

WATRS

Water Redress Scheme ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1182

Date of Decision: 11 February 2019

Complaint

The customer objects (on privacy and security grounds) to the fact that his smart meter automatically provides hourly readings to the company. The customer objects to this commercial practice and indicates that he would prefer that the readings are taken at a different frequency (such as monthly). The customer has complained to the company about this issue but it does not accept that it should be obliged to change the frequency with which its smart meters automatically take readings. The customer indicates that he is seeking for the company to stop the automatic hourly readings from his smart meter.

Defence

The company does not accept any liability to the customer. It has confirmed to the customer that all the information received from a customer's smart meter is encrypted and then stored on a secure database. The company confirms that the process is secure and it is compliant with data protection and privacy requirements. The company does not accept that it has failed to provide its services to the standard to be reasonably expected by the average person as a result of the customer's smart meter automatically taking hourly readings. The company states that, in light of all the above, it does not accept any liability for the customer's claim for redress.

Findings

I am not satisfied that the customer's smart meter automatically sending readings every hour to the company amounts to a failure on its part to provide its services to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 11 March 2019 to accept or reject this decision.

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The company's response is that:

- It does not accept any liability to the customer.
- It has confirmed to the customer that all the information received from a customer's smart meter is encrypted and then stored on a secure database. The company confirms that the process is secure and it is compliant with data protection and privacy requirements.
- The company does not accept that it has failed to provide its services to the standard to be reasonably expected by the average person as a result of the customer's smart meter sending hourly readings to the company.
- The company states the matter has already been referred to CCWater, who ultimately concluded that there were no grounds for it to challenge the company.
- The company states that, in light of all the above, it does not accept any liability for the customer's claim for redress.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and that as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

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How was this decision reached?

1. The crux of this dispute lies with the customer's objection (on privacy and security grounds) to the fact that his smart meter automatically provides hourly readings to the company. The customer objects to this commercial practice and indicates that he would prefer that the readings are taken at a different frequency (such as monthly). The customer has complained to the company about this issue but it does not accept that it should be obliged to change the frequency with which its customers' smart meters automatically take readings. The customer indicates that he is seeking for the company to stop the automatic hourly readings from his smart meter.
2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has failed to provide its services to the standard that would reasonably be expected of it.
3. At this juncture, I find it prudent to remind the parties that it is entirely beyond the scope of this scheme to review/amend the company's commercial practices relating to the set frequency of automatic smart meter readings (the WATRS rules make it expressly clear that the scheme cannot be used for disputes relating to the fairness of contract terms and/or commercial practices). Accordingly, I am unable to examine/address any substantive complaints about the fairness of the company's set commercial practices regarding the frequency of automatic smart meter readings.
4. In any event, having reviewed all the submissions provided by the respective parties, I am not satisfied that any reasonable grounds have been put forward for me to objectively conclude that the customer's smart meter automatically taking hourly readings amounts to a failure (contractual or otherwise) on the part of the company to provide its services to the standard to be reasonably expected by the average person.
5. Furthermore, I should also make it clear that, in accordance with the WATRS rules, complaints that raise complicated issues of law are beyond the scope of this scheme. Under the circumstances, I find that the customer's concerns relating to potential privacy law breaches raises complicated issues of law and therefore cannot be examined under this scheme.

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Additionally, in accordance with WATRS rule 3.4.1, I also find that this particular element of complaint should be referred to a more appropriate forum for resolution.

6. Having reviewed the company's actions in response to the customer's concerns, I find that the company adequately communicated with the customer and provided appropriate responses to his queries. I am particularly mindful of company's efforts to reassure the customer by explaining that the information provided from the smart meter is encrypted, stored on a secure server and cannot be accessed by unauthorised parties. Accordingly, having regard for the company's overall actions in relation to this matter, I am not satisfied that the company has failed to provide its services to the standard to be reasonably expected by the average person.
7. Therefore, following careful review of all the submissions provided, I am not satisfied that the evidence shows any failures on the part of the company. Consequently, in the absence of any established failures on the part of the company, I do not uphold the customer's claim for redress.
8. This concludes the WATRS stage of the customer's complaint. The customer is not obliged to accept this decision and is free to pursue resolution through all avenues as available to him.

Outcome

The company does not need to take any further action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 11 March 2019 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.



E. Higashi LLB (Hons), PGDip (LPC), MCI Arb.

Adjudicator

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