



**Consumer
Focus**
Campaigning for a fair deal

Pocket shopping

Annexes



Annex 1

Regulatory framework

Below are examples of consumer protection measures applied to m-commerce transactions in countries included in this study. The information is based on material provided by consumer organisations participating in the project and the OECD report on mobile commerce¹.

Belgium

In Belgium regulations applicable to m-commerce come under general consumer protection provisions, protection against unsolicited sales, distance selling regulations and more specifically regulations on electronic commerce. The relevant consumer protection regulations are embedded in the following legislation:

- Act of 14 July 1991 on trade practices and consumer information and protection
- Act of 17 July 2002 on transactions carried out by electronic transfer of funds
- Act of 11 March 2003 on certain legal aspects of information society services
- Act of 12 May 2003 on the legal protection of services based on conditional access and services concerning information society services
- Regulations of 27/03/2007 concerning the management of the national numbering space and the allocation and withdrawal of user rights of the numbers
- Civil Code that gives provisions on parental consent

In addition there is a self-regulatory Code of Conduct developed by the Telecom Operators and Service Providers that relates to specific services via telecommunication. The Code has been recently updated by the system of 'double opt-in' for SMS subscription services where consumers must confirm twice that they want to proceed with such services. Since June 2008 the Code also requires that short numbers (four digits) used in registration for SMS subscriptions must start with '9' so that consumers are made aware that these lead to contracts on a subscription.

Canada

There are no specific regulations on m-commerce and general consumer protection provisions apply. These are coded in the various provincial consumer protection acts and federally in the Competition Act. The Competition Act protection is limited to protecting consumers against misleading representation and deceptive marketing practices².

1 *Mobile Commerce, Directorate for Science, Technology and Industry Committee on Consumer Policy, OECD 2007.*

2 *Mobile Commerce, Directorate for Science, Technology and Industry Committee on Consumer Policy, OECD 2007, pp 23 and 48.*

The general consumer protection regulations at the provincial level that apply to the protection of consumers' right in e-commerce are not drafted to deal with mobile electronic transactions specifically³. There is a voluntary Code for Consumer Protection in Electronic Commerce endorsed by the Federal, Provincial and Territorial ministers responsible for consumer affairs that prescribes principles in consumers' rights to privacy, security and informed choice in electronic commerce, but it is not legally binding⁴.

There are additional self-regulatory initiatives led by industry. For example a code of conduct (www.txt.ca/common.htm) adopted by Canadian mobile carriers with Canadian Wireless Telecommunications Association.

Denmark

The regulatory framework relevant to m-commerce consists of a mixture of legislative provisions provided by the legislator and self-regulatory initiatives developed by the industry that include the Danish Contracts Act, Payment Services Act, Danish Guardianship Act and Framework agreement for mobile content services (website: http://teleindustrien.dk/t2w_358.asp).

The Payment Services Act is worth a special attention as it explicitly defines the SIM card in a mobile phone as a means of payment like other payment cards. As a result, mobile phone users can be compensated for any loss caused by unauthorised use of the mobile SIM card by the issuer, in the same way as a credit card holder would be.

Germany

The regulations on m-commerce fall within the general consumer protection provisions of general (consumer) contract law of the Civil Code. This includes provisions on information disclosure, unsolicited sales, parental consent and excessive consumption.

In addition the Telecommunication Act regulates issues in relation to inappropriate services in a mobile sector.

Japan

M-commerce is regulated by legislation covering consumer contracts in general and by more specific legislation related to electronic contracts (ie, the internet), advertising and pharmaceuticals. Overall the nature of the regulation can be divided into three areas:

- Requirements to provide certain information to consumers at the pre-purchase stage which can use instruments under the Specific Transaction Act, the Electronic Consumer Contracts Act and the Consumer Contracts Act.
- Regulation on advertising and other prohibited conduct that includes regulation on advertising in general, online advertising and advertising specific products (medicine and food) such as Specified Transactions Act, Unfair Premiums and Representations Act, Pharmaceutical Business Act and Promotion of Health Act. There are also prohibitions on certain conduct by providers of online dating sites specified by the Online Dating Site Act. In addition, the Consumer Contracts Act allows for contracts formed as a result of false, misleading statements or conduct to be cancelled. However, it is currently being debated whether the Act applies to advertising aimed at the general public.

