

In 2008, BEUC executed a qualitative survey into the functioning of the European Energy markets. Overall, BEUC's members found their national energy markets not to perform well. Two years later, BEUC feels that many of the problems related to availability of energy, consumer switching or consumer possibility to save energy are still persisting.

Therefore, BEUC suggests 9 recommendations for a bottom-up European Energy Strategy, taking the consumer reality of unclear bills, increasing energy prices and energy savings as the starting point.

Recommendation 1: As many of the provisions to have strong regulators, universal service and extra social measures are reinforced in the 3rd energy package, BEUC agrees with the Commission that implementation of the current legislation is a key objective of the future European Energy Strategy. In that respect, also the relation between national regulators and competition authorities should be clarified so that national regulatory authorities actively work on increasing the competition in the retail markets.

Recommendation 2: While BEUC agrees with the Commission that a more integrated and smarter grid is needed, we would like to suggest the following:

- Add the need to ensure consumer acceptance of the integrated grids by ensuring a fair cost benefit analysis, implementation of privacy by design principles and information towards consumers.
- Add that the costs of the smart metering should be born by those benefitting from the technology, while at the same time ensuring consumers can still choose not to have the smart metering. This will ensure consumer acceptance.
- Add to the part on consumer protection and the part on innovation the need to create a well-functioning market for energy efficiency services, through instruments like white certificates or subsidy programs.
- Add to the part on consumer protection the long term goal of ensuring the time of use tariffs are not detrimental for end users.
- Add in the long-term issues for the integration of smart grids the needs to change the grids tariffs to ensure that consumers who consume as well as produce energy are not disadvantaged.
- Add to the long term consumer protection objective the need to ensure financial mechanisms are available so that less well-resourced stakeholders can be financed for advice and research.

Recommendation 3: Add to the long term policy objective under innovation research into electricity storage. Furthermore, the strategy should explicitly mention the need for flexible production capacity in the EU.

Recommendation 4: Emphasise the need for retail market integration as a long term objective. While this might follow to some extent out of the creation of a pan-European grid, creating a wholesale market does not necessarily lead to the creation of a retail market. BEUC suggests adding as a long term objective of integrating grids, the creation of an integrated retail market.

Recommendation 5: Based on the judgement of the ECJ, BEUC would like to Commission to state as an objective of consumer protection, the necessity for member states to analyze the competition in their markets and to assess whether or not based on the criteria above prices need to remain regulated by the national regulatory authorities. It is in line with BEUC's position on the 3rd energy package, where we agreed that end-user price regulation could lead to difficulties in having a competitive market, but that market needed to be competitive before regulated prices would be abolished.

Recommendation 6: BEUC calls on the Commission to clearly state as a policy objective the clarity and comparability of bills for consumers and to mention the work done in the Billing working group. This will allow consumers to understand their consumption and compare offers better.

Recommendation 7: BEUC suggests:

- Add open standards and interoperability in the long term objectives of the integrated European energy grid and as a long term objective for consumer protection.
- Add awareness raising as a short term deliverable of the next energy strategy which can be done through coupling the roll-out of smart meters with providing consumers with information.

Recommendation 8: The Energy strategy should suggest increasing the additionality of "green" energy offers on the market through adapting the rules on the commercialisation of these offers. This should be a short term deliverable for consumer protection. Furthermore, a legislative framework for the standardised provision of environmental information on relevant services and products should be stated as a long term objective. . The revision of the Action plan on sustainable consumption and production (SCP) offers a window of opportunity.

Recommendation 9: BEUC calls on the Commission to continue the implementation of the Eco-design Directive by developing binding requirements for more energy-using and energy-related products and to update existing Eco-design Regulations depending on technological progress.

Recommendation 10: BEUC suggest adding lowering some taxes for energy efficiency services as a tool to realise energy savings.

