

DRAFT GUIDELINE OF GOOD PRACTICE ON RETAIL MARKET DESIGN, WITH A FOCUS ON SUPPLIER SWITCHING AND BILLING


CEER public consultation

BEUC response

Contact: Monika Stajnarova – energy@beuc.eu

Ref.: X/2011/094 - 15/09/11

BEUC, the European Consumers' Organisation
80 rue d'Arlon, 1040 Bruxelles - +32 2 743 15 90 - www.beuc.eu

 EC register for interest representatives: identification number 9505781573-45 

Summary

- A well-functioning retail market needs better informed consumers to really benefit from competition, be able to compare information on consumption and costs, and have total awareness of their rights. Therefore, our key demands are:
- The switch should be possible within less than 3 weeks as the process becomes faster especially with the deployment of smart meters. Therefore, we believe the switch should be executed within 24 hours or as soon as the technology allows as this will help consumers as well as foster market competition.
 - The bill must be clear and concise, in order to facilitate comparability of offers and prices and must provide all relevant information to consumers, including precise information in case the consumer has a question or wants to complain about her/his energy bill. It is also important that consumer protection, functioning of single point of contact and redress mechanisms are effective in the energy sector.

1) The supplier should be the main point of contact for the customer

Agree

Please, give your comment:

First of all, notwithstanding different systems applicable in the EU Member states, it should always be clear to consumers whom to contact when any kind of problem arises. However, as also stated in *CEER's summary on national practices in retail market design*¹, the supplier-centric model prevails across the EU. As consumers should be primarily in contact with the company sending her/him the bill, we believe that, given the current practise, the supplier should be considered as the main point of contact.

However, as the DSO is often the contact point for consumers in case of technical problems, it is important that consumers get a clear information whom to contact if needed as energy market structures is currently seen by consumers as unclear and non-transparent. From this point of view, the single point of contact (as required by Directives 2009/72/EC and 2009/73/EC) should play a key role when guiding consumers and providing them with information on their rights and on dispute settlement, ADR bodies and their role.

2) The contract should always be offered to the customer in written form

Agree

Please, give your comment:

We agree that the supplier should always provide the consumer with the contract in writing. We note that 2011 Consumer Rights Directive² (to be finally adopted in October 2011) is applicable to energy contracts (electricity, gas) and that it contains a series of specific contract law provisions for consumer energy contracts.

We consider that also the pre-contractual information requirements as listed in the Consumer Rights Directive Art 5 and Art 7 and 8, which must be provided by the company before the conclusion of the contract, should also be always provided in writing.

3) A switch should be executed within less than three weeks. The switch should be executed within:

Under 1 week

¹ http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/Retail_market_design/CD/C11-RMF-35-03_National%20practices%20Retail%20Market%20Design_5%20July%202011.pdf

² As agreed during the trialog among the European Commission, the European Parliament and the Council in June 2011.

Please, give your comment:

BEUC believes the switch should be possible within less than 3 weeks as the process becomes faster especially with the deployment of smart meters. Therefore, we believe that switching process should start counting after the consumer notifies that s/he wants to terminate the contract. The switch should be executed within 24 hours or as soon as the technology allows as this will help consumers as well as foster market competition.³

In case of distance and off-premises contracts, consumers may benefit from a cooling off period. This should however be understood as a separate issue.

Moreover, the consumer is very often not properly informed about the exact switching date and when exactly the new tariff applies. As also reported by some of our members, there seems to be a lack of communication between suppliers during the switching process. As a consequence, consumers often still receive the bill from their previous as well as their new energy provider and are confused whom to address the payment to. To conclude, it should be also ensured that the consumer is not disconnected before s/he is connected with the new supplier.

4) A switch should be possible any day of the week

Agree

Please, give your comment:

In general, consumers should be able to switch any time they like and the switching period should be as short as possible. Therefore, we agree with CEER's recommendation that a switch should take place any day of the week.

5) There should be a regulated framework for meter value management, meaning a standardised electronic format and timetables for data exchange

Agree

Please, give your comment:

As rightly pointed out in *CEER's draft Guidelines of Good Practice*, this has not yet been addressed in any legislative proposal and therefore the process is still led by the market actors. In order to ensure that the switching process goes smoothly and without any delay, there should be a harmonized model/standard of data exchange for switching. This should be addressed by setting a data format with common minimum information exchanged between old supplier, grid operator and new supplier (such as metering ID, date of switch, consumption profile etc.) in order for companies to be aware of how much time they are allowed to undergo the next steps in the switching process, as well as of the electronic format they should use.

