

CONSUMER PROTECTION IN PUBLIC UTILITIES

When talking about consumer protection, we often think of protecting consumers against frauds, unfair trade practices or restrictive business practices of businessmen in the market in general. It can also be the protection of the legitimate rights and benefits of consumers when they purchased low quality or unsafe products or at too high prices, and similarly services. Few people would think of protecting consumers in relation to facilities which we consider indispensable as a matter of course in modern life such as electricity, running water, post, telecommunication or health care services. Especially in a country like Vietnam, where these public goods and services are mostly supplied by State-owned enterprises, consumers are used to considering the supply methods of these utilities as a matter of course and the rights to choose, decide, complain or change are not in their hands. In a market economy, where the economic regulatory reforms are undertaken both extensively and intensively, this is not a fact anymore. Consumer protection activities must penetrate into this field to ensure that the legitimate rights and benefits of consumers are protected thoroughly and comprehensively at most as well as to ensure democracy.

The characteristics of utility sectors which affect consumer protection activities

The economic sectors supplying utilities such as electricity, water, telecommunication, and health care etc have some common characteristics which affect the nature of consumer protection activities in these sectors as follows:

(i) ***Serving the most essential, vital needs of modern economic life:*** The utility providers usually have to meet the legal mandate of universal service obligations (USO). USO in these economic sectors simply means that the providers of utilities have the obligation to ensure supply for all residents within the territory where the provider operates, and has to ensure continuous supply once started. USO is normally clearly stipulated in the sectoral regulatory framework, e.g. electricity law or telecommunication law etc. This obligation, however, sometimes may seem in conflict with the open market principle for competition to thrive. For example, the development of a competitive electricity retail market (with the participation of many companies competing within the same geographical area) may conflict with the USO commitment of electricity providers when each provider only serve (and serve best) a specific group of customers within that geographical area.

(ii) Relating to national economic security, requiring huge capital investment in infrastructure, and therefore, normally requiring a ***high participation of the State sector***, with less participation of the private sector, sometimes being dominated by ***monopolists***: In many cases, natural monopoly is considered a default in these sectors. However, gradually, together with time, with the development of technological science and the development of the market, natural monopoly can be removed or only exist to a limited extent. The handling of the relationship between competition and monopoly then requires the attention of the State to ensure that the monopoly position acquired before is not abused, which may negatively affect

the rights and benefits of consumers, while avoiding too much competition which leads to waste and economic inefficiency.

(iii) ***Drastic State regulation on prices*** (ceiling price, floor price, and sometimes subsidy) and the assurance of the State on supply source: Because of the drastic State regulation on prices as well as the (limited) existence of monopoly in these economic sectors, the establishment and changes of prices of goods and services normally do not follow the common rules of the market. Consumers also have less chance to compare and make their own choice in terms of prices and quality. Therefore, the establishment and changes of the prices of these goods and services need a high level of transparency and participation as well as agreement of consumers or their representatives.

(iv) ***Network effects***: These economic sectors are influenced deeply by the network effects. To put it simple, the more people using utilities supplied by a provider, the more efficient it becomes, with close relation to user utility. Just imagine the mobile phone service of a provider who only has about 1000 subscribers will be totally different to the mobile phone network having millions of subscribers. The consumers of that network can connect easily with many more people. Or the cost to install water pipes for one household will be much higher than that for many households in the same territory etc. However, the network effects also lead to the fact that a goods/service provider will serve an increasingly number of consumers, which may lead to quite many complicated consequences, one of which is the standard supply contract and common trade terms. The new customers of this supplier will invariably have to sign a standard supply contract with the supplier (which has been signed previously by many other customers) without being able to negotiate freely the detailed terms. This also an issue potentially leading to complaints by customers.

The characteristics of consumer protection in utility sectors

The above mentioned characteristics of utility sectors lead to the following characteristics of consumer protection activities therein as follows:

(i) It is necessary that a specific mechanism be established so that consumers or their representatives, especially social organizations on consumer protection can give comments or feedbacks in the establishment of the legal framework to regulate the sector, particularly in issues related to prices of goods and services, USO or standard contracts. Due to the above mentioned characteristics, in these sectors, consumers rarely have the rights to choose or decide. They are price-takers and cannot decide the specific terms of the contract and when they are not satisfied with these terms or with the quality of the goods and services, it is difficult for them to switch to other suppliers. Therefore, it should be ensured that the views of consumers have been consulted before the rules and norms in these sectors are established to ensure that the legitimate rights and benefits of consumers are reflected and protected reasonably as well as to ensure democracy. This is an experience which has been applied by many countries in the world but only starts to be implemented in Vietnam (e.g. in

drafting laws and regulations in electricity, telecommunication etc). There is no detailed or effective mechanism for consumer feedbacks, and sometimes it is just not practical.

(ii) It is necessary to establish and develop consumer complaints settlement unit within the utility supplier or within the sectoral regulatory authority: This is considered a big obligation of utility suppliers and/or sectoral regulatory authorities in many countries and has been carried out quite effectively. In Vietnam, these units have been established and are in operation. However, they are mostly have not been known about or used by the majority of consumers, due to their low popularity and the heavily bureaucratic nature of their activities, therefore the satisfaction of consumers is quite limited. When the Law on Consumer Protection of Vietnam is passed, these complaints also can be settled at the consumers' courts established in accordance with the law, if any.

(iii) State-owned utility suppliers and/or regulatory authorities must exercise transparency and accountability in their supply of goods and services, as well as with regards to the provisions of relevant legal framework: Recently, the Vietnam Standards and Consumers Association (VINASTAS) has received some questions from consumers asking about the clean water supply company collecting the payment for at minimum 3 metric meters per one household (equivalent to one water meter) in one month regardless of whether that household use water or use that much water in that month. Clearly, these inquiries of consumers on the unreasonable collection of water fees, and, according to them, this unfair practice of a monopoly company, have the origins from the lack of transparency and accountability on behalf of the utility supplier in its operation.

(iv) Finally, it is necessary to enhance the provision of information and advices to consumers, and consumer education; at the same time, to conduct regular surveys on the satisfaction of consumers as well as collect their comments to improve the supply of these essential goods and services.

In the draft Law on Consumer Protection of Vietnam which is being submitted to the National Assembly for consideration, these utility sectors, in principle, should also be included in the law's scope of application. Social organisations on consumer protection should also give comments on the standard contracts and common transaction terms to ensure the legitimate rights and benefits of consumers in this field.

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