

The Consumer Voice in Europe

## ELECTRICITY DIRECTIVE

BEUC key demands for trilogue negotiations



**Contact: Monika De Volder – [energy@beuc.eu](mailto:energy@beuc.eu)**

**BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**  
Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • [www.twitter.com/beuc](http://www.twitter.com/beuc) • [consumers@beuc.eu](mailto:consumers@beuc.eu) • [www.beuc.eu](http://www.beuc.eu)  
EC register for interest representatives: identification number 9505781573-45



Co-funded by the European Union

Ref: BEUC-X-2018-063 - 27/06/2018

## Why it matters to consumers

Electricity is an essential service for consumers. However, millions of households are struggling to pay their energy bills and many still find it difficult to understand basic elements of the energy market like their bills and what are they paying for, their offers and how to get a better deal or how to exercise their rights when something goes wrong. With decentralisation and digitalisation, electricity markets are undergoing profound changes. New technologies like smart meters are being rolled out and new offers and service providers start to emerge. These developments are creating new opportunities but also new challenges for consumers.

## Summary

---

The European Parliament and the Council will soon enter negotiations on the European Commission's proposal on a revised Electricity Directive. BEUC would like to provide the European legislators with a set of recommendations to ensure consumers are adequately protected and can easily exercise their rights in future electricity markets.

- **Ensure the necessary level of protection for consumers.** Electricity is an essential service and should therefore be affordable for everyone. All consumers, especially the ones in energy poverty and in vulnerable situations should be sufficiently protected through a range of different measures. Targeted price regulation with the aim of protecting energy poor and consumers in vulnerable situations should be retained as a policy tool. Member States should define a set of criteria to measure energy poverty and report on these measures.
- **Enable consumers to easily navigate energy markets** through accurate and user-friendly bills, reliable comparison tools and clear offers (including bundled products). Energy markets are rapidly evolving driven by new technologies and innovative services enabling consumers to actively engage in them. These developments represent positive trends and consumers should be given the opportunity to embrace them. At the same time, household consumers need to be informed about the opportunities and risks of new, flexible electricity offers and be adequately protected.
- **Guarantee effective market surveillance and dispute resolutions** by reinforcing powers and enlarging the monitoring duties of regulators to respond to new challenges resulting from new technologies and new services. Cross-sectoral issues will require cooperation among regulatory authorities and dispute resolution bodies across sectors.

## 1. Chapter I: Subject matter and definitions

---

### 1.1. Definitions (Article 2)

The revised Electricity Directive should be aligned with other legislative proposals under the 'Clean Energy for All Europeans' package. For instance, definitions between the Renewable Energy Directive and the Electricity Directive should be consistent. Confusion remains on what activities define a renewable self-consumer and what activities define an active consumer – and where these overlap. At the same time, the Renewable Energy Directive allows peer-to-peer trade arrangements mentioned also in Article 16 of the Electricity Directive. However, when setting suppliers and undertakings obligations, and by missing some definitions, this Directive is not well adapted to these models. It is unclear under what definition or definitions the parties involved will fall (e.g. suppliers, aggregators, generators) and hence what will be their rights and obligations. This might put unnecessary barriers to access these models.

Moreover, while 'supply' is defined in this Directive, the definition of an 'electricity supplier' and 'electricity service provider' and their obligations are missing although these terms are used throughout the Directive.

Where smart meters are implemented, consumers should have easy and timely access to the information on their consumption. "Near-real time" feedback on energy consumption should be defined down to seconds so that consumers can use this information and make informed decisions. Also, as smart meters are being rolled out in several countries, smart metering provisions under this Directive should apply to future rollouts.

#### **BEUC demands:**

- Ensure consistency among the legislative proposals under the 'Clean Energy for All Europeans' package and align definitions especially with the Renewable Energy Directive.
- Define an 'electricity supplier' and its obligations.
- Make sure consumers can easily access near-real time consumption information, defined down to seconds.

## 2. Chapter II: General rules for the organisation of the sector

---

### 2.1. Free choice of electricity supplier (Article 4)

While consumers should have choice in terms of suppliers and offers, the Parliament's text providing consumers with the possibility to contract simultaneously with several suppliers should be clarified, especially what would be the obligations of different suppliers towards customers.

#### **BEUC demand:**

- Clarify consumer rights and suppliers' obligations in case the consumer contracts with several suppliers as proposed in the Parliament's amendment 36.

## 2.2. Market based supply prices (Article 5)

Energy is a basic service and must be affordable to all consumers. Targeted price regulation with the aim of protecting energy poor and consumers in vulnerable situations should be retained as a policy tool, as long as markets are not delivering competitive prices for all consumers and other available measures are not sufficient to protect the most vulnerable ones. Prices set by public intervention shall reflect the trend of wholesale prices, shall not impede market entry and shall be set at a level allowing an efficient supplier to make a reasonable level of return. **The opportunity for Governments to intervene where competition is not working should not be time limited, even though the actual interventions themselves may be time-bound.**

Consumers are often not aware of the on-going transformation of the electricity system and they frequently lack information about changes related to the energy market liberalization. Household consumers should receive clear and timely information about market developments (such as on the phase out of regulated prices and on suitable competitive offers). However, **the promotion of smart meters and dynamic electricity price contracts as proposed by the Council and the Parliament must be balanced with actions to inform, reassure, protect and assist consumers** and should be targeted to those who can benefit from smart technologies and new, flexible electricity offers.

