



GGP on Customer Complaint Handling, Reporting and Classification

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INFORMATION PAGE

Abstract

This document (E09-CEM-26-03) sets out ERGEG Guidelines of Good Practice on Customer Complaint Handling, Reporting and Classification, following the publication of ERGEG Draft Advice on Customer Complaint Handling, Reporting and Classification (17 September 2009), a stakeholder consultation (2009/10/02 to 2009/12/02) on this document as well as an ERGEG workshop on Customer Complaint Handling (2010/02/25).

The work follows a request from the European Commission and is linked to Commission initiatives on this issue.

Target Audience

Consumer representative groups, distribution system operators, energy suppliers, energy customers, energy industry, policy-makers, academics and other interested parties.

Related Documents

CEER/ERGEG Documents

- Public Consultation Paper on ERGEG Draft Advice on Complaint Handling, Reporting and Classification (E09-CEM-26-03), 17 September 2009
http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/CLOSED%20PUBLIC%20CONSULTATIONS/CUSTOMERS/Customers%20Complaint%20Handling/CD/E09-CEM-26-03_ComplaintHandling_2009-09-09.pdf
- Public Consultation Paper on ERGEG Draft GGP on Indicators for Retail Market Monitoring (E09-RMF-14-04), 16 April 2010 http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/GGP%20retail%20market%20monitoring/CD/E09-RMF-14-04_Draft%20GGP-IRMM_PC_16-Apr-10.pdf
- Transposition of Consumer Rights Monitoring Report (E08-CPR-20-03), 13 October 2008 http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2008/E08-CPR-20-03_Consumer%20rights%20monitoring_2008-10-13.pdf

External documents

- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:0093:EN:PDF>
- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0094:0136:EN:PDF>

- Commission Recommendation of 12 May 2010 on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries - SEC(2010)572 http://ec.europa.eu/consumers/strategy/docs/consumer-complaint-recommendation_en.pdf
- Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC – Retail Markets, 22 January 2010, http://ec.europa.eu/energy/gas_electricity/interpretative_notes/doc/implementation_notes/2010_01_21_retail_markets.pdf
- Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - The Regulatory Authority, 22 January 2010, http://ec.europa.eu/energy/gas_electricity/interpretative_notes/doc/implementation_notes/2010_01_21_the_regulatory_authorities.pdf
- Consumer Market Scoreboard: 2nd edition, European Commission, 2009, http://ec.europa.eu/consumers/strategy/facts_en.htm
- Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:115:0031:0034:EN:PDF>

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Executive Summary

Customer complaints are considered a top level indicator, which can contribute to monitoring markets from a customer perspective and identifying market malfunctioning: data on complaints is already monitored through the European Commission's *Consumer Market Scoreboard* and a dedicated expert group, in which ERGEG participates, was also set up by the European Commission (EC) during 2009 to develop a harmonised methodology for classifying and reporting consumer complaints on a cross-sectoral basis around the EU.

The 3rd Package, adopted by European Union on 13 July 2009, includes new provisions on customer protection, and in particular as regards customer complaint handling (Articles 3 and Annexes I of the 2009 Electricity and Gas Directives¹). Member States are invited to set up new protections for household customers, among which:

- Single points of contact to provide information on their rights;
- Information in or with the bills about the means of dispute settlement;
- An important role in raising the awareness of customers is given to service providers, which should provide a good standard of service and complaint handling and implement redress schemes;
- Creation of independent mechanisms for the treatment of complaints and disputes;
- Financial compensation for customers; and
- Complaint monitoring.

The present ERGEG Guidelines of Good Practice (GGP) on Complaint Handling, Collecting and Classification aim to provide Member States and national regulators with input on how to translate 3rd Package provisions into operational modalities. Good practices already in place in some Member States were of high relevance when drawing up these recommendations. This report, which focuses on the electricity and gas sectors, includes 15 recommendations on complaint handling, as well as a proposal for complaints classification, inspired by the European Commission's classification.

The main recommendations identified in this report are:

- A single point of contact should deliver, in every country, free information and advice on consumer issues;
- Customers should be provided, on their electricity and gas bills, with the relevant and exhaustive contact information in case they need to complain;
- Customers should be able to choose between various channels to submit a complaint;
- Alternative dispute settlement should be made available for all household customers, preferably without charge or as inexpensively as possible irrespective of the financial amount of the dispute;
- Statutory complaint handling standards for the energy sector should be in place, including:
 - Written complaint handling procedures (within service providers and third parties)

¹ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC

- should be available to all customers;
 - Information on alternative dispute settlement body should be provided with the first acknowledgment of a complaint;
 - The use of a common complaint classification would permit national regulatory authorities (NRAs) that wish to do so, to make a comparison between service providers' quality of service performances;
 - Final answer from a service provider should be issued as soon as possible but within two months.
- Redress schemes should be in place to allow compensation in defined cases;
 - It should be compulsory for service providers to report data on complaints to the NRA, when they are asked for it; and
 - The NRA or another third party body having responsibility for customer complaints should provide and publish reports on complaints.

1. Introduction

Customer complaints are firstly a private communication between a company and a customer who communicates his/her dissatisfaction on a defined matter. They are also one of the top level indicators for screening markets, regarding economic and social outcomes for customers, and identifying where intervention may be needed. In many Member States, public authorities and other third-party organisations collect data on customer complaints and use them as an indicator of market malfunctioning and subsequent policy action.

The raw data of “number of complaints” is not the only relevant information to evaluate the functioning of a market. A high level of complaints may indicate problematic issues, but it can also reflect the good functioning of a market where customers participate actively, being aware of their rights and therefore expressing their dissatisfaction when a difficulty occurs. Therefore, data on complaints should be analysed alongside other data.

The European Commission (EC) requested that ERGEG develop recommendations on customer complaint collection, handling and reporting in the electricity and gas sectors. This task is linked to the initiative of the EC of monitoring performance of consumer markets (through the *Consumer Market Scoreboard*²), whose scope is cross-sectoral. Moreover, the first *Citizens’ Energy Forum*³ emphasised a full implementation of dispute resolution procedures as outlined in Annex A of the Electricity and Gas Directives⁴.

The 3rd Package, adopted by the European Union on 13 July 2009, includes new provisions regarding customer protection, and in particular as regards customer complaint handling. ERGEG’s 15 recommendations aim to provide Member States and national regulators with input on how to translate 3rd Package provisions into operational modalities. Moreover, the *Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes* (1998/257/EC) set up 7 principles which also inspired this work.

To design these GGP, 9 energy regulators – with relevant experience on handling customer complaints – have shared their experience and good practices: **Austria, France, Italy, Poland, Romania, Spain, Sweden, the Netherlands and the UK (Great Britain)**. Each regulator developed a case study, attached in Annex 2.

The focus of these recommendations is on complaints regarding household customers. **In this report, the term “customer” is always used in the sense of “household customer”**. In the report, the term “service provider” encompasses both suppliers and DSOs. This general term is used to avoid any misunderstandings and to include the various country-specific situations.

ERGEG’s recommendations are addressed to service providers and third-party bodies who work in the field of electricity and gas. Regarding service providers, the very first step of the

² 2nd edition of *Consumer Market Scoreboard* available at http://ec.europa.eu/consumers/strategy/facts_en.htm

³ London, 27-28 October 2008. More information available at http://ec.europa.eu/energy/gas_electricity/forum_citizen_energy_en.htm

⁴ Directive 2003/54/EC for internal market in electricity and Directive 2003/55/EC for internal market in natural gas

complaint process is to allow customers to submit their complaint without any barrier that would discourage them from doing so and without any discrimination between some categories of customers. Accessibility and availability of their customer services is a key issue for ensuring customers' confidence. Regarding third-party bodies, only those independent from the industry are covered by this report, since they ensure neutrality from service providers which is essential for customers' trust in the mechanism.

Even if the breakdown of responsibility for customer complaints among third-party bodies (NRAs, Competition & Consumers' Affairs Authority/Ministry and Ombudsman) varies from one country to another, and despite the existence of various collection processes, handling procedures and classification methodologies, this report aims to provide a set of best practices. The recommendations should be implemented at national level where they have to be specified and adapted to national situations.

These best practices could empower customers through more efficient complaint handling procedures and more transparency of information regarding service providers' malpractice, thus counterbalancing the asymmetry between large company and small customer, taking into account the fact that electricity and gas are vital utilities whose disconnection can have severe consequences on a customer's life. Moreover, these recommendations should help service providers to improve their customer services and thus contribute to making customers more confident in the market.

A common classification for complaints is also provided in this document to promote efficient data collection and ensure comparable data.

In addition, ERGEG is working on developing indicators for monitoring complaint handling practices (ERGEG Public Consultation Paper on Draft Guidelines of Good Practice on Indicators for Retail Market Monitoring, E10-RMF-23-02, 16 April 2010), within the context of its work on retail market monitoring.

2. Definitions

2.1. Customer complaint, customer inquiry

Despite the absence of a formal definition shared by all regulators, customer complaint and customer enquiry could be defined as follows:

- **"customer complaint"** The expression (through various possible channels: letter, email, phone call, physical claim) of a customer's dissatisfaction.

In this report, ERGEG focuses on complaints where the customer expresses his/her explicit or implicit expectation for a response or resolution. "Explicit": the customer states he/she is seeking some action to address his/her concern, even if he/she is not able to identify and state what action is required. "Implicit": he/she requires the customer service agent to interpret that the service provider or the third party body is expected to take action to deal with the problem.

- **"customer enquiry"** means a request for information or advice, other than a complaint, made by a consumer to a complaint handling body, a service provider or any organisation delivering information to consumers (e.g. single point of contact).

The scope of this report is only "customer complaints". In this report, the term "customer complaint" has to be understood in the widest sense of the word. It encompasses all kinds of customer complaints, including "disputes" between a customer and the service provider. It should be noted that 3rd Package provisions include both terms: complaints and disputes (see Annex 1).

2.2. Alternative (or out-of-court) dispute settlement body

(Ref: Art. 3 paragraph 13 of Directive 2009/72/EC for electricity and Art. 3 paragraph 9 of Directive 2009/73/EC for Gas.)

This is an independent body which operates an alternative dispute settlement mechanism and is a "third party" to a complaint between a customer and a service provider. It can be privately-owned or a public organisation. It is independent from the industry. It proposes a solution to a dispute between a customer and a service provider, without going to court. In many countries, its recommendations are not legally binding. In other countries, the recommendations are binding, while in some they are only binding for the company.

In this report, the expression **"third-party body"** will be used in place of alternative (or out-of-court) dispute settlement body.

