



Public consultation on Draft Advice on customer complaint handling, Reporting and Classification

VKU Response

The German Association of Local Utilities (VKU) represents more than 700 municipal utility companies in the energy area. With about 50,000 employees, sales of approximately 47 billion Euro were generated in the year 2007. The VKU member corporations have a market share in the end user segment of 56.9 % in the area of electricity, 52.1 % in the area of natural gas and 50.3 % in the area of heat.

The predominantly medium-sized local energy providers are of considerable importance in relation to the location in respect of the regional economic development and the maintenance of local jobs.

Through the use of efficient power generation technologies, municipal corporations provide a valuable contribution to a sustained and climate-compatible energy supply. About 700 of the approx. 1,350 VKU member corporations significantly contribute, with an installed power of 11,340 megawatts, to a secure and decentralised electricity supply in Germany. A unique quality feature in this respect is the large share of the electricity supply from the cogeneration of heat and power (CHP) with approx. 84 %. 80 % of these CHP plants are operated with the energy carrier natural gas.

Introduction

A consumer complaint is to be taken seriously by the company and dealt with as soon as possible. The risk of losing the customer through dissatisfaction and/or of generating unnecessarily high expense through the further handling of the complaint is incentive enough for a rapid and definitive processing from the viewpoint of the customer.

Should it not be possible in individual cases to solve a complaint directly with the supplier to the satisfaction of the customer, the customer still has in Germany, in addition to the consumer protection centres and authorities, the possibility of court action.

Generally the question arises as to whether it is productive to establish specific procedures for consumer complaints and in particular their handling for the energy market, instead of, as far as possible, using and increasingly improving universal procedures for all consumer markets.

Information in the invoice

The procedure is welcome on the grounds of service and is already implemented by the local utility companies. Under German law, clear specifications apply concerning which information must be contained in the invoice. The contact persons at the energy supply companies for questions relating to the invoice are to be found already today on the invoice.

However, in addition to details of the address and telephone numbers the German EnWG (*Energy Management Act*) also lays down that the invoice should, whilst on the one hand being transparent and easily understandable, on the other hand also contain information

about network charges, electricity identification, gross/net amounts. Already today, these complex details are hardly understandable for private customers.

Furthermore it is difficult for the customer to understand which contact person is responsible for which matters. A distinction between the contact person in network, sales, point of measurement operator and complaint section would be desirable. However, the risk exists of swamping the customer with information and unclear competencies. In particular, the customers, who ought to be protected, could be overwhelmed by multi-page invoices and diverse information. Here we consider a clearly communicated service number to be sensible.

Experience shows that the customer tends to contact the supplier in the case of all complaints which he has in relation to the power supply, even if the latter is not responsible, because the problems have arisen e.g. in the network domain. The companies involved could reciprocally hold the contact information available and provide it to the customer upon request.

Different contact possibilities

The provision of a face to face contact point is in particular only possible through a high input of cost, and thus represents a market entry barrier which is not to be disdained. A corresponding customer density and the associated assumption of the costs can only be ensured by basic utility companies. With increasing competition, this recommendation is rather to be assessed as being a hindrance, since the head offices may possibly lie far distant from the customer.

Standards in handling complaints

The stipulation that an incoming complaint must be acknowledged within a short period is sensible. It should be taken into account that the different companies have their own complaint standards which are necessary for the respective complaint management systems. It follows from this that the nature of the internal complaint route is different.

The proposed response period of one day is not realistically feasible in the case of complaints by letter or fax. In the case of letters, it can, in certain circumstances, take longer than a day for the letter to arrive at the responsible complaint section. An obligatory response within one day would, even in case of automatically despatched acknowledgements of receipt, create costs whilst only providing limited information. Rather, the customer should receive a response within a few days and an acknowledgement of receipt only where extensive investigations are necessary (according to the efficiency principle "only handle it once").

Statutory standards for the handling of complaints under the control of the regulatory authorities entail increased expense and can restrict the scope for manoeuvre of the market participants. In addition, the benefit is put into perspective in a free competitive market since the customer can change the provider where he receives bad service.

Standards stipulated in the handling of complaints are assessed critically. Since the actual product of the energy supply companies can hardly be differentiated, the desired competition arises in the area of service quality and price. In a competitive market, providers with better customer service have a feature which differentiates them from others.

A so-called cheap provider will, for example, tend to save on service whilst a public utility company will, on the other hand, regard this as its special strength. Of course, this also ne-

cessitates a qualified complaints management. The quality of service is an instrument to tie the customer, and can thus lead to competitive advantages. By these means, a provider can distinguish itself from the other competitors in a positive manner. Every customer in this respect has the possibility of selecting his supplier completely according to his needs/preferences.

The risk exists that the stipulation of standards would heavily restrict the possibility of delineation of alternative providers and would operate against the philosophy of competition.

Redress scheme

In the case of performance which is not in conformity with the contract, diverse and far-reaching provisions are established in Germany concerning compensation. Generous settlement arrangements which go beyond these are agreed between customers and providers. This goes without saying in our view, and is also already practised.

