Case C-468/20

Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice

Date lodged:

29 September 2020

Referring court:

Consiglio di Stato (Italy)

Date of the decision to refer:

9 July 2020

Appellants:

Fastweb SpA

Tim SpA

Vodafone Italia SpA

Wind Tre SpA

Respondent:

Autorità per le Garanzie nelle Comunicazioni

Subject of the action in the main proceedings

Appeal before the Consiglio di Stato (Council of State, Italy) against the judgments by which the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio) dismissed the actions brought by several operators in the telephony market against a decision of the Autorità per le Garanzie nelle Comunicazioni (the Italian Communications Regulator) regulating the frequency with which offers are renewed for users and the billing period for the services provided to them.

Subject matter and legal basis of the request for a preliminary ruling

As a preliminary point, the Court of Justice is asked to clarify the scope of the obligation to make a reference for a preliminary ruling under Article 267 TFEU for national courts against whose decisions there is no judicial remedy under national law, where the referring court has no doubts as to the interpretation of the applicable EU law. If that obligation is found to exist in the present case, the reference for a preliminary ruling concerns the compatibility with the rules laid down in Directives 2002/21/EC and 2002/22/EC, and with the principles of free movement of services and freedom of establishment, of certain measures adopted by the competent national regulatory authority imposing a standard time frame for the renewal of offers and for billing in the fixed and mobile telephony sectors.

Questions referred

‘1. Does the correct interpretation of Article 267 TFEU require the national court, against whose decisions there is no judicial remedy under national law, to make a reference for a preliminary ruling on a question of interpretation of the relevant [EU] law in the main proceedings, even where there is no doubt as to the interpretation of the relevant EU provision – taking into account the terminology and meaning specific to [EU] law attributable to the wording of the relevant provision, the applicable European regulatory framework and its underlying objectives of protection, considering the stage of development of EU law when the relevant provision is to be applied in the national proceedings – but it is not possible to establish in detail, from a subjective point of view, with regard to the conduct of other courts, that the interpretation of the referring court is the same as the one likely to be given by the courts of the other Member States and by the Court of Justice, to which the same question is referred?’

If the Court of Justice should find that the obligation to make a reference for a preliminary ruling under Article 267 TFEU is binding, where it is not possible to establish in detail the interpretation likely to be given to the same question, which is material in the main proceedings, by the courts of the other Member States and by the Court of Justice – evidence, regarding the subjective attitude of other courts, which cannot be furnished in the case before the Council of State – the following additional questions for a preliminary ruling arise:

‘2. Does the correct interpretation of Articles 49 and 56 TFEU, and of the harmonised regulatory framework as enshrined in Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC – and in particular in Article 8(2) and (4) of Directive 2002/21/EC, as amended by Directive 2009/140/EC, Article 3 of Directive 2002/20/EC, as amended by Directive 2009/140/EC, and Articles 20, 21 and 22 of Directive 2002/22/EC, as amended by Directive 2009/136/EC – preclude a national rule such as that inferred from the provisions of Articles 13, 70 and 71 of Decreto Legislativo n. 259/03 (Legislative Decree No 259/03) in conjunction with Article 2(12)(h) and (l) of Legge n. 481/1995 (Law

No 481/1995) and Article 1(6)(2) of Legge n. 249/1997 (Law No 249/1997), which gives the national regulatory authority in the electronic communications sector the power to impose: (i) for mobile telephony, a time frame for the renewal of offers and for billing of at least four weeks, with the simultaneous introduction of the obligation for the relevant economic operators that adopt a time frame for the renewal of offers and for billing which is on a non-monthly basis, to inform users promptly by SMS that the offer has been renewed; (ii) for fixed telephony, a timeframe for the renewal of offers and for billing at intervals of one month or multiples thereof and (iii) in the case of offers that are bundled with fixed telephony, the time frame applicable to fixed telephony?

