

Summary

Consumer Complaints Board

Evaluation 2009

Background

Since a number of years, the government has been focusing its dispute resolution policy on different forms of access to justice, shifting the responsibility for settling disputes more from the government to citizens and other parties in society. This encourages people to use the options of settling conflicts out of court. One of the areas in which alternative dispute resolution is stimulated is that of consumer disputes. An organization that deals in particular with this kind of disputes is the Consumer Complaints Board ('De Geschillencommissie'). This is a not-for-profit organization. Its objective is settling disputes between consumers and businesses in a quick, cost-effective, simple and adequate way. This objective is pursued by instituting and maintaining complaints boards in the Netherlands for as many industries and businesses as possible. As it receives a subsidy from the Ministry of Justice, the Consumer Complaints Board is evaluated every five years.

Objective and questions

The objective of this research was to evaluate the performance of the Consumer Complaints Board. The period reviewed was from 2002 to 2008, but not all data was available for that entire period. The objectives the Consumer Complaints Board imposed upon itself, i.e. settling consumer disputes in a quick, cost-effective, simple and adequate manner, were taken as the starting point for the research. The report summarizes these objectives under the headings of *accessibility* and *quality* of dispute resolution, which results in the following principal questions and sub-questions.

Question 1: To which extent does the Consumer Complaints Board offer an accessible form of dispute resolution?

- How many and what types of complaints boards are there?
- What disputes does the competence of the complaints boards cover?
- What is the nature and scope of the complaints submitted to the complaints boards?
- How are the complaints handled?
- Which reasons do consumers have to break off a procedure before completion?
- What does an average procedure cost the consumer in terms of time and money?

- How much stress does an average procedure give the consumer?
- How do consumers judge the cost and simplicity of the procedure?
- Which expectations do consumers have in terms of cost before they institute a procedure?
- To what extent do the views of consumers with different characteristics differ (i.e. age, income, level of education, ethnic origin)?

Question 2: What is the quality of dispute resolution by The Consumer Complaints Board?

As for the quality of dispute resolution, we have considered the following aspects:

- quality management;
- independence and impartiality;
- hearing both sides of the argument;
- legal representation;
- equal chances in the procedure;
- speed and timeliness;
- expertise;
- quality of the decisions;
- effectiveness;
- transparency of the procedure.

Question 3: What position does The Consumer Complaints Board have in Dutch society?

In addition, the position of the Consumer Complaints Board was elucidated in light of the overall range of consumer dispute resolution options available in the Netherlands and the role it plays for complaint management by businesses.

- What position does the Consumer Complaints Board have in the overall Dutch consumer dispute resolution realm?
- How does dispute resolution by the Consumer Complaints Board relate to that by the court?
- What role does the Consumer Complaints Board play in complaint management by businesses?

Research method

In drafting this report, the following three methods were used:

- 1 studying relevant literature (among other things annual reports, descriptions of procedures, regulations);
- 2 analyzing statistic data of 38,533 completed cases handled by the Consumer Complaints Board between 1 January 2005 and 30 June 2008;
- 3 studying the data obtained from two questionnaires completed by 815 consumers and 176 businesses that were involved in a procedure

in 2007 before the Consumer Complaints Board. The consumer sample had been sub-divided beforehand on the basis of the outcome of the procedure: (1) 'decision' group (N=325); (2) 'settlement by mediation' group (N=36); (3) 'mutual agreement' group (N=276); and (4) 'broken-off procedure' group (N=175). The consumer sample is representative for the actual division of consumers among complaints boards.

Similar studies were carried out in 1995 and 2002. Although the set-up of these studies was simpler, some respects of them can be compared.

Results

Accessibility

- The range on offer by the Consumer Complaints Board increased between 2002 and 2008 from 29 to 42 industries in which complaints boards are active. Consumers can get help from *De Geschillencommissie* for increasingly more types of complaints, so in that respect, accessibility has improved. Another perspective to accessibility is the extent to which businesses are a member of the relevant trade organization or professional organization that is associated with the Consumer Complaints Board. There is not enough data known on this. This review, however, shows that 8% of the complaints could not be handled due to the fact that the relevant business was not a member of the Consumer Complaints Board.
- The demand for services of the Consumer Complaints Board fluctuated in the past few years between 11 and 13 thousand new complaints per year. The majority of the complaints (71%) fall within the remit of the five biggest complaints boards, namely Power & Water (22%), Travel (20%), Living (12%), Telecommunication (11%) and Vehicles (6%).
- 33% of the complaints received in 2008 by the Consumer Complaints Board ended in a decision, 11% were settled through mediation of an expert, 26% of the complaints led to a mutual agreement between the consumer and the relevant business and 39% of the cases was not taken up. The fact that the number of 'mutual agreements' has almost doubled over the past eight years is striking. Submitting a complaint to the Consumer Complaints Board seems to be an incentive for businesses to solve the problems before the case is heard. The number of complaints that is not taken up has fallen over the years. However, this number – approximately four in every ten complaints – is still considerable. Discontinuing such procedure is for the majority of those cases (80%) the decision of the consumer. Consumers gave as the most important reason for discontinuing the procedure that the costs were too high or that they did not think it worth pursuing the case because of the imbalance between financial interest and the amount of time and cost involved. Settlements through expert mediation are

comparatively rare, because this option is available only in a number of boards.

