scarlet about the social tariff was especially high in comparison with other operators. This topic is addressed more detailed in Chapter 6 of this annual report.

#### 6. Inaccessible and inefficient customer service

*I called Scarlet again to ask what is wrong. And the game began again. I received the reply: 'there is no appointment for your decoder and something has gone wrong. We have opened a case. We will call you as soon as we know more.' I think that it is time to submit a complaint about the ignorance of Scarlet employees.*

In 2021, 185 complaints were submitted to the Ombudsman's Office about Scarlet's customer service, as compared to 56 complaints in 2020.

Contrary to what Scarlet claims, these problems continue. This is shown in the monthly complaints that were registered in the last four months of 2021: 15 complaints in September, 7 in October, 10 in November and 9 in December.

The main complaints concerned both accessibility (mainly the excessive waiting times), the effectiveness of customer service, and the failure to provide an answer to the written questions of subscribers. Regarding the last point, offering an online complaint form, starting in February 2021, seems to not have reduced the amount of complaints.





Additionally, the operator is reminded to give a detailed, written answer to any written request for information regarding the duration of the contract, the cancellation conditions and the prices of all services or compensation that may be applied by the operator, or to any written complaint from an end user regarding the performance of his or her contract for the supply of networks or electronic communication services (Article 116, third paragraph, of the Act of 13 June 2005 on electronic communications).

Regarding the excessive waiting times, it is Scarlet's responsibility to offer subscribers the option to give their contact details and leave a brief message so that the helpdesk can get in touch with them.



## 7. Inaccessibility of the online customer zone

*I am no longer able to use my customer area via the application on my smartphone. I tried several times to phone the call centre on 01/02, 02/02, 09/02 and 22/02. 'We will pass your question on to the appropriate department and they will call you back'. But to this day, no solution has been found and I have not yet received a call from Scarlet. On 22/02 the online contact person finally admitted that there were computer problems.*

In the past year, dozens of complaints about the inaccessibility or the functioning of Scarlet's customer zone were submitted to the Ombudsman's Office. This is a structural problem that has been ongoing for many months.

It is important, especially in the current health crisis, for subscribers to be able to access the online platforms intended for them. These digital spaces are supposed to enable end users to contact the operator directly in the case of problems, to consult their bills, change their formulas, manage their emails, set the limits and modalities of use, specify notifications by SMS, etc.

Scarlet is thus urgently asked to ensure that these customer portals work properly.

## 8. Inaccessibility of the email address and impossibility of changing the password of an email address

*At the beginning of September, we switched from Scarlet to Proximus. Usually, we can receive our emails for 18 more months via the webmail of Scarlet. But we noticed that we could no longer send or receive any emails via this webmail. We have already contacted Scarlet several times about this. The only answer we receive is that our question has been passed on to a higher level and that we have to wait.*

This example illustrates the difficulties that some end users encounter if they wish to keep access to their old mailbox after they have terminated their subscription.

When terminating their subscription, end users can, on request, retain one of the two following facilities provided by their former internet access service, at the choice of the provider, for a period of at least eighteen months after terminating their contract:

- a) the installation of an automatic forwarding of email coming in to the existing email address(es) to a new email address to be specified by the end user;
- b) access to the email coming in to the existing email address(es) (Article 121/1 of the Act of 13 June 2005 on electronic communications).

Scarlet admits that it is still working on a solution for each complaint.

Additionally, Scarlet offers, in a limited number of complaints, compensation of 0.50 euro per day, payable until the problem is resolved. That does not, however, in any way detract from the seriousness of the situation or from the need to resolve this situation as soon as possible, since it is contrary to the aforementioned Article 121/1 and the ISPA rules.

*I have an internet subscription with Scarlet. Since the update of the Scarlet website, it is impossible for customers to change the password for their mailboxes. In these times of pandemic, hacking and phishing are unacceptable situations. In case of emergency, the password must be changed as soon as possible in order to protect data. I have been phoning and emailing Scarlet about this every month, and Scarlet always answers that it will soon be resolved. This has been going on now for six months. I want Scarlet to restore the customer portal so that customers can change their passwords online again.*

Pursuant to Article 114, § 1, of the Act of 13 June 2005 on electronic communications, Scarlet must take the appropriate technical and organisational measures to protect the security of end users and of the interconnected networks.

Therefore, the Ombudsman considers that, given the increasing number of phishing and other fraudulent prac-

tices, protection via the password is the minimum that an operator should be able to offer its subscribers.

The Ombudsman's Office urges Scarlet to take the necessary measures to ensure that its customers can change the passwords linked to their mailboxes.

### 9. Invoicing for mobile internet

*I received a bill for €209.88 for mobile internet. This is not my fault. Scarlet's modem was not working properly and did not provide Wi-Fi. I have asked for a technician.*

In 2021, 81 complaints were registered by the Ombudsman's Office relating to billing for mobile internet (Belgium).

In general, these complaints regarding data costs occur due to excessive use of mobile data, failure to receive notifications via SMS or the unavailability of an application where subscribers can follow/monitor their usage in real time.

Generally speaking, Scarlet responds positively in these cases and recalculates the charges based on fixed rates. The Ombudsman's Office can only urge Scarlet to comply with the provisions of the Royal Decree of 9 July 2013 on alert messages aimed at controlling the costs of electronic communication services.

### 10. Failure to provide a detailed bill

*It seems to me that there is a legal obligation to receive bills normally... Scarlet refuses to give me the reference for my bill so that I can check it before I pay. I am being asked, however, to pay certain sums so that I don't get a reminder, but I can't check anything.*

Despite repeated requests and mediation, Scarlet did not respond to the subscriber's request for a detailed invoice.

Pursuant to Article 110, § 2 of the Act of 13 June 2005 on electronic communications, subscribers can, upon simple request and free of charge, receive a more detailed version of the basic invoice they received.

As a result, the Ombudsman's Office can only ask Scarlet to take the necessary steps to provide all end users, upon their request, with a detailed bill that contains not only the breakdown of the billed items but also the details for each item.

## 11. Impossibility for subscribers to be informed about the most advantageous pricing formula

*I cannot check my usage on Scarlet's website. I was told that this is not possible at the moment because of the coronavirus and because there is unlimited internet. But it would enable me to determine which flat rate is suited to me. Especially since they charge activation costs for everything.*

Pursuant to Article 110, § 4, first paragraph of the Act of 13 June 2005 on electronic communications, Scarlet is required to inform its subscribers at least once a year (with a maximum of 5 numbers) on their invoice of the most advantageous tariff plan for them, in the light of their usage habits.

Scarlet admits that at the moment it does not fulfil the legal obligations referred to in Article 110, § 4. This is a fundamental shortcoming that infringes the rights and interests of the end users and must be remedied as soon as possible.

## 12. Long-standing malfunctions

*Since 4 December 2020, our fixed line has not been working. According to Scarlet, the reason for this is a system update. The problem has not yet been resolved due to a staff shortage between Christmas and New Year. That was now almost three months ago!*

-

*We have already been two months without TV, internet or fixed telephone, with no explanation. Why don't they send a technician? When will a solution be found?*

-

*Since 22 December, we have been unable to send or receive any emails. We began to phone Scarlet regularly two days later, but we have not made any progress. But last week, on 11 February, we were promised yet again that everything would be fixed within a few days. But when I phoned them back yesterday, they told me that it was not yet ready and that I should call back next week. As we feared.*

In 2021, the Ombudsman's Office registered 293 complaints from Scarlet subscribers because of malfunctions/interruptions of their telecommunication services.

These malfunctions/interruptions usually last several

months without Scarlet being able to find an effective solution in a reasonable time, even though subscribers are even more dependent on these communication tools during the pandemic. They have been given no estimates or information about when the malfunction will be resolved. Additionally, many complainants indicate that they were given false promises and that Scarlet was constantly invoking different reasons for the ongoing malfunctions, which mainly affected fixed telecom services.

A better and true effort to address the malfunctions mentioned, in particular by the technical and first-line services, is more than desirable. Clear and detailed information to subscribers as regards the length of time it will take to resolve the malfunctions is also more than necessary.

## 13. Request for compensation

*They keep on making new appointments and then cancelling them the day before. Just great, given that my husband and I both work full time. We have already taken four days off to be home to let Scarlet in. We also want to receive compensation for the call charges that we have with another mobile phone line (Mobile Vikings) in order to contact Scarlet time and again.*

The various structural and ongoing problems with Scarlet have led end users to claim compensation for the inconvenience.

There are many and varied causes for the complainants' dissatisfaction. The negative consequences of the



long-standing unavailability of the telecommunication service(s), having to take days off and then the Scarlet technician doesn't show up, trying unsuccessfully to contact Scarlet's customer service, use of alternatives such as mobile internet instead of the fixed internet connection, all contribute to the annoyance and dissatisfaction of the subscribers and justify the claims for compensation and reimbursement.

Initially, Scarlet replied either by refusing or denying the claim or by offering compensation that the complainant deems insufficient. Scarlet generally does not offer satisfactory compensation in mediation, and often limits itself to crediting the equivalent of the subscription fee for the period of unavailability.

#### 14. Impossibility of taking over services except in case of death

*My mother and I are subscribers of Scarlet and have a trio pack. I wish to move to my mother's address, and she is terminating her pack. I explain to them that my mother also has a trio pack at this address. I phoned Scarlet to make sure that the notice of the move had been submitted. I was told that my notice of the move could only be submitted once my mother's termination takes effect! I will automatically have two, three or even four WEEKS without service! I work from home and have children who also need Wi-Fi (2 children in high school – every other week remote learning and 1 child in grade 5).*

During the mediation in the above complaint, the complainant cancelled the first notice of his move and wished to take over the subscription that had originally been in his mother's name. In response to this request, Scarlet explained that it was impossible to agree to this request. Transfer and change of contact details are only permitted in case of decease.

This restriction is surprising, given that this is not the case with other operators. Additionally, it should be possible for Scarlet subscribers to transfer their subscription, possibly under certain conditions to be determined.

#### C. CONCLUSION

The structural problems at Scarlet and ongoing malfunctions considerably infringe the rights and interests of its end users. They also constitute serious and repeated breaches of the Act of 13 June 2005 on electronic communications. According to the statements by Scarlet, the malfunctions are largely due to shortcomings in its IT and digital infrastructure, which is a disgrace for a company that is supposed to offer telecommunication and electronic communication services.