3. Does the correct interpretation and application of the principle of proportionality, in conjunction with Articles 49 and 56 TFEU and the harmonised regulatory framework as enshrined in Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC — and in particular in Article 8(2) and (4) of Directive 2002/21/EC, as amended by Directive 2009/140/EC, Article 3 of Directive 2002/20/EC, as amended by Directive 2009/140/EC, and Articles 20, 21 and 22 of Directive 2002/22/EC, as amended by Directive 2009/136/EC — preclude the adoption of regulatory measures by the national regulatory authority in the electronic communications sector aimed at imposing: (i) for mobile telephony, a time frame for the renewal of offers and for billing of at least four weeks, with the simultaneous introduction of the obligation for the relevant economic operators that adopt a time frame for the renewal of offers and for billing which is on a non-monthly basis, to inform users promptly by SMS that the offer has been renewed; (ii) for fixed telephony, a time frame for the renewal of offers and for billing at intervals of one month or multiples thereof and (iii) in the case of offers that are bundled with fixed telephony, the time frame applicable to fixed telephony?

4. Does the correct interpretation and application of the principles of non-discrimination and equal treatment, in conjunction with Articles 49 and 56 TFEU and the harmonised regulatory framework as enshrined in Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC — and in particular in Article 8(2) and (4) of Directive 2002/21/EC, as amended by Directive 2009/140/EC, Article 3 of Directive 2002/20/EC, as amended by Directive 2009/140/EC, and Articles 20, 21 and 22 of Directive 2002/22/EC, as amended by Directive 2009/136/EC — preclude the adoption of regulatory measures by the national regulatory authority in the electronic communications sector aimed at imposing: (i) for mobile telephony, a time frame for the renewal of offers and for billing of at least four weeks, with the simultaneous introduction of the obligation for the relevant economic operators that adopt a time frame for the renewal of offers and for billing which is on a non-monthly basis, to inform users promptly by SMS that the offer has been renewed; (ii) for fixed telephony, a time frame for the renewal of offers and for billing at intervals of one month or multiples thereof; (iii) in the case of offers that are bundled with fixed telephony, the time frame applicable to fixed telephony?'

Provisions of EU law cited

Article 267 TFEU, and in particular the third paragraph thereof: 'where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.'

Article 49 TFEU (freedom of establishment).

Article 56 TFEU (freedom to provide services).

Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), as amended by Directive 2009/140/EC, and in particular Article 8(2) and (4) thereof, on the policy objectives and regulatory principles of national regulatory authorities.

Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), as amended by Directive 2009/136/EC, and in particular Chapter IV thereof on 'End-user interests and rights', Article 20 'Contracts', Article 21 'Transparency and publication of information', and Article 22 'Quality of service'.

Provisions of national law cited

Legge 14 novembre 1995, n. 481 – Norme per la concorrenza e la regolazione dei servizi di pubblica utilità. Istituzione delle Autorità di regolazione dei servizi di pubblica utilità (Law No 481 of 14 November 1995 – Rules relating to competition and the regulation of public utility services. The creation of regulatory authorities for public utility services). In particular, Article 2(12)(h) and (l), which, in defining the tasks assigned to regulatory authorities for public utility services, recognises the power to issue 'directives concerning the production and the provision of services by the entities providing those services, defining the general quality standards for the services as a whole and the specific quality standards for the individual service guaranteed for users, … if necessary differentiating them by sector and type of service; such decisions shall have the effects referred to in paragraph 37 …'; it also recognises the power to publicise and disseminate 'information on the conditions of service performance to ensure maximum transparency, competitiveness and the possibility for users of making more informed choices …'. Paragraph 37 provides that 'the decisions of the authorities referred to in paragraph 12(h) shall amend or supplement the service regulations'.

Legge 31 luglio 1997, n. 249 – Istituzione dell'Autorità per le garanzie nelle comunicazioni e norme sui sistemi delle telecomunicazioni e radiotelevisivo (Law No 249 of 31 July 1997 – Creation of the Italian Communications Regulator and

rules on telecommunications and broadcasting systems). In particular, Article 1(6)(b)(2), which gives that authority the power to issue 'directives concerning the general service quality standards and the adoption, by each operator, of a service charter laying down minimum standards for each business segment'.

