

Mrs Fay Geitona
ERREG
28 rue le Titien
1000 Brussels
Belgium

Brussels, 1st of December 2009

Subject: Public Consultation on Draft Advice on Customer Complaint Handling, Reporting and Classification.

Dear Mrs. Geitona,

Thank you for the opportunity to comment on the Complaint Handling Reporting and Classification recommendations published on 17th September 2009. This response incorporates the views of Iberdrola S.A. and ScottishPower Energy Retail and predominantly relates to energy supply matters, where the majority of customer contact will take place.

Best practice standards for the handling, reporting and classification of consumer complaints are welcome, as this gives all Member States a clear standard to strive for, and ultimately greater certainty for energy consumers. However, it is important that these standards allow scope for innovation by companies, in order to aid, rather than hinder the development of competition in the market. Overly prescriptive standards could discourage suppliers from competing for customers at a service level. In this sense it is also important to remark from a practical point of view that this consultation should support general recommendations to Member States rather than detailed measures in order to facilitate a flexible implementation in each jurisdiction.

A common definition of a complaint is important, to allow suppliers certainty in the application of the standards, making them valuable for customers. The complaint definition proposed within the document seems sensible and indeed is in harmony with the approach in other markets, including the definition currently used within the UK supply market.

We are broadly supportive of the proposed recommendations within the draft advice and agree that these are generally sensible. We agree that it is important to empower customers by providing clear and meaningful information regarding complaints procedures and agree that standards, which aim to enhance customer service and ensure best practice is followed, can be of great benefit to energy consumers and becomes a source of value provided to customers and in some cases of service differentiation.

The greatest challenge in introducing the standards will be striking a balance between consumer protection and the development of the competitive market. It is reasonable that differing Member States will achieve the standards to varying degrees. For example, a high majority of recommendations are currently fully operational within the UK, due to the statutory complaint handling standards that were introduced in October 2008. Due to this, the level of change required in the UK, if any, would be minimal. However in Member States where the competitive market is not as fully developed, such as Spain, some further work would be required in order to adopt these practices.

In particular, establishing a single third party body in Spain would be very difficult to implement due to the structure of the 17 Autonomous Communities who are currently



responsible for customer complaints. To meet recommendation 7 would require some work, ultimately merging separate organisations and responsibilities together, which would not be a task that could be easily implemented. While this is valuable, and ultimately the aim in the longer term, it would not be sensible to rush this process, as this would not allow for the careful and appropriate development of a single point of contact which can engage effectively with consumers.

We believe it is imperative that ERGEG are mindful of this and fully consider the maturity of the market of each EU member when making a final decision regarding implementation and application of the standards. Flexibility in the approach to applying the standards across each Member State is important. We recognise the importance of ensuring energy consumers across Europe receive a consistent high level of consumer protection, however believe that the pace of implementation should be in line with the level of change required to comply by both service providers and third parties.

We are broadly supportive of the content of the recommendations. One exception is the approach taken in recommendations 5 and 13, which advocates applying financial compensation to customers when the complaint has been settled in their favour. This approach causes some concerns. Although we believe that financial compensation can be a form resolution in appropriate circumstances, we would caution against a blanket approach and ask that alternative forms of redress be considered such as an apology, an explanation or remedial action. I attach comments on each of the specific recommendations in the annex to this letter.

With regards to the complaint reporting and classification proposals detailed in the consultation, we agree it is important that common measures are utilised in order to ensure consistent monitoring. However, it must again be recognised that due to the differing states of market development across the EU, it will not always be possible to compare standards across Member States. In order to be of value to customers and service providers, reporting and classification must be consistent and conducted on a comparable basis. Therefore, we believe that it will take some time for a fully effective suite of reporting to be developed against these standards at an EU level. Rushing the process will not only run the risk of providing inaccurate advice for consumers but may also prove very costly for some members to introduce IT systems and processes to record complaints in this way, which will ultimately affect consumers.

Should you wish to discuss any of the information contained within our response, please do not hesitate to contact me, using the above details.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Fernando Lasheras".