3 *Mobile Commerce: Making it Work for Canadians, Public Interest Advocacy Centre, 3 April 2007.*

4 *Mobile Commerce: Making it Work for Canadians, Public Interest Advocacy Centre, 3 April 2007.*

- Penalties and remedies which may be applied to stop the illegal conduct or prohibit the offender from engaging in business for a certain length of time are available under the Electronic Consumer Contracts Act and other legislation. Administrative orders requiring the violator to take measures to stop the illegal conduct, orders prohibiting the offender from engaging in business for a certain length of time, and fines, are available under several Acts.

However, as mentioned above, cancellation of contracts or avoiding of terms coded under the Consumer Contracts Act may not be available at present.

Korea

Consumer protection in m-commerce falls within general consumer protection provisions on e-commerce coded in the Consumer Protection Act in Electronic Commerce (CPEC) and Guidelines for Consumer Protection in Electronic Commerce.

The CPEC Act also regulates cases of non-delivery or incomplete download of mobile content and obliges businesses to deliver products within three working days after receiving payment from consumers or to provide a refund within three days.

There are also applicable regulations under the Electronic Commerce Act, the Electronic Signature Act and the Location-based Information Use and Protection Act.

In addition, the Korean Consumers Protection Board proposed improvements in provisions of information disclosure to consumers (eg, notification by email and reconfirmation by consumers).

Norway

Protection for consumers engaged in m-commerce uses regulatory instruments which fall within general consumer protection regulations, electronic commerce and specific regulations related to mobile content services. For example, the Consumer Ombudsman has developed Guidelines on Mobile Content Services (http://forbrukerombudet.no/asset/3219/1/3219_1.pdf), which gives business a simple list of requirements on the marketing and sale of mobile phone content services. The Guidelines encompass the Marketing Control Act, the Guardianship Act, the Act relating to a Cooling-Off period, the Ecommerce Act, the Lottery Act, the Personal Data Act and the Ecom regulations and Consumer Protection Act Guidelines.

In addition, there is an independent Alternative Dispute Resolution mechanism that resolves disputes in cases of complaints against services which fall within the scope of Ecommerce, including mobile PRS.

Slovenia

M-commerce is regulated primarily by the Consumer Protection Act which rules on consumer protection with regard to product purchase, distance selling contracts, and financial services provided by a mobile network provider. For example, both product defects and mobile phone payments (eg, Moneta payments) fall within this category.

Additional means of protection are the Distance Selling Regulations that offer a possibility of withdrawing from the contract within 14 days from the purchase in relation to applicable products.

Spain

There are no specific regulations in relation to m-commerce and general consumer protection provisions on electronic commerce apply. However, some of the provisions are not working in practice in m-commerce transactions because of technical constraints; for example, the limited information disclosure on small mobile screen or compact wap pages which do not comply with the legal obligation to provide adequate information relevant to the purchase.

So far there has been no regulation in the area of Premium Mobile Service. However, after 27 November this year, a Code of Conduct for MMS and Premium SMS services comes into force. The Code will oblige service providers to provide information about the business, the product, costs, and information on how to unsubscribe from a service. In addition the Code will restrict unfair practices such as sending multiple SMS for pay in service. The Code is expected to improve the current situation in relation to Premium Mobile Services which generate a high volume of complaints.

UK

M-commerce falls under the general consumer protection provisions such as Unfair Contract Terms Regulations, Distance Selling Regulations and more specifically regulations on electronic commerce.

There are also specific regulations applied to premium mobile services regulated under the Telecommunications Act, such as the Code of Practices which contains the rules governing the content and promotion of premium rate services. The Code is enforced by Phonepay Plus, a regulatory body mandated to enforce consumer protection in relation to premium mobile services.