All too often, Scarlet claims that the problems are under control, but unfortunately the last few months of 2021 show that there are still many issues and the solutions are to be awaited. As a service provider, Scarlet is responsible for meeting its contractual obligations and for demonstrating professionalism and care.

# Electronic billing: a growing phenomenon



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## A. INTRODUCTION

The invoice is a key element in the relationship between subscriber/operator/supplier of electronic communication services. On one side, the invoice is the most important tool for providing a series of data that are laid down by law in the Act of 13 June 2005 on electronic communications. On the other side, the invoice offers each end user the possibility to check that the provided services and amounts were correct and, if necessary, to dispute them. As a result, how the bills are sent, is of great importance. Every shortcoming in this matter can be a source of disputes, mainly financial in nature.

In 2020, 75 complaints about electronic billing were submitted to the Office of the Ombudsman for Telecommunications. The breakdown by operator was as follows: Proximus (37 complaints), Telenet (25 complaints), Orange (7 complaints), Scarlet (3 complaints) and VOO (3 complaints).

In 2021, 131 complaints about electronic billing were registered with the Ombudsman's Office. The operators involved in this issue are Telenet (73 complaints), Proximus (45 complaints), Scarlet (7), Orange (6), VOO (2) and Youfone (1 complaint). In comparison with all the operators involved, Telenet had the highest number of complaints in this category during the past two years, namely about a hundred.

Electronic billing is becoming ever more popular in the telecom sector. For example, in 2021 Telenet launched a new formula called Telenet One (Up). One of the features of this formula is that electronic billing is replacing paper bills altogether. At the same time, the new operators Youfone and HEY! are also seeking to issue solely electronic

invoices. In this way, they wish to be 100% digital and thus reduce their environmental footprint.

This trend towards e-billing seems unstoppable and is strongly on the rise. There are many reasons for this: protecting the environment, reducing operating costs or adapting our practices and habits as a result of the current health crisis.

*I have been a customer of Telenet for many years and always pay my bills on time! For the last two months I have no longer been receiving my invoice by post. As an 85-year-old, I have no access to the internet, but I do keep an eye on my payments!*

This example perfectly illustrates the challenge that digital technology still presents to many vulnerable people, especially older people. They often struggle with digital illiteracy and a digital gap in a rapidly changing technological society. As a result, the switch to electronic billing requires assistance for certain categories of users who are vulnerable or at least are unfamiliar with new technologies. This assistance consists, notably, in prior, complete and transparent information, and of actions by the operators and other providers of electronic communication services for digital inclusion.

These are the points that are addressed in this article. First, based on complaints, the general problems and implications of electronic billing are set out. Secondly, the analysis will focus more specifically on complaints after the launch of Telenet One (Up) and the imposition of digital billing by Telenet.

## B. PROBLEMS AND IMPLICATIONS IN INTRODUCING ELECTRONIC BILLING

*Since July 2021, I have been having problems with my Proximus bills and with customer service and the technical service. I have been a customer of Proximus for many years and always pay my bills on time. Since July, I have been asking Proximus to send my bills by post. That was the case until June of this year. In July 2021, I asked for another, cheaper package (Pickx flat rate with booster included). Since then, Proximus has always sent me an SMS with a sum of money to be paid. I do not agree with this way of doing things. The amounts to be paid keep on changing. I have phoned at least 7 times and they always promise that they will rectify the situation, but nothing ever happens.*

The switch to electronic billing has caused a number of difficulties and problems for a considerable number of subscribers. These are of a financial and administrative nature, and show that the operators need to fundamentally change their approach in this regard.



## 1. Lack of prior information

*Suddenly, Telenet began sending invoices by email, without any prior information. These bills are sent to me via an email address that I have never had or used. I do not wish to have to pay for the reminder costs that Telenet is currently charging me. It was, after all, due to an error by Telenet, not by me. I have always paid my bills on time until I stopped receiving my bills by post. If Telenet decides no longer to send postal invoices but by email, then the persons concerned must be informed in advance!*

In general, the activation of digital invoicing comes as a surprise when the subscription is changed or if the subscriber signs up for an option. Failure to provide prior information has financial consequences. In many cases, the subscribers concerned do not even know that they have received one or more electronic bills, and are suddenly faced with reminder fees, a notice that they will be downgraded to a minimum service or even an order to pay from a bailiff or debt collection agency if the reminder letters are also sent electronically.

Therefore, it is important that the operators devote particular attention to informing subscribers and actually help them in the adopting of e-billing. Specifically, this means that subscribers should be informed individually that the operator wishes to switch to digital billing. The information in question must also contain sufficient details about how they can continue to access their accounts.

In this regard, the affiliation of the operators to the e-invoicing code of conduct of 1 December 2012 is particularly important. The purpose of this code of conduct is to promote the use of electronic billing and imposes certain obligations on the suppliers/operators who sign up to the code. A supplier that decides to change the way it bills is therefore obliged to inform its customers at least twice (via all usual channels) before the switch, and to provide them with the necessary information on how to use the new digital communications (user's guide, free assistance, etc.).

Lastly, where a consumer opts for or declines electronic billing, he or she will immediately receive a confirmation of that choice. The confirmation should clearly indicate in concrete terms the consequences of this choice and how the consumer can change that choice.

## 2. Failure to comply with the free choice of the subscriber

*I asked to receive my monthly bill by post. Telenet said that that was impossible. I can fill out a web form to this end, but that would be automatically converted into a digital message. Is this legal?*

In accordance with the principle that agreements are binding (Article 1134 of the Civil Code), the switch to electronic billing must be based on an agreement between the co-contracting parties and may not result from the unilateral will of the operator. In other words: the consent of the subscriber is required for any change in billing.

On this point, the aforementioned code of conduct imposes on operators the obligation to respect the wishes of the consumer, who is free to choose the form of billing (electronic/paper), regardless of the services or products being charged for and regardless of the chosen means of payment. Additionally, the subscriber may change his or her choice at any time by all the usual channels of communication with the supplier (by letter, phone, email, website, etc.), without prior notification and at no cost.



### 3. Billing for reminder costs or duplicate costs

*Telenet no longer wants to send out paper bills, and I keep getting a reminder on my mobile phone that I have outstanding payments. I have been billed ten extra euros because of late payment. I have already phoned Telenet several times but they don't want to do anything about it. As a result, I now have to pay ten extra euros each month. I am really not happy about this.*

The switch to digital billing requires a period of adjustment and a change in practices. That is why it is desirable for operators to show customers some flexibility and understanding, during the first months after introducing electronic billing, in case of forgotten or late payment, by (for instance) not automatically charging reminder fees. This approach is in line with the e-invoicing code of conduct, which stipulates that suppliers may not impose penalties during the transition period for late payment if the first invoice is not paid.

Lastly, we would like to emphasise again that pursuant to Article 119, § 2, second paragraph of the Act of 13 June 2005 on electronic communications, the first written reminder is in principle free of charge.

*This is the second time that Orange has sent me my bill by email instead of by letter. I asked them for a duplicate copy, but I had to pay €5.00 for it.*

In addition to reminder fees, subscribers who request a copy of their non-received, digital invoice are usually also charged an administration cost.

These duplicates should be issued free of charge in order to make the necessary adaptations to digital accounts and in application of the principle of free (specified) billing as referred to in Article 110, § 2 and § 3, of the Act of 13 June 2005 on electronic communications.

### 4. Inaccessibility of the electronic invoice due to the operator

*At the beginning of December 2019, I noticed that I no longer had access to MyProximus. Every month, I received an email message that the bill was available and so I looked at it on MyProximus. But access to my customer area has been blocked without reason. I tried to completely reset access to MyProximus, but without success. Therefore, they switched over to sending the bills by post, but the documents arrived so randomly that I have gone back to electronic billing. Since then, I have been paying my bills without being able to see them, which means that the amount was recently increased without me knowing the reason.*

This example shows once again that operators which opt for e-billing must provide clear and detailed information about the way in which their customers can view, consult, store and archive their bills. This information is essential, of course, to enable subscribers to monitor their bills and to dispute them if necessary.

In the same vein, it is important to ensure that the various digital communication channels, and in particular the online customer zones, work properly.

### 5. Special situation for the elderly

*My mother (91 years old) has a subscription with Proximus for fixed and mobile telephony. The payments are made by direct debit. She is no longer receiving bills and so cannot check anything. The last bill she received was in February, for the month of January. She does not have a PC and never asked to stop receiving paper bills.*

For many older users who struggle with a digital gap or who are digitally illiterate, the switch and adjustment to digital billing is a real challenge. Not only does this category of end users generally have little or no knowledge of the new technologies, but they generally also do not have suitable devices or support. Assistance for these older users is therefore particularly important and requires operators to take actions for and make commitments to the digital inclusion.

The Belgian charter of 14 September 2021 for digital inclusion fits with this ambition. The signatory companies commit to make digital technologies accessible for everyone, regardless of physical ability, economic background, cultural origin, education or age.

The e-invoicing code of conduct goes one step further and limits electronic billing to customers who have the necessary technical means (e.g. use of an email address).

In the context of mediation, operators usually show understanding for older users and afterwards they finally agree to send their invoices by post.

Lastly, certain particular circumstances, such as medical conditions, may also justify setting up or continuing to send paper bills.



## C. TELENET IMPOSING ELECTRONIC BILLING

### 1. Context

*After switching from a Wigo Home subscription to the One formula, I received an email with the message that I would be receiving my bills by email, which I don't want. I want to keep on receiving my bills on paper at no cost. Telenet told me that it was impossible to change this. This is how it is, period. I want to receive my monthly paper bills as before, and without extra costs; they simply have to follow the Belgian law.*

At the end of April 2021, Telenet launched its new Telenet One (Plus) packages, for which only electronic billing is possible.

In principle, this is allowed. There is no current legal provision that explicitly guarantees subscribers' right to opt for paper or digital bills or that forbids operators from imposing electronic billing on subscribers.

### 2. Article VI.83, 33° of the Code of Economic Law

Article VI.83, 33° of the Code of Economic Law reads as follows: "In contracts concluded between a company and a consumer, any terms and conditions or combinations of terms and conditions intended to increase the price of a product because of the consumer's refusal to receive bills by email shall in all cases be unlawful."

