

EUROGAS RESPONSE TO THE COMMISSION CONSULTATION ON ALTERNATIVE DISPUTE RESOLUTION (ADR)

Eurogas welcomes this consultation by DG SANCO and is pleased to provide these initial views to a number of the questions posed in this generic, cross-sector consultation.

Eurogas, which represents gas suppliers at a European level, looks forward in due course to contributing to the ADR working group which DG SANCO is establishing to consider more specifically the use of ADR in the energy sector. ADR schemes for energy supply already exist in a number of Member States, which use a variety of different models. We are convinced that experience to date will be helpful in considering the role of such schemes more widely.

(1) What are the most efficient ways to raise the awareness of national consumers and consumers from other Member States about ADR schemes?

The nature of ADR schemes in our view is that they represent a means of resolving disputes when this has not been possible via the preferred initial route via the supplier.

The existence of an ADR scheme in a sector such as energy must be drawn to the attention of those customers who are involved in a complaint process with their supplier and who may not be able to reach a satisfactory solution. This will ensure that such consumers have the necessary information about the scheme so they can make use of alternative dispute resolution and it allows the normal customer-supplier relationship to work, until it is evident that some escalation is necessary.

In addition consumers may be informed more generally about ADR through the main channels of communication (workshops, information seminars, the web etc.).

(2) What should be the role of the European Consumer Centres Network, national authorities (including regulators) and NGOs in raising consumer and business awareness of ADR?

There is certainly a role for national agencies such as the energy regulator or consumer organisations when customers turn to them for help and information.

However as noted in our answer to Q1, at an individual level, it is the supplier who will in most cases be best able to communicate the existence of an ADR scheme to those customers who are involved in a dispute.

(3) Should businesses be required to inform consumers when they are part of an ADR scheme? If so, what would be the most efficient ways?

Yes. It is particularly important that this information is made available when there is a complaint or dispute. It is not so important that it is routinely communicated via the bill, for example, which always runs the risk that complaints will be directed to ADR in the first instance rather than the supplier; on the bill the initial route for complaints can be communicated.

(4) How should ADR schemes inform their users about their main features?

Clearly an ADR scheme will need to have a website and leaflets available on request, in order to assist customers who are dissatisfied with the handling of their complaint by their supplier to understand the nature of the scheme, what the customer has to do and

what the customer can expect. Customers can be directed to such information by the supplier.

(5) What means could be effective in persuading consumers and traders to use ADR for individual or multiple claims and to comply with ADR decisions?

It is up to member states to discuss with the industry and consumer organisations how ADR can be organised and how suppliers can be persuaded to comply with ADR.

While exact details of ADR schemes have to be developed at national market level, the key characteristics of an effective scheme are transparency, equity, simplicity, impartiality and low cost. Potential users of an ADR process have to have confidence that ADR scheme will be independent and will provide fair decisions in a timely fashion. Companies must be similarly assured and also that the scheme is efficient and cost effective.

(6) Should adherence by the industry to an ADR scheme be made mandatory? If so, under what conditions? In which sectors?

(7) Should an attempt to resolve a dispute via individual or collective ADR be a mandatory first step before going to court? If so, under what conditions? In which sectors?

These are matters to be determined at Member State / industry level.

(8) Should ADR decisions be binding on the trader? On both parties? If so, under what conditions? In which sectors?

ADR schemes are intended to assist suppliers and customers to resolve disputes without the cost or formality of the courts. The design and rules of such schemes should be determined at Member State / industry level.

In considering ADR rules, it should be recalled that in every competitive market, there is an incentive for companies to reduce the number of complaints in order to protect their reputation and maintain / reinforce their market position. To give suppliers room for competition on service levels to the ultimate benefit of consumers, over-prescriptive regulation should be avoided.

(9) What are the most efficient ways of improving consumer ADR coverage? Would it be feasible to run an ADR scheme which is open for consumer disputes as well as for disputes of SMEs?

(10) How could ADR coverage for e-commerce transactions be improved? Do you think that a centralised ADR scheme for cross-border e-commerce transactions would help consumers to resolve disputes and obtain compensation?

(11) Do you think that the existence of a "single entry point" or "umbrella organisations" could improve consumers' access to ADR? Should their role be limited to providing information or should they also deal with disputes when no specific ADR scheme exists?

Eurogas has no views as yet on these questions. However the identification of best practices on the basis of current experiences could offer guidance to Member States where ADR schemes have not yet been established, thereby improving consumer ADR coverage.

(12) Which particular features should ADR schemes include to deal with collective claims?

This is a matter to be determined at Member State / industry level.

(13) What are the most efficient ways to improve the resolution of cross-border disputes via ADR? Are there any particular forms of ADR that are more suitable for cross-border disputes?

Eurogas has no views on this question, which is not generally relevant to gas supply.

(14) What is the most efficient way to fund an ADR scheme?

This is a matter to be determined at Member State/ industry level.

(15) How best to maintain independence, when the ADR scheme is totally or partially funded by the industry?

There is no reason why industry funding should be seen as incompatible with ADR independence as required by the 3rd Energy Package. However the design of such schemes has to be developed at Member State / industry level.

(16) What should be the cost of ADR for consumers?

Schemes should be free for customers (or at a relatively low cost) in order to provide the customer with a simple and easy alternative to redress through the courts.