Several recent papers have provided high level analysis of the EU energy policy, such as the recent EUI Working¹ or the plead for a European Energy Community by Jacques Delors². BEUC likes to contribute to the debate with a bottom-up perspective, based on the information of its members. The perspective reflects the reality for consumers, who are confronted with unclear bills, rising energy prices or aggressive selling practices. We focus on consumers who receive information about smart meter roll-out without knowing how it will affect them or what the over-all benefits are, not to mention the link with smart grids or issues like voltage control or reactive power. The analysis is about a consumer wanting to change to “green” electricity tariffs but who reads that these tariffs do not make a real difference in terms of advancing the production of renewable energy. In short, the analysis starts from consumers for whom the energy markets have been difficult to navigate.

Starting point: Consumer problems in the imperfect internal energy market

In 2008, BEUC asked its member’s opinion³ on the working of the energy market³. BEUC’s members stated that the energy sector was not delivering for consumers and the main difficulties were identified as:

- Lack of choice in the energy markets;
- Difficulties to switch;
- Complicated and unclear bills;
- Different prices for different payment methods;
- Difficulties to claim consumer rights;
- Affordability of energy is not realized in practice.

During the same year, ERGEG, the European Energy Regulators for Electricity and Gas also reviewed the liberalization and the implementation of the Energy regulatory framework⁴ and published a report on the transposition of consumer rights⁵. As far as consumer rights were concerned, the report confirmed the lack of implementation on the methods of payment, the difficulties about being informed on the actual consumption or that switching could be improved. As far as the functioning of the market was concerned ERGEG pleaded for regional integration and empowering consumers. It noted the concentration and heterogeneity of retail markets, the difficulties around regulated prices, but also that *competition in the retail gas and electricity markets for small customers is almost non-existent*. (p. 8).

Based on recent input from our members, the results of our survey seem still valid. BEUC thus asks important policy initiatives to ensure energy is available, that consumers can choose and are able to contribute to the high level policy objectives such as the 20/20/20 target. Distributed generation and energy savings are key in this respect.

¹ EUI Working papers RSCAS 2010/52: Toward a smart EU energy policy: Rational and 22 recommendations Jean-Michel Glachant, Robert Grant, Manfred Hafner and Jacques de Jong, 2010.

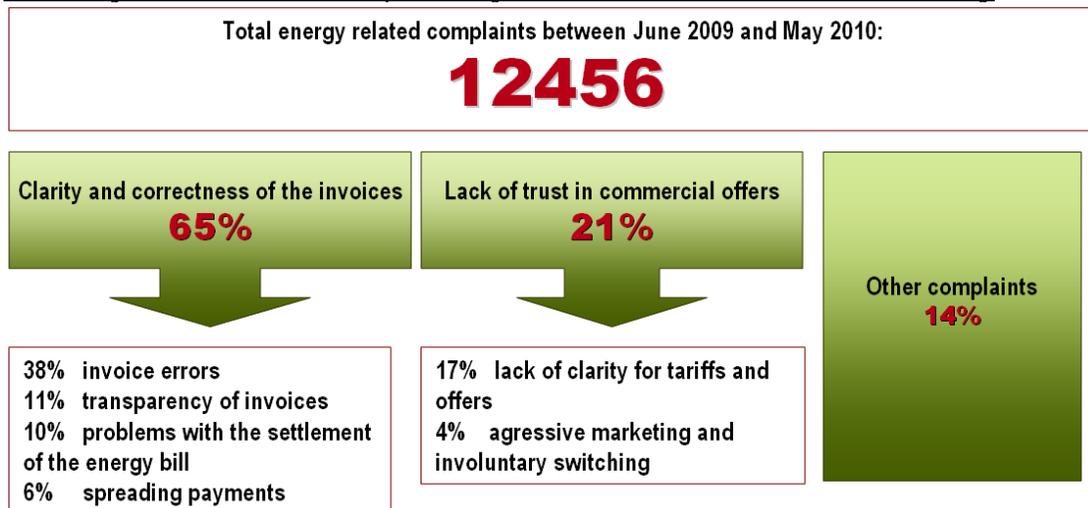
² Policy Proposal by Jacques Delors: Towards a European Energy Community: A Policy Proposal Study by Sami Andoura, Leigh Hancher and Marc Van der Woude Notre Europe May 2010.