ERGEG does not consider as "third-party body" the consumer complaint handling mechanisms operated by service providers (e.g. "company ombudsman") or mechanisms providing complaint handling services operated by or on behalf of a service provider.

In some Member States, the regulator may also act as a third party body.

2.3. Dispute settlement authority

(Ref: Art. 37 paragraph 11 of Directive 2009/72/EC for Electricity and Art. 41 paragraph 11 of Directive 2009/73/EC for Gas.)

This is a public authority which settles disputes between customers and service providers. Its recommendations are binding. In some cases, regulators may act as a dispute settlement authority.

3. Recommendations

Due to the interactions between service providers and third-party bodies when handling a complaint, best practices on one side have an impact on the other. However, to clearly distinguish which recommendations are in the service provider's scope and which belong to third-party body responsibilities (including NRAs), the following recommendations are organised in two parts: service providers' scope and third party bodies' scope. Some of the recommendations on one side clearly reflect those of the other side (e.g. statutory complaint handling standards).

3.1. Recommendations to service providers

In the following text, the term "service provider" encompasses both suppliers and distribution service operators (DSOs). It is used as a general term with the aim of including the various country-specific situations regarding rules and responsibilities of market actors, and consequently to avoid any misunderstanding.

The following recommendations reflect the need, from a customer point of view, for availability and transparency of information, simplicity of procedures and effectiveness.

3.1.1. Information on how to complain

(Ref.: Art. 3 paragraph 9c of Directive 2009/72/EC for Electricity and § 4.5 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - Retail Markets)

Recommendation 1:

Customers should be provided, on their bills, with the contact details of the service provider's customer service.

Justification:

It is necessary for customers to know how to reach their service provider in case questions arise or if they want to submit a complaint. The very first step of the complaint process is to allow customers to submit their complaint without any barrier that would discourage them from doing so and without any discrimination between some categories of customers. Therefore, it must be pointed out that availability of service providers' customer service contact details is a key issue for ensuring customer confidence (opening hours, waiting times, hotline charges, etc).

These contact details should be found easily on bills. However, this recommendation does not deal with billing design. This is left to service providers with respect to national provisions.

Recommendation 2:

Customers should be provided by their service provider with the relevant contact information of the relevant third party body in case they want to complain. The most convenient channels for contacting this third party body should be proposed, among the following options: address, phone number, website, email, face to face contact point.

In particular:

- **Service provider websites:** Any information on complaint handling must be easily found on the website, including the steps towards the investigation and eventual resolution of a complaint, and the name(s) and contact information of the relevant third-party body.
- **Customer service call centres:** They should be able to inform customers about the steps towards the investigation and eventual resolution of a complaint, and the name(s) and contact information of the relevant third-party body.

Justification:

The availability of such information is an essential prerequisite for allowing customers to exercise their rights.

Whereas in some countries, customers awareness of their rights is already high, in others much more has to be done regarding customer information on their rights (in these countries, information on the bill seems a prerequisite). This can depend on the maturity of the market and the level of competition. It should be carefully considered that in some countries, some customers, and particularly the vulnerable ones, may not have any access to the internet and/or are not fluent in writing a complaint.

3.1.2. Choice of the complaint channel within service provider

Recommendation 3:

To submit a complaint to a service provider, a wide range of channels should be available, and, as a minimum, post-mail and phone.

Justification:

Various possibilities for making contact aim to avoid discrimination of any category of customers (e.g. people with low literacy, customers with disabilities...). Some Member States may deem it essential for citizens to have access to a physical point of contact which allows them to submit their complaint in person.

3.1.3. Statutory complaint handling standards shared by all service providers

(Ref.: Annex I of Directive 2009/72/EC for Electricity and Annex I of Directive 2009/73/EC for Gas and § 4.5 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - Retail Markets)

Recommendation 4:

Statutory complaint handling standards common to electricity and gas service providers should be in place. Such standards should be determined at a national level, taking into account the maturity of the market and the national legislative and regulatory provisions on customer rights. NRAs are best placed to set up these standards, after consultation with stakeholders, as appropriate, and to enforce them.

Once the complaint handling standards have been set up, they should be made public and available on request, in a printed document if requested by customer to his/her service provider.

These standards should cover:

1- A prompt first answer or acknowledgement within one day

When receiving a customer complaint and whatever the channel of reception, service providers should systematically inform their customers via:

- either a final answer, presenting the solution proposed by the service provider (*even when it considers that the case is already solved, from its point of view*), by close of business on the day following receipt of the complaint;
- or a first acknowledgment of the complaint, by close of business on the day following receipt of the complaint. This acknowledgment acknowledges the complaint and informs on the initiation of the complaint's handling process and the following steps to be taken.

The communication provides details of the service provider's own complaint handling procedures and redress scheme – if available – as well as information on alternative dispute settlement bodies, even when the customer must wait until the end of the service provider's handling process to submit his/her case to the alternative dispute settlement body.

2- A lead time to deal with a complaint

A final answer of the service provider including information on the ADR body should be issued as soon as possible, but within two months⁵.

3- Registration of all customer complaints

This should preferably be done using a common classification of the complaints (see Chapter 4).

Justification:

It is sensible that each Member State should have its own complaints handling standards, complying with these general recommendations. Standards would ensure that all service providers deal properly and fairly with their customers. These standards would improve customer confidence in the market and should be the minimum requirements, leaving room for competition at service level. The standards should not constrain service providers from being able to innovate in terms of dealing with complaints, nor stifle the ability of complaints to be resolved informally and quickly. In a competitive market, a service provider may decide to offer a higher complaint handling standard (e.g. 1 month lead time) with a view to offering more service to a customer.

A lack of response does not permit the customer to know the status of his/her service provider regarding the complaint. Without being aware of this status, he/she cannot adapt his/her behaviour and this can sometimes lead to a worsening of the initial situation. (E.g. lack of payment that could lead to a disconnection).

It must be pointed out that, when issuing its final answer, service provider cannot presume to know if customer will or will not be satisfied with the final answer. Taking this into account, it is recommendable that, in any case, information on the alternative dispute settlement body be issued with the answer, to give the customer the possibility to submit his/her complaint to

⁵ In cases where, in order to resolve the complaint, significant technical procedures will be required, there may be a case for extending this lead time. Customers should be kept informed of this.

it, in case he/she is not satisfied with the final answer.

Regarding customer information on complaint handling standards, a website is a very useful tool but cannot be considered sufficient to inform all customers, and in particular the most vulnerable ones. Therefore, it seems relevant to provide the document on complaint handling standards in printed form if a customer requests it.

3.1.4. Service providers' redress schemes

(Ref.: Annex I of Directive 2009/72/EC for Electricity and Annex I of Directive 2009/73/EC for Gas.)

Recommendation 5:

In each Member State, redress schemes should be in place to allow compensation in defined cases.

Justification:

Customers whose complaints have been settled in their favour should be allowed compensation from their service provider. This should be defined at national level. Compensation should be at a level commensurate with the damage and cost suffered by customer.

In addition, service providers have the flexibility to award compensation ("goodwill gestures") on the basis of perceived or actual poor customer service for which, in the main, loss is difficult to quantify. Such standards may not be relevant in some countries when quality regulation is already effective.

3.1.5. Alternative dispute settlement (ADS) body's recommendations

Recommendation 6:

Service providers should follow the alternative dispute settlement body's (ADS) recommendations even if they are not legally binding.

Justification:

Following the ADS body's recommendation would clarify duties and responsibilities of different market actors, including customers, and give visibility to market actors in the eventuality that a similar case should occur in the future. All customers and service providers would benefit from this practice.

The right to go to court if the solution is not satisfactory is not affected.

3.1.6. Complaint data collection by NRA

(Ref.: Art. 37 paragraph 1j of Directive 2009/72/EC for Electricity and Art. 41 paragraph 1j of Directive 2009/73/EC for Gas and § 4.1.2 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - The Regulatory Authority)

Recommendation 7:

When a regulator deems it appropriate to receive data on complaints, with the aim of monitoring retail markets, the service provider should give the regulator access to these data.

At a national level, the scope of data collection on complaints, its modalities, frequency and data format required should be defined. Data collection should be standardised (including the use of a common classification of complaints – see Chapter 4).

Justification:

The NRA is best placed to analyse data on complaints and to identify any market malfunctioning in relation to them. Such analysis will contribute to monitoring the level and effectiveness of market opening and competition at retail level. The use of a common complaint classification by all service providers to provide this data would facilitate the monitoring by NRAs at national level (See Chapter 4 on Complaint classification).

The transfer of data will have to comply with national rules on data protection.

3.2. Recommendations to third party bodies (alternative dispute settlement boards, ombudsmen, consumer bodies...)

(Ref.: Art. 3 paragraph 13 of Directive 2009/72/EC for Electricity and Art. 3 paragraph 9 of Directive 2009/73/EC for Gas.)

The following recommendations reflect the need, from a customer point of view, for an independent and reliable source of information on consumer rights, and for an available and effective out-of-court dispute resolution system. Therefore, only third party bodies who are independent from a particular service provider (See § 2.2) are covered. The recommendations stress the importance of monitoring complaints and publishing complaint data, which could contribute to customer empowerment.

Regarding alternative dispute settlement board recommendations, their impact on service providers' behaviour and processes has to be emphasised. Where alternative dispute settlement boards are in charge of the settlement of disputes between a customer and a professional, their recommendations – even if not binding – have a positive impact on the whole retail market, as they contribute to clarifying the rules and responsibilities of service providers and customers in many concrete situations.

3.2.1. Single point of contact

(Ref.: Art.3 paragraph 12 of Directive 2009/72/EC for Electricity, Art. 3 paragraph 9 of Directive 2009/73/EC for Gas and § 4.5 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - Retail Markets)

Recommendation 8:

A single point of contact should deliver, in every country, free information and advice on consumer issues. Such a single point of contact could deliver, for example, information on: suppliers; different types of supply contracts; price comparisons; consumer rights; and how to complain. When the single point of contact receives complaints, it should be able to direct customers to the relevant body to handle their complaints (if the single point of contact is not also the relevant third party body). This service should be set either by government or the NRA (in some cases in cooperation with other bodies in charge of consumer issues). It should be easily available either by phone, email, written mail (letter or fax) or in person.

Justification:

Due to the complexity of market rules and legislation from a customer's perspective, and due to a lack of knowledge about relevant market actors ("who is the supplier? who is the DSO?" and "who is responsible for what?"), such a single point of contact would increase customer confidence in the market, through accessible, accurate and understandable information.

