



# WELL-FUNCTIONING MARKETS

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## DEVELOPMENT OF AN EFFICIENT CONSUMER COMPLAINTS SYSTEM

**In 2015, Denmark implemented a new system for handling consumer complaints. Unlike before, the system focuses on mediation, with both companies and consumers involved in finding a solution to their dispute.**

After the first year, the experiences of the new complaints system have been positive. About 60 percent of the consumer complaints received by the Competition and Consumer Authority are resolved by the parties reaching a solution with the assistance of the complaints system's mediators.

The average processing time for mediated cases has been almost halved compared to processing times in similar cases in the previous system. And most consumers and businesses generally express satisfaction with the system.

On January 1, 2017, the public consumer complaints system moved from the Competition and Consumer Authority to the House of Committees in Viborg. The House of Committees is a new authority under the Danish Ministry of Business and Industry.

The article describes the use of nudging and active involvement of consumers and companies in the new complaints system as well as the experiences of the system.

Read the full Article<sup>1</sup> on the next page →

**A**fter 40 years of using the same method for handling consumer complaints, on 1 October 2015 a brand-new system was introduced. Whereas previously all cases were handled by the Consumer Complaints Board, under the new system an attempt is made to resolve cases through mediation between the parties. If this fails, the consumer can choose to let the matter be brought before the Complaints Board.

The development of the new public consumer complaints system has focused on creating a more efficient system with which users are satisfied and where consumers and companies are given greater responsibility for resolving their disputes.

### Faster settlement

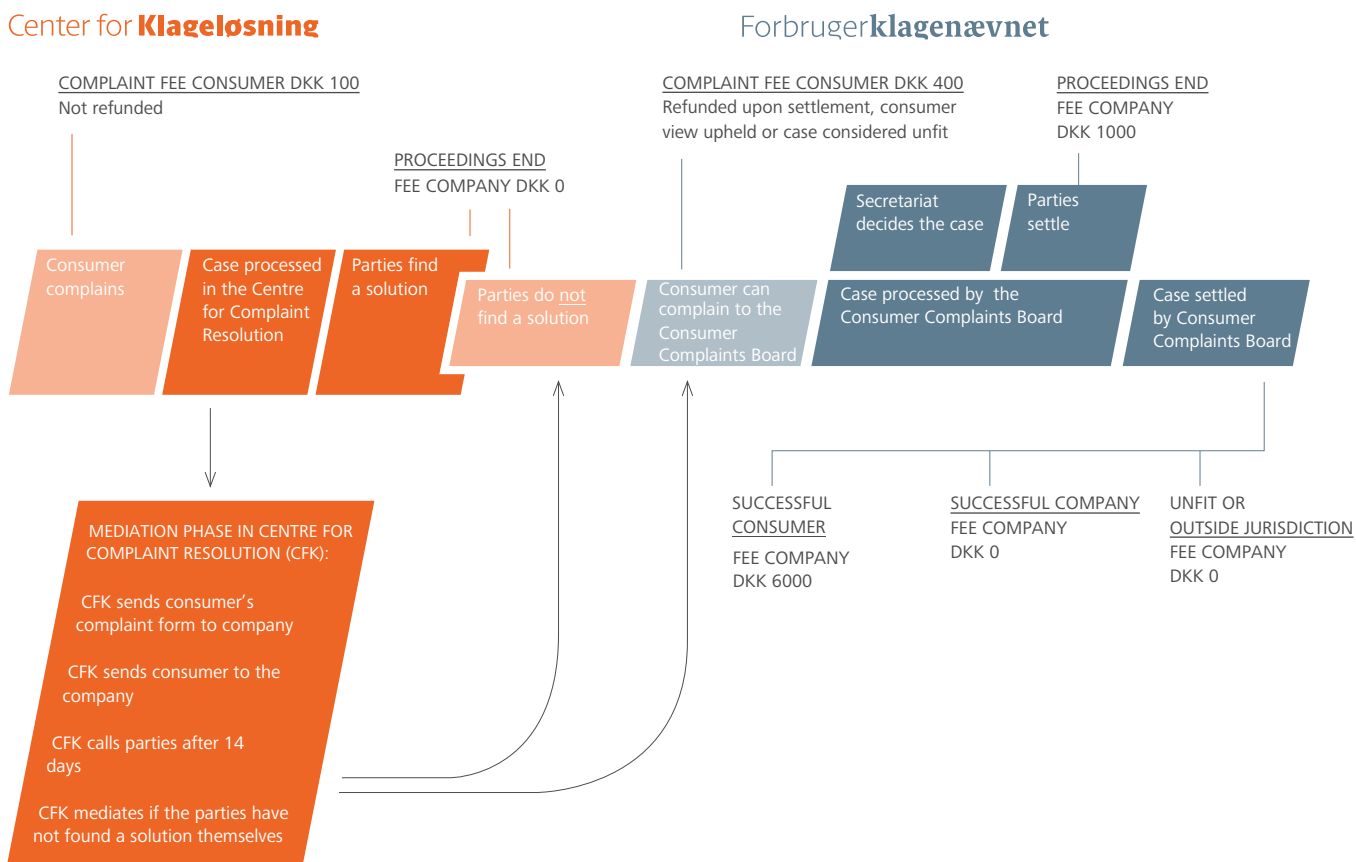
The purpose of the new system is to make consumers and companies able to quickly, easily and inexpensively settle their disputes.<sup>2</sup> Today, approximately 60 percent of consumers and companies resolve their disputes before