³ The EU energy markets after the liberalisation: Consumers still waiting to reap the full benefits Summary of results of a survey carried out among our member organisations within the EU in the first half of 2008 X/061/2008.

⁴ ERGEG 2008 Status Review of the Liberalisation and implementation for the Energy Regulatory Framework C08-URB-15-04 10 December 2008.

⁵ Transposition of Consumer Rights Monitoring Report Ref: E8-CPR-20-03 13 October 2008.

The analysis of consumer complaints by BEUC's member Altroconsumo in Italy⁶



1. The need to ensure energy is available, affordable and accessible for all

For BEUC, the end result of the European policy should benefit consumers. In the current framework, this is done through competitive markets, overlooked by national regulatory authorities. As energy is a necessary good, a strong and broad universal service obligation should be enforced throughout Europe with additional social measures aimed at those consumers which are less able to participate in the market. These objectives are reiterated in the 3rd energy package which is currently being implemented.

Recommendation 1:

As many of the provisions to have strong regulators, universal service and extra social measures are reinforced in the 3rd energy package, BEUC agrees with the Commission that implementation of the current legislation is a key objective of the future European Energy Strategy. In that respect, also the relation between national regulators and competition authorities should be clarified so that national regulatory authorities actively work on increasing the competition in the retail markets.

Nevertheless, the energy markets at this stage are not functioning properly and even with the provisions of the 3rd energy package, much time will be needed before they do. Therefore, BEUC has engaged in thinking and discussions on smart grids and super grids of the future.

BEUC together with ANEC published a position paper on the issue of smart energy systems recently⁷ and last year, we published a position on smart metering⁸. Until

⁶ Facciamo Luce: sull'incontro tra domanda e offerta nel mercato dell'energia Marco Bulfon, Altroconsumo, 1th July 2010.

⁷ Smart energy systems for empowered consumers, Joint ANEC/BEUC position X/044/2010.

now, consumer needs, expectations and acceptance are in our view neglected. We ask for the following key elements to be taken into account when discussing smart energy systems and smart metering:

- Ensuring that consumers fully benefit from smart energy systems and smart metering, by fairly evaluating the costs and benefits of the systems without over-promising and by paying attention to the potential risks of the new technologies especially for consumers in vulnerable circumstances.
- In order to increase consumer acceptance, the costs of the roll out of smart metering should mostly be borne by the suppliers and network companies who benefit most from the roll-out. Furthermore, there should be no punitive sanctions for those consumers who reject the smart metering.
- Implementing privacy by design to ensure privacy is built into the smart energy systems, implementing the principle of data minimisation, ensuring the safe disposal of data and the limitation of data retention.
- Empowering consumers by involving and informing them; ensuring the regulatory environment allows for innovations in the energy systems, especially towards saving energy, be it through better information or energy efficiency services and products. We are asking for smart metering to include certain minimum criteria and applications, such as displays to inform consumers. We are sceptical about demand response and time-of-use tariffs and about the applicability at residential level, even with electro-mobility at a large scale. Furthermore, some consumer groups might simply not be able to adapt their house / appliances in order to benefit from smart energy systems. These systems provide an opportunity to ensure better security of supply and new communication services, but regulatory measures, vested interest or legal obligations might make it difficult for consumers to be empowered and drive these changes.
- Guaranteeing a fair system of grid tariffs and easy to use technology for those consumers who also commit to producing energy. Furthermore, safe export of consumer generated green energy at a fair price ought to be ensured.
- Facilitating electro-mobility for interested consumers, while being clear on the overall environmental impact of the smart energy systems.
- Finally, implementing open standards and guaranteeing interoperability. Such standards should guarantee minimised consumer risks (e.g. in relation to remote switching or disconnection) and maximised benefits for all consumers.