### BEUC demands:

- Support the Council's approach on Article 5.
- Oppose the Parliament's proposal on Article 18.3(b) of the Electricity Regulation (amendment 91) as it is inappropriate to automatically prohibit price caps when Member States address resource adequacy concerns.
- Modify the Council's text on paragraph 3b(d) and the Parliament's amendment 38 on paragraph 4(h) so that smart meters and dynamic electricity price contracts are targeted to those who can benefit.

## 3. Chapter III: Consumer empowerment and protection

---

### 3.1. Basic contractual rights (Article 10)

Consumers often encounter difficulties to understand all terms and conditions related to their energy contracts. On top of that, energy services are increasingly bundled with other offers (such as telecommunications and financial services). Bundled offers can lead to increased complexity of contracts and lock-in situations. In the near future, we will likely see further bundling of products and services with new players and wider uptake of smart technologies. Therefore, bundled offers should be addressed in this Directive. **Consumers should receive all relevant information about the offer, including information on additional products and services**, as well as information on conditions to withdraw from the contract.

For consumers to make a well-informed choice, energy offers and conditions need to be clearly communicated and transparent. **Consumers should receive the key information on energy offers by suppliers in one place in a short, easily**

**understandable, prominent and accessible manner.**<sup>1</sup> Whilst BEUC and associations of electricity and gas companies (Eurelectric, Eurogas and Cedec) agreed on these principles in a joint statement in 2016<sup>2</sup>, BEUC's review revealed the lack of implementation of this statement and confirms the need for further regulation.<sup>3</sup> BEUC therefore welcomes the Parliament's proposal to make sure consumers are provided with a summary of the key contractual information together with the contract. This summary should include the main features of the services (including information on environmental impact, clear description of promotions and discounts, information on additional services and the provider of these services and where relevant, one-time payment), total electricity price (including all charges, levies and taxes), conditions for price or tariff changes, contract duration and conditions for termination (including notice period and fees, where relevant) as well as necessary contact information about the provider.

Consumers should be provided with a wide choice of payment methods. **Surcharges on any payment method should be banned.**<sup>4</sup> While this is reflected in the Parliament's text on Article 10.2(d), the Council's position is inconsistent with Article 62 of the Payment Services Directive 2.

At the same time, particular attention should be paid to customers on prepayment meters as these can pose a serious risk to health due to self-disconnection.<sup>5</sup> Those **consumers should be able to access alternative payment methods if a prepayment system is not suitable for them.** BEUC supports the Council's text according to which household customers should not be placed at a disadvantage by the prepayment systems.

Suppliers should notify their household customers about any adjustment in the supply price as soon as they have the information on the adjustment and no later than one month before the adjustment, as proposed by the Parliament. When consumers switch their supplier and/or a contract, they should receive a final closure account no later than two weeks after the change takes place.

---

<sup>1</sup> Since 2015, the regulation in Portugal obliges suppliers to provide consumers with a normalized information chart for energy offers and contracts: [http://www.erse.pt/pt/electricidade/regulamentos/relacoescomerciais/Documents/SubRegulamenta%C3%A7%C3%A3o/Diretiva\\_4\\_2015.pdf](http://www.erse.pt/pt/electricidade/regulamentos/relacoescomerciais/Documents/SubRegulamenta%C3%A7%C3%A3o/Diretiva_4_2015.pdf) This is considered as a good practice although there are challenges related to enforcement. BEUC's Portuguese member, DECO, observes the lack of enforcement as retailers do not always provide the chart, especially in case of off-premises contracts and during the doorstep selling. The chart is often also hard to find on supplier's website. Another example can be found in France where suppliers provide a Fiche descriptive de l'offre which summarises all key information on offers.

<sup>2</sup> The Joint Statement is available at: [http://www.beuc.eu/publications/beuc-x-2016-043\\_joint-statement-improved-comparability-of-energy\\_offers-beuc-eurelectric-eurogas.pdf](http://www.beuc.eu/publications/beuc-x-2016-043_joint-statement-improved-comparability-of-energy_offers-beuc-eurelectric-eurogas.pdf)

<sup>3</sup> During March and April 2017, BEUC evaluated 40 offers on 40 suppliers' websites in 13 EU countries. BEUC findings showed that 0 out of 40 offers displayed the key information in a short, easily understandable, prominent way as agreed in the joint statement. Important information such as total price, conditions for price changes or basic information to terminate the contract was often missing.

<sup>4</sup> According to Article 62 of Directive 2015/2366, surcharges are forbidden with the following means of payment: direct debit, credit transfer, debit cards and credit cards such as Visa and Master Card. (Surcharge is allowed with respect to 3-party card schemes such as American Express and Diners' Club.)

