

Annual Report 2017
on Open Internet

**Office of the Commissioner of Electronic
Communications and Postal Regulation**

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1. Overall Description of the National Market Situation

The fixed broadband market in Cyprus (1Q17) numbers 282,484 fixed broadband internet access connections, with the majority of subscriptions serviced by 4 providers that account for 99.8% of the broadband access market.

On the provision of mobile internet access services there are 405,365 subscribers with a data connection which are mainly provided by 4 providers.

In February 2017 OCECPR held meetings with the Consumer associations and the department of Consumer Protection [Ministry of Commerce] to inform these consumer bodies of the provisions of the Regulation. Further to the meetings, the Commissioner issued press releases to create awareness among the public about the Regulation and the consumer rights arising from its provisions.

Following the publication of the BEREC Guidelines on 30th August 2016, OCECPR held a series of meetings with stakeholders over a 3 month period with a view to provide clarifications on the provisions of the Regulation and the BEREC Guidelines. The main topics of discussion and clarification were safeguarding consumer rights (contract conditions, commercial practices), implementing network traffic management practices, the performance of internet services, and the impact of the implementation of specialized services.

2. Description of the Monitoring Activities carried out by OCECPR

Upon completion of the meetings with stakeholders, OCECPR issued secondary legislation (Decree 72/2017, hereinafter "the Decree") which came into force on 3rd March 2017. The provisions of the Decree have been drafted with the intention to support the implementation of the Regulation, taking into account the provisions of the Regulation, and the interpretation, recommendations and guidance provided in BEREC Guidelines [BoR (16) 127]. The Decree provides assistance and support to the implementation of the Regulation, as well as guidance on the monitoring and enforcement of compliance with the provisions of the Regulation.

Further to the issuance of secondary legislation, OCECPR has made available on its web-site a free tool for the evaluation of performance of Broadband Connection Services (2B2T¹). 2B2T has been presented to the Operators, Consumer Associations and the Department of Consumer Protection of the Ministry of Energy, Commerce, Industry and Tourism.

OCECPR made available the free measurement tool, 2B2T, which utilizes browser based measurement tools seamlessly integrated with a GIS web application, geo-mapping the data received in order to enable users, the NRA and Internet Service Providers (hereinafter "ISPs") to draw conclusions regarding the quality of the delivered broadband services. NTD tool of the application enables the end-user to measure Data transmission speed (downstream), Data transmission speed (upstream), Delay, Jitter (Delay variation) and Packet loss. All measurement results and ISPs names are made public enabling consumers and OCECPR to

¹ <http://2b2t.ocecpr.org.cy>

make direct comparisons between the advertised speed of ISPs and the average speed that each user of 2B2T receives based on that advertised speed.

In relation to the provisions of Article 3 of the Regulation, Safeguarding of Open Internet, OCECPR assessed the commercial and technical conditions related to the provision of Internet access services by conducting market surveys i.e. checking the relevant information on ISPs' web pages, and reviewing the general terms and conditions of ISPs contracts against the provisions of the Regulation and the Decree. OCECPR also requested more detailed information from ISPs and analysed complaints from end-users. OCECPR also assessed ISPs' compliance with the provisions of Article 3 by assessing ISPs' information inserted in OCECPR's tool regarding public price comparison for electronic communication services (Tel2Me). The tool enables consumers to compare the quality of service provided by each ISP, and provide assistance to OCECPR in assessing ISPs' compliance with the provisions of the Regulation and the Decree.

Furthermore, OCECPR conducted formal assessment of ISPs practices and restrictions regarding provision of Internet Access Services. According to the provisions of the Regulation and the Decree, OCECPR requested information from ISPs in relation to speeds, quality of service parameters, commercial agreements and practices, processing of personal data, information provided to the end-users at customer service points and websites, details of consumer complaints, traffic management practices, provision of specialised services, and any restrictions applied to the provision of Internet Access Services (hereinafter "IAS"), concerning the period 30 April 2016 to 30 April 2017.