Fernando Lasheras
Director of the Iberdrola Brussels Office

ANNEX

Recommendation to service providers

Information on the bill on how to complain

- Recommendation 1

We agree that this standard is sensible and a basic level of service for customers. In the UK customer service contact details are displayed on all bills and statements. Customers can contact us through a variety of channels such as telephone, e-mail or minicom telephone for those customers with hearing difficulties. It is important however that the standard is not overly prescriptive in terms of the level or placement of information. It should be recognised that bills or statements are a key communication tool for suppliers. Suppliers should therefore be free to design these as appropriate for their customers.

- Recommendation 2

Again, we agree that it is important that customers are able to access this information. However, we would question whether the bill is the correct place to provide this information in every case. The level and format of information necessary to be provided on the bill will depend on the nature of the third party body in each Member State and also the format and content of each service provider's bill. We would urge ERGEG not to be overly prescriptive in defining this standard.

UK Service providers are bound by their Supply Licence to inform customers on all bills and statements of third party body 'Consumer Direct'. This third party provides advice on consumer rights and can refer customers directly to service providers. In addition to this service providers also generally provide customers with the telephone number for the energy ombudsman on bills and statements. More channels for contact are available on websites, including, e-mail and a direct link to the website address which displays the postal address if customers wish to send written correspondence.

Choice of the complaint channel within service provider

- Recommendation 3

It is sensible to allow customers a range of methods to contact their supplier, in the way that best suits their needs. In the UK for example, the statutory complaint handling standards, which were introduced in October 2008, require service providers to allow consumers to complain both orally (by telephone or in person at the service providers business premises) and in writing (including via e-mail).

It would be helpful if ERGEG could provide further guidance on what is meant by 'a wide range of channels' in this context. We would suggest that allowing customers to submit complaints in writing, by telephone or by email would be sufficient.

Statutory complaint handling standards shared by all service providers

- Recommendation 4

This recommendation again builds on the current UK example. As noted above the statutory complaint handling standards were introduced in the UK in October 2008. These standards are enforced by Ofgem and include all points mentioned within this recommendation proposal.

It is sensible that each Member State should have its own complaints handling standards to create a level of consistency across service providers. However, stakeholder consultation is essential in developing these standards. Again, the speed of implementation of the standards must be considered in line with the development of competition in each Member State. Such Standards should be sensible and not overly onerous on service providers, as they should continue to allow for service innovation.

Service providers' redress schemes

- Recommendation 5

We are broadly supportive of this recommendation, as compensation is a form of resolution, which we believe should be applied in appropriate circumstances. However, the recommendation as currently drafted implies that compensation should be available in all cases. We would caution against a blanket approach of compensation being awarded in all cases where the customer's complaint has been settled in their favour. Other forms of redress may be more appropriate, and indeed may be what the customer is looking for, such as an apology, explanation or remedial action. Financial compensation will not always be an appropriate response to every scenario, even where the overall outcome is in the customer's favour.

We would suggest that the recommendation be amended on the following basis:

"Redress schemes should be in place to allow the appropriate resolution for the customer, including an apology, explanation, compensation or remedial action as appropriate."

Compliance with alternative dispute settlement body's recommendations

- Recommendation 6

This approach is broadly sensible, provided that the service provider has been given adequate opportunity to explain its case and make representations to support its actions, as appropriate. It is also important that the alternative dispute settlement body is independent and its actions are capable of scrutiny. A bias towards customers in this regard, such as a consumer advocate, would not be appropriate.

In the UK, any outcome from the energy ombudsman is binding upon the supplier, in line with the statutory complaint handling regulations. Service providers are required to inform customers of this when they become eligible to take their case to the ombudsman. Primarily this will be where the complaint has not been resolved within 8 weeks from the date the complaint was first recorded.

Complaint data collection by NRA

- Recommendation 7

It is important that complaints data is available to the national regulator in order to identify any market issues, and to monitor progress in complaints handling. It is sensible that this is done at a national level, to avoid the issues highlighted in this response of the varying degrees of market development across Member States.