Decreto legislativo 1 agosto 2003, n. 259 – Codice delle comunicazioni elettroniche (Legislative Decree No 259 of 1 August 2003 – Electronic Communications Code). In particular, Articles 13, 70 and 71 transposing Article 8 of Directive 2002/21/EC and Articles 20 and 21 of Directive 2002/22/EC, respectively.

Article 13(4)(a) provides that 'the Ministry and the Authority shall promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services: (a) ensuring that users, including disabled and elderly users and users with special social needs, derive maximum benefit in terms of choice, price, and quality'.

Article 13(6)(b) and (d) of that same legislative decree provides as follows: 'the Ministry and the Authority, within their respective competences, shall promote the interests of citizens by: … (b) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved; … (d) promoting the provision of clear information, in particular ensuring transparency of tariffs and conditions for using publicly available electronic communications services'.

Article 70 provides that 'the contract shall specify in a clear, comprehensive and easily accessible form at least: … (b) the services provided, and in particular: … the minimum service quality levels offered, including the date of initial connection and, where appropriate, other quality of service parameters, as defined by the Authority'.

Article 71(1) provides: 'the Authority shall ensure that undertakings providing public electronic communications networks and/or publicly available electronic communications services shall publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to, and use of services provided by them to end-users and consumers in accordance with Annex 5. Such information shall be published in a clear, comprehensive and easily accessible form. The Authority may specify additional requirements regarding the form in which such information is to be published.'

Brief outline of the facts and the main proceedings

1 The Italian Communications Regulator (which the Italian Government has charged with carrying out the regulatory tasks provided for in Directives

2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC) adopted Decision No 121/17/CONS, by which it introduced various measures to protect users of fixed and mobile telephony services, intended to promote transparency and comparison of prices of those services.

2 The adoption of that decision was necessitated by the growth in the fixed and mobile telephony markets, which made it more difficult for users to understand the time frame for billing and for the renewal of offers. With regard to the fixed telephony market in particular, the Italian Communications Regulator noted that some operators had amended their offer conditions by introducing a contract renewal period based on four weeks rather than one month, making it difficult for users to compare offers. By contrast, in the mobile telephony market, a significant number of operators had already adopted a four-week offer renewal period. It was, therefore, easy to compare offers by selecting a monthly or four-week renewal period.

3 Decision No 121/17/CONS stated, in particular, that: '*for fixed telephony, the time frame for the renewal of offers and for billing shall be at intervals of one month or multiples thereof. For mobile telephony, the time frame may not be less than four weeks. In the case of offers bundled with fixed telephony, the time frame for fixed telephony shall apply. ... Mobile operators that adopt a time frame for the renewal of offers and for billing which is on a non-monthly basis shall inform users promptly by SMS that the offer has been renewed.*'

4 The telephone operators Fastweb SpA, Tim SpA, Vodafone Italia SpA and Wind Tre SpA ('the appellants') challenged that decision in separate actions before the Lazio Regional Administrative Court.

5 After the actions were dismissed by the first-instance court, the same operators brought an appeal before the Council of State ('the referring court'), pleading the lack of regulatory power on the part of the Italian Communications Regulator, as well as the infringement of the principles of proportionality and non-discrimination.

Principal arguments of the parties to the main proceedings

6 The appellants submit, first of all, that there is no provision in Italian or EU law that empowers the Italian Communications Regulator to regulate the time frame for the renewal of offers and billing periods. In particular, they contend that Article 8(4)(b) of Directive 2002/21/EC and Articles 20, 21 and 22 of Directive 2002/22/EC do not legitimise the conferral on that authority of any power to regulate the content of contracts or offers, but only allow it to impose obligations on operators to provide users with information. Decision No 121/17/CONS was, therefore, adopted without a legal basis, resulting in an unlawful limitation of the freedom of contract of telephone operators.

7 The appellants further submit that the principle of proportionality has been infringed in that the Italian Communications Regulator could have adopted alternative measures which would have been less restrictive of telephone operators' freedom of contract and which, in any event, would have achieved the objectives of protection sought by Decision No 121/17/CONS.