the matter becomes an actual complaints board matter. And in roughly one third of cases the parties resolve the dispute on their own without a caseworker mediating between them.

The processing time for mediated cases has almost halved compared to the processing time of similar cases in the previous complaints system. On average, it takes just over two months from when the consumer complains to when the dispute is resolved or the consumer chooses to bring their complaint before the Consumer Complaints Board.

Reactions to mediation between consumers and companies have been mostly positive. In a system based on mediation, it is especially important that those involved have confidence that the system is neutral and impartial. It is therefore encouraging that the majority of users are of the opinion that the system gives equal consideration to consumers and companies, respectively.

**Figure 1**  
Process in the public consumer complaints system after October 1, 2015



### Need for a new system

In 2014, the then government reached an agreement with several parties to implement a modernisation of the public consumer complaints system.<sup>3</sup>

The background was a desire to strengthen consumer complaint options, including basing access on the option of mediation made available by the EU's ADR Directive (Alternative Dispute Resolution).<sup>4</sup>

Implementation of the ADR directive in Denmark expanded the option for consumer complaint to include 45 new industries compared to previously. The extended right of complaint is an improvement in consumer protection, which is also expected to involve more complaints in the new system.

### New consumer complaints system

Modernisation of the public consumer complaints system has led to a division of the complaints system into two phases, a mediation phase and a board phase, see Figure 1.

After the modernisation, all cases must now go through a mandatory mediation phase at the Centre for Complaint Resolution. The aim is for the parties to come to an amicable solution. Should that fail, the consumer may, within a period of 28 days, complain to the Consumer Complaints Board. There is a fee of DKK 100 to get the help of the Centre for Complaint Resolution.

#### Mediation phase

Once it is clear that the consumer and the company cannot resolve their dispute, the Centre for Complaint Resolution mediates. All employees at the centre are trained mediators. Thus, they do not make legal decisions<sup>5</sup>, but must instead:

- help create good dialogue between the parties,
- provide guidance on the rules in this area and the practice of the Consumer Complaints Board
- identify options which the parties may not have thought of.

The mediation takes place on the basis of the parties' own information, and the Centre for Complaint Resolution does not seek the opinions of experts in cases.<sup>6</sup> As a rule, a case must be completed within 90 days from when the parties have had an opportunity to comment.

#### Escalation to Consumer Complaints Board

If there is failure to reach an amicable solution through mediation, the consumer can bring the case before the Consumer Complaints Board. There is a fee of DKK 400 for complaints to the Consumer Complaints Board.<sup>7</sup> The fee is refunded if the case is settled or if the consumer succeeds with their claim. Processing by the Consumer Complaints Board is a legal process which takes place largely in the way it has since the Danish public consumer complaints system

was established in 1975 and the Consumer Complaints Board was founded.<sup>8</sup>

During proceedings, the Consumer Complaints Board secretariat - as part of the new system - may still try to settle the dispute between the two parties, and the case may be rejected if it is obvious that the consumer will not succeed.

The board mainly processes complaints regarding furniture, computers and similar electronics, televisions, clothes and shoes, mobile phones and air travel.

#### Box 1.

#### The private, approved appeals boards

Besides the public consumer complaints system, the Danish consumer complaints system also consists of 17 private appeals boards in areas such as construction, insurance and banking, and telephone services. These appeals boards are approved by the Minister for Business and Industry. The public consumer complaints system is a so-called residual system which only handles complaints in areas where there are no private appeals boards.

#### New methods evolving

In order to establish an optimal process, the complaint processes were mapped, broken down and rebuilt from scratch. Each stage of the process has been analysed, i.a. using experiments and drawing on understanding of psychology and behavioural economics.