3.2.2. Prior contact with the service provider

Recommendation 9:

Before submitting a complaint to a third-party body, customers should first contact their service provider to explain their complaint and try to solve it directly with the provider.

Even if the service provider is the first step in the complaint process, customers can naturally ask for information on their rights to an independent body (the single point of contact or an alternative dispute settlement body in case it also deals with information requests), before submitting their complaint to their service provider.

Justification:

Third-party bodies should be in place to help find a settlement to a complaint where prior to their involvement a solution has not been found between the customer and the service provider.

3.2.3. Choice of the complaint channel

Recommendation 10:

In order for a customer to get in contact with a third-party body, a wide range of channels should be available, and, in any case, more than one, even if – at a later stage – a written document may be necessary for a formal procedure with alternative dispute settlement bodies.

Justification:

Various possibilities for making contact aim to avoid discrimination of any category of customers (e.g. people with low literacy, customers with disabilities, etc).

3.2.4. Free access for all customers

(Ref.: Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (1998/257/EC))

Recommendation 11:

Alternative dispute settlement should be made available for all household customers, preferably without charge or as inexpensively as possible irrespective of the financial amount of the dispute.

Justification:

When customers want to complain, they should first contact the service provider in order to try to solve the problem directly (see recommendation 9). According to Directives 2009/72/EC and 2009/73/EC (Electricity and Gas, respectively) and ERGEG's recommendation 4 this process should not exceed two months.

As a result of this preliminary process, the proper use of a complaint handling procedure resulting in no charge is likely. It is necessary to avoid imposing obstacles on customers since this may prevent customers from complaining and therefore involving themselves in the liberalised energy market.

Customers who have already received a refusal from their own service provider and who are confident of their rights should not be discouraged, because of excessive charges, from attempting to settle their dispute with the help of a third-party body.

3.2.5. Statutory complaint handling standards within third party bodies

(Ref.: Annex I of Directive 2009/72/EC for Electricity and Annex I of Directive 2009/73/EC for Gas, § 4.5 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - Retail Markets and Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (1998/257/EC))⁶

Recommendation 12:

Regarding third party bodies, complaint handling standards should be determined at a national level and be effective, in accordance with the above-mentioned Commission Recommendation and 3rd Package legal provisions. Such standards should include:

- Registration of complaints by using a common classification, as far as possible, preferably ERGEG classification (see Chapter 4).
- Written complaint procedures determined within third parties, and made available to all customers. These procedures should include, among others:
 - The issue of a prompt first answer or acknowledgement of the complaint;
 - A lead time to solve the complaint. Final recommendations from a third-party body should be issued as soon as possible, and according to a lead time which is proportionate to the level of complexity of the complaint;
 - Communication of complaint to the service provider(s) before coming to a decision/recommendation; and
 - It must be clear what the enforcement limits of alternative dispute settlement body's process are. Customers should be informed whether their energy company must comply with the recommendation or not.

Justification:

These standards would improve customer confidence in the market. A common classification would allow comparison between service providers' quality of service performances.

⁶ Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (1998/257/EC) is of high relevance regarding customer complaints within the electricity and gas sectors. It recommends that all existing bodies with responsibility for the out-of-court settlement of consumer disputes respect – among others – the following principles:

Principle of independence: The independence of the decision-making body is ensured in order to guarantee the impartiality of its actions. **Principle of effectiveness:** The effectiveness of the procedure is ensured through measures guaranteeing, among others, that only short periods elapse between the referral of a matter and the decision. **Principle of liberty:** The decision taken by the body concerned may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

3.2.6. Financial compensation to customers

(Ref.: Annex I of Directive 2009/72/EC for Electricity and Annex I of Directive 2009/73/EC for Gas.)

Recommendation 13:

Customers whose complaints have been settled in their favour by an alternative dispute settlement body should be allowed a fair compensation from their service provider.

Justification:

The compensation for the customer should take into account material damages and possibly other inconveniences suffered by customer. This should be determined at national level.

3.2.7. Complaint data collection by NRAs

(Ref.: Art. 37 paragraph 1j of Directive 2009/72/EC for Electricity and Art. 41 paragraph 1j of Directive 2009/73/EC for Gas and § 4.1.2 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - The Regulatory Authority.)

Recommendation 14:

When a regulator deems it appropriate to collect data on complaints, with the aim of monitoring retail markets, it should have the possibility to receive the relevant information from third parties as well as from service providers (see Recommendation 7). Data on complaints can be used by a regulator who decides to publish reports on complaints, within the framework of its retail market monitoring activities (regarding retail market monitoring, refer to Public Consultation Paper on ERGEG Draft GGP on Indicators for Retail Market Monitoring, E09-RMF-14-04).

Justification:

The NRA is well-placed to analyse data on complaints at a national level and to identify any market malfunctioning in relation to them. Such analysis will contribute to monitoring the level and effectiveness of market opening and competition at retail level.

The transfer of data will have to comply with national rules on data protection.

3.2.8. Complaint data publication

(Ref.: Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (1998/257/EC)⁷ and § 4.1.2 of Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC - The Regulatory Authority.)

Recommendation 15:

Third party bodies having responsibility for customer complaints could provide and publish reports on complaints they have received. Depending on the level of maturity of the retail market, the report could include information such as:

⁷ "II. Principle of **transparency**:

Appropriate measures are taken to ensure the transparency of the procedure. These include: (...) 2. Publication by the competent body of an annual report setting out the decisions taken, enabling the results obtained to be assessed and the nature of the disputes referred to it to be identified."

- Categories of complaints which most frequently appear;
- Identification of areas of improvement on the retail market, following the analysis of complaints; and
- A list of third-party bodies' recommendations which have not been followed by service providers, including their names.

The frequency of reporting should be at least once a year.

Justification:

Publication of complaint data would put indirect pressure on the industry to cooperate and would incite companies to act fairly and promptly regarding customer complaints.

Transparency of information on complaints data is one of the means to empower customers in their rights, when it comes to complaint handling, counterbalancing the asymmetry between large company and small customer, taking into account the fact that electricity and gas are vital utilities whose disconnection can have severe consequences for a customer.

3.2.9. Complaints monitoring & indicators

Customer complaints constitute a valuable resource for market monitoring, as they can be used as a helpful tool to show evidence of malfunctioning in the market. They should be considered as part of global market monitoring (which also includes research, surveys, etc.).

Moreover, indicators like service providers' performances in complaint handling could highlight when a single supplier is giving poor service quality or infringing rules. The publication of such indicators could reinforce customers' position in the market and contribute to an increase in commercial quality of service.

Monitoring a selection of indicators on customer complaints would permit to identify problems in market design or processes, so that action can be taken to change faulty processes or carry out procedures against malpractice and single companies. ERGEG is working on developing indicators for monitoring the retail market, which include monitoring complaints and inquiries (See Public Consultation Paper on ERGEG Draft GGP on Indicators for Retail Market Monitoring, E09-RMF-14-04). Therefore, this report does not include such definitions. Nevertheless, these indicators will be of major importance for NRAs to help them monitor customer complaints.

4. Complaint classification

The European Commission (EC) has elaborated a EU-wide classification of complaints, with the assistance of a dedicated expert group. This classification, which covers all sectors of the economy, aims to facilitate cross-country comparisons. On 12 May 2010, the Commission adopted a “Recommendation introducing a harmonised methodology for classifying and reporting consumer complaints and enquiries” (Ref. SEC(2010)572, See Related Documents, page 3 of the present report).

The following ERGEG **Proposal of Consumer complaints classification** could complement the European Commission’s classification. ERGEG defines 14 complaint categories, which are structured in two levels. When collecting a complaint, the level 1 category should systematically be filled, whereas the level 2 category is optional. Some categories may not be relevant in some countries (e.g. social tariff).

Consistency in the definitions of dissatisfaction is a key-element to guaranteeing accuracy of statistical data on complaints.

EREG proposal for a consumer complaint classification system

- Energy specific categories of complaints
- Categories of complaints already existing within EC classification
(not exhaustive, given as examples)

type of business that may be involved		Level 1	Level 2
DSO	Supplier		
		Connection to the grid	Tariff
			Delay
			Obstacles to connection
			Other
		Metering	Meter reading
			Meter functioning
			Other
		Quality of supply	Voltage quality of supply (electricity)
			Continuity of supply (outages)
		Other	
		Unfair Commercial Practices	
		Contracts and sales	Unfair contractual terms / change of contractual terms
			Lack of information
			Order confirmation (not received/wrong)
			Cooling-off period / Right of withdrawal
			Payments (e.g. prepayments and instalments)
			Rescission of contract
			Minimum contractual period
		Other issues related to contracts and sales	
	Activation	Moving in	
		Reconnection after disconnection	
	Disconnection due to no or late payment		
	Invoicing / billing and debt collection	Incorrect invoice / bill	
		Unclear invoice / bill	
		Non issue of invoice or difficult access to invoice/monthly statement	
		Unjustified invoicing / billing	
		Debt collection	
		Other issues related to invoicing/billing and debt collection	
	Price / Tariff	Price / tariff change	
		Price discrimination	
		Tariff transparency (unclear, complex)	
		Social Tariff	
		Other issues related to price/tariff	
	Redress		
	Provider change / switching	Delay	
		Unwished switch	
		Other	
	Customer service		

Annex 1 – Legal provisions in Directives 2009/72/EC and 2009/73/EC concerning common rules for the internal market in electricity & gas, respectively

(extracts)

- Art. 3 paragraph 9c of the Directive for Electricity:

Member States shall ensure that electricity suppliers specify in or with the bills and in promotional materials made available to final customers: (...)

*(c) information concerning their rights as regards **the means of dispute settlement available to them in the event of a dispute.***

***The regulatory authority or another competent national authority** shall take the necessary steps to ensure that the information provided by suppliers to their customers pursuant to this Article is reliable and is provided in a clearly comparable manner within Member States.*

- Art. 3 paragraph 12 of the Directive for Electricity: (& **Art. 3 paragraph 9** of the Directive for Gas)

*Member States shall ensure the provision of **single points of contact** to provide consumers with all necessary information concerning their rights, current legislation and the means of dispute settlement available to them in the event of a dispute. Such contact points may be part of general consumer information points.*

- Art. 3 paragraph 13 of the Directive for Electricity: (& **Art. 3 paragraph 9** of the Directive for Gas)

*Member States shall ensure that an **independent mechanism** such as **an energy ombudsman or a consumer body** is in place for an efficient treatment of complaints and out-of-court dispute settlements.*

- Art. 37 paragraphs 1j and n, paragraph 2 and 11 of the Directive for Electricity: (& **Art. 41 paragraph 1j and o, and paragraph 2 and 11** of the Directive for Gas)

1. The regulatory authority shall have the following duties:

(...)