OCECPR also assessed services other than IAS i.e. specialised services, by conducting market surveys i.e. checking the relevant information on ISPs' web pages, and reviewing the general terms and conditions, requesting information from ISPs, and analysing complaints and end-user reporting. Furthermore, OCECPR requested information from ISPs on specialised services and assessed the answers given. The information requested concerned in general:

- a) Determination of the level of quality that is necessary for the provision of Specialized Services and justification that this quality level cannot be guaranteed over the IAS, and that the quality requirements are objectively necessary to ensure one or more features of such an application.
- b) Requirements for specific services and/or applications which are necessary for the operation of an application with a certain level of quality.
- c) Whether and to what extent it is objectively necessary to ensure certain performance characteristics in order to achieve a certain quality level.
- d) Information on the capacity requirements of the Specialized Services and other information necessary to ascertain whether sufficient capacity is available to be used for the provision of Specialized Services in addition to the offered IAS.
- e) Information demonstrating that the provision of one or all of the Specialized Services provided is not at the expense of the availability or general quality of IAS to the end user.

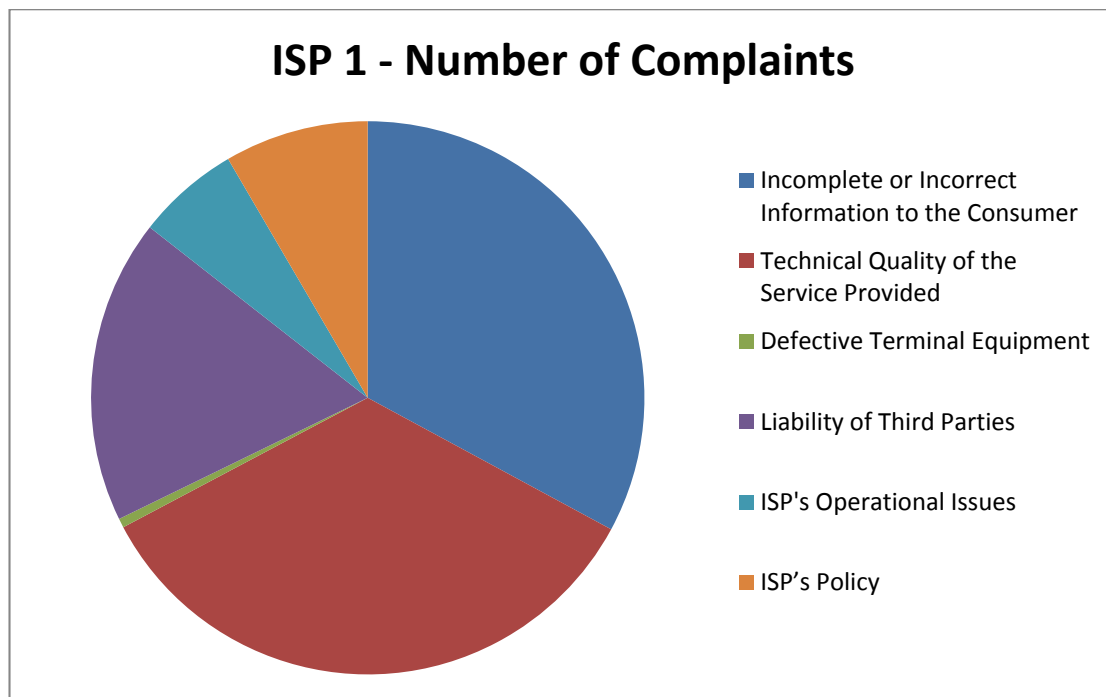
With regard to monitoring and enforcing ISPs compliance with their transparency obligations set out in Article 4 of the Regulation, OCECPR conducted market surveys, and requested relevant information from ISPs. ISPs also submitted their amended contracts to OCECPR so that these are reviewed by OCECPR with respect to their compliance with the provisions of the Regulation and the Decree concerned.