As regards the imposition of e-invoicing as provided for in the Telenet One (Up) formula, Article VI.83, 33° of the

Code of Economic Law does not apply.

On one side, the above article has to do with a price increase. However, in this case it is not an increase, but a change in the form and the way of communicating the invoices, which consists mainly of the abolition of paper invoices.

On the other side, Article VI.83, 33° of the Code of Economic Law refers to a product. In this case, however, the services concerned are electronic communications services, which give rise to periodic invoicing.

### 3. Act of 13 June 2005 on electronic communications: Article 108, § 2, 1st paragraph, unilateral change in contractual terms

Article 8.2 of the general terms and conditions of Telenet stipulates that the bills will be sent or made available to the email address, billing address or online banking address indicated by the subscriber.

The special terms and conditions of Telenet One and One Up (Article 1.2) provide that the subscriber shall receive a digital statement (no invoice) on which all the services included in One (Up) are listed.

Given that this is a change in the way bills are communicated, and in accordance with the principle of the hierarchy of standards, these contractual provisions may not be contrary to Article 108, § 2, first paragraph, of the Act of 13 June 2005 on electronic communications. By way of reminder, and in accordance with the aforementioned Article 108; when subscribers are informed about a proposed change in a term of the contract that has been signed, the subscribers are entitled to terminate the contract without penalty. The subscribers must be, individually, well informed in due time and at least one month in

advance about such changes and at the same time must be notified of their right to terminate the contract without penalty if they do not accept the new terms and conditions; they must do so at the latest on the final day of the month following the changes taking affect.

In other words, contractual provisions may not be used to circumvent the legal obligations and formalities that are laid down in the Act of 13 June 2005 on electronic communications.

## D. CONCLUSION

Electronic billing is very much on the rise. It offers a series of advantages, both financial and economic as well for the environment. Minding the digital gap that already exists and the impact that such a change can have on some vulnerable users, the introduction of digital billing requires a period of assistance and transition for these vulnerable users. Additionally, the imposing of electronic billing must be done in good faith and taking into account the legal provisions on electronic communications.





# Pitfalls of unlimited offers



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## A. INTRODUCTION

Operators active on the Belgian telecommunications market have so-called unlimited offers. Examples are the 'Mobilus Unlimited' subscription offered by Proximus, certain 'One' subscriptions at Telenet, certain 'Go' subscriptions offered by Orange or the 'Loco' subscription at Scarlet.

The general terms and conditions relating to these sorts of offers often contain restrictions that are not really compatible with terms such as 'unlimited' or 'unrestricted'. The offers do, actually, have limits and restrictions. In particular, a significant deceleration is provided when a certain volume of internet usage is exceeded, in order, according to the operators, to prevent network overload and inconvenience for other users. End users also risk additional charges if they exceed the number of text messages and/or minutes of calls included in their package. This problem takes a different dimension when that overconsumption is caused by imposed precautionary measures such as mandatory quarantine, teleworking or remote learning to combat the Covid-19 pandemic, and one is dependent on well-functioning services at home. The adjective 'unlimited' is more like an advertising slogan, the legitimacy of which is subject to criticism and question marks.

In 2021, the Ombudsman's Office received a few dozen complaints from users whose connection was slowed down due to exceeding the permitted volume, or from complainants who experienced additional costs due to excessive use of text messaging or telephony. More particularly, 17 Proximus customers, 15 Orange customers and 12 Telenet customers, as well as complainants who were subscribers with a smaller operator, such as Scarlet or Unleashed, contacted the Ombudsman's Office because they thought they had subscribed to an 'unlimited' service.

In Chapter 11 of the annual report for 2019, the Ombudsman's Office discussed this user's problem for the first time. In this article, we will analyse the complaints from 2021, distinguishing between excessive use of fixed or mobile internet on one side, and of inordinate use of text messages and calls on the other; in each case, under the terms of an unlimited offer.

## B. UNLIMITED FIXED AND MOBILE DATA AND FAIR USE POLICY

Operators are legally obliged to provide their potential, new or existing customers with all the information on the most important details of their tariff plan and its limitations. This obligation to provide information applies to all documents used in the pre-contractual phase, in the agreement (Article 108, § 1 and Article 111, § 1, 2° of the Act of 13 June 2005 on electronic communications) and to the websites. The structural problems highlighted in complaints to the Ombudsman's Office about tariff plans with an unlimited offer, are the reduction in internet speed, which leads to a disadvantage for users, as well as the lack of transparency, which makes complainants feel misled by their operator.

### 1. Fixed internet subscriptions

*It seems that if I use the internet too much, I am switched to low speed during peak hours (this can be found, if you look hard enough, on the website of Telenet). Now I am paying over and above my already astronomical bills an extra €15.00 each month for extra high speed, but they don't give that to me if I supposedly have downloaded too much.*

-

*I have tried to send this complaint in the past, but unfortunately that did not work because of the very low speed; that is how bad it is. I do not wish to be moved to a lower speed, or at the very least not be charged the €15.00 for the days when I am moved to low speed.*

Just about all operators have now adopted a Fair Use Policy (FUP) for their fixed internet products. In its consultation document of 17 September 2021, on draft Guidelines of the Belgian Institute for Postal Services and Telecommunications (BIPT) on the offering of unlimited internet, the BIPT states that in the study among the operators that offer internet access services, it found only one whose data volume was truly unlimited.

The consequence of the FUP is that if a telecom user exceeds a certain volume of usage, the speed of the service is considerably reduced. According to the operators, this practice is intended to prevent network overload and in-



convenience to other users. According to the mentioned Telenet example, the internet speed falls during peak hours to 10 Mbps downstream and 1 Mbps upstream until the end of the billing period.

The causes of this excess usage may be fanatic online gaming or streaming long series or films – the so-called binge watching. The definition of intensive user of fixed internet hereby varies from one operator to another, according to the tariff plan one has concluded with them.

In order to avoid such situations, the telecom user is in principle protected by the vendor's obligation to provide information during the pre-contractual phase of the contract. The Ombudsman's Office declares restrictive measures, often described as "fair use policy", as undue disadvantage and unlawful if the product names, data sheets and/or webpages simply refer to unlimited data usage. We can speak of misleading marketing practices within the meaning of Article VI.97 of the Code of Economic Law (CEL) if the description of the unlimited offer leaves the average consumer in any way deceived or likely to be deceived.

The Ombudsman's Office notes that the information on fixed internet services and the usage limits is available and accessible. The complaints reveal, however, that operators often fail to ensure that the restrictions on the "unlimited" offer are effectively brought to the attention of subscribers before they enter into a contract. In the case of a mere retroactive reference to the applicable webpages or general terms and conditions, once the contract has been concluded, is a failure to meet the legal requirement for transparency. During the pre-contractual phase, it is the responsibility of the operator/supplier of electronic communication services to inform the subscribers correctly and comprehensively, in particular

about the features of the services offered, including the limits and other related restrictions (Article VI.2 and VI.3 CEL).

This seems easier said than done. Practically, the telecom user must consult the special terms and conditions of the subscription in order to find out that unlimited use at Proximus only applies to personal and normal use. In order to know what is personal and normal use, one has to read the general terms and conditions. Additionally, not every end user is aware of an option offered by the operator to increase the included volume.

At Orange, you can find at the bottom of the webpage with unlimited subscription services various standard questions, but they do not contain any detailed information. The specific answers can only be found if one browses through these questions and clicks several times through to the next webpage, which provides additional explanations of the limits of the subscription formula chosen.

Scarlet nuances the notion of 'unlimited' with a footnote at the very bottom of the webpage where you click to open the general terms and conditions. Information is given about additional paid options that can be chosen to keep one's surfing speed.

At Telenet, it should be known that on the third webpage you need to click on the title 'disclaimer' in order to learn that in the case of intensive use during peak hours, the internet speed may be temporarily limited, which does not imply automatically happening. Only in the event that a person has a tariff plan with limited internet volume one can order extra volume for additional payment. The complainant from the example could continue to enjoy normal internet use (surfing, online banking, video calls)

during off-peak hours or structurally switch to another subscription that better suited his needs. The latter seems to the Ombudsman's Office a drastic measure if someone only occasionally exceeds the limit.

## 2. Mobile internet subscriptions

*I took an unlimited Orange subscription in order to have unlimited data. An advisor recommended this to me by phone. I have just noticed, however, that the data are limited to 30 GB when using 4G. And that additional use is limited in speed as a result of which you cannot stream.*



Almost every operator also has a Fair Use Policy for mobile internet services. The limits depend on the chosen tariff plan, the number of mobile numbers that are linked to the subscription, the operator involved and whether one is in Belgium, in the EU zone (whereby it is often unclear which countries are included) or outside the EU zone. Although the advertised 'unlimited use' is clarified in footnotes/asterisks or general terms and conditions, yet gathering this all-important information requires effort and perseverance on the part of the end user.

The above mentioned example shows that operators do not always point out the limitations in a clear and prominent manner before ordering the offered tariff plan.

If one exceeds the included mobile volume domestically, the speed is limited, just as it is with fixed internet subscriptions, until the beginning of the next billing period. Users should be careful with data SIM cards for tablets, since this use is also deducted from the mobile data included.

If one exceeds one's limit while in the European Economic Area, all operators allow the user to continue surfing at normal speed at a maximum of €3.00 per gigabyte for data (in 2021). 'Roam like at home' means that the legislators presuppose that consumers will make fair use of the roaming service. The exact volume included depends on the price that the end user pays for the mobile bundle, and is different from the volume included domestically. It must be at least double the volume received for the price of the mobile bundle (excluding VAT), to be divided by the maximum wholesale price (€3.00 per gigabyte in 2021). Several complainants told the Ombudsman's Office that they were not informed of these provisions.

## C. EXTRA COSTS DESPITE FLAT-RATE OPTIONS

*Orange sells mobile phone subscriptions to private individuals by announcing «unlimited text messages» in its contracts and advertisements. I found, however, that the general terms and conditions limit the use of text messages to 10,000 SMS/MMS per month and to 250 different correspondents per month. I think that this is false advertising and must stop immediately.*

-

*I was charged amounts by Proximus that did not apply, such as charges for mobile calls within Belgium, although the subscription includes unlimited calls.*

A flat-rate fee is to be regarded as a fee which allows the user to make unlimited use of the telephone and text message services offered. Operators naturally advertise their services in a commercial manner, but this must be done in such a way that the end user is always adequately informed. If one wants to limit the number of text messages offered, or only allow unlimited calls at a fixed rate to all landlines in Belgium, this must be indicated explicitly and clearly in the contract. A provision in the general terms and conditions is insufficient.