<sup>5</sup> Citizens Advice report (2018) describes the current experience of prepayment meter users in the UK, focusing on the experience of households who lack the funds to keep their meters topped up. According to this report, self-disconnection is often triggered by a temporary financial crisis that leaves the consumer without enough money to top up their prepayment meter. Another reason for not topping up the prepayment meter was organisational. More information is available at <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/PPM%20self-disconnection%20short%20report.pdf>

### BEUC demands:

- Adopt the Parliament's amendments 45 and 46 to ensure consumers receive all necessary information, including on bundled offers.
- Adopt the Parliament's amendment 51 that obliges suppliers to provide consumers with a summary of the key contractual conditions.
- Adopt the Council's text on paragraph 2e so that consumers on prepayment systems are not disadvantaged.
- Adopt the Parliament's amendment 47 obliging suppliers to inform their customers about any adjustment in the supply price well in advance.
- Support and clarify the Parliament's amendment 48 to differentiate between rebate and surcharge as follows: *"Any difference in charges related to payment methods shall reflect the relevant costs incurred by the supplier. Surcharges for any payment instrument should be forbidden in line with Article 62 of Directive (EU) 2015/2366."*
- Adopt the Parliament's amendment 50 to ensure consumers receive the final bill within two weeks after switching the supplier.
- Align Articles 10 and 13 of this Directive so that the existing consumer protections are extended to aggregators.

### 3.2. Entitlement to a dynamic electricity price contract (Article 11)

The way consumers are billed for their electricity consumption has not changed much over time. Demand-side flexibility schemes could change that drastically. For example, consumers with a dynamic electricity contract should see the cost of their electricity consumption varying according to the moment the consumption takes place.

While the European Commission's proposal promotes dynamic electricity price contracts, these contracts are currently available only in a few countries and therefore, the experience with such contracts is limited and the impact on different consumers and consumer groups is not always clear. **The market should incentivise consumers that are willing and able to engage in demand-side flexibility schemes so that they save on their energy bills.**<sup>6</sup> Moreover, the evolution of dynamic prices may increase the complexity of consumer choice as some consumers may find it difficult to understand the potential risks and benefits of such contracts and how to compare them.

Information requirements have so far failed to solve the challenges for market engagement. They are inadequate as the sole instrument to support consumer engagement with future flexible electricity markets. **Consumers should be able to choose among different contracts and suppliers should be required to provide clear information on these offers, related opportunities, costs and risks** as proposed by the Council. At the same time, **consumers should be protected from unreasonable bill volatility and unacceptably high levels of financial responsibility** as proposed by the Parliament. Household consumers should not be encouraged to take up risky products and services that are not adapted to them. Those consumers who are not flexible in their electricity use or are in vulnerable situation should not be exposed to such products.

---

<sup>6</sup> In 2015, BEUC German member organisation, vzbv, conducted a survey on time of use tariffs: two-thirds of German consumers want to save money and fear having to pay too much. Ease of use, convenience and privacy were essential for consumers. Variable Stromtarife Aus Verbrauchersicht." <http://www.vzbv.de/termin/variable-stromtarife-aus-verbrauchersicht>

Consumers will only benefit from dynamic prices over time if they have the right products and systems to limit or offset consumption at times of peak prices. Many consumers may benefit from having non-dynamic price contracts, so these should be always available. **Before being switched to a dynamic price contract, the customer should always give explicit consent.** For example, no opt-out or default systems should be established for dynamic prices.

At the same time, National Regulatory Authorities should monitor and report on dynamic price contracts and the impact on consumers. In particular, regulators should monitor the growth of the market, how different consumer groups are affected and modify safeguards where necessary. While BEUC supports the Council's text for regulatory oversight, the introduction of safeguards by regulatory authorities should not be limited only to abusive practices. **Regulators should intervene when the monitoring reveals that current protection levels are insufficient for household customers.**

#### BEUC demands:

- Adopt the Parliament's amendment 53 according to which consumers should give their consent before being switched to a dynamic price contract.
- Adopt the Council's text on Article 11.2 obliging suppliers to inform consumers about dynamic price contracts and ensuring regulatory oversight. Last part of paragraph 2 '*in case of abusive practices*' should be deleted.
- Adopt the Parliament's amendment 55 establishing protections against bill shocks.
- Maintain the Commission's and Parliament's text on 11.3. ensuring annual monitoring of and reporting on dynamic price contracts. Delete the Council's proposal to limit the monitoring of these contracts.
- Support the Parliament's amendment 159 on Article 59(n) on monitoring.

### 3.3. Switching (Article 12)

Switching process often remains lengthy and costly while it should be smooth, fast and consumers should not be penalised. To have a more dynamic market, **consumers should be able to switch suppliers within 24h.**<sup>7</sup>

Consumers should not be charged any switching fees. In the cases where termination fees are allowed, consumers should be informed about termination fees which should only be allowed for fixed term contracts with suppliers and aggregators. To be able to charge termination fees, **companies should be obliged to demonstrate the actual direct cost they incur from an early termination.** The fee must be reasonable and proportionate to the advantage given to the consumer.<sup>8</sup>

<sup>7</sup> For instance in the telecommunications sector, consumers can switch their providers within 24h.