8 Lastly, the appellants argue that the regulatory measures approved by that authority infringe the principle of equal treatment and non-discrimination since there is no justifiable reason for the different legal treatment accorded to mobile operators and fixed operators.

9 The Italian Communications Regulator notes, however, that the legal basis of the regulatory measures it approved is Article 71 of Legislative Decree No 259/03, Article 1 and Article 2(12)(h) and (l) of Law No 481/95, and the general principles of Directive 2002/21/EC, transposed into Italian law by the abovementioned Legislative Decree No 259/03. Moreover, it argues that those measures do not affect the freedom of contract of operators, which are still able to amend the contractual terms unilaterally and vary the offer by proposing monthly, bimonthly or longer intervals. Lastly, it considers that the regulations introduced by Decision No 121/17/CONS are proportionate, since they are necessary to restore full transparency and comparability of offers, as well as complying with the principle of non-discrimination, in the light of the different characteristics of the mobile and fixed telephony sectors.

Succinct presentation of the reasons for the request for a preliminary ruling

10 The referring court considers that, in order to decide the case in the main proceedings, it is necessary to ascertain whether the measures adopted by the national regulatory authority limiting the frequency of renewal of offers and the billing period (a) have a regulatory basis, (b) are proportionate, and (c) do not result in unreasonable discrimination between fixed and mobile operators. Before addressing those issues, the referring court considers it appropriate to clarify the scope of the obligation to make a reference for a preliminary ruling under Article 267 TFEU for national courts of final instance, such as the referring court, so as to determine whether that obligation applies in the present case.

The scope of the obligation to make a reference for a preliminary ruling under Article 267 TFEU

11 The referring court starts from the premiss that, in order to decide the case in the main proceedings, which concerns national provisions transposing EU law, it is required to rule on a question of interpretation of EU law. In that situation, the settled case-law of the Court of Justice (in particular, the judgment of 6 October 1982, *Cilfit and Others*, 283/81, EU:C:1982:335) provides that, where there is no judicial remedy against the decision of a national court, the latter is, in principle,

required to bring the matter before the Court of Justice under the third paragraph of Article 267 TFEU.

12 The obligation to make a reference for a preliminary ruling does not exist where the court of final instance seised of the dispute finds that the question referred is irrelevant, or that the EU provision in question has already been interpreted by the Court, or, lastly, that the correct application of EU law is so obvious as to leave no scope for any reasonable doubt. With regard to the latter condition, the referring court notes that '*the national court or tribunal must be convinced that the matter is equally obvious to the courts of the other Member States and to the Court of Justice*' (judgment of 6 October 1982, *Cilfit and Others*, 283/81, EU:C:1982:335, paragraph 16).

13 That principle has been recognised in the subsequent case-law of the Court of Justice, with the proviso that the national court of final instance '*must make a reference to the Court for a preliminary ruling when it has the slightest doubt as regards the interpretation or correct application of EU law*', and that '*it must be established in detail that there is no such doubt*' (judgment of 28 July 2016, *Association France Nature Environnement*, C-379/15, EU:C:2016:603, paragraphs 51 and 52).

14 The referring court observes that, given the subjective nature of the interpretation of legal provisions, it seems especially difficult, if not impossible, to rule out in a given case any '*slightest doubt*' as to the possibility that a national court in another Member State, or the Court of Justice, could give a different ruling, even if only in part, on the same question. Moreover, the requirement that '*it must be established in detail that there is no such doubt*' would mean that the national court of final instance would be obliged to make a reference for a preliminary ruling, under Article 267 TFEU, whenever the question of interpretation raised in the national court, and relevant for deciding the case, was not materially identical to another question, raised in relation to a similar case, on which the Court of Justice had already made a preliminary ruling.

15 It follows from this that a national court of final instance, in the absence of previous rulings of the Court of Justice on identical questions, would be required to make a reference for a preliminary ruling even if it had no doubts as to the answer to be given to the question referred in the light of objective elements such as the wording of the relevant provisions of EU law, their context and the objectives sought by the relevant regulatory framework.