In order for a mediation to be successful, it requires the parties to be willing to understand each other and seek compromises. The focus was therefore on getting both consumers and companies actively involved in the process.

When the Centre for Complaint Resolution receives a complaint, the caseworker does not therefore immediately begin to try to mediate between the consumer and the company. Instead, the caseworker sends an e-mail to the consumer asking that they return to the company with the completed complaint form to determine whether they can resolve the dispute. At the same time, the caseworker sends an e-mail to the company together with the consumer's complaint form. The parties are also notified that the Centre for Complaint Resolution will make contact again regarding the case after 14 days.

The approach breaks with traditional public sector complaints processing, where the complainant and the respondent are rarely actively involved in resolving their own dispute. In the traditional sense, complaints processing is often based on principles of administrative law, such as the official maxim, stakeholder consultation and defence.

Among other things, the notion of actively involving the parties returns the responsibility for resolving their own dispute to the parties themselves. They are the ones who best know the dispute, and thus what solution they will be happy with.

#### Box 2.

##### The letter experiment

The idea to involve the consumer and the company more actively in resolving their dispute stems from an experiment which the Competition and Consumer Authority conducted in 2014-2016 as part of its secretariat duty to Consumer Complaints Board. In the letter experiment, consumers who complained to the Consumer Complaints Board received a start-up letter encouraging them to contact the company themselves. A control group of consumers received the standard start-up letter, which contained no encouragement to contact the company. The results of the process have shown that the cases in the experimental group were resolved through settlement eight percentage points more frequently than in the control group.

An example where insights from behavioural economics have been drawn upon is the design of the complaint form which the consumer now fills out to start the process. The complaint form can help identify and clarify what the consumer's complaint is, while a form from a public authority has the secondary effect that it automatically enhances the seriousness of the complaint. The final form has been made simple. For example, all the important information is on the front, making it easy for both parties to get an overview.

In developing the mediation phase, the focus has generally been on defining where in the process caseworkers have a communication window with either the consumer, the company or both. It was essential to identify those windows because they represent the caseworker's opportunity to prompt the consumer or the company to act with a view to resolving the dispute.

At the beginning of 2015, the first draft for the new complaint process was ready. During the spring and summer, the process was tested and refined four times. Among other things, it was clear after the second test phase that it was important to frame the consumer's visit to the company in order to establish the best possible opportunities for the parties to reach a solution together. The Competition and Consumer Authority therefore began to inform the company that a consumer had complained and that the consumer had been asked to report back to the company again.

#### Lessons learned

The new public consumer complaints system has only been around for about a year. Consequently, there are still some long-term effects which it is not yet possible to deduce with certainty.

Based on an assessment of user experiences, however, the system has made a good start<sup>9</sup>, see. Figure 2

**Figure 2**

The main observations are



of the complaints which the Centre for Complaint Resolution has competence to process end with the parties reaching an amicable solution.



resolve their own disputes after the Centre for Complaint Resolution has asked the consumer to contact the company.



of consumers who have been able to complain to the Consumer Complaints Board after their case has ended in the Centre for Complaint Resolution have proceeded to the Consumer Complaints Board.



days is the average processing time for cases which are mediated. At that point, either the parties have reached an amicable solution or the consumer has been able to escalate the matter to the Consumer Complaints Board. In the previous consumer complaints system, the processing time was 4 months.

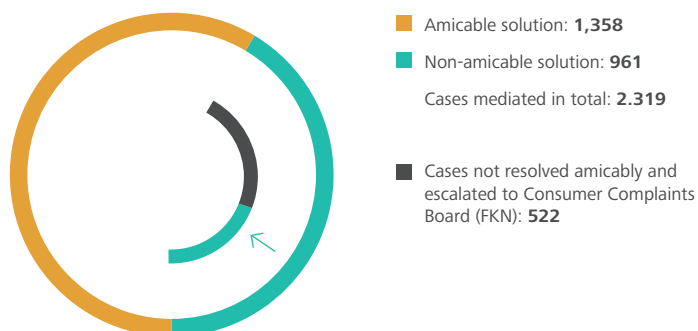
The 90-day mediation phase deadline is being respected, meaning that almost all cases are finalised within 90 days of the parties having the opportunity to comment. In some cases, the parties agree that the company should examine the consumer's product. In these cases, the parties agree to waive the 90-day deadline.<sup>10</sup>

#### User satisfaction

In August 2016, 2,000 users of the public consumer complaints system, consumers and companies, received a questionnaire with questions about how they had experienced the encounter with the Centre for Complaint Resolution.<sup>11</sup>