***(j) monitoring the level and effectiveness of market opening and competition at wholesale and retail levels**, including on electricity exchanges, prices for household customers including prepayment systems, switching rates, disconnection rates, charges for and the execution of* maintenance services, and **complaints by household customers**, as well as any distortion or restriction of competition, including providing any relevant information, and bringing any relevant cases to the relevant competition authorities;*

(...)

(n) helping to ensure, together with other relevant authorities, that the consumer protection measures, including those set out in Annex I, are effective and enforced;(...)

*2. When a Member State has so provided, the **monitoring duties** set out in paragraph 1 may be carried out by **other authorities** than the regulatory authority. **In such a case, the information resulting from such monitoring shall be made available to the regulatory authority as soon as possible.**(...)*

11. Any party having a complaint against a transmission or distribution system operator in relation to that operator's obligations under this Directive may refer the complaint to the **regulatory authority** which, acting as **dispute settlement authority**, shall issue a decision within a **period of two months** after receipt of the complaint. That period may be extended by two months where additional information is sought by the regulatory authority. That extended period may be further extended with the agreement of the complainant. The regulatory authority's decision shall have **binding effect** unless and until overruled on appeal.

- **Annex I** of Directive for Electricity (& **Annex I** of Directive for Gas):

(...) the measures referred to in Article 3 are to ensure that customers: (...)

(a) have a right to a contract with their [electricity] service provider that specifies:

(...)

- any **compensation and the refund arrangements** which apply if contracted service quality levels are not met, including inaccurate and delayed billing;

(...)

(f) benefit from transparent, **simple and inexpensive procedures for dealing with their complaints**. In particular, all consumers shall have the right to a **good standard of service** and complaint handling **by their electricity service provider**. **Out-of-court dispute settlements procedures** shall enable disputes to be settled fairly and promptly, **preferably within three months**, with provision, where warranted, for a system of **reimbursement and/or compensation**. They should, wherever possible, be in line with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

Annex 2 – Case Studies, as of 2 October 2009

This annex contains nine case studies from the national regulatory authorities below, which illustrate complaint handling practices in several EU Member States. These examples helped to inform ERGEG's development of the present GGP. The case studies reflect the situation in each country as of October 2009 (unless otherwise stated), which may have changed in the interim.

1. Austria
2. France
3. Italy
4. The Netherlands
5. Poland
6. Romania
7. Spain
8. Sweden
9. UK (Great Britain)

1. Austria

A. Introduction

E-Control has a legal mandate to implement an Alternative Dispute Resolution Board (ADR board). E-Control has also established an “Energy Hotline” where customers may receive information and advices. As far as issues dealing with general customer protection law are concerned, other third-party bodies are responsible, such as the Austrian Association for Consumer Information⁸ and the Austrian Labour Chamber⁹.

There is no structured breakdown of responsibilities between third-party bodies and the ADR board at E-Control, but a flexible system of collaboration to direct inquiries and complaints to the body responsible.

B. Before a complaint (prerequisites)

There is no formal definition of a customer inquiry or complaint at E-Control. Therefore customers contact E-Control via phone, fax, mail and e-mail regarding various concerns. It is not compulsory for consumers to first contact their contractual partner, DSO or supplier about a complaint they have to be eligible to turn to E-Control’s services.

Consumers are informed about their possibility to turn to E-Control mainly through small informational campaigns by E-Control in the media. Increasingly, consumers report that they were directed to E-Control with their inquiries and complaints by suppliers or DSOs. However, there is no obligation for suppliers and DSOs to inform customers about the existence of E-Control’s ADR Board or Hotline.

C. Complaint handling

Within the NRA, there is a two-level approach towards consumer inquiries and complaints submitted to E-Control.

While in most cases the Energy Hotline serves as the first point of contact and may give information, perform price calculations or advise on some basic issues (e.g. self-meter readings, recent price increases, possibilities and process of supplier switching,..), the ADR Board deals with more complex requests, especially issues and complaints where there seems to be some wrongdoing by one of the contractual partners.

⁹ Arbeiterkammer: www.arbeiterkammer.at

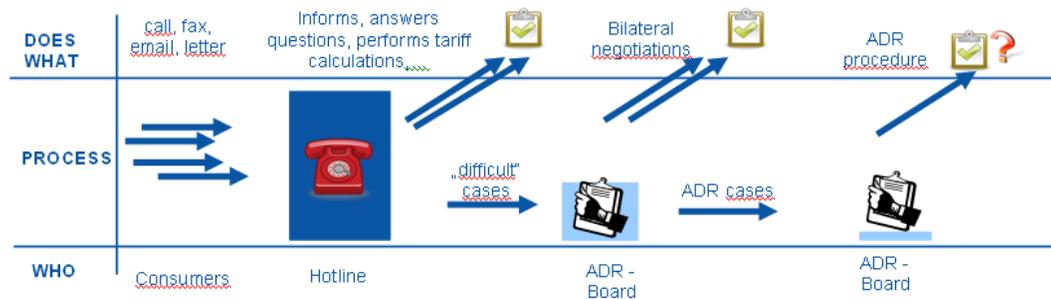


Chart 1: Process of Consumer Inquiry/Complaints Handling

Most customers contact the Energy Hotline although some consumers turn to the ADR Board directly as its contact details can be found on E-Control's website.

About 80% of all inquiries and complaints are solved by staff of the Energy Hotline, albeit in some cases with help or expert knowledge from the ADR Board and other employees of E-Control.

Consumer inquiries or complaints which can not be answered by staff of the Energy Hotline are transferred to the ADR Board. The ADR Board then negotiates bilaterally with the consumer and supplier/DSO concerned and tries to reach a mutually-agreed solution for both parties involved. If this proves to be not possible for whatever reason, the ADR Board has the possibility to start an official ADR procedure.

However, most cases can be resolved without the need for an official procedure. Although the number of cases handled by the ADR Board rises due to growing consumer awareness of E-Control's service, the number of formal procedures carried out every year continues to decrease. This illustrates that the ADR Board generally has a very good contact with companies. The ADR Board is required to meet a deadline for finding a solution for every consumer within 6 weeks.

For the Energy Hotline, a new online user interface was created in 2008 to help agents to attend to the calls as well as to gather data about consumer inquiries and complaints such as:

- topic of call/email/letter;
- energy concerned (electricity or gas);
- type of customer (household or (small) business customer);
- date of call;
- contact details; and
- all necessary information to perform a price calculation.

This online user interface provides easy possibilities to perform price calculations directly within the application. Additionally, the tool allows sending price calculations to customers directly via email or letter or to forward inquiries to expert colleagues for this field. For the category "topic of call" the following classification scheme is used:

- Prices and tariffs
 - Price calculation

- Problems with calculator
- Other price information
- Network tariffs

- Bills
 - Check of the bill
 - Energy consumption

- Other information
 - Supplier switching
 - Energy saving
 - Energy efficiency
 - Labelling

- Complaint
 - About supplier
 - About DSO
 - About E-Control

A different classification scheme is used by the ADR Board to evaluate cases:

- Inexplicable increased consumption;
- Problems relating to energy bills;
- Problems relating to the new connection or the expansion of a connection to the grid, or to the belated claims for system provision charge;
- Problems with price or tariff changes and compliance with contractual duties, and questions on supplier switching.

D. Complaint settlement and consequences

Consumer requests may be ended in two different ways: if the request is a pure information query, the consumer's questions are answered, either by the telephone agents themselves or by experts within E-Control who get back to the customer.

The solutions of the ADR board are only suggestions to both parties involved and are not binding. Either party may go to court afterwards if not satisfied with the outcome of the ADR procedure.

Due to the well-established contacts with the industry and a very strong basis for cooperation, E-Control's ADR Board achieves a proportion of nearly 90% of all ADR procedures satisfactorily resolved for the parties involved. However, there are no fees or sanctions which may be imposed on any party involved, neither is there a detailed or structured follow-up of the outcomes reached.

E. Reporting

E-Control must publish a yearly action report on the ADR Board's activities and procedures and its outcomes. This report is compiled for the Austrian Parliament in order to allow monitoring of the numbers, topics concerned and outcome of negotiations and procedures. This report is publicly available and all companies concerned are named in the document. What the problem for the customer was and whether a satisfactory solution could be agreed on by all parties involved is also stated. This report is especially interesting for the industry

itself as it serves as a kind of indirect pressure on the industry to cooperate.

In contrast, there are no obligations for DSOs/suppliers to publish any information regarding customer complaints.

F. Indicators

It is E-Control's view that customer complaint monitoring can show evidence of malfunctioning in the energy market. This is particularly the case for the retail market. Although both household customers as well as SME customers may report their inquiries and complaints to the Energy Hotline and the ADR Board, it is more common for household customers and single complaints to show the presence of general market malfunctioning. SME customers often have individual negotiated contracts whose contents are not known to E-Control.

The most relevant indicators are the ones which illustrate problems in market design or processes because there is a possibility for the NRA to adjust its policies. An example of this is the information E-Control received about a lack of standardisation of the process "moving in with alternative supplier supplying from the start".

Other important indicators may illustrate a need for more information among customers to be able to profit from a free and liberalised energy market.

If consumers report insufficient or inadequate processes within the energy market, misbehaviour of single companies or a lack of clarity of provisions, E-Control works towards changing faulty processes or carries out procedures against malpractice by single companies. Also, through extensive media relations work E-Control uses the effect of naming and shaming to correct malpractice and inform consumers. This was done for example when companies used in-transparent and illicit bills.

2. France

A. Introduction

In France, the breakdown of responsibility for customer complaints/inquiries on gas and electricity, among third-party bodies, is:

- General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF, Ministry of Economy): governmental administration whose task is to inform and protect consumers against abusive business practices. DGCCRF deals with consumer complaints related to infringements of legal obligations. Its decisions are binding to the parties and it can impose fines.
- NRA (*Commission de Régulation de l'Energie*, CRE): The CORDiS (“*Comité de règlement des différends et des sanctions*”, within CRE) handles complaints from networks’ users related to access to the grid. It acts as a dispute settlement authority and its decisions are binding on the parties.
- Energy ombudsman (*Médiateur National de l'Energie*, MNE): The MNE handles consumer complaints. It is an alternative dispute settlement body. Its recommendations are not binding to the parties.