One of the difficulties BEUC and its members are confronted with is the limited financial resources to engage in this forward thinking. We would ask the Commission to consider mechanisms to support 3rd party advice.

Recommendation 2:

While BEUC agrees with the Commission that a more integrated and smarter grid is needed, we would like to suggest the following:

⁸ Less consumption and a better working energy market: Realising the benefits of smart metering for consumers X/064/2009.

- Add the need to ensure consumer acceptance of the integrated grids by ensuring a fair cost benefit analysis, implementation of privacy by design principles and information towards consumers.
- Add that the costs of the smart metering should be born by those benefitting from the technology, while at the same time ensuring consumers can still choose not to have the smart metering. This will ensure consumer acceptance.
- Add to the part on consumer protection and the part on innovation the need to create a well-functioning market for energy efficiency services, through instruments like white certificates or subsidy programs.
- Add to the part on consumer protection the long term goal of ensuring the time of use tariffs are not detrimental for end users.
- Add in the long-term issues for the integration of smart grids the needs to change the grids tariffs to ensure that consumers who consume as well as produce energy are not disadvantaged.
- Add to the long term consumer protection objective the need to ensure financial mechanisms are available so that less well-resourced stakeholders can be financed for advice and research.

Super grids, smart grids and smart metering will change the structure of the European Energy markets. Many of the changes are driven by the need to change our production mix. As energy will be produced from less predictable renewable sources, more storage and flexible production facilities are needed. BEUC's German member VZBV notes that these changes will result in significant price increases for consumers and that a European coordination and policy is needed to ensure a fair cost-benefit balance.

Recommendation 3:

Add to the long term policy objective under innovation research into electricity storage. Furthermore, the strategy should explicitly mention the need for flexible production capacity in the EU.

One of the crucial elements for a market to work is that more companies are able to offer their services to consumers. BEUC supports the Commission in its attempts to promote full independence of transmission system operators and the need to increase transparency and oversight. For the retail issues, the London Forum is discussing best practices in a working group. Based on the good practice of the Nordic market⁹, BEUC finds it important that the Commission takes up the issue of retail market integration as a long term perspective in its strategy.

Recommendation 4:

Emphasis the need for retail market integration as a long term objective. While this might follow to some extent out of the creation of a pan-European grid, creating a wholesale market does not necessary lead to the creation of a retail market. BEUC

⁹ Market Design Common Nordic end-user market report 3/2009 Nordic Energy Regulators 2009.

suggests adding as a long term objective of integrating grids, the creation of an integrated retail market.

Because building infrastructure to integrate the European market takes a long time, BEUC finds it important to consider the issue of regulated prices. Some of BEUC's members are analyzing to what extent a different market model needs to be adopted. In some instances, this is done together with national regulators.

Recent case law from the European Court of Justice¹⁰ is instructive in this regard. Asked about the interpretation of Article 3 of Directive 2003/55EC of June 26th 2003 concerning common rules for the internal market in natural gas, the Court ruled that price regulation does not constitute an infringement if:

- It pursues a general economic interest consisting of maintaining the price of the supply of natural gas to final consumers at a reasonable price.
- It is limited in time and clearly defined, transparent, non-discriminatory and verifiable, and guarantees equal access for EU gas companies to consumers.
- Important is also that these 'reference prices' for the supply of natural gas can be applied to all customers whose consumption of natural gas is under a certain threshold rather than being limited to the circle of those who must necessarily be protected on account of their vulnerability.¹¹ Following this decision and noting the parallel structure and the similar provisions of the Second Electricity Directive, this assessment framework provided by the Court could also be applied to national measures fixing retail electricity prices although in theory it cannot be extended to another field without a decision of the Court.

