

The Consumer Voice in Europe

ENERGY MARKETS OF THE FUTURE:

HOW THE EU'S ENERGY TRANSITION SHOULD WORK FOR CONSUMERS

BEUC policy paper



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Why it matters to consumers

Energy is a vital commodity which consumers need for heating/cooling their homes or powering their appliances. However, millions of consumers are struggling to pay their energy bills. Many also find it difficult to understand basic elements of the energy market like their bills, why prices keep going up or how they can exercise their rights. Energy markets are undergoing profound changes with more renewable energy and smart technologies and services starting to emerge, which are creating new opportunities but also new challenges for consumers for instance in terms of complexity and privacy protection.

Summary

BEUC welcomes the European Commission's 'Clean Energy for All Europeans' package as a first positive step towards improving the conditions for consumers within the energy market.

To build a consumer-centric energy market which is flexible and allows consumers to easily navigate, engage and benefit from it, EU co-legislators must seize the opportunity posed by the 'Clean Energy for All Europeans' package to:

- **Guarantee consumers can easily navigate the energy market** through transparent and easily comparable offers, clear contracts, accurate bills in a user-friendly format. There should also be easy access to independent, impartial and accredited comparison tools which allow a comparison of the current contract with other contracts and include additional information on offers. Switching suppliers should be smooth and faster without any fees. Doorstep selling in the energy sector should be banned and people's privacy must be protected.
- **Modernise the consumer rights framework to support consumers' participation in flexible electricity markets.** The existing consumer protections should be extended to all third party intermediaries, including new generation energy service providers such as aggregators. These service providers should for instance regularly provide information on the load curtailed and dynamic price contracts should include clear explanations about the financial risk of such contracts. 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. Those who do not participate should not be penalised.
- **Enable consumers to engage in the energy market** by making it easy for those consumers who are interested in producing their own electricity to install self-generation technologies, access the grid and be able to sell excess electricity that they do not consume. They should be able to consume electricity they produce in-house without any burden. Tenants should also be enabled to engage in renewables.
- **Ensure effective market surveillance and dispute resolution** by reinforcing powers and enlarging the monitoring duties of regulators to respond to new challenges resulting from new technologies, new services and possible cross-sectoral issues which will require cooperation among regulatory authorities and dispute resolution bodies across sectors. Since roles of current market players are changing and new actors will enter the market, a strong regulatory oversight is necessary.

1. Introduction

The energy transition that the EU is promoting could yield huge benefits for citizens and businesses. Its success depends on how tangible it can be made for people and whether the benefits will be shared across society. The European Commission's 'Clean Energy for All Europeans' package can therefore be a great opportunity for policy makers and regulators to design energy market rules that deliver energy markets that work for consumers.

BEUC welcomes the European Commission's effort to put consumers at the centre of the energy transition. However, the proposals for improving consumer rights in electricity markets need to be further improved to be ready to cope with changing energy markets, new technologies and services. Consumers need guarantees that they will benefit from this energy transition and the opportunities offered by new technologies and services.


BEUC regrets that consumers in gas markets may be left behind and therefore calls on the European Commission to swiftly put forward proposals for improving functioning of gas markets and consumer rights in this sector.

2. Guarantee consumers can easily navigate the energy market

2.1. Transparency

Consumers continue to find energy markets as non-transparent and too complex.

To improve the consumer experience and nudge consumers to become more active players, additional rules are needed to increase the transparency of energy markets. In particular, policy makers and regulators should put in place rules for energy offers, contracts, bills and selling practices.

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- *Over three in ten consumers do not know how much electricity they use - either on a monthly or a yearly basis.*
 - *Nearly four in ten consumers do not know how the price of their electricity is calculated.*
 - *Four in ten consumers are not aware of the sources of electricity they use.*
 - *Only four in ten mystery shoppers agreed that the electricity bills were easy to understand.*

*Source: Second Electricity Market Study,
European Commission*

2.1.1. Energy offers

Current situation

Many consumers still have difficulties to understand and compare different energy offers available on the market, let alone the fact that independent comparison tools are not always available. For a well-informed choice, consumers should be able to count on a supplier's full transparency regarding the price, the conditions and the environmental impact of their choice.¹

BEUC and associations of electricity and gas companies (Eurelectric, Eurogas and Cedec) agreed on improving comparability of energy offers in a joint statement.² This statement lists

¹ The Second Consumer Market Study concludes that comparability of offers and tariffs should be improved for instance by better structuring of information and by presenting information that is required to assess the total cost of offers up front. The study also suggests standardising the presentation of information as nearly eight in ten consumers (79%) correctly identified the cheapest offer when the marketing material was standardised, compared to less than seven in ten (67%) when the material was not. The Second Consumer Market Study on the Functioning of the Retail Electricity Markets for Consumers in the EU is available at: ec.europa.eu/newsroom/document.cfm?doc_id=42263

² 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

the key information on energy offers that should be provided to consumers by suppliers in one place in a short and easily understandable manner. However, BEUC's review shows the lack of implementation of this statement and confirms the need for further regulation.³

European Commission's proposal

The proposal revising the Electricity Directive acknowledges that several factors impede consumers from accessing, understanding, and acting upon the various sources of market information available to them. However, the proposal does not adequately address the need for clear energy offers.

