

Abstract



La Giustizia (particolare) - Opera del pittore Andrea Claro per Consumers' Forum

Terzo Rapporto sulle Conciliazioni Paritetiche.

A cura di Liliana Ciccarelli,
Segretario Generale di Consumers' Forum

ABSTRACT**III REPORT ON THE SETTLEMENT IN CONSUMER MATTER**

There are 16.895 requests from consumers for joint settlement to resolve disputes in 2011 with the following companies: Telecom (landline, mobile), Wind and Fastweb, H3G, Vodafone, TeleTu, Poste Mobile, Intesa Sanpaolo, Postal services, Bancoposta, Poste Vita, Agos, Enel, Eni, Edison, Sorgenia Acegas, A2A, Alitalia, Trenitalia.

Requests for conciliation are managed by committees composed by representatives of consumer associations and individual firms, and they examined for 72% the telephone industry, 16% energy, 7% postal services and offices, 3% transport, 2% banks and financial services.

In the European Union we have reached a fairly high level of consumer protection – says Sergio Veroli, Consumers' Forum President – but it is not always easy for consumers to be able to assert their rights. The access to tools that facilitate the obtaining of compensations for consumers whose rights are violated by traders, it promotes consumer confidence towards the market and it improves its operation. In a context of liberalization and crisis like the one we are experiencing, consumers confidence is a strategic lever that can contribute to economic recovery”.

Europe demands 90 days to close a consumer dispute in settlement, in sectors such as telephony and transport for a joint settlement the half of days is enough. On average, joint committees come to identify a proposal within 70 days, with the necessity for a single meeting to define the substance of the agreements reached with a rate equal to : 96% in telecom sector, 92% postal sector, 88% transport sector, 78% energy sector, 79% in banking and finance.

In 2011 alone, consumers have had refund, services or compensations in a joint settlement equal to an economic value of 3.5 million of euro at no cost for the citizen/ consumer as the procedure is free of charge. The European Committee believes that the ability to access a good quality conciliatory system across EU would save consumers

about 22.5 billions of euro per year; the cost of unresolved contentious with the European consumers is estimate at 0.4% of EU GDP. “For the third consecutive year Consumers' Forum analyzes the contentious between businesses and consumers – says Liliana Ciccarelli, editor of the research and Consumers' Forum General Secretary – findings of this survey confirm the

utility of simple and easily accessible tools, that allow to resolve small everyday disputes. The joint settlement model is simple and effective and deserves a better propagation, considering also European Parliament recent recognition, who called the Italian model of joint settlement a best practice". (October 25th 2011 Resolution).

There are wide areas of improvement for joint settlement in terms of generality of such cases object of conciliation and of greater awareness among consumers. Not all applications were granted, the assessment of eligibility in some areas had some relevance and is subject to amendment of some important protocols change in the direction of extending as much as possible the circumstances under which the consumer can access the conciliatory tool.

Overbooking, abnormal amounts in the bill, delays in the activation of telecommunications services or in the arrival of a letter, the consumers today have the option not to give up their rights and to contribute both to improve services by enabling the conciliation joint committees for the examination of the disruption and discomfort or damage assessment. It is estimated that since 2001 approximately 197.000 applications have been handled ensuring no charge for the consumer. The consumer has between 5 to 30 days to (according to protocols and regulations) evaluate the conciliatory proposal identified and proposed by the committee.

The effectiveness of the results in terms of time, simplicity and percentage of agreements reached has earned Italy a "triple A" by the European Parliament in 2011, that drew "attention to the Italian joint settlement as an example of best practice based on the protocol agreed and signed by the consumers companies and associations." The joint model is valid for the European Parliament also in terms of impartiality as "the impartiality of the result can validly be based on the principle of equal participation of personalities form consumer associations representing business organizations".

The joint settlements intervene to resolve disputes that probably would not face a judge. The only formal requirement to access the procedure is to have already filed a formal complaint to which the company did not verified within the time limits or the feedback provided was not considered satisfactory by the consumer. The added value of the joint settlement for disputes about consumerism is the balance of contractual power. Consumers contractual power, which was absent at the time of signing the contract for membership, is to some extent recovered during the dispute operation with the model of the joint settlement.