<sup>8</sup> The European Commission has found that around 20% of EU electricity consumers face a fee of between €5 and €90 for switching suppliers. *Source: European Commission, Impact assessment, Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast) 2016.* In France and Lithuania, none of the participants to a mystery shopping exercise found information on the electricity company's website that stated that consumers might incur a fee for cancelling their current energy deal; in Sweden, only 16% of shoppers reported that it was stated on the website. *Source: European Commission, Second consumer market study on the functioning of the retail electricity markets for consumers in the EU, 2017, p. 107.* For more information about barriers to switching see BEUC's brochure 'Stalling the switch' available at: [http://www.beuc.eu/publications/beuc-x-2017-106\\_stalling\\_the\\_switch\\_-\\_5\\_barriers\\_when\\_consumers\\_change\\_energy\\_suppliers.pdf](http://www.beuc.eu/publications/beuc-x-2017-106_stalling_the_switch_-_5_barriers_when_consumers_change_energy_suppliers.pdf)

To facilitate supplier switching, a number of BEUC member organisations<sup>9</sup> around Europe are regularly organising **collective switching campaigns that help consumers get a better deal for energy supply**, engage more directly in the energy market, and at the same time, increase the competitive pressures in the market.

#### **BEUC demands:**

- Adopt the Parliament's amendment 56, reducing the switching period to 24h by 2022.
- Adopt the Council's text on Article 12.3 that termination fees should be clearly communicated to the customer before s/he enters into the contract.
- Adopt the Parliament's amendment 58 to ensure fees are reasonable and proportionate to the advantage provided to the consumer. The burden of proof of the direct economic loss should be on the supplier and monitored by the National Regulatory Authority.
- Support the Parliament's amendment 59 that Member States should facilitate collective switching campaigns through removing regulatory and bureaucratic barriers.

### **3.4. Aggregation contract (Article 13)**

While information on contracts and bills that should be provided by suppliers are set explicitly in the Directive, the equivalent obligations for aggregators are missing. **The existing consumer protections should be extended to all third-party intermediaries** (including new generation service providers such as aggregators).

**To be able to engage in a market, and to ensure there is a well-functioning market, consumers need the ability to access, assess and act. To ensure that the market works, and new offers can be taken on, consumers should be free to engage with a supplier and with an independent aggregator of their choice**, without facing contractual obstacles from either type of company. Suppliers should not impose undue payments, penalties or other undue contractual restrictions. On the other hand, aggregators should provide consumers with clear, truthful, complete and comparable information on their offers free of charge. **It is unclear what information will consumers receive from the aggregator.** The Parliament's proposal to provide consumers with settlement data goes in the right direction but is not enough and additional provisions are needed to ensure consumers are well informed and protected. Information should be provided free of charge and it should not be dependent upon consumer awareness that they may request it. Furthermore, consumers should keep similar rights

---

<sup>9</sup> BEUC factsheet on collective energy switching campaigns, [http://www.beuc.eu/publications/beuc-x-2017-074\\_collective\\_energy\\_switch\\_factsheet\\_2017.pdf](http://www.beuc.eu/publications/beuc-x-2017-074_collective_energy_switch_factsheet_2017.pdf)

for aggregators as for switching suppliers (Article 12) to make markets more dynamic and avoid unnecessary lock-ins, especially if services are bundled.

#### **BEUC demands:**

- Extend existing consumer protections in Articles 10 and 18 to all third-party intermediaries (including new generation service providers such as aggregators).
- Adopt the Council's text on Article 13.-1 so that consumers are free to engage with service provider of their choice.
- Adopt the Parliament's amendment 60 (second and third paragraph) to ensure aggregators provide clear contractual terms and conditions and avoid discrimination of customers.
- Adopt the Parliament's amendments 61 and 62 so that consumers can easily switch aggregator without facing unjustified termination fees.
- Support the Parliament's amendment 63 on settlement data but further provisions are needed to ensure consumers are well informed.
- Delete the information provision "upon request" in the Parliament's amendment 63 and the Council's text on Article 13.4.

### **3.5. Comparison tools (Article 14)**

Consumers should be able to easily compare offers available on the energy market. **Comparison tools should be transparent about which business model they follow** and how they earn their income so that consumers can evaluate the objectivity of the guidance. Member States should ensure there is **at least one comparison tool covering the whole market for energy services in every country. Bundled products and services as well as offers from third parties such as aggregators should be featured** on the comparison tools so that consumers can compare them with other offers on an objective and comprehensive basis.

Member States shall ensure that the comparison tools are independent from all market players, and the tools should include information on how they are financed as proposed in the Parliament. It should be clearly indicated what services are covered by the comparison tool and the algorithm of the tools should be impartial. Consumers should be able to compare various offers, including dynamic price contracts, aggregator's offers, bundled offers as well as non-dynamic tariffs and get information on energy sources. These tools should be accessible to all, including those with disabilities.

**Comparison tools should be certified on a non-discriminatory basis as proposed by the Parliament.** We oppose the voluntary approach to certification/ verification as proposed by the Commission and the Council.

We regret that there are no proposals allowing consumers to compare their current contract with other offers in an easy way as majority of consumers already have contract with a supplier. Proposals enabling consumers to compare quality of service, complaint-handling procedures and level of consumer satisfaction are also missing.

**BEUC demands:**

- Support the Council's proposal to include the criteria on comparison tools in Article 14.
- Adopt the Parliament's amendment 64 so that these tools allow also comparison of bundled offers, dynamic price contracts and aggregators' offers.
- Adopt the Council's text for Article 14(1)(f) to ensure that at least one tool provides an overview of the whole market.
- Adopt Parliament's amendments 178, 179, 180, 181, 182 and 183 requesting the independence of comparison tools from all market players as well as an easy access to information on how the tool is financed and on services.
- Adopt the Parliament's amendment 66 on mandatory certification of comparison tools.