16 In those circumstances, the referring court considers it necessary to ask the Court of Justice to clarify whether being '*convinced that the matter is equally obvious to the courts of the other Member States and to the Court of Justice*', as required by the case-law cited above:

(a) is to be established subjectively, by referring to the possible interpretation of the same question by the courts of the other Member States and the Court of Justice; or

(b) whether it is sufficient to establish that the question referred for a preliminary ruling is not manifestly unfounded in the light of objective factors such as the wording of the relevant provisions of EU law, their context and the objectives of the relevant regulatory framework.

The legal basis of the power to regulate the frequency of billing and the renewal of offers

17 If it should be found that, in the present case, there is an obligation to make a reference for a preliminary ruling under Article 267 TFEU, the referring court asks the Court of Justice to rule on whether the EU law consisting in Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC – and specifically Article 8(2) and (4)(b) of Directive 2002/21/EC and Articles 20, 21 and 22 of Directive 2002/22/EC – and in the principles of free competition, free movement of services and freedom of establishment, precludes national legislation that empowers the national regulatory authority to supplement the content of contracts between telephone service providers and users by limiting the frequency of billing or the renewal of offers.

18 The referring court recalls the provisions of the relevant Italian legislation and, in particular, Article 2(12)(h) of Law No 481/95, which empowers the regulatory authorities for public utility services to issue '*directives concerning the production and the provision of services*'. That provision was subsequently confirmed by Article 1(6)(c)(14) of Law No 249/97 establishing the Italian Communications Regulator, which was also empowered by Article 1(6)(b)(2) of that law to issue directives concerning the general service quality standards. Lastly, the national legal framework is supplemented by Articles 13, 70 and 71 of Legislative Decree No 259/03, which transpose into Italian law Article 8 of Directive 2002/21/EC and Articles 20 and 21 of Directive 2002/22/EC, respectively.

19 From a combined reading of the national legislation, it is apparent, particularly in the light of the case-law of the referring court, that the Italian Communications Regulator has been empowered to regulate the conditions for the production and provision of services in order to protect users' rights, including by limiting the freedom of contract of telephone operators in determining the frequency of renewal of offers and the billing period.

20 With regard to the relevant EU legislation already referred to, the referring court notes that, like the national legislation, it does not identify the content of the measures that may be taken by the national regulatory authorities, but identifies the objectives of protection sought and the areas of activity concerned, leaving it to the authority's discretion to determine the most appropriate measure in practice to achieve those objectives.

21 The case-law of the Court of Justice also recognises the discretionary power of the regulatory authorities in choosing the legal asset to be protected, stating that they '*have a broad discretion in order to be able to determine the need to regulate a market according to each situation on a case-by-case basis*' (judgments of 24 April 2008, *Arcor*, C-55/06, EU:C:2008:244, paragraphs 153 to 156; of 3 December 2009, *Commission* v *Germany*, C-424/07, EU:C:2009:749, paragraph 61; and of 15 September 2016, *Koninklijke KPN and Others*, C-28/15, EU:C:2016:692, paragraph 36).

22 As regards the objectives of protection assigned to the national regulatory authorities, specified in Article 8(4)(b) and (d) of Directive 2002/21/EC, the referring court notes that they cannot be interpreted restrictively and that their wording – and particularly the use of the terms '*in particular*' and '*inter alia*' – shows that the EU legislature merely sought to give examples of the objectives of protection assigned to the national regulatory authorities.

23 In the light of those considerations, the referring court considers that regulating the frequency of contract renewal and the billing period is not incompatible with the abovementioned EU legislation since:

(a) it fulfils the objective of protecting citizens within the meaning of Article 8 of Directive 2002/21/EC by ensuring the transparency of information in dealings between users and professionals and by protecting the freedom to choose which contract to take out by defining a single time frame (one month or multiples thereof for fixed telephony services; at least four weeks for mobile telephony services);

(b) it amounts to the application of regulatory power in the matter of transparency of information recognised by Article 21(1) of Directive 2002/22/EC, in so far as it does not affect the freedom of operators to decide on the financial terms of the contract, but merely establishes the forms in which the contractual consideration may be expressed;

(c) it amounts to the application of regulatory power in the matter of the quality of the services offered by the undertaking, as provided for in the third indent of Article 20(1)(b) and Article 22 of Directive 2002/22/EC, since 'quality of service' does not only cover the technical aspects of the service, but includes aspects that fulfil the need to protect users, such as the control of expenditure resulting from the contractual relationship;

(d) it does not exclude the right of operators to amend the content of a contract unilaterally (*ius variandi*), providing for a minimum frequency for billing and contract renewal, beyond which operators remain free to define the contractual terms.