- For consumers, the costs of a procedure usually are less than € 100. In one out of every twenty cases, the consumer has to pay more than € 500. In total, a consumer will have to dedicate an average of 22 hours on the procedure. The most important matters that take up the consumers' time and money are travelling, telephone calls, copying, printing, and gathering information. All in all, consumers were satisfied about the costs and rated it as 'sufficient'.
- The majority of the consumers and businesses find the way in which the Consumer Complaints Board communicates clear. Only a small number of consumers that have not completed the procedure stated as a reason for discontinuing the procedure that it was too difficult. This group rated the simplicity of the procedure as a '5.7' out of '10'. All other groups rated it as 'sufficient'.

Quality

Quality management

- The Consumer Complaints Board is doing several projects to improve the quality of its organization, with the emphasis on digitalization. The entire procedure is expected to be fully digitized for all boards by the end of 2009. This means, among other things, that consumers and businesses will be able to follow their case online, to get detailed information online, to read earlier decisions in full, and to check in a business register whether or not a business is a member of the Consumer Complaints Board. At present, these elements are not yet available for every board.

Impartiality and Independence

- Officially, the board's impartiality is guaranteed by regulations. How consumers perceive this, however, depends strongly on the fact whether they 'won' or 'lost' their case. The unsuccessful consumers were more inclined to believe that the board was biased. In general, some 46% of the consumers and 55% of the businesses believed that the board was impartial, whereas 30% and 20% respectively believed that the board was biased. The others took in intermediate position.

Transparency

- About half of the consumers were of the opinion that the board listened carefully to the arguments put forward by the parties, whereas one third of the consumers were of the opinion that the board did not listen carefully. About two-thirds of the businesses took the position that the board listened carefully.
- Slightly more than half of the consumers and businesses believed that the board's method was transparent.

- The views of consumers in respect of the above aspects are again more positive where the relevant board had found in favour of their complaint.

Equal chances in a procedure

- In a complaints procedure, consumers regularly meet a business with ample experience in that procedure (in more than half of the cases). Nevertheless, prior experience of a business in the complaints procedure does not seem to affect the ultimate decision handed down by the board.

Legal representation

- One in every five consumers and ‘small businesses’ uses some form of legal support. A part of the consumers (17%) gets help under their legal assistance insurance.

Speed

- The duration of the procedure is rated as relatively poor by both consumers and businesses. On average, the businesses even rated it as ‘insufficient’. The average length of handling a complaint (5.2 months in 2008) has risen over the past two years. Settlements through expert mediation take considerably less time than procedures ending in a board decision. It is important to note that the length of the procedure for a consumer is about six weeks longer than that reported by the Consumer Complaints Board. The reason for this is that the starting point of a handling of a case is when all formal requirements have been met, rather than the moment at which the complaint is submitted.
- According to the Consumer Complaints Board, the cause for the longer term for hearing a complaint in the past few years is that the digitalization procedure takes up more from the board’s time. The Consumer Complaints Board therefore expects the duration to drop significantly in the next few years.

Expertise

- As was the case in 2002, half of the consumers had a favourable judgment of the board’s expertise. 64% of the businesses rate the board’s expertise as positive, which number is higher than in 2002. As in previous years, businesses are more positive than consumers. 25% of the consumers and 20% of the businesses has an unfavourable judgment of the board’s expertise.
- Roughly six in every ten consumers and businesses have a favourable judgment of the specialist’s expertise, and they rate that expertise considerably higher than they did in 2002. Almost 25% of the consumers and 17% of the businesses have an unfavourable judgment of the specialist’s expertise.