## D. CONCLUSION AND RECOMMENDATIONS

The statements 'unlimited surfing', 'unlimited calls', 'unlimited text messages', etc. are so-called eye-catching advertisements. If this could lead to a misconception, clarification is required by means of a clear description. Holding back essential terms and conditions regarding existing limitations is experienced by the complainants as misleading, and led to surprises when suddenly the surfing speed slowed down significantly after having used a certain volume or additional costs were charged. It is important that during the pre-contractual phase, in accordance with the obligation to provide information that is imposed on each operator, the subscriber is informed of the limits and restrictions on the offer being proposed. The Ombudsman's Office considers that one can only speak of a transparent commercial practice if the end user can make a comprehensive, informed and reasoned choice as to whether or not to take up a particular offer.

The Ombudsman's Office therefore recommends that active Belgian operators no longer use the qualification 'unlimited' or 'unrestricted' to designate offers that are in fact subject to limits and restrictions, whether in terms of gigabytes or terabytes, or number of minutes for calling or text messages.

Additionally, in times of the ongoing Covid-19 pandemic, the Ombudsman's Office considers that internet access at home cannot, under any circumstances, be effectively blocked.

# Refusal to sell



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## A. INTRODUCTION

*I went to an Orange telephone store. After waiting for 45 minutes, it turned out that I was on a blacklist and so could not obtain a subscription. I was wrongly considered and treated as a risky customer. I don't have the financial means to hire a lawyer. What can I do to get taken off that list?*

Refusal of sales means that a trader refuses to provide goods or services despite being asked to do so by a consumer or another trader. The above-mentioned reason is no exception.

In 2021, the Office of the Ombudsman for Telecommunications registered 73 complaints from people who had been excluded from a subscription (mobile phone, internet, fixed telephony), mainly because of an (alleged) debt with one or more operators. The main operators in question are, in decreasing order: Proximus (30 complaints), Orange (23 complaints), Telenet (21 complaints) and VOO (4 complaints). By way of information; in 2020, 71 complaints about this problem were submitted to the Ombudsman's Office.

Refusing to sell is one of the main foundations in the law of obligations and contracts. According to the principle of contractual freedom, everyone is free to conclude a contract or not to do so, and to choose their co-contractor. This principle also applies, of course, to operators and other providers of electronic communication services.

The principle of contractual freedom has to some extent been undermined over time, given that the legislator has intervened in certain economic sectors by imposing the concluding of contracts on private individuals or companies, resulting in criminal penalties in the event of breaches of these directives. Examples of this are the requirement that all drivers have vehicle insurance, or the requirement for all employers to have insurance that covers the risks of workplace accidents.

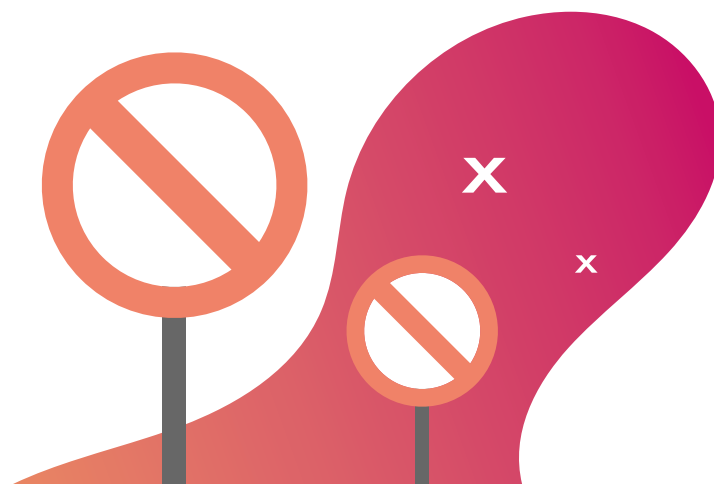
Telecommunications play a central role in our daily lives and are as indispensable as water, electricity or gas. Because of the ongoing pandemic measures, electronic communication services have become essential for the smooth running of society.

Digital inclusion is a real social challenge. In mediation, the issue essentially comes down to finding a fair balance between freedom of contract and preventing insolvency on one side, and on the other side access to electronic communication services for everyone in a context of increasing digitisation.

In this context, we may question whether the principle of contractual freedom should be strictly and completely applied to electronic communication services. Can an operator, under the pretext of contractual freedom, refuse to activate a particular subscription for an end user, sometimes almost arbitrarily and without necessarily clearly stating the reason(s) for the refusal? By the same logic, we can ask ourselves whether an operator can terminate a subscription from one day to the next without any objective or identifiable reason? What legal recourse does an end user have in such a case?

At the same time, providers of electronic communication services, like any other creditor, want to protect themselves from all risks of insolvency or even over-indebtedness of potential subscribers. Some analyses show that non-payment of telecom bills is one of the first indicators that there is a degree of indebtedness.

In this article, based on complaints, we discuss various forms or causes of the refusal of sale that are specific to the telecommunication sector, as well as the resulting problems to such refusal. Additionally, a number of recommendations are formulated for operators and providers of electronic communication services.





## B. VARIOUS FORMS OF SALE DENIAL DUE TO INSOLVENCY

In the telecom sector, cases of sale denial are generally the result of a proved or assumed risk of insolvency or financial vulnerability on the part of the subscriber. Such refusals are often linked to a thorny situation in which the subscriber finds him- or herself (bankruptcy, collective debt settlement, unpaid or expired bills, etc.) and can be divided into two categories: issues prior to the request for a subscription and issues in the course of the contract. The first category is by far the largest.

### 1. Refusal of sale when requesting a subscription: various problems noted

#### 1.1. Lack of information

*Orange has turned me down as a customer. I would like to have more information about this*

-

*I cannot obtain any services in my name because I apparently have a debt and a dossier with a bailiff. I cannot obtain any details about this debt.*

The aforementioned complaints indicate that the subscribers in question are unaware of the precise reasons for the refusal. This lack of information may have serious consequences and lead to a situation where those affected are deprived of any means of communication other than increasingly limited prepaid offers.

It is important that operators are transparent and communicate all the reasons for the sales refusal from the beginning. That is a basic requirement, otherwise the refusal is arbitrary.

Such complaints have, however, mostly been successfully resolved via mediation. Practically, the operator adjusts the file without giving the reasons for the initial refusal, and asks the complainant to submit a new subscription request.

#### 1.2. Collective debt settlement

##### 1.2.1. Preservation of the debt

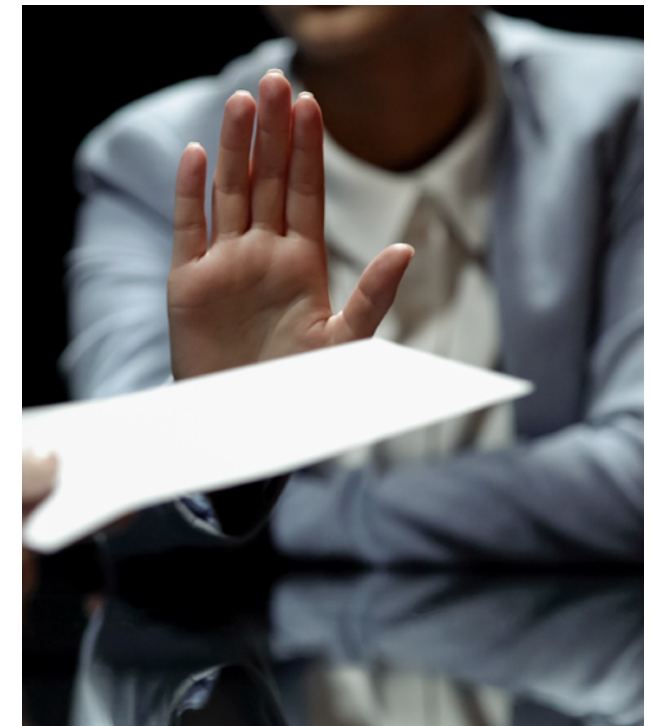
*My client spent some time with us in a shelter and will now be going to live alone with her children. She is currently in a collective debt settlement process. However, she cannot enter into a contract with a telecommunications company because she has an unpaid debt to the telecom company and is on the blacklist for all telecom companies*

By way of reminder; collective debt settlement is a judicial procedure that aims to restore the debtor's financial situation so as to enable him, as far as possible, to pay off the debts and, at the same time, ensure that he and his family can continue to live in dignity. Today, this dignity necessarily implies access to telecommunication services and electronic communication services.

In the case of collective debt settlement, existing debts with an operator are in principle settled or will be set-

tled in accordance with the provisions laid down by the Labour Court (payment or cancellation of debts).

Within such judicially established arrangements, the strict and absolute application of contractual freedom and the resulting sale refusal by operators seems difficult to justify. Practically, operators agree to provide a subscription in exchange for either the payment of the outstanding balance, the agreement of the debt mediator or the payment of an advance that exceeds the financial capability of the subscribers concerned significantly.



### 1.2.2. Creditworthiness lists

Ultimately, each operator has, since the dissolution of the Preventel non-profit association in 2010, its own list, with the risk of some subscribers piling up unpaid bills at different telecommunications companies.

*Proximus wrongfully has my name on the blacklist. I am in a collective debt settlement process, and Proximus has not submitted its statement of debt claim. The judge removed them from the procedure, but the creditor refuses to close the file and remove my name from the blacklist. I am on a blacklist and have no access to telecom services from another operator. Proximus is asking me to pay the outstanding amount. I would like Proximus to comply with the official authorization of the collective debt settlement, close this file and remove me from the blacklist.*

The complaints submitted to the Ombudsman's Office relate to lists kept by the operators. The content and formulation of the data on these lists remain non-transparent and unclear. In all probability these lists contain personal data about subscribers for whom a collective debt settlement has been or is in the process of being initiated.

From the complaints, it also seems that it is difficult for subscribers to be removed from these lists.