Ofcom, the regulator and competition authority, oversees the protection of vulnerable consumers⁵ and offers advice on Alternative Dispute Resolution schemes where consumer complaints are not resolved with a mobile provider⁶.

There are also self-regulatory codes of practice developed by industry. For example, the UK Code of Practice for self-regulation of New Forms of Content on Mobiles, the Independent Mobile Classification Body that self-regulates commercial content (eg, films and games) on mobiles except premium rate voice and texting services, and advertising codes set by the Advertising Standards Authority.

USA

Many states have laws modelled on the Federal Trade Commission Act (FTC Act) that prohibits unfair or deceptive acts or practices that can be applied to protect consumers in m-commerce transactions. In addition, there are laws about privacy relating to telephone subscribers' information held by carriers. There is also the federal law, the Children's Online Privacy Protection Act, which relates to the protection of children's privacy.

In addition, there are self-regulatory codes of practices developed by industry; for example, the Mobile Marketing Association (MMA) adopted its code of conduct for mobile marketing. Also, MMA in cooperation with the Cellular Telecommunications & Internet Association (CTIA) developed Best Practices Guidelines for Cross-Carrier Mobile Content Services⁷.

5 <http://www.ofcom.org.uk/consumer/2009/10/parental-controls-for-mobile-phones/>

6 <http://www.ofcom.org.uk/consumer/2009/06/adr-coMOBILE PRS/>

7 *Mobile Commerce, Directorate for Science, Technology and Industry Committee on Consumer Policy, OECD*

Annex 2

Mobile phones used

Apple	iphone 3G
Blackberry	Bold
Blackberry	Curve 8330
Blackberry	Pearl
H001 A company	Hitachi
HTC	HTC S620
HTC	Magic
Nokia	5800
Nokia	3110 classic.
Nokia	Xpress music 5800
Samsung	Player One
Samsung	SGH V560L
Samsung	SGH i560V
Samsung	SCH-W570
Sony Ericsson	Sony Ericsson v600i
Sony Ericsson	Xperia
Sony Ericsson	850W
Sony Ericsson	Cyber-shot C510
Sony Ericsson	850i
T-Mobile	MDA Vario 3
Vodafone	830

2007, p24.

Annex 3

Mobile network providers

E-Plus	Germany
KDDI	Japan
Mobistar	Belgium
Mobitel d.d.	Slovenia
Movistar 36+	Spain
Movistar (3G+)	Spain
Rogers Wireless	Canada
Softbank	Japan
SI.Mobil d.d.	Slovenia
SK Telecom	Korea
Sprint	USA
T-Mobile	Germany
Tele 2	Norway
Telenor	Denmark
Telus	Canada
Ventelo	Norway
Vodafone	Germany
Vodafone	UK

Annex 4

Vendors from whom orders were placed

Belgium

7 digital (<http://nl-be.7digital.com/>)

MUSIWAVE

Voyage SNCF.com

FNAC .com) www.fnacspectacles.com)

Fox Mobile Distribution GmbH(www.ajmba.be)

sonneriesnamologos

Mediapiazza.com

Alapage.com

Amazon EU S.a.r.l

Canada

www.amazon.ca

www.telusmobility.com

www.blackberry.com/appworld

www.empiretheatres.com

www.ticketmaster.com

www.empiretheatres.com

Denmark

www.udeoghjemme.dk

www.aspiro.com/en/Music/References/Sonofon-Musik

www.1415.dk

www.mobilemoney.com

www.dsb.dk

www.unwire.dk

www.dr.dk

www.playnow-arena.com

www.amazon.com/

Germany

www.jamba.de/Fox

www.bol.de/

www.thalia.de/

www.amazon.de/Amazon

www.wom.de

<http://klingeltoene.musicbox.de/contnet>

www.wetter.de/RTL

Great Britain

www.amazon.co.uk
Big Chilli.mobi
www.giftofsound.co.uk
www.gospoken.com
www.passionato.com
www.playphone.com
www.ringo.co.uk
Vodafone UK

Japan

Amazon
Recochoku
Asahi mobile station
Media Kobo.Inc
Bandai Namco Games
ANA
Warner MYCAL Corp
Apple
Apple

