

European Consumer Consultative Group – Comments to ERGEG public consultation on a Draft Advice on Customer Complaint Handling, Reporting and Classification – 11<sup>th</sup> December 2009

"DISCLAIMER - The European Consumer Consultative Group (ECCG) is a consultative group set up by the Commission, entrusted to represent the interests of consumers at the Commission and to give opinions on issues relating to the conception and implementation of policy and action on the subject of protection and information of consumers. The opinion of the ECCG does not reflect the opinion of the Commission or one of its Services".

CONTEXT

- The ECCG sub-group on Energy prepared an ECCG Opinion on the ERGEG Draft Advice on Complaint Handling, Reporting and Classification.<sup>1</sup>
- Following the submission by the ECCG sub-group on Energy, the members of the ECCG have adopted the Opinion stated below on 11<sup>th</sup> December 2009.
- The Commission chairs the meetings of the ECCG. However, the Commission does not interfere with the drafting or adoption of ECCG Opinions.

**1. General comments**

**1.1. Complaints handling is fundamental for consumers**

The ECCG wants to congratulate ERGEG for taking the initiative to engage in the discussion about a number of issues that matter to energy consumers. How to take care of complaints and associated activities of their registration and classification are fundamental for consumers. At the same time, good complaints handling should not be a substitute for strong energy consumer rights and for high-quality service from energy companies.

**1.2. Complaints handling is also communication from business to their clients**

Complaints handling is also an issue closely connected with how energy companies communicate with their clients. Therefore, we see it not only as a legislation and regulation issue but also an area where private operators can, and must, demonstrate their good practices towards their clients.

**1.3. European focus – good complaints handling across Europe must be based on principles and actions, irrespective of national circumstances**

Our focus for comments for the present report is a European one. We welcome the presentation of national practices in ERGEG's report, but rather than looking into them, we concentrate our attention on *principles and actions* that may apply across Europe.

We understand complaints handling as an activity that is 'beyond and above' national circumstances and cultures including roles of national, regional and local authorities, competences of regulatory authorities and even maturity of national energy markets.

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<sup>1</sup> The document is available from: [http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_CONSULT/CLOSED%20PUBLIC%20CONSULTATIONS/CUSTOMERS/Customer%20Complaint%20Handling](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/CLOSED%20PUBLIC%20CONSULTATIONS/CUSTOMERS/Customer%20Complaint%20Handling)

**1.4. *High quality complaints handling: a clear, transparent & swift process with no costs for consumers***

Irrespective of the national set up in any Member State, complaints handling must be of high quality. The complaints handling process must be clear, transparent and swift and should not involve any costs for consumers.

On top of this, the ECCG supports the idea that an independent certified technical opinion, for example on billing disputes due to metering, is available.

**1.5. *Complaints handling as indicator for market functioning, company conduct and how voluntary initiatives may complement legislation***

How complaints are handled, both the design of the process and the level of satisfaction by consumers, are also indicators of market functioning, energy companies' engagement with their clients and even corporate social responsibility (CSR). A good complaints handling process is also a sign of good balance between legal requirements and good corporate practices. In addition to the above, complaints is a source of optimisation of company processes.

**1.6. *Complex design for complaints handling process should not equal a complex process***

The ECCG understands that the *design* of how complaints are handled is by its nature complex. It is also necessary that all relevant stakeholders: consumers, energy companies, regulators, public authorities, independent arbitration bodies are involved and thoroughly consulted. Yet, a complex design should not equal that the final *outcome* should be equally complex. On the contrary, the complaints handling process should be streamlined, transparent and with clearly defined roles for each party.

**1.7. *Various national approaches, common principles and actions in Europe to be considered in an ongoing discussion: Working Group on Complaints Handling***

Our experience from numerous countries in the Internal Market indicates that there are various approaches to complaints handling in the EU. We believe that to reach a high level of satisfaction across the internal energy market it is necessary to focus on a number of principles and actions (see below) and also to engage further with the above identified stakeholders on an ongoing discussion. The objective of the process would be to agree on a number of necessary actions and also review national practices so that these actions that are truly 'best practices' could be considered by other countries.

We note that such a process has already taken place in 2009, in the form of a Working Group on Billing. The Working Group presented its recommendations and good national practices in the 2<sup>nd</sup> Citizens' Energy Forum in September 2009.

We believe that a similar process on complaints handling could be appropriate to, once again, bring together consumers, industry, independent arbitration bodies and regulators and to benefit from their contributions in a working group under the chairmanship of the European Commission.

## **2. Specific comments: principles and actions for a high quality complaints handling process**

### *2.1. Clarity*

The complaints handling process must be transparent. The steps to take and the roles of each relevant party along the process must be clearly defined.