3. The Number and Types of Complaints and Infringements related to the Regulation

OCECPR also collected information from ISPs about consumer complaints. According to these records, the number and nature of complaints received were as follows:

ISP 1

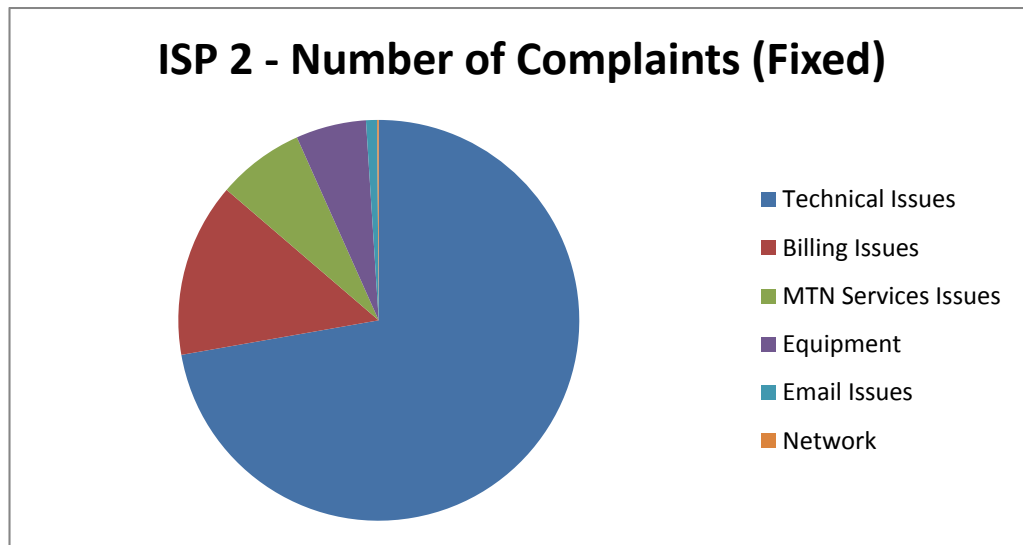
The number of consumer complaints filed during the period from 1/5/2016 to 30/04/2017 in relation to fixed network was 748 (0,46% of a total of 164,199 subscribers). All of them have been resolved by the ISP, and as a result no further action was required from OCECPR. Out of the 748 complaints, 246 concerned incomplete or incorrect information to the consumer, 257 concerned technical quality of the service provided, 4 concerned defective terminal equipment, 133 concerned liability of third parties, 45 concerned ISP's operational issues, 63 concerned ISP's policy.



