

SQ3B: Establish systems of sanctions for non-adherence of operators to service norms and regulations

REGULATORY FUNCTION: SERVICE QUALITY REGULATION		SQ3B
OBJECTIVE SQ3 Facilitate adherence to service requirements, and continuous improvement in service provision	ACTION CARD SQ3B ESTABLISH SYSTEMS OF SANCTIONS FOR NON-ADHERENCE OF OPERATORS TO SERVICE NORMS AND REGULATIONS	
COST: Low FREQUENCY: Regular TARGET GROUPS: Regulators, service operators, consumer associations,		
DESCRIPTION Regulators can initiate administrative infringement proceedings against operators under terms set out in legislation. Reasons can include if information has not been reported, operators have intentionally not provided accurate information, or if service standards do not match the minimum requirements. However, prior to applying any sanctions, they must be transparently outlined through mechanisms that specify a time sequence, with sanctions commonly being the last resort. Predefined penalty systems allow for the imposition of adequate penalties on utilities for acts or omissions that infringe legal provisions in terms of the quality of service. Transparently sanction mechanisms also ensure the integrity of regulatory infringement actions.		
EXPECTED OUTCOMES <ul style="list-style-type: none"> • Service operators are prevented from further misconduct. • A regulator receives appropriate information on time. • Consumers are protected from further damage and are adequately reimbursed. 		
EXAMPLE 1: AUSTRALIA In Australia , states and territories have a well-conceived, modern, and very robust regulatory model that is able to all possible issues. Regulation is essentially focused on consumers, but without disregarding the sustainability of operators. Different regulators have successfully developed ways of supervising and controlling the quality of service, as seen in the scheme of compensation to consumers in case of failures to comply with agreed service standards (see below).		

LEVEL OF SERVICE	AMOUNT PAYABLE FOR FAILURES (EUROS)				
	CityWest	Southeast	Yarra Valley	Barwon	Central Highlands
Water					
Unplanned interruptions not restored in a specific time	15	15	15	–	15
More than five unplanned interruptions in any 12 months	15	15	15	30	15
Failure to notify a planned interruption	–	–	15	–	–
Planned interruptions during peak hours (5 a.m. to 9 a.m., and 5 p.m. to 11 p.m.)	–	–	15	–	–
Planned interruptions longer than advised	–	–	15	–	–
Planned interruptions longer than 5 hours	–	–	15	–	–
Repair of leaking service pipes within 5 days	–	–	–	–	15
Wastewater					
More than three interruptions in 12 months	15	15	15	30	15
Interruptions not restored in a specified time	15	15	15	–	15
Spills not contained in a specified time of notification	300	300	300	–	–
Spills not contained in a house in one hour of notification	300	300	300	–	–

EXAMPLE 2: COSTA RICA

The Public Utilities Regulatory Authority of Costa Rica (ARESEP) is legally empowered to sanction operators pursuant to the administrative procedure set forth in the General Public Administration Law (Law No. 6227 of 1968), with fines for five times the value of the damages caused when the operator fails to comply with service norms and regulations such as:

- Inadequate maintenance of infrastructure and work-related equipment pertaining to the regulated public utility, thereby posing a risk to persons and property.
- Failure to comply with the binding obligations applied to the public utility by tariff resolutions.
- Failure to comply with quality norms and principles in providing public utilities, insofar as such failure to comply is not attributable to an act of God or a case of force majeure.

EXAMPLE 3: HONDURAS

The Drinking Water and Sanitation Services Regulator (ERSAPS) is responsible for regulating and monitoring the provision of drinking water and sanitation services on all of the national territory. Its responsibilities include applying sanctions to providers for non-compliance or breaches. Pursuant to its powers, the ERSAPS Board of Directors adopted the Infringements and Sanctions Regulation which defines three (3) categories of violations as follows:

- **Minor Violations:** Those that do not pose irreversible damage to people's health in connection with a failure to comply with the treatment conditions set forth for wastewater, drinking water continuity and quality, and other duties.
- **Severe Violations:** This category includes the refusal to provide information to the regulator and users, obstructing or impeding verifications by ERSAPS, the failure to comply with the tariff system, or repeated minor violations.
- **Major Violations:** Acts or omissions regarded as minor or severe that become repeated offenses by the service provider.

Pursuant to the foregoing, the regulation establishes fixed financial penalties based on a percentage of the average turnover during the three months prior to the date of the infringement. In this sense, minor violations carry 2% fine, severe violations carry 3.5% fine, and major violations carry a 5% fine in relation to the average turnover during the three months prior to the date of the infringement.

LINKS

Australia: <https://www.esc.vic.gov.au/water/codes-and-guidelines/customer-service-codes>

Costa Rica: Public Utilities Regulatory Authority Law: <https://aresep.go.cr/transparencia/rendicion-cuentas/planes-cumplimientos/160-marco-legal1/leyes-y-reglamentos-generales/2414-leyes-reglamentos-y-decretos>

Honduras: Infringements and Sanctions Regulation:

<https://www.ersaps.hn/normativa-u.html>

INTERNAL CAPACITIES NEEDED AND THE ROLE OF PARTNERS

Setting sanctions require regulators to have certain judiciary and administrative skills. These could 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 their regulatory mandate.