³ For instance, Consumer Focus online survey of 2048 customers (March 2010) found that 78% of consumers said it should take three weeks or less to switch supplier: 15% said maximum three weeks, 35% wanted a maximum one week and 28% as soon as the technology allows – preferably same day.

6) The supplier should give information on the offers in a clear and concise manner

Agree

Please, give your comment:

First of all, a desirable well-functioning retail market needs better informed consumers to really benefit from competition, be able to compare information on consumption and costs, and have total awareness of their rights and means of dispute resolution. Consumers' trust and confidence in the market is also crucial, although the present situation shows that the energy market is one of the worst performing for consumers.

Whilst from a technical perspective, switching has become easier in many countries, non-interoperable smart meters make switching more challenging, especially for prepayment meter customers. Furthermore, the relevant information enabling consumers to choose between competing suppliers is not easily accessible and understandable. Given the tariff complexity and non-comparability of offers, the switching rate is very low. As also concluded by *2009 Consumer Markets Scoreboard*⁴, only 7% of consumers switched energy providers (between 2007-2009) while less than two thirds of consumers are satisfied with their supplier. Moreover, as reported for instance by our UK member, around 60% of consumers say they have never changed their energy supplier. As reported also by the UK regulator, only 60% of switchers achieve a price reduction when they switch supplier – yet people are primarily motivated by price when they make a decision to switch. However, it is worth mentioning that the energy sector also has the highest proportion of consumers that do not know if they have switched to a better deal.

As mentioned in the Commission's report *'The functioning of the retail electricity markets for consumers in the EU*⁵, mystery shoppers conducting the study managed to find a less expensive tariff in more than six cases out of ten (62%). The report further explains that if properly informed, each consumer could save around €100 by switching to the cheapest offer suitable for them. However, according to the research concluded by our Belgian member Test-Achats, consumers could save even more as the gap between the rates of the most expensive energy providers and the cheapest providers in Belgium can be even €400 in an average consumption per year⁶. Therefore, suppliers should actively communicate with their customers and provide clear information in a way in which tariffs are transparent enough for consumers to make well informed tariff-switching decisions. Suppliers should not only provide information on offers in a clear and concise manner but information must be in a common format across all suppliers so as to enable the customer to compare deals on a like for like basis. Suppliers could also provide customers with cost projections, based on their actual usage over a number of seasons.⁷

⁴ http://ec.europa.eu/consumers/strategy/docs/2nd_cons_scoreboard_en.pdf

⁵ http://ec.europa.eu/consumers/strategy/docs/SWD_function_of_retail_electricity_en.pdf

⁶ <http://www.test-achats.be/energie/gaz-et-electricite-comparaison-nationale-et-internationale-des-couts-s730173.htm>

⁷ For example a customer may find it hard to establish if they will be better off on a given multiple rate time of use tariff, without this kind of projection. Customers often don't know when they are using energy e.g. they think they don't use energy at night.

Moreover, when searching for a better deal, consumers may use price comparison tools available online to compare the different offers of energy suppliers in a particular region. However, the structure and information provided to consumers must be impartial, up to date and accurate in order to support consumer choice and to allow consumers to switch to a better deal. A good price comparison tool should include all available tariffs offered in the market the website is dealing with as well as the possibility – provided by the search options - to find the tariff the consumer is looking for and to be able to switch directly via the price comparison website.

The wide deployment of smart meters will facilitate the introduction of a range of new tariffs (such as multiple rate time of use tariffs, more localised pricing, and energy services packages). Whilst this increase in consumer choice is welcome, there is the potential to increase complexity in the market, making it harder and more confusing for the customer to find the best deal. Consequently, appropriate steps must be taken to ensure that consumers have the tools to navigate what is likely to be an increasingly complex market. Therefore, BEUC calls on the regulators to act and to ensure tariffs are more transparent and comparable to help people understand and cut their energy use and costs.

7) The number of possibilities to stop a switch from proceeding should be very limited. Which stakeholder should be able to stop a switch?