Recommendation 5:

Based on the judgement of the ECJ, BEUC would like to Commission to state as an objective of consumer protection, the necessity for member states to analyze the competition in their markets and to assess whether or not based on the criteria above prices need to remain regulated by the national regulatory authorities. It is in line with BEUC's position on the 3rd energy package, where we agreed that end-user price regulation could lead to difficulties in having a competitive market, but that market needed to be competitive before regulated prices would be abolished¹².

2. The need to empower consumers further so that they can make informed choices between different energy suppliers

Empowering consumers so that they become active participants in the energy market forms the second objective for BEUC's bottom-up energy strategy. Important improvements have been taken to allow consumers to be informed about their energy consumption and to ensure that switching is possible. Clear bills, accurate consumption information and the availability of offers are key.

¹⁰ C-265/08 Federutility and others.

¹¹ Para 40 of the judgement.

¹² Putting regulators in the driving seat BEUC's comments on the European Commission's proposals to complete the internal market for energy X/067/2007.

Nevertheless, as the example from our Italian member shows, clarity of bills remains a problem. BEUC is happy that the strategy mentions the provision of *“guidance on the appropriate tools to facilitate consumer participation in the energy markets through transparency and clarity of information and comparability”*. Together with regulators and industry and under the auspices of the ECCG subgroup on energy, BEUC established good billing practices for the energy sector in a working group in 2009. BEUC would like to see this example mentioned in the strategy. A good functioning market should ensure tariffs are also clear and understandable for consumers. Several of BEUC’s members have highlighted the need for clarity of bills.

Work of BEUC member Which? on bills and tariffs in the UK:

Our UK member Which? has analysed the bills and confusing tariffs. Government needs to recognise that making energy bills more transparent will help people cut their energy usage and costs. Which? calls for a mandatory summary box on all bills, transparency on estimated bills and meter readings, and action by the regulator and suppliers to simplify bills¹³. As far as tariffs are concerned, a step change in tariffs is needed to improve understanding for consumers. The regulator and Government must act to make tariffs more transparent and comparable to help people understand and cut their energy use and costs. Which? is calling for mandatory minimum standards for tariffs and an itemised summary box for all tariff marketing materials.¹⁴

Recommendation 6:

BEUC calls on the Commission to clearly state as a policy objective the clarity and comparability of bills for consumers and to mention the work done in the Billing working group. This will allow consumers to understand their consumption and compare offers better.

The future roll-out of smart metering in the European Union has already been mentioned in terms of ensuring consumers do not pay the full costs. Smart metering offers a change for better informed consumers and the creation of a market to help consumers save energy. Including displays as a mandatory feature of any smart metering roll-out should be a strong advice from the Commission. The data available to consumers through their smart meter, can be use to seek better advice on energy consumption. BEUC’s members contribute to providing information through e.g. the development of the French comparing web-site Europten by our French member CLCV.¹⁵

At the same time, consumers need to be ensured they are protected from the technological change. In that sense, the Energy Check List, as mentioned in the 3rd energy package, can be changed into a European Code of Conduct to protect and empower consumers when installing smart metering. Standards and minimal functionalities which the strategy does not mention explicitly can contribute to these objectives. As BEUC wrote in its position paper on smart metering:

¹³ Bamboozling bills, Which?, May 2010.

¹⁴ Terrible tariffs, Which?, May 2010.

¹⁵ <http://www.guidetopten.fr>

“Minimum standards for all gas and electricity smart meters should be set to ensure all consumers have access to high-quality and, where appropriate, easy to use technology. Meters should be made according to common standards so they can be interoperable and be used by all energy companies. This will ensure that consumers are able to switch suppliers and smart appliances easily without encountering compatibility problems. Equally important are issues around smart metering for empowering consumers”

The roll-out of smart metering can easily be used to inform consumers and create public awareness. While the stock taking document mentions the lack of public awareness and acceptance, concrete measures are not mentioned afterwards.