The proposal revising the Renewable Energy Directive confirms the guiding principle with regard to 'green electricity' tariffs. It makes the use of Guarantees of Origin (GOs) for disclosure of the renewable energy sources in the fuel mix mandatory (Article 19) but the original purpose was more than that, i.e. to stimulate further investments in renewable energy and make our fuel mix cleaner.

BEUC policy recommendations

The revised Electricity Directive should be amended with a new Article on energy offers as follows:

- Energy offers and conditions need to be clearly communicated and transparent. In particular, key conditions related for instance to discounts should be identified and highlighted. National Regulatory Authorities should monitor the implementation and intervene if needed.
- Suppliers should inform the customer about the best offer before they sign up and, upon signature, at least once per year. Suppliers should also inform consumers about special circumstances related to the periodicity of bill, which may result in bill shocks if the switch takes place at the specific time of the year.⁴ This should be monitored by the National Regulatory Authority.
- A new Article in the Electricity Directive on electricity offers should require that suppliers provide to consumers in one place the following list of key information⁵:
 - Product name and main features including, where relevant, information on environmental impact⁶, clear description of promotions and discounts;

³ During March and April 2017, BEUC evaluated 40 offers on 40 suppliers' websites in 13 EU countries. BEUC findings show 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 is often missing.

⁴ For instance, BEUC member, Citizens Advice received a complaint from a consumer who had gone through the switching process and ended up with a massive bill from the previous supplier because her winter consumption was of course higher than in the summer and therefore her account was in debit by a large amount. This would have usually been all evened out by overpayments in the summer months but because of the time of year she chose to switch that had not happened. Moreover, our member, Danish Consumer Council, reported examples where a prosumer switching at a certain time of the year would lose a considerable amount of money because of the way the settlement of own production was structured. There are several foreseeable situations known to suppliers that consumers would suffer a loss if they switch at certain times and should be warn about it.

⁵ 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. While this is considered as a good practice, 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. There are no sanctions for non-compliance. Another example can be found in France where suppliers provide a *Fiche descriptive de l'offre* which summarises all key information on offers.

⁶ According to BEUC's market analysis, at least 15 million households have opted for such a 'green' tariff in 2014. BEUC research showed that not only fuel mix disclosure is deficient in many Member States. More importantly, consumers who think that they financially support renewable power plants by opting for a tariff with a 100% renewable fuel mix might continue to pay for nuclear and fossil fuels. BEUC: Trustworthy 'green electricity' tariffs. Policy recommendations for more transparency, better choice and environmental benefits, BEUC-X-2016-002, January 2016, p. 5.

- Information on additional services (e.g. maintenance, insurance, etc.), their price and the provider of these services (if different from the energy supplier);
- Total price (including all cost components, ie. supply, distribution, taxes and levies) as well as the single unit price per kWh (including all charges and taxes) in order to allow them to compare at a glance and easily spot the cheapest deal for them;
- Conditions for price or tariff changes during the contract;
- Contract duration and conditions for termination, including notice period and fees and penalties where relevant;
- Payment frequency and method options (e.g. cash/cheque/direct debit/standing order/pre-payment);
- Supplier's contact details (e.g. customer service's address, telephone number and email, including, where relevant, identification of any intermediary).

Article 4 of the revised Electricity Directive and Article 19 of the revised Renewable Energy Directive should be amended as follows:

- National Regulatory Authorities should develop minimum requirements for what constitutes a 'green electricity' offer so that consumers, by choosing 'green electricity', can effectively contribute to the construction of new installations through binding rules (including for instance sustainability rankings and quality labels).⁷
- When marketing a 'green electricity' tariff, suppliers should substantiate additionality, ie. they should be transparent on what the consumer's money has been used to increase the capacity of renewable power plants in Europe's fuel mix.

2.1.2. Contracts

Current situation

Consumers often encounter difficulties to understand all terms and conditions related to their energy contracts. There is also very often a lack of clarity on the conditions for the renewal of the contract, the consequences of terminating a fixed-term contract or the reasons for any unilateral change by the supplier. The complexity increases with offers including bonuses, discounts, bundled offers and dynamic pricing.