### 3.6. Active customers (Article 15) & Energy communities (Article 16)

To avoid limiting the business models for aggregators, **BEUC recommends deleting the proposal of the Parliament according to which "the economic risk connected to the operation of the installation remains with the active consumer"**. We are concerned that this will limit the type of services that could be provided to household consumers by aggregators, and similarly limit innovative models (for example, those wishing to share both the risks and benefits amongst consumers and aggregators). Similarly, it might not allow for insurance contracts against bad functioning of the installation with the third party providing the operation.

Net metering has been helpful to introduce solar panels to consumers in some European countries – and it could still be considered for those countries where the market has not started. Net metering measures should be allowed – these measures could consider a separate process, but this should be at the discretion of the Member State. The Council's proposal to account separately for the electricity fed to the grid and consumed from the grid will limit the option for Member States to use net metering (new paragraph 1a (e)).

To ensure coherence, the article should not address directly areas that are core of the Electricity Regulation. The balancing responsibilities are addressed in Article 4 of the Electricity Regulation and this article should not restrict them further – notably household self-consumers should be exempt of these responsibilities, hence paragraph 1a (f) from the Council's text should be deleted.

Consumers should be able to participate in a voluntary and open manner to Energy Communities. This includes to be able to be supplied by these organisations, or to become active members or shareholders. Where local communities supply electricity to final household consumers, they should have the same obligations as any other electricity supplier (for example on bills, switching obligations and termination fees).

#### BEUC demands:

- Delete the Parliament's amendment 68 according to which "the economic risk connected to the operation of the installation remains with the active consumer".
- Delete the Council's proposal on paragraphs 1a (e) and 1a (f).
- When supplying electricity to final customers, local communities should have the same obligations as any other supplier.

### 3.7. Demand response through aggregation (Article 17)

Making energy markets more flexible could allow the integration of more renewables into the system, offer consumers innovative services and help to avoid building additional power plants, thereby reduce overall system costs. Demand response schemes for household consumers can bring some of this flexibility. **Signing up to demand response schemes through aggregators should always be voluntary for consumers. Regulatory authorities should not be obliged to encourage all consumers to engage with demand response schemes.** We welcome the modification of this requirement by both the Parliament and the Council.

Demand response services will require more granular personal data from consumers as smart appliances and intelligent energy management devices will allow the remote adjustment of electricity consumption. Connected devices used in the home energy management make it technically possible to store and process consumers' personal data which can provide a detailed insight into households' private sphere. **The collection and processing of consumers' personal data should be subject to their explicit consent and in accordance with the General Data Protection Regulation.**

Consumers should be financially remunerated for their flexibility and the overall benefits from the use of flexible electricity consumption in terms of lower system costs should be passed to all consumers. **Households should not bear the cost of payments or compensations between market operators.** If there is a verified need for financial arrangements between market operators these should be financed through the benefits accrued by all market operators. Consumers should not face undue payments, penalties or other undue contractual restrictions. In this respect, we welcome the Council's and the Parliament's texts.

#### BEUC demands:

- Adopt the Parliament's amendment 80 and the Council's text on Article 17.1. to ensure consumers opt for offers most suitable for them.
- Support the Parliament's amendment 84 on protecting not only commercial but also customers' personal data.
- Adopt the Council's proposal on Article 17.3 (dc) as well as the Parliament's amendment 88 so that household consumers contracting with an independent aggregator do not face undue payments, penalties or other undue contractual restrictions from their suppliers.

### 3.8. Bills and billing information (Article 18)

The energy bill is currently the main communication tool between an energy supplier and a consumer. However, consumers still find their energy bills confusing and unclear bills are the main reason for consumer complaints.<sup>10</sup> Consumers often do not receive essential information for them to better understand and manage their energy consumption.<sup>11</sup> The Electricity Directive includes proposals that are needed to further improve energy bills and billing information. This underscores that unclear bills are a continuous, EU-wide problem which needs to be addressed both at the EU and national level.

Energy bills and billing information should include easily understandable and consistent language, charts instead of tables and action-oriented information should stand out. The consumers' reaction should be monitored for instance by analysing complaints, calls to customer service and carry out surveys.

Article 18 of the Electricity Directive stipulates what information should be provided by suppliers. However, we are concerned that this Article seems not to apply to energy service providers such as aggregators which should also be the subject to all information and billing requirements. Therefore, **additional provisions are needed to ensure consumers are well informed not only by suppliers but also by aggregators.**

**Energy bills and billing information should be clear, accurate, user-friendly, provided free of charge and should include the key information so that consumers can compare offers and switch suppliers.** Where technically possible, billing information based on actual consumption should be provided to consumers monthly. This can be particularly useful for vulnerable consumers. While bills and billing information should be accurate and up to date, consumers should be free to choose if they pay as they consume or a fixed amount every month.

Consumers will value information on better deals. **Electricity supplier should include on its bill an evaluation describing which of its tariffs would be most advantageous for the final customer** if the consumption pattern of the previous year is repeated.

Important changes in offers (such as if the contract includes a future change of product or price or a discount) should be clearly indicated on the bill together with the date when the change applies. A separate notification about this change shall be sent to customers prior to the effective date.