B. Before a complaint (prerequisites)

Customer information service: *Energie Info*

CRE and MNE have set up a joint organisation, *Energie Info*, including: website dedicated to households and small-businesses customers (practical information, supplier lists, consumer rights and “how to complain / settle a dispute”) and multi-channel customer information service which offers clear and practical consumer advice through phone, mail and e-mail.

Energie Info Customer information service receives customers’ inquiries (requests for information) and customers’ complaints.

Our definition of customer complaint: the customer expresses his/her dissatisfaction and expects (explicitly or implicitly) a response or resolution; *explicitly*: the customer states he/she is seeking some action to address his/her concern, even if he/she is not able to identify and state what action is required; *implicitly*: he/she requires the customer service agent to interpret that the service provider is expected to take action to deal with the problem.

It is compulsory for suppliers to mention the website address www.energie-info.fr on their bills, with the following text: “*Tout sur vos démarches, vos droits et les économies d’énergie*” (*Everything regarding steps, rights and energy savings*).

Dealing with a customer complaint, *Energie Info* is responsible for directing customers to the relevant body to handle their complaints: either DGCCRF, MNE, CRE or any other relevant third-party organisation. When a complaint is transferred by *Energie-Info* to the relevant body, the customer is kept informed. In some cases, *Energie Info* can help directly in complaint handling, asking suppliers for information and trying to accelerate the complaint handling process between the supplier/DSO and the customer.

Energy ombudsman (MNE)

Conditions for submitting a complaint to the Energy ombudsman (MNE): the customer has to submit a complaint first to the supplier, and then allow the supplier 2 months to handle it.

To be eligible to MNE, you must be connected to <36 kW or consume less than 30,000 kWh of gas per year (this includes all household customers as well as a large part of small and medium business customers).

Means of communications allowed for sending a complaint: letter, website.

C. Complaint handling

Energy ombudsman (MNE)

When MNE receives a complaint that is “acceptable” (the situation described by the customer is within the scope of MNE’s responsibilities), MNE has to propose a written recommendation to settle the dispute within 2 months.

CoRDIS (within CRE)

CoRDIS is a dispute settlement authority, which settles disputes between customers and DSOs/TSOs regarding access to the grid. Customers must follow a formal procedure. Only a few cases each year are concerned.

A common IT-tool is shared by Energie-Info and MNE to keep a common database of customers’ contact information.

DGCCRF is part of government administration. MNE is financed by a tax on energy consumption, the “CSPE”.

D. Complaint settlement and consequences

Energy ombudsman (MNE)

The outcome of MNE’s complaint handling is a written recommendation to the parties (supplier and/or DSO and customer). The recommendation is not binding to the parties and not enforceable. Suppliers, DSOs and customers are invited to follow it on a voluntary basis. Each party may go to court if dissatisfied with the recommendation, even before the end of the dispute settlement process.

In some recommendations, MNE may ask the supplier/DSO to pay fees to the customer, as compensation for the damage they have suffered.

E. Reporting

Classification of complaints used by Energie Info:

- Door-to-door selling, “unwished switching”;
- Meter estimation, billing;
- Supplier’s customer service;
- Network;
- Others.

Individual MNE recommendations are published on its website: www.energie-mediateur.fr. In these documents, names of suppliers and customers are kept anonymous.

A yearly report on the Energie Info Customer information service is published in CRE's annual report (data includes enquiries and complaints), and a reporting on MNE's dispute settlements will soon be published in MNE's 2008 annual report. Names of suppliers concerned by complaints are kept anonymous.

The IT-tool used to compile data for reporting is the same which is used for Energie Info's complaint collecting.

F. Indicators

Customer complaint reporting has been used in the past to set-up an amicable procedure to cancel an "unwished switching". In 2008, Energie Info was warned of this issue through many written complaints from customers. As a consequence, CRE organised meetings with all suppliers and DSOs to develop a dedicated procedure, which is now applicable.

A common complaint classification shared by all third-party bodies could help better monitor the issue of customer complaints and identify any malfunctioning on the electricity and gas markets.

3. Italy

A. Introduction

The promotion of competition and customer protection are among the main goals of the Italian Regulatory Authority for Electricity and Gas (AEEG).

According to institutional Law 481/95 the Regulatory Authority has several functions, one of which is to evaluate complaints, appeals and reports from users or consumers, individually or as a body, related to the respect of quality standards and tariffs by the gas and electricity operators.

Since the early stages of the NRA's activity, a Department is in charge of information and consumer affairs. The department has the following main tasks:

- to set rules for protecting customers: regarding contracts terms and conditions, billing transparency, pre-contractual information;
- to ensure transparency and information, also dealing with consumer organisations;
- to collect and evaluate customer complaints;
- On the other hand, since 2005, the Italian Competition Authority has the general task of prosecuting unfair practices, also in the energy sector. The breakdown of responsibilities is not always easy to define, especially in a liberalised market context.

B. Before a complaint (prerequisites)

A definition of customer complaint, against information request, is available in commercial quality of supply regulation. The definition is: a written communication, sent to the supplier, regarding the non-compliance of the supplied service with the terms of contract or the regulation.

Complaints can be submitted by the customers individually or through their organisations and have to be sent first to the supplier, who has the obligation to respond.

If the supplier does not respond, or when the given answer is unsatisfactory, the complaint can be submitted to the Authority. It can be sent directly to the Authority only if very urgent matters are involved (e.g. safety reasons).

The customer is requested to enclose all the relevant supporting documents.

C. Complaint handling

Complaint handling standards have been defined for suppliers (they will enter into force on July 1st 2009).

There is an obligation to answer and a complete answer should be given within 40 days. When the standard is not met, compensation must be paid to the customer (there is a limitation of one complaint per customer per year). An overall standard has been fixed for information requests (30 days). Every six month suppliers are requested to send to the AEEG information regarding the number of complaints received in the previous six months (month by month) and the compensation paid.

Complaints sent to the NRA are collected and classified into an access database, that contains 14.553 records from 2005 until now. The number of complaints sent to the Regulator has increased year by year, because Italian consumers start to know about AEEG functions and also as a result of market opening. The number of persons (7) dealing with complaints hasn't increased until 2009.

The classification is made up by a "matter" and a "sub-matter". The main topics are:

- Billing;
- Contracts;
- Market;
- Connections;
- Meter services;
- Technical Quality; and
- Commercial Quality.

The increasing number of complaints (about 213 in 1999, about 1.049 in 2005, about 8.000 in 2008, about 13.000 in 2009) and the need for more effective and satisfactory answers suggested to start the project for externalisation that was supported by a change of the institutional law in June 2009. Since December 2009, a public body which works under AEEG control, carries out complaint handling and has the obligation to inform AEEG about the outcomes of complaint handling on a regular basis and to report to AEEG the suppliers or DSOs not compliant with the regulation.

Since 2007 a dedicated hot line answers the customer questions about liberalisation, prices, contracts and how to complaint. From April 2009 to March 2010 the hot line answered to 417.201 calls.

D. Complaint settlement and consequences

Complaint evaluation process by the NRA involves two main stages.

In the pre-proceedings stage, the NRA can request information and relevant documents from the supplier. A certain behaviour can be recommended as a result of the evaluation ("moral-suasion").

Controls and inspections can also be carried out.

After this, a proceedings stage could follow, where the NRA could:

- order the supplier to cease any behaviour violating consumers rights;
- place a financial fine on the supplier for non-compliance with regulations or with the above-mentioned order (through an infringement proceeding).

The vast majority of complaints are resolved at the first stage, especially through the exercise of the "moral-suasion".

The Regulator can place fines on operators, but it cannot prescribe a compensation for damages (in order to obtain this the customer must go to court). The major suppliers are developing, in agreement with consumers associations, ADR procedures.

E. Reporting

The NRA activity is reported yearly in the Annual Report, where a simplified classification is used to show the number of complaints received. The classification in Table 1 is used in the Annual Report.

Table 1: main subjects of complaints and enquiries

APRIL 2009-FEBRUARY 2010			APRIL 2009-FEBRUARY 2010		
ELECTRICITY	TOTAL NUMBER OF COMPLAINTS	%	GAS	TOTAL NUMBER OF COMPLAINTS	%
Outages and voltage quality	419	3,76	Contracts and commercial quality	545	10,5%
Connections	811	7,27	Billing	2111	42,00%
Billing	3554	31,89	Connections	544	10,05%
Contracts and commercial quality	1496	13,42			
Meter services	187	1,67	Tariffs (network)	298	5,7%
Tariffs (network)	614	5,51	Meter services	197	0,3%
			Market and competition	774	14,9%
Market and competition	2760	24,76			
			Disconnections (for non payment)	192	3,7%
Disconnections (for non payment)	679	6,09			

F. Indicators

Complaints provide precious information about how to improve regulation or to change current rules. Customer complaint reporting has also been used to identify malfunctioning in retail markets. For example, rules on the obligation to offer payment by instalments have been modified, because of the huge amount of complaints on billing settlement (before the installation of smart meters). Complaints about the lack of billing transparency have led to a new regulation.

Monitoring pre-contractual behaviour can lead to a better regulation: for this goal a consultation procedure has already been started.

Complaint monitoring can help to identify market malfunctioning and also highlights when a single supplier is giving poor service quality or infringing rules. Sometimes malfunctioning is highlighted through the support documents attached to a complaint (contracts, bills, etc.).

Suppliers' performances in complaint handling will also be monitored from July 2009 and a comparative publication will follow.

4. The Netherlands

A. Introduction

On behalf of ERGEG's draft recommendations, this case study explains the roles and responsibilities of customer complaint handling in the Netherlands.

B. Legal Framework

The importance of good customer complaint handling is reflected in Dutch energy legislation. Based on the Electricity and Gas Act, both suppliers and DSOs (for electricity and gas) are responsible for having a dispute resolution procedure and are responsible for dealing with complaints from their own customers. However, legislation does not define what the dispute resolution procedures should look like, nor is there an obligation to use a mandatory uniform definition. Therefore, both suppliers and DSOs can determine when a complaint is a complaint and in what way it will be dealt with.

C. The Process of Complaint Handling

In the Netherlands, customers must always formally submit a *complaint* (usually via e-mail, post or by telephone) if they want to solve a disagreement with their supplier or DSO. Once a supplier or DSO has given a decision and a customer does not agree with the outcome, both parties have a so-called *dispute*.

In that case, there is always the possibility to file the dispute with an independent dispute settlement body which in almost all cases is the so-called Stichting Geschillen Commissie.¹⁰ All consumers are eligible to send disputes to the independent dispute settlement body (by e-mail or by post) and the cost is usually 25 Euros for consumers. If consumers win the case, they will be refunded by the supplier (the opposing party).