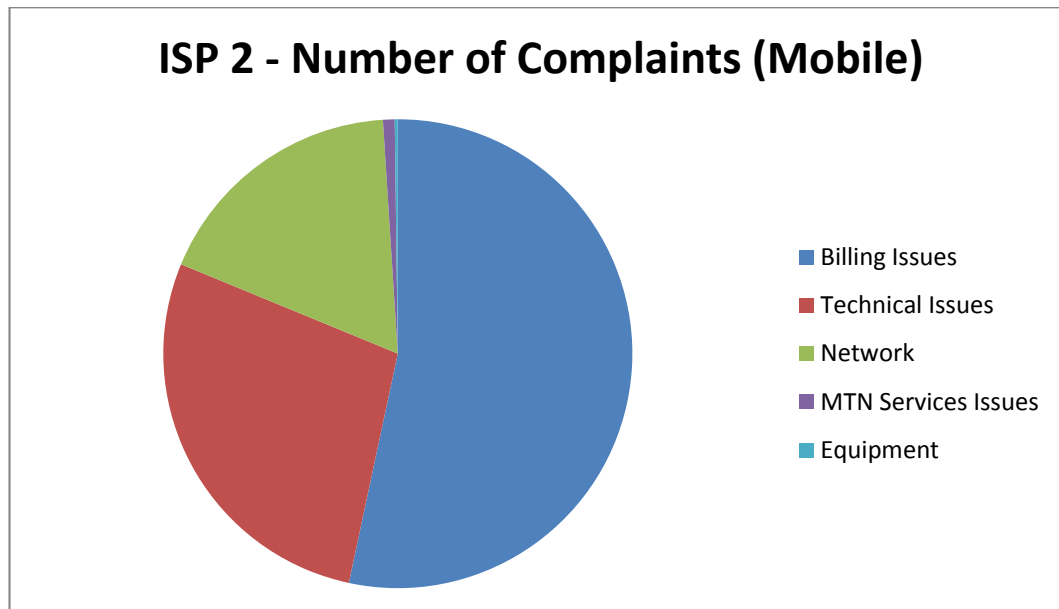
ISP 2

The number and type of complaints filed for the aforementioned period in relation to fixed network were: 6407 concerning technical issues, 1245 concerning billing issues, 623 concerning ISP's services issues, 503 concerning equipment, 79 concerning email issues and 12 concerning network. Total number of complaints was 8869 (57.77% out of a total of

15,351 subscribers), all of which have been resolved by the ISP and no further action was required by OCECPR.

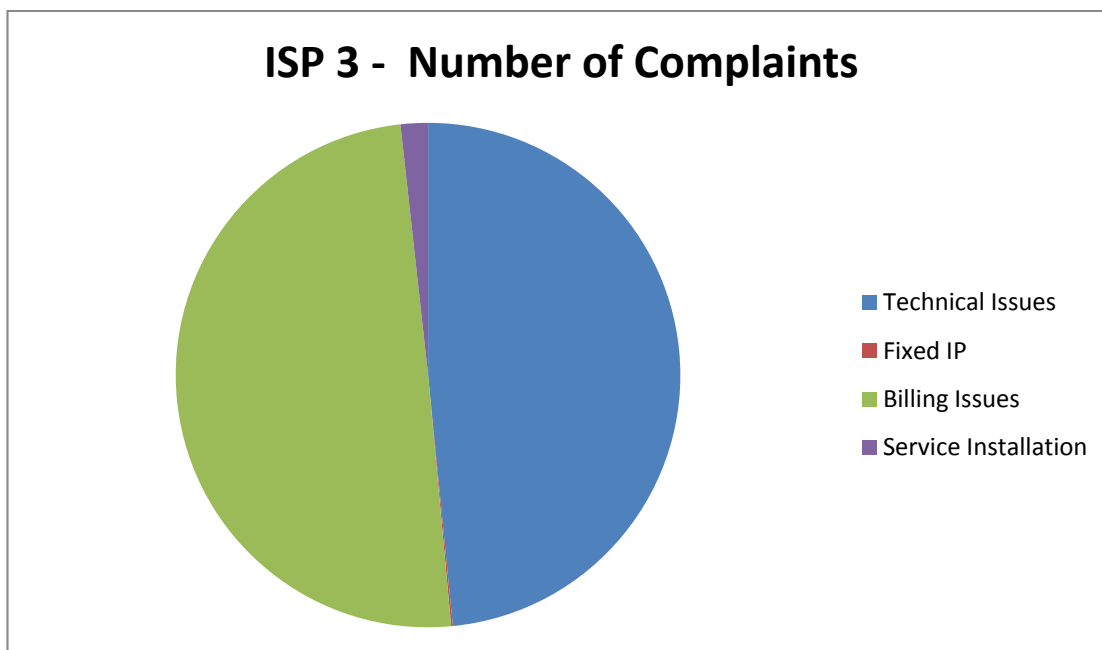


As far as mobile network is concerned, ISP 2 received the following complaints, all of which have been resolved without further action by OCECPR. 6063 of these complaints concerned billing issues, 3168 concerned technical issues, 2019 concerned network, 91 concerned ISP's services issues, and 24 concerned equipment (6,11% out of a total of 185,993 subscribers).