When changes to the energy bill and a possible new format is discussed by Member States, consumer organisations should be involved in the process, including when the bills are tested.

---

<sup>10</sup> In 2016, NEON (National Energy Ombudsmen Network) handled together 103,835 energy-related disputes in 2016. Majority of disputes deal with invoicing and (e-)billing (34%), metering issues (14%), commercial practices (12%), and provider change/switching (11%).

<sup>11</sup> Energy billing: Landscape report an summary of good practice, BEUC, 2017 (see especially p. 2, 3), available at: [http://www.beuc.eu/publications/beuc-x-2017-058\\_mst\\_clear\\_energy\\_bill\\_initiative\\_-\\_beuc\\_input.pdf](http://www.beuc.eu/publications/beuc-x-2017-058_mst_clear_energy_bill_initiative_-_beuc_input.pdf)

We welcome the Commission's approach on minimum information that should be provided in the bill, but some minimum requirements can be improved by the Parliament's amendments such as when the payment is due.

#### **BEUC demands:**

- Support the Commission's and the Parliament's text to keep some key provisions on bills and billing information such as billing frequency in Article 18. Annex II should provide the minimum requirements for billing and billing information.
- Adopt the Council's text on the first part of Article 18.1. "bills and billing information are accurate, easy to understand".
- Delete "on request" in the Council's text on Article 18.1. and the Commission's text on Article 18.6. according to which consumers should receive a clear explanation of how their bills were calculated only on request.
- Support the Parliament's amendment 91 on monthly consumption information and oppose the Council's text on Annex II, 1a(d) on frequency of billing information.
- Support flexible arrangements for payments as proposed by the Commission on Article 18.7. and the Council on 18.6.
- Adopt the Parliament's amendment 96 so that consumers are informed about better offer by their supplier.
- Support the Parliament's amendment 94 to ensure consumers are informed about a future change of product or price.
- Support Parliament's amendment 95 to consult consumer organisations when a new format of energy bills is developed.
- Support the Commission's text on Annex II together with Parliament's amendments 186, 187, 189 and 197. Support amendments 192 and merge it with amendment 191 to allow alternative options for billing requirements. Also, the contact details as proposed in Annex II 1(d) should include a consumer support hotline as well as free hotline for technical assistance.

### **3.9. Smart metering (Article 19)**

First of all, **consumers should be able to decide whether or not they would like to have a smart meter and have the possibility to switch off advanced capabilities** (i.e. operate their smart meter as a conventional meter). This choice is missing in current proposals.

While Article 20 'Smart metering functionalities' includes in point (f) that advice and information should be provided to consumers before or at the time of the smart meter installation, this proposal is insufficient to raise consumer awareness about the rollout. **The rollout of smart meters should be supported by a tailored advice programme that ensures consumers know how to make savings** and how far this is supported by their own housing type.<sup>12</sup>

<sup>12</sup> According to the research by BEUC member, Citizens Advice, (Early consumer experiences of smart meters (2016) Citizens Advice & Vulnerable consumers and the smart meter rollout: Analysis of information request (2015) Citizens Advice), installers of smart meters provide very different levels of service and do not always take the time to explain the new device's functionality.

Where smart meters are rolled-out, Member States should establish a solid legal and regulatory framework in order to **guarantee that the roll-out is cost efficient and that costs and benefits are fairly shared among those who benefit and that consumers do benefit from having a smart meter.**

Last but not least, as the rollout of smart meters is ongoing in several Member States and the costs of the rollout are passed on to consumers, replacing meters when a new functionality comes in would increase the costs for consumers.

#### **BEUC demands:**

- Insert new text ensuring consumers are informed ahead of the smart meter rollout: *"Member States through National Regulatory Authorities and in consultation with consumer bodies and other relevant organisations, shall develop guidelines for the provision of clear and understandable information and advice to consumers about the link between smart meters, new contracts and services by aggregators and the changes in the energy system, tailor-made to different customer segments. This should:*
  - *include advice on how all customer groups can use their Smart Metering System to improve their energy efficiency,*
  - *establish industry wide standards to address the specific needs of vulnerable customers such as visually impaired, hearing impaired, and those with low levels of literacy,*
  - *include local engagement strategies to enlist support of authorities and support services to explain how smart appliances can benefit vulnerable customers."*
- Adopt the Parliament's amendment 97 stressing cost-effectiveness and interoperability of smart meters with consumer energy management systems and smart home components.
- Support the Parliament's amendment 99 to ensure fair cost sharing as well as to monitor consumer satisfaction with the deployment and savings achieved by consumers.
- Support the Council's proposal on Article 19(4) to monitor delivery of benefits to consumers. The monitoring of benefits and savings achieved by consumers should also be reflected in Article 21(2c).
- Adopt the Parliament's amendment 98 and the Council's text on Article 19(5a) so that smart metering provisions set in this Directive apply only when meters are replaced.

### **3.10. Smart metering functionalities (Article 20)**

Where smart meters are rolled out, consumers should be informed about their actual electricity consumption and related costs. This information should be provided in a clear and understandable manner so that consumers can make more efficient consumption choices.