Alternatively, consumers can go to court and ask the judge to issue a verdict. In both cases, the decision is binding.

D. Role and Vision of the Dutch Regulator

For the Dutch Office of Energy Regulation (hereafter: Energiekamer) complaint handling is a very important aspect of a deregulated energy market. For example: when switching supplier, consumers need to be able to rely on their supplier that a problem will be adequately resolved. If this is not the case and customers lose trust, they can become reluctant to switch supplier. The past has shown that this can have a negative effect on market trust. Complaint handling is therefore an essential "basic" and it is for this reason that the Energiekamer has a strong focus on this issue.

By law, the Energiekamer can prescribe elements of complaint handling or set minimum standards (such as lead time). Until now, the Energiekamer has basically chosen not to do

¹⁰ If a DSO has not solved the complaint, a customer can file the complaint (under certain circumstances) to the director of the Energiekamer or the Stichting Geschillen Commissie.

so and instead monitors customer complaint handling (please see below). The reason for this is that complaint handling can be a unique selling point for suppliers in a deregulated market in which they can distinguish themselves when competing for the benefits for the consumer. Therefore, as long as suppliers deal with complaints in an adequate manner, the Energiekamer intentionally plays no role in individual complaint handling or dispute settlement.¹¹

E. ConsuWijzer as a Means to Provide Transparency

In a deregulated market, it is essential that suppliers feel pressure to compete for the benefits of a consumer. To do so, consumers must understand the market but also must have confidence to 'move around'. It is therefore important that consumers are well informed and empowered. One way to achieve this is to provide information and practical advice (such as complaint handling). This is done through a consumer service portal: ConsuWijzer.

ConsuWijzer consists of a front office (for handling easy cases), a back office (for more complex cases) and a website (www.consuwijzer.nl). Through this consumer service the Energiekamer receives information on what troubles consumers and which suppliers (but also DSOs) cause problems. ConsuWijzer uses a system for collecting, categorising and reporting about inquiries and complaints, not for complaint handling, as mentioned before. There are a lot of classifications, but mostly addressed are the categories such as "consumer canvassing", "energy bill", "switching suppliers". Through ConsuWijzer consumers are given abundant information, but most notably:

1. EnergieWijzer

ConsuWijzer publishes the number of inquiries/complaints received per supplier, as part of the energy comparison tool Energiewijzer. Through this tool, consumers can select their supplier of choice by looking at several indicators, one of which is the number of inquiries/complaints received about the service (complaint handling) of a supplier. This data is updated on a quarterly basis.

2. Factsheets

Experience has shown that the breakdown of responsibility is not always clear for customers. Therefore, through ConsuWijzer (which informs customers about their rights and obligations) consumers are informed about proper procedures, e.g. on how to file a complaint to a supplier (or DSO). Service providers themselves may guide complaining consumers in that direction and of course ConsuWijzer coaches consumers towards a solution.

F. Research by the Energiekamer

In 2006, the Energiekamer launched research into customer satisfaction regarding the

¹¹ Only if complaints are not dealt with in an adequate way and suppliers do not show any sign of improvement, will the Energiekamer act. This was the case in 2007, when the Energiekamer issued an injunction on a number of suppliers, based on extensive research.

process of complaint handling by the 10 largest suppliers¹², due to signals that the Energiekamer received via ConsuWijzer. These suppliers provided the Energiekamer a database containing contact information of consumers who had filed a complaint (that was already dealt with before the research started).¹³ Via a telephone research (using a question list), consumers were asked to give their opinion and to give a grade to several aspects ranging from 1 (poor) to 10 (excellent). The results of this research were published by the Energiekamer.

The results made clear that customers were not satisfied with the process by which suppliers solve their complaints, especially as regards the lead time and accuracy. However, further research (2007 and 2008) showed that customers are gradually becoming more satisfied with the way their complaints are being resolved. Although this is a positive signal, the Energiekamer will perform further research until suppliers prove that they (as required by law) resolve customer complaints in an *adequate* manner.

G. Conclusion

As far as the Energiekamer is concerned, monitoring customer complaints (through ConsuWijzer) is effective and will show evidence of market malfunctioning. The Energiekamer research and actions have helped to put complaint handling among the top priorities of suppliers for the last several years. Monitoring customer complaints (and performing research when needed) is therefore a powerful instrument for a regulator.

¹² Via a steering committee, the Energiekamer gave the participating suppliers an opportunity to share their remarks or concerns regarding the way the research should be performed. Based on this consultation, the Energiekamer made the final call on how the research was to be performed.

¹³ With the steering committee, the Energiekamer also identified a number of criteria that every supplier had to apply when composing the database with contact information.

5. Poland

A. Introduction

Polish energy consumers can address their complaints to the energy sector entities (suppliers and/or operators) they have contractual relations with. Consumers who are not satisfied with the complaint handling results can present the complaint to third party bodies.

There is no clear division of responsibility for a customer complaint/inquiry among third-party bodies. Customers may send their complaints/inquiries to: the regulator, a local consumer ombudsman or consumer organisations (governmental or NGOs).

The Polish Energy Regulatory Office (ERO) has a limited competence to handle such complaints, as opposed to dispute settlement competences, when the regulator's decisions are legally binding¹⁴.

The position of an Energy Consumers' Ombudsman was established in 2002 within the structure of the Polish Energy Regulatory Office. The Ombudsman deals with the majority of complaints/inquiries. Its opinions are not legally binding. Its activity concentrates on answering customers' questions and giving advice on how to react in difficult situations. In some cases, the Ombudsman's role is limited to advising the customer to take a case to court, or to present the problem to a general consumer ombudsman, which is able to offer the representation of a lawsuit.

If the level of the quality of services is not met by a company (those cases are specified by law) customers can demand discounts and compensations from a company which caused the negligence.

B. Before a Complaint

The Polish Energy Law does not contain a definition of a customer complaint or inquiry, with the exception of disputes being subject to regulator's settlement and those complaints which are resolved by the companies (they are determined by law).

On 1 July 2007, the call centre was launched by ERO. The ERO staff provides customers with instructions on switching procedures and other relevant information. Many customers use this way to submit complaints to the regulator not only in a matter of supplier switching but also in every case when they are dissatisfied. In most cases, this activity has an advisory character. The ERO staff registers those complaints. Most of them relate to switching and abusive practices of incumbent suppliers and grid operators.

¹⁴ The President of Polish Energy Regulatory Office is empowered to resolve disputes related to a refusal to conclude a grid connection contract, a sales contract or a transmission and distribution contract and in case of non-substantiated suspension of supply reasons or a refusal to connect to the grid because of insufficient economic conditions (disputes). When the dispute arises in reference to a contract which is already signed, a court of law has an exclusive competence to resolve a conflict between two parties.

For disputes caused by a refusal to conclude a contract or to connect to the grid, which are within the regulator's competencies, a formal written request to resolve the dispute is required in order to start the dispute settlement procedure. In other cases, customers are allowed to make complaints/inquiries by letters, e-mails, phones or directly, during a visit. All forms of submitting a complaint are allowed and the regulator answers every question.

Customer requests submitted to a company needs to be in written form.

C. Complaint Handling

The Polish Regulator resolves disputes according to a procedure set out in administrative law (Code of Administrative Procedure); hence the procedure is compulsory. On the basis of the procedure, the regulator is obliged to resolve the dispute within 30 days. In difficult and complex cases, the regulator is allowed to extend the term for finalising the procedure and issuing the decision solving the dispute. There is no special procedure for handling other complaints than those the regulator or the company is legally obliged to resolve.

There is no Alternative Dispute Resolution board dedicated to energy consumers.

Complaints submitted to companies are resolved according to companies' internal procedures. For grid operators, these procedures result from grid codes which are approved by the regulator, thus they are binding. The company is obliged to answer within 14 days.

D. Complaint Settlement and Consequences

The regulator's decision finalising a dispute is binding. In case of dissatisfaction with the regulator's decision, each party has a right to appeal to a court. In case of other complaints, the regulator gives advice or recommendations but the company is not obliged to obey them.

When a customer is not satisfied with a company's decision ending the procedure of handling a complaint, e.g. if an enterprise doesn't grant a discount or a compensation to the customer – a court of law is the body relevant to resolve the dispute.

E. Reporting

There is no classification or reporting of consumer complaints within energy law in Poland. It is based on the methodology of classification worked out by an ombudsman and the yearly reports.

6. Romania

A. Introduction

A.1. General provisions for petitions/complaints

The activity for the treatment of petitions is regulated by a variety of laws, government decrees, secondary legislation including regulations and specific procedures.

The most important of these is 2002/233 Law for the approval of the Government Decree no. 27/2002 setting out the rules for dealing with petitions. According to these provisions, a petition is defined as *"any request/inquiry, complaint, claim or proposal, formulated in writing or by e-mail, that an individual or a legal entity may address to national or local public authorities and organisations, to the decentralised public services of ministries and other national bodies, to national (state-owned) companies, to trading companies of county or local interest, as well as to autonomous state-owned companies, hereinafter collectively referred to as public authorities and organisations."*

A.2. Specific provisions for electricity and gas

From the point of view of the electricity and gas supply services, these petitions are usually addressed by customers to the following institutions:

- The Romanian Government;
- The Ministry of Economy;
- The Agency for consumer protection rights;
- The national Energy Regulatory Authority (ANRE);
- The state local Authorities (Municipalities);
- The ombudsmen;
- The Competition Council;
- The National Customer Protection Authority;
- The electricity or gas companies who provide the services; and
- The customers' non Governmental associations.

The breakdown of responsibility among third-party bodies is not easy to define.

B. Before a complaint (prerequisites)

B.1. General provisions for petitions/complaints

There are no formal definitions for a customer complaint and for a customer inquiry. Each of these terms is considered as a petition and undergoes the same process/scheme: the customer must receive the proper answer within 30 days.

For addressing a petition, the customer or any legal entity may contact one or more of the institutions having responsibility and competence to investigate and respond to it. The petition can be sent by mail, e-mail, telephone or fax.

Even though it is not compulsory for the electricity or gas customer firstly to submit its complaint to its service provider (supplier/distributor), it is recommended to do so.

Each institution that receives petitions must organise specialised departments dealing with receiving, analysing and formulating responses to the petitioners. This department has the

obligation to make a biannual internal report regarding its activity. Information about this department's activities and the contact possibilities have to be public and available to all customer categories. These institutions must also organise the necessary resources and facilities to receive customer visits for orally presented petitions.

