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## PROTECTION OF USERS AND COMPETITION: NEW RULES FOR THE TELECOMMUNICATIONS SECTOR

As of September 14, new rules governing the relations between users of telecommunications services and their respective operators were introduced. The recent amendments aim for **greater transparency regarding the commercial and technical conditions associated to the service and the equipment provided** (standard mobile phones, so-called smartphones, USB modems for internet access on portable computers, boxes for “triple play” services – internet, telephone and TV, etc.).

These changes were introduced by Law n. 51/2011, of September 13, which enacted wide-ranging amendments to the **Electronic Communications Law (“LCE”)** – Law no. 5/2004, of February 10. These changes have been brought about by the implementation of two important European Union directives (published in 2009) which, together with other acts, reformed the regulatory framework for the telecommunications sector.

The **regulatory reform** has touched on practically all major topics subject to regulation. Thus, the LCE (which had already been subject to several amendments over the years) was republished as an annex to Law no. 51/2011.

In this Briefing we highlight the chapter on the protection of end-users and subscribers, including consumers – i.e. the rules on the protection of clients, both those in the corporate segment and individual customers.

**Telecommunications operators must now publish the following comparable and updated information** (notably, on their websites):

- Description of the services offered, including their functionalities and the geographic area in which they are available, and other possible restrictions concerning access to the services
- Service quality levels

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*Legal obligation  
to publish detailed prices*

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- Types of support and maintenance services offered
- **Prices, explicitly indicating the amounts owed for each of the services rendered and the content of each item of the price, and also detailed information on:**
  - i. The normal discounts applied and special tariff systems
  - ii. Possible additional charges
  - iii. Costs related to terminal equipment and charges related to termination of the contract, notably as a consequence of the costs associated with the subsidisation of terminal equipment.
- Standard contract conditions, including any minimum contractual period (which, in contracts entered into with consumers, must not exceed 24 months) and other conditions for renewal and termination of the contracts
- Charges related to number portability, which now is to be concluded within one working day

Furthermore, it is mandatory that contracts to be entered into with end-users and subscribers clearly contain the following measures:

- Measures that the operator may adopt in reaction to **incidents concerning the security and integrity of the network** (or aimed at reacting to threats and vulnerabilities)
- Measures of **protection against risks to personal security, privacy and personal data**

A minor amendment but with significant practical relevance (mainly regarding services of relevant social utility, such as information on the waiting times at public services and public transport schedules), concerns the so-called **value added services based on messaging (SMS or MMS)**: from now on these services will only be available upon a written request for their generic or selective activation by the subscriber of the mobile telephone service.

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*SMS or MMS  
will only be available  
upon written request*

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*Greater transparency  
regarding the commercial  
and technical conditions*

In conclusion, we make two additional comments.

Firstly, the greater transparency regarding the relation between telecommunications operators and their clients is not only justified by the European Union's political goal of strengthening the rights of clients and consumers: the new obligations regarding information **facilitate the comparison between the conditions offered by existing operators, which seeks to strengthen competition in the market.**

Secondly, the intensification of this **strategy may become visible also in other sectors subject to a strong European regulation**, such as the energy sector.

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