While both the Council and the Parliament refer to 'validated' and 'non-validated/unvalidated' consumption information, there is a need to clarify both terms and the way this data is communicated to consumers. **Consumers should receive (non-validated) near-real time (defined down to seconds) information on their actual electricity consumption at no cost** to ensure that the information is useful for them. Such information should be visually attractive and communicated to consumers through an

interface to enable them to engage with smart meters. Member States should analyse different ways of communicating consumption information so that consumers receive information in a user-friendly way and via the interfaces of their choice. (Validated) **information on historical consumption should also be available either through an interface or other channels at no additional costs.** Those consumers who do not have an Internet access should be provided with alternative solutions.

Moreover, **the consumer must have the right to access and control all the data generated by the smart meter and other smart devices at home.** Each party requesting the data has to provide justification why the data is needed and should access data only after the explicit consent of the consumer. As owners of the data, consumers should be able to get hold of a copy of all their data free of charge and in a format which is useful for them and which they can use and share with other service providers, in order to be able to switch or subscribe to third party services.

**Cybersecurity requirements should always aim for a high level of security for consumers.** To ensure a high-level of security by design and by default, a minimum set of requirements for security should be binding for all connected products as a condition for putting them on the market. We oppose the Council's proposal according to which the security of the smart metering systems and data communication and the highest level of cybersecurity should be ensured bearing in mind the costs and principles of proportionality. Security flaws create a risk to the consumers' privacy, security and safety. **The security of smart meters should not be addressed in terms of cost. Security should rather be perceived as a fundamental principle that needs to be guaranteed by default.**

The proposals also fail to address the risks related to the remote switch off capability of smart meters and we call on co-legislators to put necessary consumer protections in place.

The methodology for a cost-benefit analysis set in Annex III should be consistent across the EU.

#### **BEUC demands:**

- Clarify the Council's and the Parliament's texts on Article 20(a) with regards to "validated" and "unvalidated/non-validated" data. Non-validated near-real time consumption data should be freely available through an interface. Validated historical consumption data should be freely available.
- Delete the Council's text on Article 20(b) as this would undermine the security of the smart metering systems as well as the highest level of cybersecurity.
- Adopt the Parliament's amendment 103 so that consumers know who has access to their data. This should apply to all data generated by the smart meter so "personal" should be deleted in amendment 103.
- Adopt the Parliament's amendment 104 on data portability.
- Support the Parliament's amendment 198 on Annex III to ensure that the methodology for a cost-benefit analysis is consistent across the EU.

### 3.11. Data management (Article 23)

Final customers should be able to easily verify who has access to their data. **Each party requesting data of the final customer should provide justification why the data is needed and shall access data only after the explicit consent of the final customer** which should be valid only for the duration of the contractual relationship between the customer and the service provider, aggregator or intermediaries.

No additional costs should be charged to final customers for access to their data or requesting a transfer of their data. Regulated entities which provide data services should not profit from that activity.

#### BEUC demands:

- Support the second part of Parliament's amendment 108 so that consumers know who has access to their data.
- Support the Commission's and the Parliament's text on Article 23.1. to provide access to consumer's data only with consumer explicit consent. Oppose the Council's text on Article 23.1. and 23.2.
- Adopt the Parliament's amendment 109 to ensure data protection, data security, transparency, neutrality and data integrity.
- Adopt the Commission's and the Parliament's text on Article 23.4. according to which regulated entities providing data services should not profit from that activity. Consumers should not be charged for accessing or transferring their data.

### 3.12. Single points of contact (Article 25)

Awareness about single points of contact should be raised and consumers should be provided with a satisfactory and swift answer to their claims. Single points of contact should provide clear information on consumer rights, advice about basic energy services and help consumers find accredited comparison tools or accredited service providers in their area. **The scope of the single points of contact should be enlarged and provide all relevant information, including dispute settlement with different service providers** (suppliers, aggregators, energy service providers and other intermediaries).

#### BEUC demand:

- Adopt the Parliament's amendment 113 so that single contact point provides consumers information on their rights and on the means of dispute settlement with suppliers, service providers aggregators and when consumers experience problems with bundled services.

### 3.13. Right to out-of-court settlement (Article 26)

Consumers should always have access to speedy and effective complaint handling procedures and to an independent mechanism such as an energy ombudsman in order to address any possible dispute with their service providers. New technologies, more bundled offers and innovative services provided by a variety of service providers may result in complex complaints. **Independent Alternative Dispute Resolution schemes should be in place to address consumer complaints in the energy market, including the settlement of disputes involving different market players whose participation should be mandatory.** Consumers should receive information on the Alternative Dispute Resolution schemes and Member States should regularly assess the functioning of these mechanisms.

#### BEUC demand:

- Adopt the Parliament's amendment 114 so that out-of-court dispute mechanisms are extended to contracts with energy components, bundled offers as well as all energy service providers, aggregators and new market players whose participation should be mandatory. Consumers should be informed about the possibility of the out-of-court dispute settlement mechanisms.

### 3.14. Energy poverty (Article 29)

There are significant differences among Member States with regards to protecting energy poor consumers and those in vulnerable situations. Several national consumer organisations report the absence of adequate policies and protections. BEUC welcomes the Parliament's approach and opposes the Council's proposal on Article 29.