If a petition is not correctly addressed to an institution, this petition must be redirected to the appropriated institution, within 5 days.

B.2. Specific provisions for electricity and gas

The service provider has the obligation to inform customers of their right to complain and the way to settle a dispute. This information is presented on a website, mass-media, leaflets and other means.

C. Complaint handling

C.1. General provisions for petitions/complaints

Within third-party bodies, there is no "complaints handling standard" or "dispute resolution procedure", but the specific legislation provide that:

- each institution that received a petition has to respond in written form no later than 30 days, or 45 days, with the institution's chairman approval, when a more elaborate investigation is needed;
- the response has to indicate the results of the investigation and the way the identified problems have been solved or are to be solved;
- the anonymous petitions might not be solved; and
- for dealing with petitions forwarded by other public authorities and organisations, the 30 day deadline starts on the date the petition was registered at the relevant public authority or organisation.

C.2. Specific provisions for electricity and gas

The service provider must have an internal complaint handling procedure and pre-contractual dispute solving procedure.

The distribution and the supply performance standards impose different deadlines on the service providers, by categories of complaints and inquires, which do not exceed 30 days.

ANRE can influence the resolution of customer problems on a more general level through for instance regulations, codes, terms of licenses, framework contracts, recommendations and, for the electricity pre-contractual disputes, decisions for the parties.

Usually, each entity which has responsibility in collecting and solving petitions has to bear the cost of this activity.

There is a special case in which part of the cost of solving the complaint is to be borne by the customer. This is the situation in which the customer claims a wrong functioning of the meter and after checking it is proved that the meter operates properly. In such cases, the customer has to pay the cost involved in checking the meter.

The regulator (ANRE) has a special department in charge of receiving and responding to

customer petitions and to produce twice yearly reports containing statistics on the petitions solving activities.

This department deals with the following types of issues raised not only by customers but also by other market participants (generation, transport, distribution, supply, measuring operators, certified companies, etc.) and monitors them:

- petitions;
- disputes in the electricity and gas market, including any disagreement occurring before the concluding of the contracts, irrespective of their nature, or any disagreement regarding connections to the public network; and
- phone calls. A “green line” exists in ANRE for dealing with verbal requests, complaints or proposals that can be settled by an immediate answer or legal argument. All “green line” phone calls are monitored.

In its activities, the department uses an internal procedure which provides the way for treating petitions and two procedures, approved by secondary legislation, one for solving pre-contractual disputes and one for solving disputes regarding the connection of users to the public network.

For managing the complaint, collecting and handling databases are used for analysis and archiving.

D. Complaint settlement and consequences

The complaint or the inquiry handling process ends with a written answer. In the answer, recommendations and a solution for the addressed problem are usually formulated. Only for the pre-contractual disputes is the ANRE solution binding. However, even in this case, it may be contested in court.

For infringement of the rules, ANRE and the empowered authorities may impose fines to the guilty party.

There is not an alternative settlement body.

There are cases where in order to solve a complaint an investigation or a request for information from a supplier or DSO is necessary in order to find conciliation with customers.

E. Reporting

Annually, the distributors and default suppliers must issue and send to ANRE a report regarding the complaints and inquiries, organised according to the requirements specified in the performance standards.

In the report, the petitions are classified as follows:

- requests regarding the connection of the users to the public networks;
- requests regarding changing the type of tariff;
- requests regarding contract concluding;
- complaints regarding metering;
- complaints regarding billing;
- complaints regarding planned / unplanned interruptions; and

- complaints regarding the technical quality of service.

For each group, the service provider must specify the number of petitions received and the number of petitions solved in the regulated time.

Based on these reports, the regulator issues and publishes an annual report that includes the standard performing indicators for each distributor and default supplier.

Because there is not a unique classification of the petitions sent to a third-party body, ANRE developed its own classification, used in collecting and reporting the received petitions.

The answers to petitions submitted to ANRE are not published or posted on the ANRE web site.

The internal report contains the number of complaints grouped by domains (e.g. electricity, gas or heat), by deficiency types (according to pre-determined codes), by persons in charge, and so on. The most important aspects regarding handling complaints are included in the ANRE annual report, posted on the website.

F. Indicators

Analysing the complaints gives precious information for monitoring and control activities in order to assess the violation of sector regulation. By analysing the complaint handling report issued by ANRE, it is possible to find market malfunctioning and to decide to revise or change the regulations.

Monitoring and publishing the standard performance indicators reports stimulates the DSOs and suppliers to comply with the requirement of the performance standards.

There is no differentiation between the complaint handling procedures applied to different consumer categories.

7. Spain

A. Introduction

In Spain, the breakdown of responsibility for customer complaints/inquiries on gas and electricity is clear. The Autonomous Communities are responsible for customer complaints or inquiries related to natural gas and electricity supplies, such as quality service, invoicing, inspections, charges, etc. Nevertheless, the National Energy Commission (CNE) watches over Spanish energy consumers.

The CNE is involved in inquiries and complaints in the sense of collecting them and sending them to the Autonomous Communities if they are responsible for the subjects involved. In addition, the CNE sends a letter to the consumer informing him/her about the applicable legislation and telling him/her that his/her inquiry/complaint has been sent to the Region where the point of supply is located. Apart from that, the CNE has the responsibility to resolve disputes related to third party access.

Other third-party bodies with responsibility in diverse aspects related to customer complaints or inquiries are the Autonomous Communities (Energy and Consumption Directorates), Ministry of Consumer Affairs, City councils (information), etc.

The breakdown of responsibilities depends on the concrete case but, in general, it is easy to define.

B. Before a complaint (prerequisites)

Regarding the prerequisites before a complaint and, in particular, with respect to the definition of a customer inquiry, there is no formal definition of a customer inquiry included in the procedure applicable to the processing of information requests, inquiries and complaints within the CNE.

According to the internal procedure applicable to the processing of information requests, inquiries and complaints, those may be presented to the CNE through the following means:

- a) In writing, sent to the CNE or presented in the Registration Office;
- b) In electronic support, through the email address created for that purpose.

The obligation exists for customers to submit the complaint firstly to the supplier/DSO and afterwards to the third-party body.

Within the CNE, there is a special department which is responsible for directing customers to the relevant body to handle their enquiries or to handle their complaints.

Customers can be informed:

- a) Physically, in person at CNE premises;
- b) By telephone;
- c) Via email or through the web page;
- d) By letter.

C. Complaint handling

Within the CNE, there is an internal procedure in order to tackle consumer queries or disputes. Each Autonomous Community may have a dispute resolution procedure, since it is its own competency.

Within the industry, there is no procedure for resolving conflicts between consumers and suppliers, DSOs, etc. Nevertheless, there is a compulsory lead time to answer consumers. Regarding the conflicts between suppliers and DSOs, they will be resolved by the CNE or the Autonomous Communities (other subjects regarding supply). Apart from that, they can apply to the courts.

The relationship between the different bodies within the Administration which are involved in consumers' affairs is very fluid, as well as the one with the industry.

A voluntary procedure exists to resolve conflicts between consumers and suppliers (arbitration) but no supplier has decided, for the moment, to join to this procedure.

Customers in general are not satisfied with these standards.

In the CNE, an IT-tool exists for complaint handling or collecting. The specific cost of the complaint handling activity (third party bodies) is not available but, in any case, the cost within the Autonomous Communities is supported internally, as well as within the city councils.

D. Complaint settlement and consequences

Regarding those problems related to TPA, the CNE resolves them and its decision has to be adopted by the agents.

With regard to those subjects under the competence of the Autonomous Communities, the parties involved have to adopt the solution given by the Autonomous Community. Each party can go to court. The possibility of arbitration exists but, for the moment, no company has decided to join it. Each Autonomous Community is independent since the subject is under its competence.

E. Reporting

The classification used by the CNE is only for internal purposes. There is an annual report only for internal use. Internally, we know the name of the suppliers/DSOs involved but the information is not published. In order to conduct the reporting, an IT-tool is used within the CNE.

Although consumers are phoned in order to know if their problems have been solved, there is no survey evaluating it.

Suppliers do not have an obligation regarding customer complaint reporting and do not issue a report on a voluntary basis.

F. Indicators

In some aspects and depending on the moment, customer complaints monitoring could show evidence of market malfunctioning, for example as regards vulnerable customers, connection to the grid, direct selling, etc.

As regards indicators identifying any retail market malfunctioning, some may be considered more relevant than others, for example those regarding quality service. The monitoring of some key-indicators on complaints may be enough to identify these malfunctions.

8. Sweden

A. Introduction

In Sweden, there are several different third party bodies that can be involved in customer complaints/inquiries, depending on the issue.

The Swedish NRA, the Energy Markets Inspectorate (EI), provides information and handles some disputes (for example network connection, metering and electricity quality). The information activities help strengthen the position of customers in the electricity, natural gas and district heating markets. The information, mostly via the website, is addressed to both consumers and companies. All customers can also easily call or email the staff of the EI. Name, contact details and field of responsibilities for each member of the staff are publicly available on the website.

The National Board for Consumer Complaints is a public authority that functions roughly like a court. Its main task is to impartially try disputes between consumers and companies. Petitions are filed by the consumer.

An additional way to improve the position of consumers in the electricity market is the work done by the Consumer Electricity Advice Bureau. The Bureau has an active role in informing the public on such matters as the law and other rules that exist and how these are normally applied by companies on the electricity market. The consumer can call the bureau every weekday and send questions through the website.

B. Before a complaint (prerequisites)

Regarding third party bodies, all household customers are eligible to contact any of the third party bodies, depending on the issue (for more information please see A. Introduction). The customers can make contact through whatever means they wish (phone, letter or email). However, the National Board for Consumer Complaints, which is an alternative dispute settlement board, requires written complaints from customers. There are also two other limitations: The National Board for Consumer Complaints does not try issues that have already been settled in court, or issues where the amount of the complaint is less than 2000 SEK (~200 euro).

It is not compulsory for a customer who wishes to complain to any of the third party bodies to first have submitted his/her complaint to his/her supplier/DSO. However, it is always suggested to the customer that, as a first attempt to resolve the complaint, he/she should contact the supplier/DSO.

There is a customer information service, the Swedish Electricity Consumer Advice Bureau, which customers can contact to get advice on different supply contracts, information about the market and where to turn if they have further inquiries or complaints.

C. Complaint handling

All third party bodies have their own dispute resolution procedures. Both the regulator and the National Board for Consumer Complaints have written procedures and communicate the

complaint with the DSO/supplier before coming to a decision.