The preparation and introduction of compensation arrangements which are universally applicable can only be implemented with high expense. Even where a comprehensive classification is in place, equal treatment is not always guaranteed, since there can be strong deviation in the subjective allocation of a complaint.

Alternative dispute settlement body

The possibility of making application to an alternative dispute settlement body can be useful.

In addition to action through the ordinary courts which is also made possible for financially weaker customers by an application for legal aid, numerous institutions support end users in Germany as a contact point for information and advice. The best known contact point for customer complaints in Germany is the respective consumer protection centre. This offers regional proximity and personal service free of charge on a great number of consumer topics. In particular for reasons of clarity and cost efficiency, a universal contact person for consumers who is not restricted to the area of energy supply is to be preferred.

The decisions of the arbitration board should, however, be understood as a recommendation and not be legally binding. In last consequence, the legal process through the courts must remain.

Collection of the complaint data

The national regulatory authority was created in order to regulate the "natural monopolies", the network operators. The basic question arises as to whether in a competitive market – in addition to e.g. the cartel offices - a further governmental body is useful. If complaints are to be collected centrally here, additional bureaucracy is to be expected.

Under the 3rd package, the national regulatory authority only has the function of monitoring the level of maturity and the effectiveness of openness on the market. For this reason, the national regulatory authority may only receive access to relevant complaint data in justified cases.

In so far as such a procedure is nevertheless considered necessary, it must naturally be ensured that complaints gathered are passed on in anonymous form, that is to say without customer data (data protection) and limited to material complaints. Complaints relating to persons should remain with the energy company.

An evaluable collection and forwarding of all complaint data is only possible with a complaint management system designed for that purpose. Also here, considerable expense for the introduction and maintenance is foreseeable, since it is questionable whether systems already existing can necessarily be taken over. Alone the recording, cataloguing and forwarding of the customer complaints create high costs. The contribution to attaining knowledge about the stage of development of the market is regarded as doubtful.

In principle, it can be assumed that the number of the complaints will not automatically permit inferences as to the functioning or non-functioning of the competition. A large number of complaints does not necessarily mean a failure of the market. On the contrary, this can also be a sign of open communication with the customer. The number of complaints does not necessarily provide any information as to whether an energy provider works in a customer-friendly manner. Furthermore, it must be taken into account that not all complaints are justified. Accordingly, the proposal is, overall, rather to be regarded critically.

The transmission of the data could, moreover, prove difficult in relation to the data protection regulations. A delivery of data in anonymous form is conceivable as an alternative. A possibility of control as to whether all data has been correctly and fully passed on will, however, prove to be difficult. Precisely under the pressure of publication, it is questionable whether such an objective evaluation of the data can be guaranteed in the companies.

Third party body

As a rule, the household customer remains completely unaware of the complicated market regulations addressed. The supplier assumes all the necessary steps for the customer. Industrial customers are, meanwhile, very familiar with the mechanisms of the market and participate in happenings on the market.

A third party body which deals with consumer and trader complaints does not aim in the right direction. We consider a further standardisation and regulation of the energy market, which has just been deregulated, to be wrong.

Should a third party body nevertheless be established, this must possess sufficient know-how and be situated at a neutral location. It is also to be feared that customers whose complaints have been justifiably rejected may apply to this body, thus causing renewed expense.

The recommendation of free handling is problematical. The risk exists that an incentive will thereby be created to invoke the independent complaints body. Since, however, this itself has costs, these must be apportioned between the providers. This contradicts prevailing law and makes the supply of power more expensive for all customers. For this reason, it is recommended that a charge be demanded from the unsuccessful party.

First contact with the energy provider

As a basic principle, the complaints should be addressed to the responsible energy provider in the first instance, because only this company is in a position to clarify / deal with complaints and e.g. to make corrections to invoices. A forwarding of the complaint by the independent complaints body to the respective energy provider would furthermore delay the handling of the matter.

- Should the customer not be satisfied with the handling of the complaint, the independent complaints body could then serve as the next "escalation step". The attention of the customer could be drawn to this by the energy provider.

- Nevertheless, the energy provider should also have the possibility of being able to forward customer complaints to the independent complaints body. This applies, for example, to complaints concerning the handling and implementation of a change of supplier.

Financial compensation

It must be clear according to which rules the appropriateness of the compensation is to be established, and who is to make the assessment here in the case of dispute.

Compensation in the form of money should only be allowed if the customer has suffered material damage. Furthermore, the legal arrangements for paying compensation must be harmonised with the national specifications.

Common classification

The use to the customer of a European classification of complaints is not recognisable, especially since it is associated with administrative expense and thus increased costs.

Publication of the complaint data

The publication of a list of the companies which do not follow the recommendations of the complaints body is regarded critically. The German legal situation has shown that claims may be derived through damage to reputation as a result of a "black list".

If, nevertheless, publication is given consideration, it must be ensured that the data is aggregated, that economically sensitive data is treated confidentially and that the energy providers are involved in the preparation of the list.