ISP 3

ISP 3 received the following complaints by consumers during the period from 1/5/2016 to 30/04/2017 in relation to fixed network (1,44% of a total of 59,416 subscribers): 415 concerned technical issues, 1 concerned fixed IP, 426 concerned billing issues and 15 concerned service installation. All complaints have been resolved by the ISP, and as a result no further action was required from OCECPR.



OCECPR also collected data about consumer complaints by the consumer association. Only 4 complaints were received by the association in relation to IAS performance, but none of the complaints constituted infringement of the Regulation.

OCECPR’s complaint department received 18 complaints relative to quality of service parameters during the period from 30 April 2016 to 30 April 2017. These mainly concerned fixed broadband connections.

The most frequent issue was that consumers couldn’t receive the advertised speeds of their contracts either because there was a technical issue from ISP’s side or due to incorrect performance measurements from the consumer side.

Based on the information provided concerning the consumer complaints handling process, OCECPR concludes that ISPs maintain easily accessible and efficient complaint procedures and, based on the information provided relating to the number of complaints received and resolved, handle the complaints received on a timely basis. Consequently, they are considered as compliant with the provisions of the Regulation.

4. Main Results of Surveys Conducted in Relation to Supervising and Enforcing the Regulation

OCECPR’s main findings were that ISPs are acting in conformity with the provisions of the Regulation and the Decree. Practices that may constitute infringement of the Regulation and the Decree (see discussion in section 2) are currently pursued further by OCECPR.

ISPs impose an obligation to their subscribers to use the provided terminal equipment in order to be able to ensure:

- Proper and necessary configuration of terminal equipment (modems, set top boxes) in order to be able to provide bundle services (internet, voice, TV).
- Adequate security of terminal equipment and customer network access. ISPs reported that internet service authentication credentials are not provided to customers but are built in to the terminal equipment (PPPoE authentication).
- The ability to support terminal equipment and service through remote access.

Based on information provided by ISPs, the provision of obligatory equipment by the ISPs is justified and according to the provisions of the Regulation and the Decree.

In relation to ISPs' agreements on commercial and technical conditions and commercial practices, following assessment of the reports, OCECPR's main findings were that there are two zero-rating practices offered by a single mobile provider. These practices may constitute an infringement of the provisions of the Regulation and the matter is currently pursued further by OCECPR. A detailed description of these practises are provided in Annex A.

In relation to traffic management practices, following assessment of ISPs' reports, OCECPR's main findings were that an ISP use traffic management practices (mainly a case where providers limit the access rate of heavy users based on their traffic volume in order to prevent congestion to the network) which may constitute infringement of the provisions of the Regulation. OCECPR is currently pursuing further this matter. A detailed description of these practices is provided in Annex B.

Following assessment of ISPs reports on specialised services, OCECPR found out that ISPs do not offer any specialized services². Moreover OCECPR assessed the technical practices used for the provision of bundled services in order to determine cases where the provision of IPTV or Voice Telephony (mainly SIP telephony via ATA ports on terminal equipment) may affect the provision of internet services. OCECPR found out that all providers use additional bandwidth (over and above the necessary capacity for internet service via different VCs configuration) to provide IPTV or Voice Telephony a practise that is in line with the provisions of the Regulation.

5. Main results and values retrieved from technical measurements and evaluations conducted in relation to supervising and enforcing the Regulation

Based on the findings of OCECPR as described in section 4 it was not considered necessary to carry out further measurements at technical level.

OCECPR expects that the results to be gathered by 2B2T are going to give a clearer picture of the overall quality of the service provided, but such results will be assessed and be available for the next annual report.

² Specialised Services are defined in our national secondary legislation (Decree 72/2017), as services beyond broadband Internet access, which include content or applications or a combination thereof, for the provision of which is necessary for the Provider to secure certain operating characteristics in order to achieve a certain level of quality.