Other

Please, give your comment:

As a general rule, the consumer should always have the right to stop the switching process. However, the supplier currently may be able to do it as well, for example if the consumer has a debt with the company. Those situations should be limited and regulated accordingly by the public authorities so that the debt or credit on customer's account is settled with the old supplier and the switch is not prevented.

In addition, the clauses in the contract that could limit the consumer's right to stop the switching process should be subject to the unfairness test under the existing contract terms legislation.

8) Information on how to make an enquiry and on how to launch a complaint specifically regarding switching should be clearly displayed on the contract with the new supplier

Agree

Please, give your comment:

First of all, the consumer should always be informed in the contract terms about the complaint handling of the supplier. These procedures must describe the internal complaint handling process within the company, and provide details of the independent ADR/Energy Ombudsman (where appropriate) so that consumer knows where to turn to in case he is not satisfied with the solution provided by the company. It should always be indicated if the supplier is part of an alternative dispute resolution scheme. Some of our members also reported that complaint handling procedures are not working sufficiently and recommended that suppliers should carry out an internal review of these to maximise consumer awareness of the redress arrangements and improve consistency and standardisation across the industry. However, this should not be the only means by which the consumer is informed as the contract terms are very often too complicated and thus not so understandable. Therefore, BEUC recommends simplifying the contract terms so that they are more understandable for consumers.

Secondly, consumers should always have at his disposal different means of information which should be easily accessible. Complaint handling standards require suppliers to put in place complaint handling procedures and what kind of sources of independent advice and help are available and signpost these also on the back of bills/annual statements, on a clear and prominent location on their websites and in writing if they demand so.

Thirdly, in many countries (especially in Central and Eastern Europe) there are no independent alternative dispute resolution schemes apart from the internal complaint handling of the supplier. This is of course a limitation to consumers and therefore an independent mechanism (as required by the Third Energy Package) respecting the principles established in the EC Recommendations on ADR⁸ should be required. Finally, a way to better handle complaints when the provider and the DSO are involved has to be found as well.

9) The supplier should always be the first point of contact for questions regarding switching

Agree

Please, give your comment:

Suppliers should be considered as the main contact to whom the consumer may address her/his questions regarding switching. However, consumers may seek more general information and advice on switching via centres or other parties providing independent advice, such as via price comparison websites as well as via the website of national consumer organisations. These sources of information should be detailed on any communications/literature relating to switching.

⁸ Commission Recommendation No 98/257/EC on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes, OJ L 115, 17.04.1998, p.31.; Commission Recommendation No 2001/310/EC on the principles for out-of-court bodies involved in the consensual resolution of consumer ADR, OJ L 109, 19.04.2001, p.56;

10) The supplier should be the main point of contact for the customer when moving in or moving out

Agree

Please, give your comment:

Indeed, before the consumer moves house, s/he should inform her/his current energy supplier and ask her/his supplier if it is possible to continue the contract under the new address. In case the old supplier does not offer the service in the new region, the consumer informs the old supplier about the moving date and the new address where the final bill should be sent. Consequently, the consumer should keep a record of meter readings and communicate this information to the supplier (this however becomes irrelevant once the household is equipped by smart meter). The supplier should only arrange for a meter reading if the reading provided by the consumer is inconsistent with previous meter readings.

It is equally important that there is a supplier at the new property when the consumer moves in – nobody should be without access to energy. For practical reasons, this should be the supplier contracted by the previous occupants, subject to the following conditions:

- The name of the supplier and the type of tariff is clearly communicated to the new occupant;
- The new occupant is reminded of their right to switch supplier and/or tariff if they wish so;
- The new occupant faces no financial penalties for switching supplier and/or tariff.

11) Combined billing provided by the supplier should be the standard

Agree

Please, give your comment:

There is no prescription in the EU legislation on how tasks should be divided between suppliers and DSOs but in what concerns billing, the majority of models applied across the EU are either mandatory or voluntary combined billing provided by the supplier. Therefore, we agree with CEER's recommendation that combined billing by the supplier should be considered as a standard.

12) The final bill⁹ should be sent out by the old supplier within less than six weeks

Less than two weeks

⁹ The last bill the customer receives from the old supplier after making a switch or moving.