European Commission's proposal

Article 10 of the proposal revising the Electricity Directive includes only a few changes related to electricity contracts, payment methods or complaint handling.

This proposal (Articles 11 and 13) also makes clear the intention of the European Commission to open the market to new types of electricity offers and services. These services and offers—often described by the term 'demand-response'—are seen as a tool to better match electricity demand with electricity supply. For residential consumers, demand-response schemes can be price-based or incentive-based. Price based (or implicit) demand-response means that consumers are incentivised to adjust their electricity consumption based on the variation of the electricity price. This requires a dynamic electricity price contract. Article 11 foresees that consumers are, on request, entitled to such a contract offered by the energy supplier. The proposal foresees that suppliers should inform consumers about the risks and opportunities of such contracts. Incentive-based (or explicit) demand response is provided by an aggregator.⁸ According to Articles 13 and 17, independent aggregators should be able to enter the market and engage with consumers without the consent of energy suppliers.

⁷ BEUC: A 'green electricity' market that works for consumers. Policy recommendations, BEUC-X-2016-114, January 2017.

⁸ Aggregators are market participants that group the electricity load of several consumers.

BEUC policy recommendations

Articles 10 and 13 of the revised Electricity Directive should be amended as follows:

- The existing consumer protections should be extended to all third party intermediaries (including new generation service providers such as aggregators), ie. those parties should also be required to comply with the relevant provisions on contracts.
- Important clauses in energy contracts such as clauses on the product, discounts and factors unrelated to the energy supply (eg. consumers giving away data that can be used to contact them for different purposes) should be highlighted in bold or by a warning sign.
- Rules limiting the cases where energy companies can unilaterally change the terms and conditions of the contract should be introduced.⁹ These rules are needed in addition to existing provisions ensuring that consumers are free to withdraw from contracts if they do not accept the new conditions.
- National Regulatory Authorities should analyse the means by which consumers are informed about price increases and, where relevant, improve the communication via standardised forms and further conditions.¹⁰
- Specific rules on the renewal of contracts should be established in order to allow consumers to switch providers at no cost. If a contract is extended without informing consumers, they should be allowed to terminate it at any later time without cost.
- Consumers should be provided with a wide choice of payment methods. National Regulatory Authorities should carry out an assessment of the payment methods offered by energy suppliers in their countries and assess if the current system benefits consumers. EU legislators should altogether ban surcharges on any payment method and introduce a guarantee for unconditional and immediate refund rights in case the consumer questions the debit.¹¹
- A summary of the key contractual conditions (such as the main features of the service, detailed information on prices, conditions for switching or price increase) should be provided to consumers in concise and simple language on the first page of the contract or along with the contract.¹²

Article 11 of the revised Electricity Directive should be amended as follows:

- In case of dynamic price contracts, the contract as well as the summary of key contractual conditions should contain clear guidance and warnings explaining the financial risk of such contracts.

Article 18 of the revised Electricity Directive should be amended as follows:

- The supplier should inform the consumer about the upcoming end of the contract and should inform the consumer about the best offer available at that time.

⁹ For example, the Austrian Consumer Protection Act established certain conditions on price changes: in the event of a price increase, there has to be the possibility of a price decrease; the increase must be based on objective parameters, defined in the contract, and the price change shall be independent from the suppliers' will (ie. it should not be up to the supplier to decide that there is a reason to increase the price).

¹⁰ For instance, the standardised form was already established under the Retail Market Review in the GB energy market. There are consumer trials ongoing to assess and further improve key communications such as this one.

¹¹ For more details on BEUC position on the revision of the Payment Services Directive, see X/2013/079 - <http://bit.ly/ICfBRS>

¹² In Portugal, consumers should receive an information chart for every energy offer with the contract. This is considered by BEUC member, DECO, as a good practice. http://www.erse.pt/pt/electricidade/regulamentos/relacoescomerciais/Documents/SubRegulamenta%C3%A7%C3%A3o/Diretiva_4_2015.pdf.

2.1.3. Energy bills

Current situation

Billing information and invoicing are the most common complaints.¹³ Consumers often do not understand basic information in their electricity bill or how their bill was calculated.

Although consumers have the right to know where the energy (they pay for) comes from and what is its environmental footprint, many Member States have not yet implemented the minimum requirements on fuel mix disclosure.¹⁴

European Commission's proposal

According to the proposal revising the Electricity Directive (Article 18 and Annex II) consumers should receive all their bills and billing information for energy consumption free of charge.