24 Furthermore, regulating the frequency of contract renewal and the billing period does not seem incompatible with the fundamental freedoms of freedom of

establishment (Article 49 TFEU) and freedom to provide services (Article 56 TFEU), given that:

(a) telephone operators are not subject to the prior issuing of a permit;

(b) according to the case-law of the Court, the freedom to conduct a business, which covers the freedom of contract, may be restricted as it '*does not constitute an absolute prerogative*, but must be viewed in relation to its function in society' (judgment of 20 December 2017, *Polkomtel*, C-277/16, EU:C:2017:989, paragraph 50).

25 In any event, the referring court points out that the abovementioned EU legislation does not provide for '*full harmonisation of consumer-protection aspects*' (judgment of 14 April 2016, *Polkomtel*, C-397/14, EU:C:2016:256, paragraph 32) and that enhanced forms of consumer protection therefore appear admissible, including by the national legislature conferring regulatory powers in addition to those expressly provided for in Articles 19, 20 and 21 of Directive 2002/22/EC.

Compliance with the principle of proportionality

26 The referring court does not take the view that setting a minimum frequency for billing and the renewal of offers infringes the principle of proportionality enshrined in EU law, according to which the rules laid down by the Member States or by public authorities under EU directives must be suitable for securing the attainment of the objective pursued, and must not go beyond what is necessary to attain the objectives provided for by those directives (judgment of 14 May 2020, *T-Systems Magyarország*, C-263/19, EU:C:2020:373, paragraph 71).

27 As regards suitability for attaining the objective pursued, the referring court notes that, at the time when the contested national regulations were introduced, the telephony market was highly differentiated. More specifically, most of the mobile telephony market (around 76%) had adopted the prepayment model with monthly renewal and billing every four weeks. Conversely, virtually the entire fixed telephony market was based on contracts with retrospective payment, often by direct debit, with a billing and contract renewal system that was gradually shifting from monthly intervals to four-weekly intervals.

28 Accordingly, the referring court considers that regulations imposing a single contract renewal and billing period for all offers (a calendar month for fixed telephony contracts, and at least four weeks for mobile contracts) provide suitable protection for users. Indeed, such measures would enable users to compare the different offers, preventing some offers from appearing cheaper than others simply because they were quantified over a shorter period of time. In addition, users would also be able to control the expenditure generated by the service received.

29 Moreover, the contested regulatory measures do not appear to go beyond what is necessary for attaining the objectives pursued. In that regard, the referring court notes that alternative measures, such as interactive guides or calculation engines for comparing offers over the same time frame, are not as effective, given that the use of such tools would require a smartphone and data connection, which not all Italian users have.

30 Lastly, the regulatory measures are considered appropriate since operators remain free to decide the contractual price at which they are willing to provide the service, while being able to vary the frequency of billing and contract renewal within the limits set by the regulatory authority.

Compliance with the principle of equal treatment and non-discrimination

31 In the referring court's view, there is no difference in treatment between mobile telephony and fixed telephony in the present case, since those two markets are not comparable given the differences between them. Those differences specifically affect how users are informed, since in the mobile telephony market, where it is standard practice to have a 28-day period for billing and renewal and where payment is normally in advance, the information to be given to users to enable them to control their expenditure may consist of the notification of the amount of credit remaining and details of the offer renewal, since it is not possible to charge amounts that exceed the available credit. In the fixed telephony market, however, where there is no standard practice regarding the frequency of billing and renewal, and where retrospective payment is the norm, information on expenditure can be provided by imposing fixed contract expiry dates and monthly billing.