It should be at the discretion of each Member State to agree what complaints data is important and relevant. NRAs should be required to consult with service providers as to what information is relevant and useful, to avoid a potentially onerous burden being imposed on service providers. It is not appropriate for these recommendations to define the level and frequency of reporting necessary under this recommendation.

The wider issue of complaints classification and reporting at EU level is considered further within this annex.

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

Single point of contact

- Recommendation 8

This is a sensible recommendation and can provide clear benefits for consumers. Such a body exists currently within the UK. Consumer Direct is a government-funded telephone and online service offering information and advice on consumer issues. In addition, this organisation can refer complainants to the appropriate service provider or to a consumer advocate body, the National Consumer Council.

Prior contact with the service provider

- Recommendation 9

It is sensible to encourage customers to contact their service provider in the first instance to complain as this could lead to the issue being resolved at the first point of contact, avoiding further escalation. It is essential that service providers be given the opportunity to resolve customers' concerns in the first instance. It will be important for third parties to promote this and also to detail this recommendation in their communications with customers.

Where complaints are not directed to the service provider in the first instance, this should not be classified as a complaint, unless the customer has repeatedly attempted to contact the service provider but has been unsuccessful.

Choice of complaint channel

- Recommendation 10

This is sensible and allows customers to gain advice and assistance in the method that best suits them.

Again, it would be helpful if ERGEG could provide further guidance on what is meant by 'a wide range of channels' in this context. We would suggest that allowing customers to submit complaints in writing, by telephone or by email would be sufficient.

Free access for all customers

- Recommendation 11

This is sensible and allows a level playing field for customers, empowering them regardless of their personal circumstances. Ideally, to ensure the consistency and independence of advice, the government of the relevant Member State, should fund that State's independent consumer bodies.

Where service providers fund dispute resolution services, carefully drafted Terms of Reference should define the scope of complaints that this service have the authority to deal with. This will minimise the potential for suppliers to face large costs for vexatious or otherwise non-genuine complaints, which would ultimately be passed on to the general customer base.

Customers in the UK can contact all consumer bodies and third party organisations such as Consumer Direct, Consumer Focus and the energy ombudsman free of charge.

Statutory complaint handling standards within third party bodies

- Recommendation 12

We agree that this recommendation is sensible and support the application of each of the complaint handling standards for third party bodies within this recommendation. We agree that this will help to develop consumer confidence within the market. Within the UK this approach works well and ensure a fair and consistent service for customers.

Financial compensation to customers

- Recommendation 13

As with recommendation 5, we are broadly supportive of this recommendation, as compensation is a form of resolution, which we believe should be applied in appropriate circumstances. However, the recommendation as currently drafted implies that

compensation should be available in all cases. We would caution against a blanket approach of compensation being awarded in all cases where the customer's complaint has been settled in their favour. Other forms of redress may be more appropriate, and indeed may be what the customer is looking for, such as an apology, explanation or remedial action. Financial compensation will not always be an appropriate response to every scenario, even where the overall outcome is in the customer's favour.

We would suggest that the recommendation be amended on the following basis:

“Redress schemes should be in place to allow the appropriate resolution for the customer, including an apology, explanation, compensation or remedial action as appropriate.”

Complaint data collection by NRAs

- Recommendation 14

We agree that this recommendation is sensible. Consideration should be given to the appropriateness of information requested, the extent to which this information is already available and also the frequency of requests. The comments made in relation to recommendation 7 still stand.

Complaint data publication

- Recommendation 15

Publication of complaints data could provide customers with a useful overview of how their service provider is performing and place indirect pressure on service providers to improve performance, and therefore can be of benefit to customers. However, it is essential that any publication of complaints data is considered on a fair and equitable basis and that a range of meaningful indicators are used to provide a full picture of performance across the full complaints handling lifecycle.

Use of a single measure will only provide a small glimpse in to one aspect of a suppliers' performance and will not provide meaningful and comparable information for customers. Third party bodies must ensure that a full and appropriate consultation is carried out with stakeholders to ensure that the proposed measures are correct and relevant.