Recommendation 7:

BEUC suggests:

- Add open standards and interoperability in the long term objectives of the integrated European energy grid and as a long term objective for consumer protection.
- Add awareness raising as a short term deliverable of the next energy strategy which can be done through coupling the roll-out of smart meters with providing consumers with information.

3. The need to ensure consumers can contribute to reducing energy

As a third pillar of the bottom-up strategy, BEUC finds reducing energy consumption crucial. As such, we agree that the potential for energy savings and reducing emission need to be fully developed. As far as the use of energy from renewable sources is concerned, BEUC find it important to ensure consumers are not misled when choosing “green” offers. Consumers should receive information about their supplier’s, as well as their own contribution to the effort to increase the percentage of electricity produced from renewable sources. Secondly, consumers should be informed of the additional positive environmental effect which would result from their decision to opt for one commercial green offer over another offer, i.e. the additionality effect of the offer. As a means to increase the transparency of offers and to ensure this additionality effect, BEUC calls for the term “green” to be restricted to offers that demonstrate an additional impact on the production of electricity from renewable sources. This would give consumers confidence that their choice for electricity offers from renewable sources genuinely does promote an increase in the capacity of renewable energy production.

As noted in BEUC’s contribution to the public consultation on the energy efficiency action plan¹⁶, we call for a legislative framework for the standardised provision of environmental product information. Such a framework ought to cover the existing EU Eco-label and Energy Labelling schemes and other environmental information such as Type III eco-labels (‘environmental product declarations’ - EPDs). This framework for the standardised provision of environmental product information should also address the marketing and advertising of environmental aspects of

¹⁶ ANEC/BEUC Joint position What do we still expect from the EU Action plan for energy efficiency? X/059/2009.

products. The planned revision of the Action Plan on Sustainable Consumption and Production (SCP) in 2012 offers a window of opportunity to improve information on energy efficiency and environmental claims in general.

Recommendation 8:

The Energy strategy should suggest increasing the additionality of “green” energy offers on the market through adapting the rules on the commercialisation of these offers. This should be a short term deliverable for consumer protection. Furthermore, a legislative framework for the standardised provision of environmental information on relevant services and products should be stated as a long term objective. The revision of the Action Plan on Sustainable Consumption and Production (SCP) offers a window of opportunity.

One of the most effective ways to save energy has been the Eco-design process. The Commission has the mandate to regulate environmental characteristics of energy-using and energy-related products through adopting implementing measures laying down Eco-design requirements. The Eco-design process is a crucial tool to avoid unwanted energy losses and to improve the environmental performance of products that consumers use every day. BEUC would call on the Commission to include more energy using and energy-related products in the scope.

Recommendation 9:

BEUC calls on the Commission to continue the implementation of the Eco-design Directive by developing binding requirements for more energy-using and energy-related products and to update existing Eco-design Regulations depending on technological progress.

As a final remark, we draw the attention to energy taxation as a tool to create an energy efficiency services market. For private households, affording energy efficient appliances or investing into the improvement of the energy efficiency of homes can be a major problem. Fiscal policies should therefore continue to be developed and coordinated at the EU level. Such policies could take the form of ecological tax reform, such as tax differentiation (e.g. reduced VAT for the most energy efficient products and services), enhanced use of fiscal incentives (e.g. tax rebates for consumers buying products labelled as the most energy efficient goods or if consumers insulate their homes) or more easily accessible financing schemes and subsidies for energy efficiency investments of private households. In a review of the OECD on household behaviour and residential energy demand, energy taxes and energy efficiency standards are recommended as policy instruments¹⁷.

Recommendation 10:

BEUC suggest adding lowering some taxes for energy efficiency services as a tool to realise energy savings.

END

¹⁷ Residential Energy Demand, in Household Behaviour and the Environment Reviewing the Evidence, OECD 2008.