Quality of decisions

- The Consumer Complaints Board has adopted regulations on the way in which a decision must be drawn up. How consumers judge the fairness, grounds and clarity of the decision strongly depends on whether or not the relevant board has found in their favour. About 75% of the successful consumers have a positive judgment, whereas some 75% of the unsuccessful consumers have an unfavourable judgment.
- The number of consumers that are satisfied with the decision rose, compared to 1994, by five percent (from 41% to 46%). The number of satisfied businesses dropped by 10% (from 62% to 52%). Businesses, however, seem more satisfied with decisions of the board than consumers.
- After the decision of the complaints board, only very few consumers and businesses go to court for a ‘test of reasonableness’ of the board’s decision. Five of the thirteen cases found (in two and a half years’ time) were quashed by the court. This finding is hard to interpret, given the small number of cases.
- The main reasons for consumers and businesses to decide against going to court for a test of reasonableness are the presumed cost and the length of the proceedings. It also turns out that 25% of the consumers and one in every ten businesses are unaware of this possibility.

Quality of settlements

- The quality of settlements through expert mediation is judged as rather poor and the questionnaires show that compliance is at times problematic. This data is based on a limited number of cases, therefore we should reserve judgment.
- Consumers who reached a mutual agreement with the business in question are more satisfied with the fairness, influence on the outcome and the extent to which their views have been taken into consideration than consumers who reached a settlement through expert mediation.

Effectiveness

- The effectiveness of a procedure observed varies from one group studied to the next. Consumers who reached a mutual agreement with the relevant business believed by far the most that they had achieved their aim: 76% has that opinion. Of the consumers who reached a settlement through expert mediation, 33% believed that they had achieved their aim. That opinion is shared by 33% of the consumers whose cases ended in a decision.
- A striking finding is that not all consumers whose case ended in a favourable decision felt that they had achieved their aim. The research gives clues that recognition of their complaint and/or apologies from

the business are just as important for the consumers as the actual solution of the problem.

- The majority of the consumers (63%) said that they would make use of the services of the Consumer Complaints Board again, if necessary. 25% of them said they would not.
- Compliance with decisions by businesses is in principle guaranteed by the trade organizations involved, and compliance by consumers by the obligatory deposit that they have to make when submitting their complaint. The current findings, however, reveal that compliance does not come naturally. In four out of every five cases, compliance on the part of the business is almost trouble free. In 25% of the cases, consumers have to take steps to get the business to comply.
- Compliance with mutual agreements is without problems, while compliance with settlements through expert mediation by comparison gives problems more often.

Position towards administration of justice and other ways

- Comparatively, consumer disputes occur frequently, but only a small part of the disputes between consumers and businesses find their way to the Consumer Complaints Board. Often, citizens and businesses settle the matter between themselves.
- Both consumers and businesses regard the Consumer Complaints Board as a quick, cost-effective and simple solution compared to court cases. Comparatively, more comments are made on the quality and fairness of the procedure.

Role within businesses

- The number of businesses that manage complaints has increased: the majority of the businesses logs and evaluates complaints and has internal complaint handling guidelines. For half of the businesses, the Consumer Complaints Board means part of the quality policy and for 20% the Consumer Complaints Board is a reason to be a member of a trade organization.
- By comparison, small businesses handle complaints more often via the Consumer Complaints Board than big businesses.
- Apart from the benefits that the Consumer Complaints Board generates, there are also costs. The cost payable by the businesses varies strongly, depending on the number of procedures handled by a complaints board. The larger the business and the higher the number of complaints, the more time and money the business has spent on procedures before the Consumer Complaints Board. Businesses are not very happy about the cost they have to pay to the Consumer Complaints Board. They rate the costs as a '5.9' out of '10'.

In conclusion

- Distinctions must be made between the judgments of consumers on many quality aspects (transparency, impartiality, expertise, quality of the decisions, effectiveness, marks), as there proves to be a strong link between their judgment and the outcome of their case. For consumers in whose case a decision has been handed down, the outcome of this decision (founded or unfounded) strongly influences their judgment. Consumers in whose favour the board has found are structurally more positive than consumers who 'lost'. It is harder to verify these findings for businesses, because they may have had more cases with varying outcomes.
- All in all, consumers and businesses rated simplicity and cost as (amply) sufficient, but speed remains a problem. Especially the speed of the procedure is something that could be improved. The study shows that there are some pointers that could reduce the duration of the procedure where the drafting of the expert report and that of the binding advice by the board is concerned. In addition, the situation should be avoided where consumers have unrealistic expectations of the duration of the procedure by informing them better on when the complaint handling starts and ends.
- No significant clues have been found that consumers are more satisfied or less satisfied with the quality depending on their age, educational background, or income or feel that they have to take more hurdles or fewer hurdles. It should be noted though, that this study only concerns 'users' of the Consumer Complaints Board. Therefore, it does not give any insight into the extent to which specific groups of consumers experience hurdles to submit a complaint to the Consumer Complaints Board. Nor does it give any insight into the reasons that specific trade organizations may have to decide against membership of the Consumer Complaints Board.