Please, give your comment:

Different practices are applied across the EU and consumers usually wait for the final bill between 4 and 8 weeks. Such a period becomes however irrelevant while using available technologies. Moreover, in many countries this area is still not regulated, consumers have to wait and very often receive the final bill with a huge delay. Therefore, the question could be phrased differently and focus on when the consumer receives the bill. Thus, BEUC asks the European regulators to take a proactive approach – clearly state the starting date and set a maximum period of two weeks the final bill should be received.

13) When advanced payment is used, the customer should be clearly informed about the methodology used to calculate the advance payment

Agree

Please, give your comment:

We do agree that consumers should be provided with clear information about the methodology used. This could be done before the conclusion of the contract. Moreover, advanced payment often involves long term contracts. But what happens if the company increases the price during the period and the consumer therefore terminates the contract? The method should be clear about how the company calculates the price in that case. Therefore the transparency and simplicity of the information is essential as mentioning the complex equations on the bill may not be completely understandable but even more confusing.

14) The customer should be offered different payment methods, including at least one payment method which is easily accessible for the customer

Agree

Please, give your comment:

The consumer should be offered a choice of payment methods and the option to pay monthly, quarterly etc., a variable or fixed amount to help them budget over the year.

We do agree with CEER's recommendation that there should be at least one payment method all consumers (i.e. not only low income households and vulnerable consumers) can access free of charge without any difficulties.

Suppliers should usually accept payment by the following methods: Cash, Cheque (where relevant), Direct debit, Standing order, Pre payment meter, Credit/debit card, Online and Payment cards but we would like to highlight that it should always be only up to the consumer to choose what kind of payment method is the most suitable for her/him.

15) The customer should always have a choice in the frequency for billing

Agree

Please, give your comment:

A bill as a statement of account is one of the main tools to inform consumers about their energy usage and cost. Currently, consumers often receive over long periods bills only based on estimation, which are very often not understandable and comparable. At the end of that period, when the balance has to be paid out, there can then be bill shocks which are even more important as the consumption period the bills are based is long. Therefore, we believe consumers should be provided with bills reflecting real consumption regularly enough, such as on a monthly basis. This shall however not prejudice the customer's right to pay a fixed rate on a regular basis.

16) The supplier should always be the first point of contact for issues regarding the bill

Agree

Please, give your comment:

Clear bills, accurate consumption information and the availability of offers are the key for consumers to become active players on the energy market. However, in reality consumers are very often confused by the information provided on the energy bill. Therefore, BEUC believes that the supplier is the right point of contact where the consumers should address their questions related to their bills.

For instance, as reported by our Belgian member Test-Achats, almost half of the complaints in the energy sector relate to billing. In the UK, the top 20 questions about energy all relate to billing. Moreover, as also concluded by the Commission's report *'The functioning of the retail electricity markets for consumers in the EU'*¹⁰, around half of European consumers still struggle to find the vital information they need. Moreover, only 25% of survey respondents found it easy to identify and understand additional information related to energy savings, whom to contact in case of problem or information on switching. There is also a lack of clarity regarding the information provided on the reconciliation bill which makes them less aware of the energy they consume and they are supposed to pay for.

Therefore, we do believe the supplier should take a proactive approach and ensure the energy bills are clear, accurate, well-structured and understandable. In our view, the suppliers should intensively communicate with their customers and seek their opinion. In order to improve the overall understanding of the energy bill, consumer testing should be used.

¹⁰ http://ec.europa.eu/consumers/strategy/docs/SWD_function_of_retail_electricity_en.pdf

17) Information on making an enquiry or launching a complaint specifically about the content of the bill should be clearly displayed on the bill

Agree

Please, give your comment:

The bill must be clear and concise, in order to facilitate comparability of offers and prices and must provide all relevant information to consumers, including precise information in case the consumer has a question or wants to complain about her/his energy bill.

It is also important that consumer protection, functioning of single point of contact and redress mechanisms are effective in the energy sector. Moreover, consideration should be given to the impact of increasing convergence of markets.¹¹

To conclude, we recommend a review of billing practices across Europe which will identify the best practices and support minimum standards for the bills.

END

¹¹ As we move towards smart homes we are likely to see a convergence of retail, telecoms, and energy markets.