Specifically it must be clear:

- Which is the first body to contact?
- What is the role of client services?
- What are roles of energy providers (commercial entities) and DSOs ?
- What is the role of the energy regulator?
- What is the role of the consumer complaints regulator?<sup>2</sup>
- What is the role of national/regional/local authorities?
- What is the role of a private mediator/ombudsman (if there is one)?
- What is the role of a public or industry ombudsman (if there is one)?
- What is the role of independent arbitration?
- What is the role for national courts?

### *2.2. Alternative dispute settlement*

If an alternative dispute settlement procedure exists, it must be clear what are the enforcement limits of this process. Consumers must be informed whether their energy company must comply with the recommendation or not.

We also feel that an appeal process, *after* the conclusion of the review of a complaint *within* the company, could be beneficial for giving greater transparency and confidence to consumers about their rights in energy (and other) markets. In Denmark, for example, a national Energy Complaints Board exists where energy consumers can launch an appeal against the decision of the internal investigation of their energy company.

### *2.3. Information and communication*

All relevant information on the process, competences, responsibilities and alternatives must be *easily* available to consumers. A first and important step is to place relevant data (i.e. contact numbers, a postal address and a web address) on the bill consumers receive.

Information on complaints handling should be available to consumers in printed format upon request. The Internet is a useful tool, but not a panacea. Any information on complaints handling must be clearly visible on a company website. Finally, call corporate centres should be able to inform consumers about the steps towards the investigation and eventual resolution of a complaint.

In all these cases, it is necessary that:

- language used is simple,
- information on the Internet is easily available i.e. not stored under 'multiple clicks' in a corporate (or public) website and
- call centre operators are well-trained to answer consumer questions

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<sup>2</sup> Note here the reference of the Third Energy Package on a 'competent body' to deal with complaints, for this provision it is necessary that consumers are informed on this.

- maximum periods for complaint resolution (certainly within the energy company) are defined
- maximum periods for replying to letters and emails (irrespective of geography i.e. cities vs. islands or mountainous areas), maximum waiting periods for call centres

Specifically for call centres, it is important that complex questions can still be answered. Therefore, if call operators cannot reply, the call should be transferred to a person that can answer.

#### **2.4. A swift process**

It is also necessary that the complaint does not take long to be resolved. In many ways, the conclusion of a complaint should arrive at a period of time that can demonstrate a 'cause and effect' of the action from the consumer to contact their energy company or other responsible body to seek information and, eventually, redress.

Specifically, if the complaint is related to payments and may cause financial difficulty particularly for vulnerable consumers, a swift conclusion is necessary. If this is not possible, then alternative support arrangements should be available, e.g. payment in instalments or the obligatory involvement of third party advice agencies.

In all cases, it is necessary that the consumer is regularly notified about the progress of their complaint and that an *initial* notification in writing (e.g. letter, email) is presented registering the date of the initiation of the process and the following steps to be taken.

Finally, we support the idea that companies publish average waiting times in call centres and average periods for complaints to be resolved, and actual data of complaints resolved within the company or referred to other competent bodies. (Following the model in countries such as the UK (GB)), companies' complaints procedures should be annually audited by the regulator and the results published.

#### **2.5. No costs for consumers**

We are convinced that the complaints handling process should entail no costs for consumers. Therefore, we do not agree with energy companies charging their clients for use of call centres and/or having to register to use company websites.

In many ways, there are (personal) costs involved as consumers take time to a) look for and process the information relating to their case, b) contact their energy company, c) follow up the process. But apart from these costs, we believe that no other should be applied.

As highlighted in the previous section ('General Comments'), to handle a complaint by a consumer is after all part of the communication of a company with their clients. Part of the price consumers pay includes services and the handling of complaints is a service.

#### **2.6. No disconnection during a dispute**

There should be no energy disconnection (or threat of) during the time of a complaint and later during a dispute between the consumer and their energy company.

### ***2.7. Registration and classification of complaints***

We believe that a statistical separation between complaints and general enquiries is important, but both should be reported as evidence of market developments.

We want to repeat in this section the points made in sections 2.3 and 2.4 that energy companies should:

- set maximum waiting periods for call centres,
- publish average waiting times in call centres and average periods for complaints to be resolved,
- and also publish actual data of complaints resolved within the company or referred to other competent bodies.

### ***2.8. Privacy and confidentiality***

It is important from a consumer perspective that privacy and confidentiality of personal data is guaranteed throughout the complaint process. At the same time, it is also essential that when the competent public authority (energy regulator or other) asks information about the consumer in question on a specific complaint investigation, the commercial entity provides it. It is also important that the consumer is regularly updated about who is handling their dossier throughout a complaint and who is given access to their data. Finally, we propose that energy companies keep a record of (telephone) conversations with their clients and that this information is available to all involved parties.