Korea

(melon): www.melon.com
(Interpark Ticket): www.interpark.com
7777
CGV : www.cgv.co.kr
Gamevil : www.nate.com
Jushin' fortune : www.nate.com
YES24 : www.yes24.com

Norway

wap.eurobate.no
my mobile no.
wap.jamba.no
wap.boomi.no
Filmweb.no
cdon.com
Bokkilden.no
Cellus (but says the service is delivered by Aspiro AS)
Billetservice.no
Inpoc(owned by Aspira AS)
Platekompaniet.no

Slovenia

McDonalds (www.mcdonalds.si)
Kranjska Investicijska Druzba d.o.o. (www.kranjska-id.com)
Si.Mobil.d.d. (www.simobil.si)
Casnik Finance.d.o.o. (www.finance.si)
Kolosej Kinematografi d.o.o. (www.kolosej.si)
Mobitel d.d. (www.mobitel.si)
Big Bang d.o.o. (www.bigbang.si)

Programski Atelie A&Z (www.mojekarte.si)
Menart Records d.o.o. (www.menart.si)
Gambit Trade d.o.o. (www.gambit.si)
Petrol d.d. (www.petrol.si)

Spain

Serviticket
Moulenradas.com
<http://wap.movilisto.com>
Mobile: wlp.zed.es PC: www.clubzed.com
Gameloft www.gameloft.es
Jamba: wap.jamba.es
Olemovil www.olemovil.com (jet Multimedia)
www.todoebook.com
www.amazon.co.uk/gp/aw : amazon.co.uk
www.barnesandnoble.com Barnes and Noble

USA

Sprint Store
Amazon
Virgin Records
Sprint Store
Fandango
ebooks.com
UTA (Utah Transit Authority)
BMT Micro,Inc
[Redbutte garden.org](http://Redbutte.garden.org)
Matador Records

Annex 5

Participating organisations

Belgium

European Consumers' Organisation (BEUC)
80 rue d'Arlon
B-1040 Brussels
www.beuc.eu

Canada

Public Interest Advocacy Centre
One Nicholas Street, Suite 1204
Ottawa K1N 7B7
Tel: +1 613 562 4002 x25
Fax: +1 613 562 0007
www.piac.ca

Denmark

Forbrugerrådet
The Danish Consumer Council
Fiolstraede 17
P.O.Box 2188
Copenhagen K
DK-1017
Tel: +45 77 41 77 41
Fax: +45 77 41 77 42
www.fbr.dk

Germany

Verbraucherzentrale Bundesverband (VZBV)
Federation of German Consumer Organisations
Markgrafenstre 66
Berlin 10969
Tel: +49 30 258 00 0
Fax: +49 30 258 00 218/428
www.vzbv.de

Japan

NCOS (Nippon Consumer Voice for Better Standards)
1-9-6-301 Minato, Chuo-Ku
Tokyo 171-0044
Tel: +81 3 3553 7358
www.ncos.gr.jp

Republic of Korea

Consumers Korea
603 Pierson Building,
Shinmunro 2 ga 89 – 27
Chongroku, Seoul
www.consumerskorea.org

Norway

Forbrukerrådet
The Consumer Council of Norway
Postboks 4594 Nydalen
NO - Dep 0404 OSLO
Tel: 004723400500
Fax: 004723400503
www.forbrukerportalen.no

Slovenia

Zveza potrošnikov Slovenije
(Slovenian Consumers Association)
Frankopanska 5
1000 Ljubljana
www.zps.si

Spain

Organización de Consumidores y Usuarios (OCU)
Organisation of Consumers and Users
Calle Albarracín, 21
Madrid 28037
Tel: +34 91 300 0045
Fax: +34 91 754 3870
www.ocu.org

USA

The American Council on Consumer Interests
5100 E. Vogel Rd., Ste. 202 Evansville
Indiana 47715
American Council on Consumer Interests (ACCI)
Tel: +1 812 470 1985
www.consumerinterests.org



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International consumer experiences of buying goods on their mobile phones

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