The larger energy companies also have a complaint handling mechanism, called Customer ombudsmen. It is not mandatory for the DSO/suppliers to have a Customer ombudsman within the company. Customers that are unhappy with an issue can turn to the ombudsman within the company for a retry of the issue. If the customer even after the retry is not happy, he/she can turn to the National Board for Consumer Complaints.

D. Complaint settlement and consequences

The result of a complaint differs, depending on which third party body is involved. The regulator has the power to impose a conditional fine if a company does not follow the relevant legislation. A decision by the regulator can be appealed in court.

The National Board for Consumer Complaints submits recommendations on how disputes should be resolved. The Board's recommendations are not binding, but the majority of companies nonetheless follow them. Companies that do not follow the board's recommendations will get blacklisted ("name and shame").

E. Reporting

The classification of complaints or inquiries is not the same between the different bodies. Below you will find the classification list for complaints and inquiries used by the Swedish NRA. This classification includes complaints and inquiries for electricity and gas:

- Network tariffs;
- Electricity quality, outages;
- Connections;
- Disconnections;
- Other network issues;
- Metering and reporting;
- Energy consumption;
- Supply prices;
- Price calculator;
- Supplier switching;
- Billing;
- Contractual terms;
- Natural gas and district heating;
- Other (concerning the NRA); and
- Other (not concerning the NRA).

Annually, the NRA reports to the Swedish government on the number and nature of complaints. This is done according to the same classification list above.

EI does not use any specific IT-tool for complaint handling or reporting. As to the DSOs and the suppliers, there is no obligation for them to report or in any other way make public the information regarding the number or the nature of complaints aimed at them.

F. Indicators

It is possible that monitoring customer complaints could reveal malfunctioning in the market. However, extensive customer complaint is in itself not necessarily an indication of market malfunctioning. It could also indicate that the customers are aware of their rights and/or demand high quality of service from their supplier or DSO. Since this awareness or high demand for quality of service could differ significantly between different countries, it is perhaps not very appropriate to compare the rate of complaints between countries.

One example where we have identified problems in the market is when suppliers have used unfair selling methods. Customers who have experienced problems in this area have contacted us and third party bodies to complain about this.

Another example: a few years ago there were problems in the electricity switching process, which led to delays in the switch. There were complaints about this, and because of that some amendments were made in the Swedish electricity act. The result is that now it is only possible for the person who has a contract with the DSO to make a contract with a supplier, and it is the responsibility of the supplier to check that this requirement is fulfilled.

9. UK (Great Britain)

A. Introduction

Scope

The approach described in this document relates to GB (England, Scotland and Wales). Northern Ireland has a separate complaint handling standard and reporting system.

Complaint handling process framework

The Consumer, Estate Agents and Redress Act, 2007 required the setting up of a new complaint handling process for the energy sector (operating from 1 October 2008). A key purpose of this process is to ensure that the energy companies deal properly and fairly with their customers. Complaints must therefore be made to the energy companies in the first instance.

The process also involves third party bodies with specific responsibilities as follows:

- Consumer Direct (an economy-wide 'helpline' advising on consumer rights, and signposting how and where to make a complaint. It can also refer complainants directly to the companies);
- Consumer Focus (a referral body for vulnerable customer complaints and disconnection cases);
- the Energy Ombudsman (a backstop for unresolved complaints – the ruling of the Ombudsman is binding on the energy company but not on the customer who may seek further redress through the courts).

Ofgem (the NRA) does not deal with complaints. Ofgem enforces the statutory complaint handling standards required to be met by the energy companies and also have a power to determine certain disputes (for example the charges for connecting to the gas/electricity system). However, in the first instance the Ombudsman can make a provisional ruling; either party may challenge this and come to Ofgem for a determination.

Both gas and electricity complaints are dealt with through the same process. The process covers energy suppliers and network operators.

There is a statutory requirement for Ofgem to collect complaint information from the energy companies. Ofgem can receive this direct or from the relevant bodies dealing with complaints. These are reported by Consumer Focus and the Ombudsman on a monthly basis.

B. Before a complaint (pre-requisites)

Definition of complaint

The complaint handling scheme does not provide a definition of an enquiry. There is a statutory definition of a complaint which is:

“any expression of dissatisfaction made to an organisation, related to any one or more of its products, its services or the manner in which it has dealt with any such expression of dissatisfaction, where a response is either provided by or on behalf of that organisation at the point at which the contact is made or the response is explicitly

or implicitly required or expected to be provided”

Complaints can be made by phone, email, written (letter/fax) or in person.

All domestic customers, and micro-businesses, are eligible under the scheme. Micro-businesses are defined as:

- an annual consumption of electricity of not more than 55,000kWh; or
- an annual consumption of gas of not more than 200,000kWh; or
- fewer than the equivalent of ten full time employees and an annual turnover or annual balance sheet total not exceeding Euros 2 million.

Before a complaint is dealt with by the Ombudsman, a customer is required to have submitted the complaint to their energy company. The only exception is if the customer is classed as vulnerable or the complaint is regarding disconnection in which case Consumer Focus may deal directly with the energy company on behalf of the customer, without the customer having contacted the company in the first instance.

Consumer Direct is the service set by Government for directing customers to the relevant body to handle complaints or enquiries.

Information

Customers are informed of their rights to complain through information on bills and other supplier literature, through the websites of suppliers, through signposting from Consumer Direct and from other general information sources (e.g. Ofgem, Consumer Focus and Energy Ombudsman websites and other advice publications). If a complaint has not been resolved by an energy company by the end of the next day following receipt, information on the complaints handling procedure must be provided free of charge to the complainant.

C. Complaints Handling

Complaints handling standards

There are statutory complaints handling standards which apply to energy supply and network companies. These are set and enforced by Ofgem and are designed to ensure that the companies have the responsibility for dealing with customers in a fair and proper manner.

The standards cover the definition of complaints; the requirement to record information; to signpost the complaint handling procedures; to signpost the redress scheme; make arrangements for contacts from Consumer Direct, make arrangements for contacts from Consumer Focus; the resourcing of the complaints function and the requirement to publish information.

There are no statutory standards for the handling of complaints for Consumer Focus or for the Energy Ombudsman (but the latter has published key performance indicators). Each organisation has adequate IT tools to fulfil their obligations of recording and reporting, but these are not generic.

Customer satisfaction

Ofgem has engaged an independent research company to gauge customer satisfaction with the complaints handling standards which is due to report in Spring 09 (and possibly on an ongoing basis annually thereafter). Additionally, Ofgem has engaged a company to provide

an independent audit of the energy suppliers' compliance with the complaints handling standards.

Costs and funding mechanisms

Consumer Direct is government funded through the Office of Fair Trading. Consumer Focus is funded by government, and the postal and energy industries in proportionate levels, although this funding covers a range of activity, not just complaints handling. The Ombudsman is funded by the energy industry.

D. Complaint settlement and consequences

Complaint settlement

Energy supply companies and network operators are required to be a member of the statutory redress scheme (the Ombudsman). It is the responsibility of energy companies to handle the complaint and they have up to 8 weeks to resolve it (in the first year energy companies new to the scheme have up to 12 weeks to do so). The majority of complaints to the energy supply companies are resolved within one day.

If by 8/12 weeks, or before, the complaint has reached deadlock, customers can refer it to the Ombudsman. The ombudsman can award compensation up to £5000, payable by the energy company. The Ombudsman scheme is funded by the energy industry (a membership fee and fee per case) and no fees are required to be paid by complainants, regardless of the outcome of the case. The Ombudsman's decision is binding on the energy company, although the complainant can go to court if he/she feels that he/she can get further redress.

E. Reporting of Complaint outcomes

The Ombudsman can recommend changes to the company's processes and/or policies where systemic failures are identified, and it will bring to Ofgem's attention any trends or issues of concern across the industry and problems which it has attempted to address with an individual supplier without success.

Reporting

Ofgem is not responsible for the reporting of complaints (although it may decide to publish complaints data in future) but is statutorily required to receive reports. The individual organisations (energy companies, Consumer Focus and the Ombudsman) are required to provide and publish reports.

Classifications

There is no formal requirement for specific classification and classifications will vary over time.

Suppliers are required to publish annually the overall number of complaints they have not resolved by the end of the next day following receipt.

Consumer Focus is in the process of deciding how to categorise complaints for reporting. The Energy Ombudsman publishes an annual report giving information on the total number of complaints it has received and the main complaint types: billing; transfer; and sales.

F. Indicators

Use of Complaints data

The complaints data derived through the complaint handling process is of considerable value and is the major source of information used to identify evidence of retail market malfunction. Ofgem also looks more widely at other evidence (e.g. other, non-complaint information from suppliers, information from stakeholder groups, market monitoring).

Incidences of mis-selling to domestic customers is a recent example where complaints were an important part of the evidence leading to a decision to open an investigation. Ofgem investigated and subsequently took enforcement action in relation to breach of a licence condition.

Annex 3 – ERGEG

The European Regulators for Electricity and Gas (ERGEG) was set up by the European Commission in 2003 as its advisory group on internal energy market issues. Its members are the energy regulatory authorities of Europe. The work of the CEER and ERGEG is structured according to a number of working groups, composed of staff members of the national energy regulatory authorities. These working groups deal with different topics, according to their members' fields of expertise.

This report was prepared by the Customer Empowerment Task Force of the Customer Working Group.

Annex 4 – List of abbreviations

Term	Definition
ADR/ADS	Alternative dispute resolution (board)/alternative dispute settlement
AEEG	Autorità per l'energia elettrica e il gas, Italian NRA
ANRE	Energy Regulatory Authority, Romanian NRA
CEER	Council of European Energy Regulators
CNE	National Energy Commission, Spanish NRA
CoRDIS	Dispute settlement authority within the French NRA, CRE
CRE	Commission de Régulation de l'Energie, French NRA
DGCCRF	General Directorate for Competition Policy, Consumer Affairs and Fraud Control, Ministry of Economy, France
DSO	Distribution System Operator
EC	European Commission
ERO	Energy Regulatory Office, Polish NRA
EI	Energy Markets Inspectorate, Swedish NRA
ERGEG	European Regulators Group for Electricity and Gas
GGP	Guidelines of Good Practice
kW	kilowatt
kWh	Kilowatt hour
MNE	Energy ombudsman (Médiateur national de l'énergie), France
NRA	National Regulatory Authority
Ofgem	Office of Gas and Electricity Markets, British NRA
SME	Small and medium-sized enterprise