Maintaining these lists and processing the data they contain falls, in principle, within the GDPR (General Data Protection Regulation). It follows from that regulation that operators must guarantee a certain number of rights to

subscribers and end users, which include the right of access, rectification and erasure.

### 1.3. Expired invoices

*I cannot open a subscription with BASE for my 10-year-old son because apparently there is still an amount (€104.86) outstanding from 2013. BASE cannot show me any bills or indicate where those costs come from.*

By way of reminder, debt claims in respect of the providing of goods or services by electronic communication services or broadcasting transmissions or services via electronic communication networks expire after a period of five years (Article 2277 of the Civil Code).

As a result, an operator no longer has the right to claim payment of an expired bill, and similarly no longer has the right to invoke the non-payment of an expired bill in order to refuse to activate a new subscription. For a more detailed description of this problem, please see Chapter 10 of the 2020 annual report.



### 1.4. Sale denial because of bankruptcy

*I cannot have a subscription with Telenet or Orange. Due to circumstances beyond my control, my company went bankrupt in 2012. In 2014, I was declared excusable. During all these years, I had to request Telenet services in the name of my children, but I don't want this situation to continue any longer. After seven years, I have to pay a sum of €2070.00 in order to be able to get a subscription. I would like Telenet and Orange to allow me to be a customer again.*

Since 1 May 2018, the date of implementation of the Book XX of the Code of Economic Law dealing with 'corporate insolvency' law, the excusability rule has been replaced by the principle of cancellation of past debts (Article XX.173 of the Code of Economic Law). The ultimate goal is the same, namely, encouraging the debt settlement process for bona fide entrepreneurs and supporting their reintegration into the official economic structure in order to prevent parallel markets and undeclared work.

Access to telecommunication services and electronic communication services is essential to achieve the desired economic reactivation. Therefore, options must be found in order to reconcile the goal of economic reintegration with the risk of subscribers being unable to pay. This is far from easy and must be applied on a case-by-case basis during the mediation process.

## 2. Sale denial in course of the contract

### 2.1. Refusal to activate an additional option

*I am trying to buy a smartphone from VOO with my subscription, which has been active for a few days. VOO refuses to do so because when I came back from France I saw that I had an unpaid bill from them. A bill I didn't know existed. I paid the bill immediately. They also refuse to give me a fixed phone line. They continue to commit blunders. I would like to receive what I am entitled to.*

I am trying to buy a smartphone from VOO with my subscription, which has been active for a few days. VOO refuses to do so because when I came back from France I saw that I had an unpaid bill from them. A bill I didn't know existed. I paid the bill immediately. They also refuse to give me a fixed phone line. They continue to commit blunders. I would like to receive what I am entitled to.

The refusal to activate an additional option on a subscription is often due to an unpaid bill in the records of the operator that has been classified as irrecoverable without the amount in question being cancelled. These complaints are usually handled positively in mediation; the operator involved corrects the subscriber's customer information and proposes to submit a new request.

A regular updating of customers' creditworthiness data would certainly help reduce the number of complaints in this regard.

### 2.2. Sudden interruption

*My services were blocked without any notice in advance. Telenet refuses the complainant because reportedly he hit a store employee in the face.*

-

*We had many problems with late amounts that were not correctly billed by Edpnet, but which we paid anyway in order to show our good will. The operator refuses to have anything more to do with us and is particularly nervous and impolite when we ask many questions about our bills. We are up to date with our payments. We would like to remain customers of Edpnet and get a second chance.*

In addition to the aforementioned refusals, there are also exceptional cases where the operator abruptly terminates the contract without providing clear reasons.

Such practices are comparable to cases of an abuse of rights, whereby a right is exercised in a way that clearly oversteps the boundaries of normal execution of that right by a prudent and careful person. This is the case, in particular, when the damage caused is not proportionate to the advantage sought or obtained by the holder of the rights.

Additionally, an operator that terminates a subscription abruptly and prematurely fails in its obligated careful-

ness and its civil liability may be invoked. In so doing, the operator commits a fault within the meaning of Article 1382 of the (old) Civil Code, for which the subscriber may claim compensation.

## C. CONCLUSION AND RECOMMENDATIONS

Refusal to sell is inherent in the principle of contractual freedom and implies the consideration of two different interests. It is a matter of finding the right balance between, on one side, the right of any person to access telecommunications in an increasingly digital society, and on the other side, the right of operators to protect themselves against the risks of subscribers' insolvency. This necessary reconciling is not always easy and must be executed with consideration of the specific circumstances. That is precisely the challenge and the purpose of mediation.

Lastly, in their approach, operators should also provide full transparency about the reasons for refusal and show moderation. When there is a refusal to activate a subscription, the principle of contractual freedom and the resulting sell denial cannot always be fully exercised and must be tempered.

# Complaints about the high costs for already returned rented devices



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## A. INTRODUCTION

Internet and digital TV subscribers need to have a modem and a decoder respectively, in order to be able to use these services. Each telecom operator expects its customers to buy or rent these devices. Some operators, such as Proximus and Orange, provide only rented modems and decoders. The reason here for is that the constant technological development in electronic communications can lead to problems of compatibility with outdated hardware. The advantage of renting a modem or decoder is that these devices can be periodically traded in for models where the software has been updated with the latest requirements.

If the user decides to terminate an internet and/or digital TV subscription, whether or not because of a switch to another telecom supplier, the user is contractually required to return the rented devices to the operator. If the subscriber fails to do so, he or she can expect to be charged for an amount that can run to hundreds of euros.

In 2021, the Ombudsman's Office was contacted 182 times about a dispute over costs that the telecom operators charged because rented devices had not been returned by a customer. This is not the first time that a significant number of complaints was received about such charges. In 2019 and 2020, there were 180 and 222 complaints respectively about this matter. If we divide the complaints from 2021 by operator, we see that Proximus (85) leads, ahead of Orange (51), Telenet (43), VOO (15) and Scarlet (13). The complaints are mostly about rented modems and decoders, but occasionally also on other sorts of hardware that can be rented on an optional basis, such as Wi-Fi extenders.

We have, in the following article, analysed the complaints about this matter in 2021, discussing the structural problems and formulating recommendations to the operators.

## B. STRUCTURAL ISSUES

### 1. Problems with the registration of returned rented devices

*On 25 February 2021, I ended my subscription with Orange. On 1 March 2021, I returned the decoder, the modem and a remote control to Orange via a Bpost filial in Zonhoven. On 1 April 2021, I received a letter from Orange with another reminder to return the devices. On 6 April 2021, I received a bill for €200.00 for having failed to return the devices. Whenever I phoned them, I was told that they would look into the problem.*

-

*I don't want to have to pay the residual value for devices that I no longer have. Since everything is processed digitally (everything is shown in my account), I can only imagine that this extra cost has been billed by Telenet deliberately. I can prove that these devices have been returned. Everything was processed digitally in the Telenet store and linked to my account. Charging me for the residual value for devices I no longer possess is malpractice.*

The main structural problem is that complainants claim that they have returned the rented devices to the operator, whereas the company has evidently not registered the return of this hardware and is therefore charging the former customer for a large amount. By far the most complaints are about a situation where the complainant had returned the device to the former telecom company after the termination of his or her contract. In a limited number of cases, the problem involved returning a defective or outdated type of rented device in exchange for a new one.

A large number of complainants attach with their complaint evidence of return, in the form of a document showing that the device was sent by post. Such proofs had often already been given to the first line customer service of the operators in question. Despite having provided this proof, operators have not always succeeded in dealing with these cases correctly and continued to claim the unjustified amounts.

Another structural issue seems to be the registration of the received rented devices. Where, for example, the devices may have got lost in the post or even at the time when they were brought to the operator's local store, this information was sometimes not entered in the customer's profile.

If the user then turned to the Ombudsman's Office, a quick solution was almost always offered and the operators were prepared to register the rented devices as returned and to credit back the disputed amounts.





## 2. Very late invoices

*The modem had to be returned to Orange after ending the contract. This was done at once. I kept the Bpost proof for three months. Now, five months later, we have been charged €60.00 for not returning the modem.*

The user is expected to return the rented hardware to the telecom operator within a reasonable time after cancelling the contract. In the case of Proximus, the terms and conditions of sale state that the devices must be returned within three days after the end of the contract. Orange in turn has a maximum contractual period of fourteen calendar days. In principle, it can be presumed that the operator will take measures, within a reasonable period after determining that the rented devices have not been returned, in order to remind the ex-customer and/or bill him or her for the hardware that has not been returned. If one decides to impose a charge on the subscriber, it is not appropriate to wait several months before doing so, as this can affect the customer's ability to seek redress.

And yet it appears from the complaints to the Ombudsman's Office that Orange and VOO sometimes waited so long before making such charges that the users had meanwhile presumed that the operators had registered the returned hardware, and no longer kept the record of having sent it. Their statements indicate that Orange and VOO sometimes only sent a bill five months later, which is unreasonably late.

When ex-subscribers then contact Orange to confirm that they have indeed returned the devices, they are often asked for proof. If the user can't present the proof, the complaint can be rejected. In a complaint to the Ombudsman's Office, Orange usually gives the complainants the benefit of the doubt and the disputed charges are waived.

## 3. Baffling system errors in invoicing charges for rented devices

*I cancelled Proximus and received a bill for €1039.00. They charged me for eight modems and eight decoders. I had only 1 modem and 1 decoder and returned them in accordance with Proximus' procedure. They refuse to adjust their bill. Soon, my property will be sold at public auction on behalf of Proximus. Can you help me?*

Several users called upon the Ombudsman's Office in 2021 because they disputed a bill with a serious anomaly. These complainants challenged not only the fact that they were being charged for rented devices that they had returned, but also expressed great surprise that they were being billed for many more devices than they had ever possessed. These complaints were directed against Proximus and Telenet. Initially, no solution was offered. In the course of the mediation by the Ombudsman's Office, these operators ultimately admitted the incorrect bill was due to a system error.

#### 4. Practical problems with returning rented devices

*I was supposed to return my modem from Proximus, otherwise I risked a penalty of €99.00. I never received a shipping label. Therefore I phoned them twice and also contacted them twice with their chat function. Each time, I was told that the label would be sent. However, I never received anything, not even in my spam box. I will therefore return the product late, and they will charge me €99.00.*

*Orange didn't offer an option of returning the digibox in person to one of their stores in exchange for a proof of return. I was required to send the digibox back by post.*

The Ombudsman's Office sometimes receives complaints from users who encountered practical problems with returning the rented devices to the operators. Most operators no longer offer the option of returning the rented modems, decoders or other hardware to a physical point of sale. They oblige their customers to send the hardware back at the end of their contract or where a replacement is needed via parcel post. This way of working in some cases brings subscribers a fair bit of hassle. They need to find a suitable form of packaging, print out a postage label and go to a post office.