The answers suggest that both consumers and companies are predominantly either satisfied or very satisfied with the complaint process at the Centre for Complaint Resolution, see Figure 4a. The consumers and companies who

**Figure 3**  
Cases mediated in the Centre for Complaint Resolution from 1 October 2015 to 31 December 2016



**Amicable solutions:** Parties reach agreement.

**Non-amicable solution:** Parties do not reach an agreement and the consumer can escalate to the Consumer Complaints Board.

resolved their dispute are generally more satisfied than those who did not resolve their dispute. Even among the consumers who did not have their dispute resolved at the Centre for Complaint Resolution, 28 percent are still either satisfied or very satisfied. 26 percent of consumers in the same group are neither happy nor dissatisfied.

In a mediation process, it is important that the mediator is perceived to be neutral and impartial. The user survey shows that, in most cases, the Centre for Complaint Resolution succeed in balancing the interests of consumers and companies.

### Development potential

Development of the system is not complete. For example, there may be an efficiency gain to be derived from automating some of the processes involved in the complaint process. Among other things, the first phase, in which the complaints system actively involves the parties by sending the consumer back to the company, could be done by auto-generated e-mails to the parties. There may also be a potential for optimisation in having the mediators, in the mediation phase, use conference calls with the parties rather than calling back and forth between them, as is often the case today. As part of ensuring the best possible consumer complaints system, there must be an evaluation of the Danish Consumer Complaints Act when the new system has been in place for two years.

### House of Committees

At the same time as the new system was introduced in October 2015, it was decided that the consumer complaints system should move to Viborg as part of the Liberal government's plan "Growth in all of Denmark".

In the summer of 2016, the Minister for Business and Growth announced that

**Figure 4a**  
Overall satisfaction with the process at the Centre for Complaint Resolution from user survey August 2016

#### Consumers



#### Companies



**Figure 4b**  
Perceived consideration for the parties from user survey August 2016

#### Consumers



#### Companies



Consumers Companies In a mediation process, the mediator's neutrality and impartiality, and perceived neutrality and impartiality, are essential elements. The user survey shows that most feel that the Centre for Complaint Resolution succeeds in balancing the interests of consumers and business owners.

the consumer complaints system and other complaints boards, gathered in Viborg, would constitute a newly created authority named the House of Committees. From 1 January 2017, the public consumer complaints system thus passed from the Competition and Consumer Authority to the House of Committees. This improves the opportunities for the various boards to use and develop best practices.

- 1 The author, Thomas Faust Ryborg, has been involved with the Competition and Consumer Authority's public consumer complaints system for the past six years. In 2015, he helped develop the mediation phase of the public consumer complaints system. As of January 1, 2017, Thomas Faust Ryborg has worked in the Area of Consumer Complaints in the House of Committees.
- 2 Act no. 524 of 29 April 2015 on alternative dispute resolution in the processing of consumer complaints. The Consumer Complaints Act is to be evaluated two years after its entry into force, i.e. in the second half of 2017.
- 3 Agreement between the government (the Social Democrats and Social Liberals), the Liberals and the Conservatives on the modernisation of the public consumer complaints system of 10 November 2014.
- 4 Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR).
- 5 The House of Committees makes legal decisions when the Centre for Complaint Resolution finds that a complaint is outside the competence of the House of Committees, e.g. if the company is not established in Denmark, cf. section 14 of the Danish Consumer Complaints Act, or if the fee for the goods or service is above/below a threshold set by the Minister (of Business and Industry), cf. section 16 of the Danish Consumer Complaints Act.
- 6 As a rule, the Centre for Complaint Resolution obtains information before making legal decisions regarding the House of Committees' competence to process a case
- 7 Before 31 October 2015, it cost DKK 160 to complain to the Consumer Complaints Board.

- 8 Act no. 305 of 14 June 1974 on the Consumer Complaints Board. Read more in the Consumer Commission's report of 1973.
  - 9 3,166 complaints were received by the Centre for Complaint Resolution in the period 1 October 2015 to 31 December 2016. 2,739 cases have been completed, of which the Centre for Complaint Resolution mediated in 2,319, while 342 were deemed outside its competence or rejected for another reason.
  - 10 Such an agreement is in line with the 90-day deadline of the Danish Consumer Complaints Act, as the parties can, in principle, agree their way around the deadline, which is set for their sake.
  - 11 The Competition and Consumer Authority has sent a questionnaire to over 2,000 parties, consumers and companies who have had cases processed by the Centre for Complaint Resolution. 19 percent of the given companies have answered the questions. 28 percent of the given consumers have answered the questions.
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