

CP3B: Establish penalty systems for infringing contractual provisions regarding consumer protection

REGULATORY FUNCTION: CONSUMER PROTECTION REGULATION		CP3B
OBJECTIVE CP4 Consumer protection is enforced through sanctions or rewards	ACTION CARD CP3B <h1>ESTABLISH PENALTY SYSTEMS FOR INFRINGING CONTRACTUAL PROVISIONS REGARDING CONSUMER PROTECTION</h1>	
COST: Low FREQUENCY: One time TARGET GROUPS: Regulators, service operators, consumers		
DESCRIPTION <p>In more severe cases of breaching service contract obligations, regulators may apply sanctions as a last resort. However, they can open administrative infringement proceedings against an operator only under the terms set out in legislation. Sanctions should be incremental. For example, they can amend procedures, or a decision initially taken by an operator, or penalize operators for non-compliance to regulatory instructions. An operator’s staff member may be also penalized if reported information has intentionally not represented reality. Prior to actual application, sanctions must also be transparently outlined through a mechanism, specifying its time sequence, conditions, and terms. Predefined penalty systems allow for the imposition of adequate penalties on utilities for acts or omissions infringing legal provisions within service contracts. Transparently outlined sanction mechanisms ensure the integrity of regulatory infringement actions.</p>		
EXPECTED OUTCOMES <ul style="list-style-type: none"> • Contractual infringements are reduced or prevented in a timely manner. • Service operators and consumers are prevented from further breaches of contract. • Consumers are properly compensated when applicable. 		
EXAMPLE: ZAMBIA <p>In Zambia, the Water Supply and Sanitation Act (No. 28 of 1997) states that utility’s operating license can be suspended or cancelled if a provider fails to meet license conditions. Other penalties applicable under the same act can penalize an individual (a staff member of a provider) if they are found to be responsible for a negligent act leading to the provision of unsafe water. This can be a fine, imprisonment, or both. The National Water Supply and Sanitation Council (NWASCO) carries out annual inspections of 11 commercial utilities and six private schemes, with findings published in sector reports.</p>		
LINKS NWASCO web page, example of communication linked to unsatisfactory fulfilment of duties: http://www.nwasco.org.zm/index.php/media-center/news/1/120-nwasco-implores-lwsc-to-comply-with-water-supply-guidelines		
INTERNAL CAPACITIES NEEDED AND THE ROLE OF PARTNERS <p>Setting sanctions require regulators to have certain judiciary and administrative skills. These can be sustained and supported by best practices from other regulators. Potential partners include national judiciary and disciplinary institutions, along with development partners. Regulators’ staff must be trained on how to apply and manage disciplinary measures within its regulatory mandate.</p>		