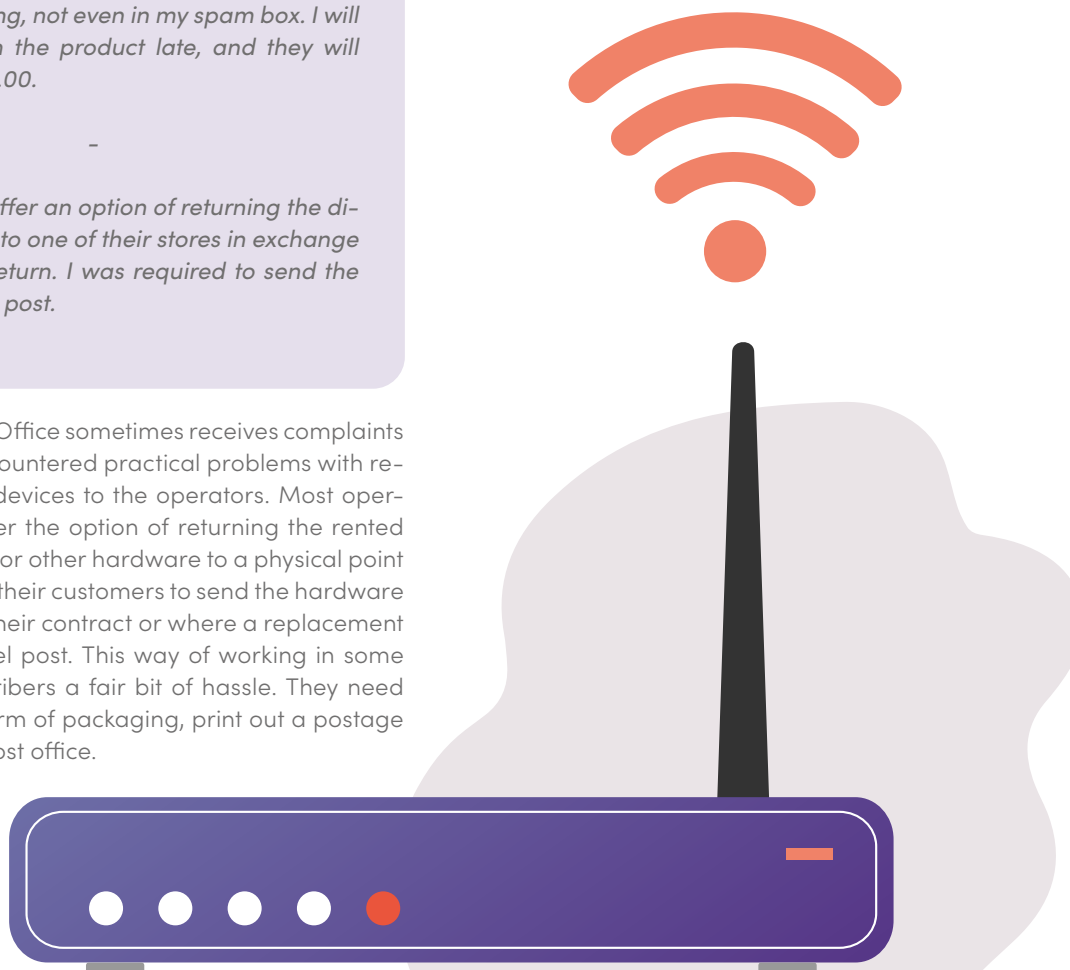
The complaints indicate that only Telenet still allows its customers to return their rented devices to their stores. As part of a complaint to the Ombudsman's Office, VOO informed us that the devices cannot be returned to stores because of the ongoing coronavirus crisis. Nevertheless, some complainants say that it would be easier and more practical for them to be able to return the devices at physical sales points.

#### 5. Lack of clarity about the need to return rented devices and principal disputes about the tariffs

*After ending the contract, I was asked by Proximus to return the b-box 2. Unfortunately, we had already dropped the device at the container park. We thought that such an outdated box would no longer be of any use. Proximus is no longer distributing these boxes now. If we do not return the box, they will charge us a fine of €99.00, which we wish to dispute. The market value (second hand) is now around €10.00.*

The Ombudsman's Office is sometimes asked to mediate in complaints where the user acknowledges that he or she has not returned a rented device to the operator. In some cases, the complainant claimed that it was not clear to him that the hardware had to be returned. In other situations, where the rented device was broken, the devices were taken back by a technician. Still other complainants invoked special circumstances, such as long-term illness, as a result of which the devices could not be returned within the stipulated period.

Mediating such complaints has shown that operators generally clearly communicate sufficiently that the rented devices have to be returned. This is mentioned not only in the general terms and conditions, but also in the communication that the customer receives when terminating the subscription.



A number of complainants questioned the high amount of the charges they were billed for. Most operators charge a flat-rate fee when a user fails to return the rented devices. As so the amount for a TV decoder, based on Proximus' price list, is €149.00. Orange charges a fee of €200.00 if a device is not returned, whereas the price list of Telenet has prices ranging from €25.00 to €249.00, depending on the type and age of the device.



## C. CONCLUSION AND RECOMMENDATIONS

Within the various problems that are dealt with, disputes about very high charges for failure to return rented devices have for many years made up a substantial percentage.

Various structural issues emerge, of which by far the largest number involve problems with registration by the telecom companies when rented modems, decoders and other devices are in fact returned. For their own credibility, it is important for operators to be able to guarantee that when a customer returns the rented devices, this is correctly and carefully registered in their records.

An additional problem has been identified in many complaints indicating that Orange and VOO not only charge unjustified amounts for returned devices, but that they also bill for these charges very late. This makes it quite likely that the user no longer has the proof of return, which is usually no more than a cash register slip that had been handed over when the package was brought to a post office. To avoid the user seeing his or her options for recourse diminished, the Ombudsman's Office urges

Orange and VOO to draw lessons from these sorts of complaints. In the same sense, it is important for Telenet and Proximus to take structural measures to avoid other anomalies, such as double or even eightfold charges.

It seems to the Ombudsman's Office that it would be customer-friendly for users to be given several options to return their rental devices to the operators. The possibility of sending the devices by post apparently poses no problem for many subscribers, but complaints indicate that others would prefer to be able to simply bring the devices back to a physical point of sale. The guidelines that most operators have adopted since the beginning of the coronavirus pandemic, namely, the requirement to send the devices back by post, not only leads (ex-)customers to take greater responsibility, but also to a reduction in personal service to citizens.

Principally, the Ombudsman's Office does not take any position on telecom operators' pricing policy, yet, based on the complaints, there are questions about the fact that most companies charge large sums for rental devices that are not returned. Applying a principle of depreciation when calculating the charge would seem opportune, since this is certainly closer to the real residual value of sometimes outdated rental devices.

# Complaints about applying cables and equipment on the façades of real estate properties



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## A. INTRODUCTION

In 2021, the Ombudsman's Office received 87 complaints from citizens who expressed their dissatisfaction about the fact that telecom operators want to use support on the façade of their homes for applying cables and other network infrastructure. In the past few years the Ombudsman had to intervene dozens of times in such disputes between homeowners and telecom operators. The complaints in 2021 were mainly against Proximus (48), Telenet (37) and to a lesser extent against VOO (6). In a few complaints (3), Fluvius, in its capacity as network operator in certain Flemish municipalities, was also involved. Because it was not always clear to complainants which telecom operator was responsible for applying cables on the façade of their home, some complaints to the Ombudsman's Office were forwarded to several parties.

Operators strive to respond to the ever greater expectations by users to have access to fast and stable internet connection. In order to meet the growing digital needs of their customers, Telenet and Proximus, in particular, have launched large-scale projects to make their respective fixed networks more efficient. A few years ago, Telenet announced the launch of 'De Grote Netwerf' in which it would expand and optimise its cable network. As the project's name suggests, this was accompanied by major works across all of Flanders, where both the underground and the aboveground telecom infrastructures were replaced. Proximus is currently hard at work with switching its copper network to fibre optic, a multi-year project named 'Fibre To The Home', or FTTH. This has also been accompanied by the application of cables on building façades, which regularly leads to complaints.

## B. FAÇADE RIGHTS LEAD TO DISSATISFACTION AMONG PROPERTY OWNERS

### 1. A look at the complaints

*Last week, Proximus attached new cables and boxes to the façades in our neighbourhood (Berchem). They did so without any prior notification by post or email. Since we are not Proximus customers, we have no interest at all in having their boxes and cables attached to our façade. This means that neighbours in semi-detached buildings also have a jumble of structures on their façades with cables simply hanging over their driveway. Obviously this cannot be the intention in 2021? All sorts of public utilities are buried underground under the street or the pavement, but shouldn't this also be the case for Proximus? I would also like to point out that Proximus does not provide for any opportunity to file a complaint via their site.*

*We have a townhouse in Schaarbeek that we are proud of. But if you look at the attached photo, there are several cables attached to the façade that don't look nice. I have been in touch with Telenet and asked if they could move the cables by running them up along the separation between the two façades (my neighbour's façade is a listed Art Deco house) and attaching them above and below the gutter. The answer was that they could do this but I would have to pay €500.00. Can this be right?*

-

*On 8 February 2021, two Proximus workers arrived to install a fibre cable. I was not at home at the time. One of the workers began immediately to drill holes in the façade, while the other worker introduced himself to my son. When my son asked whether the installation had to be done in this way, the man answered that yes, that is how it was supposed to be done. At no time was consent requested. When I arrived home half an hour later, a row of nine holes had been drilled in our façade, and a thick fibre cable was running along the façade right next to the front door.*

Most complaints indicate that some citizens are very unhappy with the fact that operators, often ones to which they do not even subscribe, use their façade as a support for applying aboveground cables. Others argue that the installation was carried out in an inappropriate manner and therefore disfigured the front of the house. The Om-





budsman's Office also regularly mediated in cases involving façades where the work carried out had caused some sort of damage. In addition, some complainants object to the fact that the new telecom infrastructure is an obstacle to carrying out renovations.