**Member States should define a set of criteria to measure energy poverty in the energy market, analyse if these consumers are sufficiently protected, add protections where needed** (esp. in case of a market deregulation process) **and report on measures taken.** The data should (over a short time period) be made comparable across countries in order to allow different countries to make comparisons of best practice and ensure transferability of results from pilot projects. The quality of these datasets (e.g. on housing stock, income and living conditions) will also determines the opportunity to exchange best practice between Member States of initiatives to address energy poverty.

#### BEUC demands:

- Adopt the Parliament's amendment 117 to ensure Member States define a set of criteria to measure energy poverty, monitor and analyse if energy poor households are sufficiently protected as well as report on measures taken to address energy poverty.

#### 4. Chapter IV: Distribution System Operation (Articles 31, 32, 36)

---

**Distribution System Operators (DSOs) should act as neutral market facilitators, procuring services according to transparent, non-discriminatory and market-based procedures.** This is the spirit in all the proposals in Article 31.

Using flexibility services can reduce the costs of grid operation, allowing DSOs to choose from wider services that also meet other EU objectives, such as decarbonisation and efficiency. The effective procurement and use of those services is key, and as such, we support the proposal of the Council in Article 32 to **have oversight by the National Regulatory Authority of the use of flexibility by DSO's.**

The network development plan is an important tool for transparency and for accessing relevant information by market participants. **The Council's text on services planification and its publication in Article 32 will reinforce the purposes of the development plan.** The network development plan shall contain the planned investments, with particular focus on the main distribution infrastructure, including **energy efficiency, demand response and energy storage** as proposed by the Parliament. A consultation by the National Regulatory Authority, rather than by the DSO is more adequate, as proposed by the Commission and supported by the Parliament in Article 32.

When operating outside of their natural monopoly role, e.g. in energy storage, the DSOs need to be strongly regulated in order not to limit competition in the energy market. Amongst others, **BEUC opposes the proposal by the Council to allow ownership of storage in case of "integrated network components"** unless they are well-defined and a service that cannot be provided by a third party.

**BEUC demand:**

- Support first part of the Parliament's amendment 118 to ensure the Distribution System Operators act as neutral market facilitators.
- Reinforce the National Regulatory Authority's oversight with regards to the use of flexible services and the network development plans as proposed by Council in Article 32.
- Support the Parliament's amendment 121 on the network development plan that should include also planned investments in energy efficiency, demand response and energy storage.
- Avoid exemptions for DSO ownership of storage as proposed by the Council in Article 36.

## 5. Chapter VII: National Regulatory Authorities

---

### 5.1. Designation and independence of regulatory authorities (Article 57)

**National Regulatory Authorities (NRAs) should be fully independent, both financially and politically,** from any other public or private interests and be empowered to issue binding decisions and penalties.

**BEUC demand:**

- Support the Parliament's amendment 157 requesting the Commission to present a report on national authorities' independence and specify that NRAs should act independently not only from any market interest but also from any political interest.

### 5.2. General objectives of the regulatory authority (Article 58)

National Regulatory Authorities (NRAs) should have consumers at their heart. As new business models develop and electricity offers are bundled with other services, the overlap with different sectors is increasing. Consumer protection is a key part of consumer rights. **Regulators should work efficiently across sectors and clarify responsibilities amongst them and with consumers, so that consumers know who they need to contact.**

Also, individual household customers will find it difficult to engage directly with regulatory and consumer organisations are well placed to represent consumers' interests. Therefore, regulators should closely collaborate with consumer representative bodies to promote consumer engagement in the development of energy policies and address consumer expectations during the integration of energy markets.

**BEUC demands:**

- Adopt the Parliament's amendment 158 (paragraph g) that NRAs should ensure that consumers can participate in electricity markets and are protected through a close cooperation with consumer protection authorities. However, general objectives of NRAs should also include:
  - *"ensuring customers benefit from the efficient functioning of national markets overlapping with other electricity markets; where cross-sectorial issues arise, competencies among regulators and authorities across sector shall be clarified so that consumers know whom to contact and are provided with cost-efficient solutions;*
  - *protecting the interest of consumers by consulting and cooperating with all relevant consumer bodies to understand consumers' interest and preferences."*

### 5.3. Duties and powers of the regulatory authority (Article 59)

**NRAs should closely monitor the evolution of households' electricity bills as well as arising new business models, the impact of smart technologies and dynamic electricity price contracts on household consumers** to ensure they are adequately protected in electricity markets. Regulators should intervene if the prices do not reflect wholesale market trends, or if there is an unexplained increase in retail prices or price differential that is not explained by different underpinning costs (including if the increase affects specific groups of consumers such as one payment method).

NRAs should ensure network tariffs are cost reflective and account for the benefits and costs that specific consumers bring into the network, whilst avoiding those in vulnerable situation bear the burden of the costs.

NRAs should step up their monitoring with regards to consumers' participation in electricity markets, especially by opting for demand-side flexibility schemes and by producing electricity in their homes.

**BEUC demand:**

- Support the Parliament's amendment 159, 161 and 162 so that the impact of dynamic price contracts and smart meters on consumers is monitored together with consumers' participation in electricity markets.

END



*This publication is part of an activity which has received funding under an operating grant from the European Union's Consumer Programme (2014-2020).*

*The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Consumers, Health, Agriculture and Food Executive Agency or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.*