

ADR in Competitive Energy Markets

Roberto Malaman

Director for Consumer Affairs and ADR - AEEGSI

Vice-Chair - CEER Customers and Retail Markets WG

Oxford, 18 April 2016

This is not an official AEEGSI document

ADR in the energy sector

- **3rd Energy Package** Article 3 - 13 of Directive 2009/72 electricity (same text for gas):
 - Member States shall ensure that an independent mechanism such as an energy ombudsman or a consumer body is in place in order to ensure **efficient treatment of complaints and out-of-court dispute settlements**
- **Annex I** of Directive 2009/72 electricity (same text for gas):
 - 1.(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**

Role of NRAs in ADR

- **3rd Energy Package** Article 37 - 11 of Directive 2009/72 electricity (same text for gas):
 - **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 complain (...) **The regulatory authority's decision** shall have **binding effect unless and until overruled on appeal.**

CEER work on CDR/ADR and related issues

1. **Guidelines of Good Practice (GGP)** on customer complaints handling, reporting and classification, including **recommendations to third party bodies involved in ADR**
2. **Alternative Dispute Resolution practices: case studies.** Update to Annex 2 of GGP
3. **Position** regarding the “branding” of ADR bodies
4. **Status review of the Implementation of GGP**
5. **Status Review of Customer and Retail Market Provisions from the 3rd Energy Package**, including chapter on ADR mechanism
6. **ACER/CEER Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets**

Energy Regulators' views on ADR – 1

- ADR is **not an isolated matter**, but should be viewed in the global context of complaint handling, as there should always be a prior contact with a service provider; **ADR should be used if the trader cannot resolve the complaint**
- **Complaint handling standards** for both service providers and ADR bodies should be determined at national level. These standards (with regards of timeframe for answer, quality of answer, bilateral agreements...) should be made public and available on request

Energy Regulators' views on ADR – 2

- It is important that ADR bodies are viewed by the public as **independent from the industry**; only third party bodies that are **independent from a particular service provider** ensure neutrality from service providers, which is essential for customers' **trust** in the mechanism
- The **branding** of ADR bodies and any trader complaint handling and complaints services **should be distinct and not create any confusion** for customers

Energy Regulators' views on ADR – 3

- Customers should have **easy access** to ADR, preferably at **no cost**, or else at low cost
- It is important to ensure ADR systems **operate efficiently and provide value for money**; the ADR body's **funding** should be transparent
- It is important that ADR bodies **collect and publish data** on complaint handling, but the scope of data collection, its modalities, frequency and data format required should be defined at national level

ACER/CEER Annual Report on the Results of Monitoring the IEM

- In almost all of the countries, **ADR is available to energy customers free of charge**
- Household customers can find **information about ADR** either on the bill, on the contract or on the website of the NRA or/and the energy service provider
- In 12 of the 27 countries (26 MSs and Norway), **the ADR is the NRA itself**

COMPLAINTS HANDLING AND ADR

Complaints handling and ADR

- Energy suppliers and DSOs' responsibility complaints handling has to be reinforced
- Complaints handling is a competitive factor
- NRA may issue both rules for adequate complaints handling and standards
- Compensation mechanisms when standards are not met

ADJUDICATION AND MEDIATION

Decision/Adjudication

- Small numbers
- Economic value
- Appeals to Administrative Courts

Mediation

- Small claims
- Large numbers
- Civil Justice

SOME FIGURES ON ITALY

- Complaints to energy suppliers/DSOs: 740.000
- Independent info/triage: 400.000 cases
- Facilitation: 40.000 cases
- ADR Conciliation: 5.000 disputes
- Access to network NRA decisions: 50

INDEPENDENCE OF ADR BODIES

- NRA are both independent from energy companies and customers
- When the ADR body is within the NRA, further independence requisites may be introduced
- Independence concerns emerge for paritary bodies where customer and supplier are represented without any mediator (i.e.: the case of TLC, and also energy, in Italy)