## 2. What exactly do façade rights mean?

We can conclude from the complaints that citizens are not always aware that telecom operators, like other public entities, do have quite a lot of legal rights to use the façades of private buildings as a support to attach their infrastructure. The principle of façade rights is laid down by Article 99 of the Act of 21 March 1991 on the reform of certain economic state-owned companies. According to that legal provision, operators have the right "free of charge, when installing cables, overhead lines and related equipment, to attach fixed supports to walls and façades along the public road, make use of open and vacant ground, or to span or cross properties without attachment or touching them."

The law does, however, require operators to try to obtain the consent of the owner beforehand. Where this is not possible, the operator must inform the owner by registered letter, providing a clear description of the proposed place and way of carrying out the works. The owner can then submit, within eight days, a reasoned statement of objection to the telecom regulator, the Belgian Institute for Postal Services and Telecommunications (BIPT), which in turn has a month to make a decision. If a statement of objection is submitted, the works must be suspended.

Article 100 of the aforementioned Act also provides that owners must allow the installation and execution of all other works on aboveground cables and related equipment on the building for purposes of a telecom communication, unless they are prepared to bear the extra costs

of an alternative proposal, that usually consists of an underground solution.

## 3. How do operators respond to complaints?

*It is not possible to introduce a complaint via the website of Proximus, and there is no email address either. In the end, I got someone on the phone who was going to report the problem?*

-

*I can't reach Telenet. Or I am transferred and then get no one on the line, or they promise to contact me and I get no reply. In the meantime, the phone costs are piling up and I've lost an enormous amount of time.*

The complainants report that it is not always possible to obtain redress from the operator in question, in particular if one is not a customer of the telecom company that has applied the cable on the façade of their home. This is due to the fact that some operators require that one has a client number before one can get in touch with them. It is not always clear that Proximus, among others, has created a special online form for questions and complaints about fibre optic cables on façades.

If the complainants do succeed in speaking to someone at the operator in question, the first line complaints are not always dealt with adequately. Although principally a dossier is created, it happens all too often that nothing further is done. Other statements show that operators admit that it is impossible to get the prior consent of each property owner in order to attach the lines to the façade of their



houses or apartments. Some complainants feel intimidated when, during their first line contact, they are threatened with having to bear all the costs arising from preventing the roll-out of the network. Sometimes it also happens that owners end up in discussions with the technicians who are carrying out the work right then and there; this often gives rise to unpleasant confrontations and rarely to solutions.

Submitting a complaint to the Ombudsman's Office often results in a solution, as a result of which the operator in question decides to put the cable underground at its own expense or to rearrange the connection point on the façade in a more aesthetic manner. In this way, an agreement with the owner can still be reached. Also if the complaint is submitted specifically to get the operator to remove the cable temporarily from the façade for the purposes of renovation, painting or demolition, the intended result is generally achieved quickly.

#### 4. The importance of clear communication before carrying out the works

It is certainly the case that operators have the right to use the façades of buildings to roll out their network. For practical reasons, among other things, the decision is often taken particularly in urban areas to attach part of the network to façades, which makes it possible to provide an individual fixed telecom connection for each property. Even those who are not subscribers with the operator in question are fundamentally expected to accept this, even if sometimes we see that this entails a breach of property rights and even of privacy.

All too often, however, the Ombudsman's Office reads in the complaints that citizens have not been informed in advance of such works. The unsuspecting owners are suddenly faced with the fact that (subcontractors of) operators are carrying out work on their house or that at the end of a working day they are astonished to see that a black cable and/or splitter boxes have been attached to the façade of their property. This is indisputably a breach of the existing legislation referred to earlier in this article.

Operators are faced with a difficult task of trying on one side to inform citizens in a transparent manner and trying to obtain their consent as described in the aforementioned law, and on the other side not to incur any substantial delays in rolling out their more efficient networks, given that there is ever growing demand for it.



## C. CONCLUSION AND RECOMMENDATIONS

On one side, it is understandable that telecom operators' use of the façade of homes to attach cables and related equipment can cause inconvenience to the owners. On the other side, the façade rights of operators is laid down in the law, by analogy with the right to attach street name signs on façades.

The fact that telecom companies have carried out large-scale works in recent years in many parts of the country and invoke their façade rights to this effect comes from our digital hunger, with users attaching ever greater importance to efficient, superfast and highly versatile internet services. Driven among other things by the coronavirus pandemic, internet use has grown sharply in the past few years.

Digitalisation is increasing at breakneck pace. Ever more citizens are working from home, streaming during their free time and have smart household appliances that are connected to the internet. Outdated electronic communication technologies therefore have to be replaced by new infrastructure, such as fibre optic networks. Society has to cope with these developments in several areas, and it is therefore important that homeowners allow operators, in accordance with the façade rights, to attach their equipment to the façade of private homes in order to make possible technological progress. Façade structures are important particularly in an urban setting in order to make advanced internet connections possible for each home. They also lead to less of a burden on public space than underground cables, since aboveground networks are more accessible for upgrades or repairs.

This does not detract from the fact that operators have to work carefully when preparing to attach cables on

the façade and must not neglect to inform homeowners clearly in advance and seek as far as possible to reach an agreement with them. Obviously, it is also important for the infrastructure to be affixed as discretely as possible. In addition, it is important that operators give citizens a chance to contact them with any questions or complaints relating to façade rights. This is the case not only for their own subscribers, but also for people and families that are not customers of the telecom company in question.





# Rules of procedure

*In accordance with the Code of Economic Law, Book XVI and the Royal Decree of 16 February 2015 specifying 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 a set of rules of procedure that apply to the out-of-court settlement of disputes. These rules apply to both end-users and telecommunications companies. These companies are also expected to sign a protocol with the Ombudsman's Office.*



## SECTION 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:** means any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession, within the meaning of the Act of 13 June 2005 on electronic communications.

**Telecommunications company (hereinafter “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 an end user and a telecommunications company regarding the performance of a sales or service agreement or the use of a product, including consumer disputes.

**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.

## SECTION II: HANDLING OF COMPLAINTS BY TELECOMMUNICATIONS COMPANIES

### Article 1: Internal complaint handling service

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

### Article 2: Period 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 data medium.

## SECTION III: OFFICE OF THE OMBUDSMAN FOR TELECOMMUNICATIONS

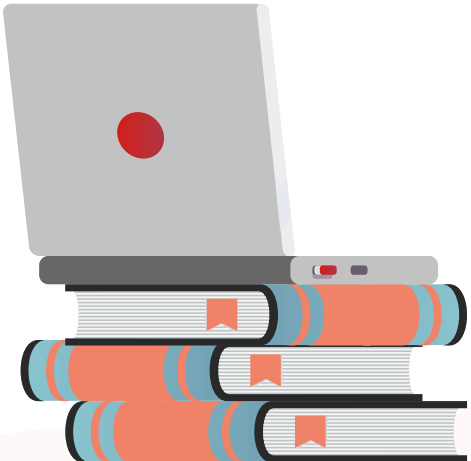
### Article 3: Nature of the Office of the Ombudsman for Telecommunications

The Office of the Ombudsman for Telecommunications, which was set up within the Belgian Institute for Postal and Telecommunications Services by the Act of 21 March 1991 on the reform of certain economic public companies, is competent for relations between the end-user, within the meaning of the prevailing legislation on electronic communications, and the telecommunications companies. Within the limits of its competence, the Ombudsman's Office does not take instructions from any authority.

### Article 4: Competences 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 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 Consultative 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 by any person claiming to be the victim of malicious use of an electronic communications network or service, seeking notification of the identity and the address of the electronic communications network or service users who have been causing him/her annoyance, provided that this information is available. However, this type of request is not subject to these rules of procedure.

7° to cooperate with:

a) other independent sector-specific dispute commissions or independent mediators, including by forwarding complaints that do not fall under the competence of the Office of the Ombudsman for Telecommunications to the relevant dispute commission or Ombudsman's Office;

b) foreign ombudsmen or entities having an equivalent function which act as an appeal authority for the handling of complaints for which the Office of the Ombudsman for telecommunications is competent;

c) the regulators of the Communities (or Federation).

## SECTION 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 alternative resolution of a dispute may be submitted to the Office of the Ombudsman for Telecommunications on site, by letter (8, Boulevard du Roi Albert II box 3 – 1000 Brussels), by fax (02 – 219 86 59), by e-mail (klachten@ombudsmantelecom.be) or by completing the form on the website of the Office of the Ombudsman for Telecommunications (www.ombudsmantelecom.be). These requests may be submitted in Dutch, French, English or German. 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

As part of its mission, the Ombudsman's Office bases its activities on all the legal provisions applicable in the specific case at issue. The Ombudsman's Office may base its activities on (this is a non-exhaustive list) international treaties, European directives or regulations, Belgian legislation (Civil Code, Code of Economic Law, Electronic Communications Act, Royal Decree establishing the Code of Ethics for Telecommunications, other sectoral legislation, etc.) and any codes of conduct (e.g. the GOF guidelines).

### Article 7: Complete request

Once the Office of the Ombudsman for Telecommunications has all the documents necessary for the examination of the admissibility of the request, it shall inform the parties of the receipt of the complete request, as well as the date of receipt.

Where applicable, the prior request submitted to the internal complaints handling service of the company concerned, as well as any action taken in response to it may be appended to the request for alternative dispute resolution sent to the Office of the Ombudsman for Telecommunications. Failing that, the Ombudsman's Office shall ask the end-user to complete his/her request, using a durable medium.

### Article 8: Inadmissibility of a request for alternative dispute resolution

The Office of the Ombudsman for Telecommunications shall refuse to handle a request for alternative dispute resolution:

- 1° if the complaint in question was not submitted beforehand 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 frivolous, vexatious or defamatory;
- 4° if the complaint is submitted anonymously or if the other party is not identified or identifiable;
- 5° if the complaint relates to a dispute which is or already has been the subject of judicial proceedings;
- 6° if the complaint does not fall under the disputes for which the Office of the Ombudsman for Telecommunications is competent;
- 7° if the handling of 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 alternative dispute resolution & informing of the parties

Within three weeks following receipt of the complete application, the Office of the Ombudsman for Telecommunications shall inform the parties of its decision to deal with or refuse to deal with the request.