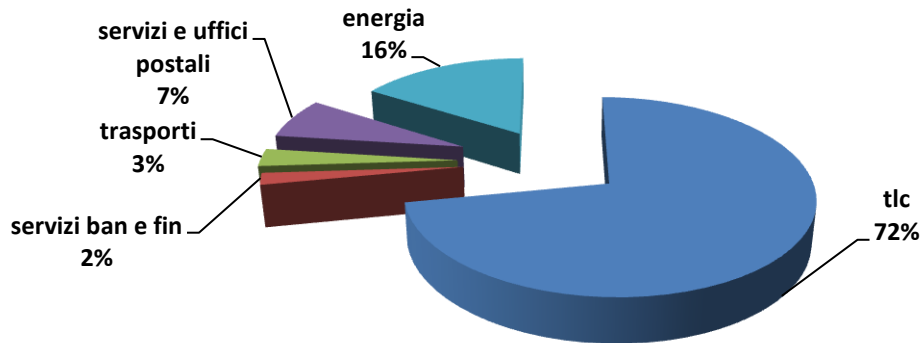
Sectors	Request for conciliation 2009	Request for conciliation 2010	Request for conciliation 2011
Telecommunications	16249	11750	12097
Banking/financial	11414	6289	356
Postal products	863	917	836
Postal offices	//	//	418
Energy	787	2051	2680
Mobility/ Transport	385	499	508

Source Consumers' Forum 2012

The substantial drop in application for settlement in the banking sector is determined by the end of the management of disputes related to Parmalat securities, for which the treatment of the applications received during 2010 is finished. Compared to the previous years, notwithstanding the lack of comparability of data for the reasons explained in the methodological note, the energy related settlements are increasing particularly, it was also possible to apply the joint settlement instrument to disservices related to c.d. blackout of postal offices that occurred from June the 1st until the 10th 2011. Beyond the flow of request for conciliations recorded from year to year, also determined by special and /or exceptional factors as was the case of the asset of management crack, it is significant to assess the impact of the joint settlement use as a whole. In fact, starting from the first pilot date, the estimate (certainly approximation by defect because it does not take into account of local protocols) conciliations handled, according to the joint model, is about 197.000 cases as detailed below.

Sectors	Start of first trial	Number of conciliations managed from the first trial
Telecommunications	(1991) start 2001	119.273
Postal services and offices	2002	8.777
Banking/financial	2003/04	62.700
Transports	2009	884
Energy	2006/07	5.357

Le domande di conciliazione paritetica nel 2011



Sectors	Mean economic value of disputes
Telecommunications landline	About €400
Telecommunications mobile	About €600
Banking/financial services	About €500
Postal services	About €180
Transports	About €200
Energy	About €400

GLOSSARY

ADR: stands for Alternative Dispute Resolution and indicates the different systems of conflict resolution alternative to the use of civil justice.

CONSUMER ASSOCIATIONS: are organizations responsible for safeguarding and promoting citizens/consumers rights and to represent their interests at the institutional headquarters.

CONSUMERISM CODE: provides requirements for their recognition, even for the settlement of the National Council of Consumers and Users (CNCU) established at the Ministry of Economic Development.

JOINT SETTLEMENT FOR CONSUMERS DISPUTES: disputes resolution procedure to be activated by specific agreements (protocols) signed by the consumer associations and the company for specific types of disputes management (for example, due to standard violation provided by the documents of services, etc.).

JOINT COMMITTEE: is the body delegated to manage the dispute and it is constitute equally by a representative of the Consumers Association and by a representative of the company; the Committee has the task to voice a proposal to resolve the dispute, to be submitted to the consumers evaluation. If the proposal is accepted, both parties sign a statement that will be as a settlement, on the contrary, if the agreement is not reached, any negative consequence is included for the parties.

REPORT OF A JOINT: is the document that confirms the conclusion of a conciliation procedure. The record is considered positive when the Committee identifies a proposal accepted by the consumer, on the contrary it is intended negative when the consumer rejects the proposal or when the Committee do not find any proposal to be submitted for evaluation by the consumer. The legal value of the signed conciliation records is a compromise act between the parties under Art. 1965 Civil Code.

Memo to the consumer

1. On the occurrence of a disservice check the procedures to how to report or to complain, provided in the document of services and specified in the contract o other documentation (billing documents, periodic communications).
2. If your complaint has not been noticed or if the answer to it is not satisfactory, check the option of using a joint settlement.
3. Please go to a consumer association for information or assistance during a conciliation.