6. Measures Adopted/Applied by OCECPR pursuant to Article 5(1) of the Regulation

According to the provisions of Article 5 of the Regulation, as interpreted in BEREC Guidelines and adopted in the Decree, OCECPR imposed an obligation on ISPs to include speed values in their contracts or in their websites. The obligation concerns determination of the following:

- as far as fixed network is concerned, minimum, standard and maximum speed, in percentage of advertised speed.
- as far as mobile network is concerned, where applicable, the advertised speed, in percentage to the estimated maximum speed.

In relation to the provision of broadband Internet access from a fixed network, ISPs are required to set the time periods within the day in which maximum speed is achieved, the periods expected to reach normally available speed, and the periods when speed may be limited to the minimum.

The aforementioned requirements are legally binding because they are provided in the Decree issued by OCECPR.

According to ISPs' reports submitted to OCECPR, they have complied with their obligation arising from the Regulation and the Decree, and defined in their contracts/website minimum, maximum, advertised and normally available upload and download speeds of the IAS in the fixed network. However, ISPs did not define advertised and estimated maximum upload and download speeds in their contracts as they did not advertise any speeds (Regulation as interpreted in BEREC Guidelines BoR (16) 127 para.142 and adopted in the Decree).

OCECPR interpreted "*significant discrepancy, continuous or regularly recurring*" in order to facilitate implementation of the Regulation. According to the Regulation (as interpreted in BEREC Guidelines), and adopted in the Decree 72/2017 speed should be defined and presented in the contract in a clear and comprehensive manner.

If during end-user measurements over a period of three consecutive days, results show that the speed received by the end-user is less than or equal to 80% of the minimum or normally available speed specified by the ISP, this is a non-compliance with the provisions of the Regulation and the Decree. The definition was imposed by OCECPR according to the powers conferred by Article 5(1).

In case of infringements of Articles 3, 4, and 5 of the Regulation, OCECPR laid down rules on penalties applicable. Acting in accordance with Article 6 of the Regulation, OCECPR may impose administrative penalties in any case of non compliance with national Law or with any European Regulation. The penalty may reach the amount of one hundred and seventy thousand euro, and can be doubled in case of recurrence. Furthermore, OCECPR may suspend the General Authorisation of the provider who violates the Law or the European Regulation. The above are in accordance to the First Annex of the Electronic Communication and Postal Services Law 112(I)/2004.

Annex A – Zero Rating Practices

- **Facebook Zero**

Facebook Zero is an initiative undertaken by Facebook whereby data charges (also known as *zero-rate*) are waived for accessing Facebook on phones via a stripped-down text-only version of its mobile website (as opposed to the ordinary mobile website m.facebook.com that also loads pictures). Photos are not loaded by default. Users may still choose to view them by clicking through but regular data charges apply to photo use. (<http://www.mtn.com.cy/en/facebookzero/>). It is noted that the service is available to all mobile subscribers (with a data plan or not) of the ISP offering the service.

- **Akazoo**

Subscribers can listen to unlimited ad-free music from all devices, whether connected to 4G/3G/WiFi networks, or offline. The service is an add on mobile contract plans and the data traffic used by the application is not charged. It is noted that the service is available to all mobile subscribers (with a data plan or not) of the ISP offering the service.

ANNEX B – Traffic Management Practises

A cable ISP makes use of a traffic management system which monitors all network channels (local cable network) within 15 minutes. If any channel reaches a certain high level of usage (currently set at 85%), the system reduces the access speed for the 25 most active users of that channel, based on the data volume of the previous 15 minutes, by 20 % of maximum speed. If a subscriber whose speed is already reduced is still among the 25 most active users, the low speed is maintained for the next time, provided that the channel continues to be highly utilized. Otherwise, the access speed is restored to the maximum level.

OCECPR assessed that, although the provider interprets this practice as reasonable traffic management (prevent impending network congestion and mitigate the effects of exceptional or temporary network congestion) this practice violates the provisions article 3(3) of the Regulation by introducing a clear discrimination between users (as they are divided in heavy and light users) by reducing the speed of heavy users only.