In case of refusal, the decision will be motivated.

If the Ombudsman's Office decides to deal with the request, it will also inform the end-user of his/her right to withdraw from the procedure at any stage of the procedure. It shall also inform the parties that they have the choice as to whether or not to agree to the solution proposed (except in the case of a recommendation that becomes enforceable for the company – see Article 12), that this solution may differ from an outcome determined by a court, and that participation in the procedure does not preclude initiating judicial proceedings. It shall also inform the parties that the solution is not binding in nature (except in the case of a recommendation that becomes enforceable against the company – see Article 12) and that this solution does not have legal or technical effect (unless the parties call on the court to ratify the agreements reached or in the case of a recommendation that becomes enforceable against the company – see Article 12). The said information will be provided on a durable medium.

### Article 10: Means of exchanging information

The parties may exchange information with the Office of the Ombudsman for Telecommunications by e-mail, 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: Periods

Within a period of 90 calendar days following receipt of the complete request, the Office of the Ombudsman for Telecommunications shall notify the outcome of the dispute resolution to the parties, on a durable medium.

In exceptional circumstances, this period may be extended once, by an equivalent period, on condition that the parties are informed of this before the expiry of the initial period, and that this extension is justified by the complexity of the dispute.

The parties shall have a period of 10 calendar days to express their position (unless stipulated otherwise if a memorandum of agreement has already been signed with a company). The same period will apply for taking cognizance of and responding to all documents, arguments and facts put forward by the other party or any request from the Office of the Ombudsman for Telecommunications (unless otherwise stipulated if a memorandum of agreement has already been signed with a company).

### Article 12: Closing of the case

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

If no amicable settlement can be reached, the Office of the Ombudsman for Telecommunications shall inform the parties in writing or on another durable medium and may formulate a recommendation to the company concerned, with a copy to the applicant.

If the company concerned does not follow this recommendation, it has a period of 20 working days to substantiate its decision. The reasoned decision is to be sent to the complainant and to the Office of the Ombudsman for Telecommunications. On expiry of the period of 20 working days, the Office of the Ombudsman for Telecommunications shall send a reminder to the company concerned. If the company concerned does not follow the recommendation, it has another period of 20 working days to justify its decision.

The reasoned decision is to be sent to the complainant and to the Office of the Ombudsman for Telecommunications. In failing to comply with the above deadlines, the company concerned shall undertake to implement the recommendation as far as the specific and personal compensation to the complainant is concerned.

### Article 13: Consultation of an expert

If the complexity of the application so requires, the Office of the Ombudsman for Telecommunications can call on the assistance of experts. Any such consultation shall be at no cost to the parties involved.

### Article 14: Prerogatives of the Office of the Ombudsman for Telecommunications

The Ombudsman's Office may, in the context of a complaint referred to it, inspect on site any books, correspondence, in general, any documents or records of one or more companies concerned relating directly to the subject matter of the complaint. It may demand any explanations or information from the directors and staff of one or more of the companies concerned, and carry out any verifications necessary for its inquiries.

### Article 15: Confidentiality

Any information that the Office of the Ombudsman for Telecommunications obtains in the context of handling a complaint shall be treated as confidential.

It may only be used in the context of alternative dispute resolution, with the exception of processing for the annual report.

### Article 16: Impartiality

The Office of the Ombudsman for Telecommunications shall consist of two members; they shall belong to different speech communities. The Ombudsman's Office acts as a college. Each member of the Ombudsman Board shall notify the other member, without delay, of any circumstances

that affect or might affect his or her independence or impartiality or give rise to a conflict of interests with either party to the dispute they are asked to resolve. The other member will then take over the handling of the request for alternative dispute resolution. If that is not possible, the entity shall propose to the parties to submit the dispute to another qualified entity. If it proves impossible to submit the dispute to another qualified entity, this will be brought to the attention of the parties, which may oppose the continuation of the procedure by the natural person in the said circumstances.

Likewise, members of staff who are involved in procedures for alternative dispute resolution shall inform the Ombudsman Board without delay of any circumstances that affect or might affect their independence or impartiality or give rise to a conflict of interests with either party to the dispute they are asked to resolve.

### Article 17: Suspension of limitation and prescription periods

In the event that the end-user is a consumer, the limitation and prescription periods applicable under general law shall be suspended as from the date of receipt of the complete request.

This suspension shall last until the date on which the Office of the Ombudsman for Telecommunications notifies 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 the receipt by the

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

Concerning complaints as referred to in Article 19 §3 of the Act of 15 May 2007 on consumer protection in relation to radio transmission and broadcasting services, debt collection procedures shall be suspended by the company until the Ombudsman's Office formulates a recommendation or until agreement is reached on alternative resolution.

### Article 19: Free of charge

The handling of a request for alternative dispute resolution for a dispute by the Ombudsman's Office shall be free of charge for the end-user.

### Article 20: Withdrawal of the complaint

The end-user has the possibility of withdrawing from the procedure at any time. To do so, he/she should inform the Ombudsman's Office on a durable medium.

### Article 21: Representation

If the parties so wish, they may arrange to 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 as referred to in Article 43bis, § 1 of the Act of 21 March 1991 on the reform of certain economic public companies shall 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 to be paid to the Belgian Institute for Postal Services and Telecommunications, which maintains a separate item in its budget for the operating costs of the Ombudsman's Office.*

The King shall determine 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.

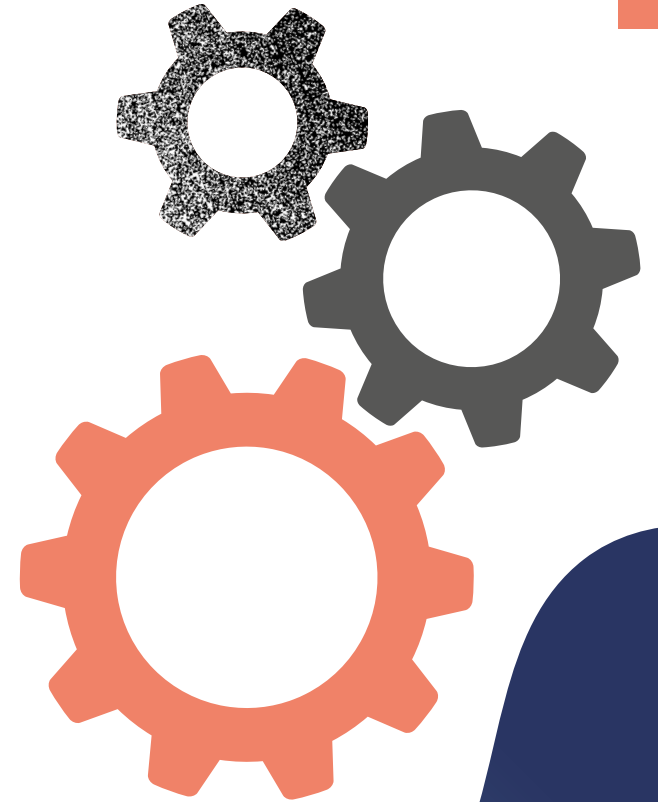
Every year the Institute shall determine the amount of the Ombudsman's contribution payable by each company as referred to in Article 43bis of the Act. No later than 30 June every year, the companies as referred to in Article 43bis, § 1 of this Act shall notify the Belgian Institute for Postal Services 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 Ombudsman's contribution shall correspond to the amount of the financial resources nec-

essary for the operation of the Ombudsman's Office, 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 Ombudsman's Office.

The first €1,240,000 of each company's turnover shall be disregarded when calculating the Ombudsman's contribution. The Ombudsman's contribution must be paid by 30 September of the year for which it is 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 shall be calculated pro rata on the basis of the number of calendar days by which payment is overdue. The Institute shall notify the companies as 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 shall 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 shall constitute a separate part of the budget of the Belgian Institute for Postal Services and Telecommunications.



**INCOME**

Recovery and sector contributions	1.521.479€
--------------------------------------	------------

**EXPENDITURE****Personnel costs**

Salaries	1.015.130 €
Allowances	305.000€
Pension contributions	635.000€
Contributions for personnel	88.000€

**Operating resources**

Maintenance work	3.000 €
Vehicle maintenance	10.000 €
Insurance	8.000 €
Information technology	45.000 €
Work by third parties	175.000 €
Training	10.000 €
Assignments abroad	8.000 €
Telephony, postage and transport	60.000 €
Rental and maintenance	10.000 €
Taxes	10.000 €
Overall organisations	1.000€
Contribution to the Consumer Mediation Service	125.000€

**Investment expenditure**

Purchase of vehicles	60.000 €
Office equipment	15.000 €
IT equipment	150.000 €
Technical equipment	0 €

**Total** 2.733.130 €

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. It has its registered office 35, Boulevard du Roi Albert II, 1030 Schaarbeek.

This portal site is available to all Internet users who want to find the right ombudsman to help them solve their problem.

Below you will find a brief overview of the useful information available on the website [www.ombudsman.be](http://www.ombudsman.be).

The word 'ombudsman' originates from Sweden and literally means 'he who stands up for another'. In the original sense, an ombudsman is an independent official appointed by Parliament. In the case of complaints, the 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 resort to mediation, not all mediators are ombudsmen.

## All ombudsmen undertake to apply the following four basic principles:

- They are an appeal body at the service of the public;
- They work independently;
- They have the necessary resources to conduct investigations and assess the situation;
- They publish a periodic activity report that is publicly accessible.

In principle, the Ombudsman will only handle a complaint if the complainant 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 shall always act as an "impartial outsider" between the complainant and the service concerned.

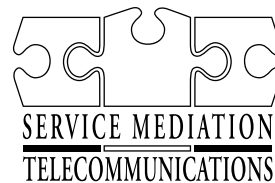
The ombudsmen have proper investigative powers, including the power to request and consult the case documentation, obtain any relevant information, etc. They are also bound by professional secrecy.

As well as offering individual solutions to complainants' problems, the ombudsmen shall also work preventively and look for long-term structural solutions. Their task is not just to denounce 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 shall be central to its annual activity report – which is accessible to both the press and the general public – and essential to addressing any 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 shall take these recommendations into account.





## OFFICE OF THE OMBUDSMAN FOR TELECOMMUNICATIONS

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