With regards to information on the fuel mix, there are no fundamental changes. Suppliers may present the environmental indicators on their web page. Regulators still are asked to ensure reliable and clearly comparable information on the bill.

The way the provisions on bills and billing information are drafted indicates that they only refer to the responsibilities of suppliers. However, the legislative package aims at opening the market to new service providers, who could escape any obligation in informing consumers on the service they are offering.

BEUC policy recommendations

The revised Electricity Directive should be amended as follows:

- Energy bills should be clear, concise, user-friendly and should include the key information so that consumers can compare offers and switch suppliers. The key information includes the price to pay, final price per kWh, the duration of the contract and the switching code (Article 18, Annex II).
- To avoid an information overload, a tiered approach should be applied. Suppliers should provide only the fundamental elements upfront. The bill should include a reference to find more detailed but less crucial information online. Consumers without internet access should be provided with an alternative solution (Article 18 and Annex II).
- Energy service providers such as aggregators should also be subject to all billing requirements referring to identification and consumer rights and should provide equivalent information relevant to the service provided eg. aggregators should regularly provide information on the load curtailed (Articles 13, 17, 18).
- If the contract includes a future change of product, price or discount, this should be indicated on the bill together with the date when the change takes place (Article 18 and Annex II).
- The consumer's right to know where their electricity comes from has to be enforced by providing at least a yearly transparent and complete fuel mix disclosure, including a binding publication of the environmental factors (CO2 emissions, radioactive waste). A simplified version could be considered for other parties such as tenant models (Article 18 and Annex II). Key parameters regarding the fuel mix and additionality of 'green' tariffs should be published in a template layout by all suppliers, building on the printed version that should be published with consumers' bills.
- Once a year the energy supplier should include on its bill an evaluation describing which of its tariffs would be most advantageous for the customer if the consumption pattern of the previous year is repeated in the coming year (Article 18 and Annex II).

¹³ ACER-CEER report, [ACER Market Monitoring Report 2015](#), p. 131.

¹⁴ BEUC: Trustworthy 'green electricity' tariffs. Policy recommendations for more transparency, better choice and environmental benefits, BEUC-X-2016-002, January 2016.

- Where technically possible, billing information based on actual consumption should be provided monthly.¹⁵ This can be particularly useful for vulnerable consumers (Article 18 and Annex II).
- Consumers should not be obliged to self-read their meters. In case they do, companies should share their savings with them as there is no need to send technicians to read meters anymore (Article 18).
- In case of disputes about metering accuracy, the company must provide independently verifiable evidence for its claims¹⁶ (Articles 19 and 22).
- 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 (Article 18).

How to design consumer-friendly energy bills:

1. Work from the assumption that the bill is the most important vehicle you have for communicating with your customer.
2. Provide all obligatory information.
3. Consider to include all recommended information (such as information on duration and termination of contract).
4. Make action-oriented information stand out.
5. Consider a tiered approach, where the most important information is provided on the first page and detailed breakdowns, calculations and explanations are on a separate page(s).
6. Use easily understandable and consistent language.
7. Use charts instead of tables.
8. Consider developing and testing your draft with consumers and consumer organisations.
9. Monitor consumers' reaction by e.g. analysing complaints, calls to customer service and carry out surveys.

2.1.4. Fair marketing and selling practices

Current situation

Misleading and unfair marketing practices have been a major issue in many Member States and have resulted in a drop in trust in the energy sector. These practices have led many consumers to sign up to deals that are unsuitable and which are often more expensive for them. The victims are very often the elderly and the vulnerable.¹⁷

¹⁵ Some Member States such as Portugal have already put such requirements in place. In Portuguese legislation energy billing must be monthly, and meters readings must take place every 3 months for electricity and 2 months for gas, in order to have information for billing on actual consumption.

¹⁶ For example when the meter has been removed by the responsible party due to inaccurate metering, the metering values should be available for examination until the dispute has been finally settled.

¹⁷ For instance, our Portuguese member DECO reports that the retailer engages with consumers through doorstep selling and proposes her/him energy contract based on a promotion campaign. Retailer begins the switching process with the Distribution System Operator without the consumer's consent and the consumer only notices s/he has been

European Commission's proposal

According to the proposal revising the Electricity Directive (Article 10), consumers should be protected against unfair or misleading selling methods. However, the proposal does not include any further detail on how to avoid these practices.

BEUC policy recommendations

Enforcement is essential

- The European Commission should closely monitor the application and enforcement of the Unfair Commercial Practices Directive as well as of the Consumer Rights Directive in the energy sector.

The revised Electricity Directive should be amended by new provisions on aggressive selling practices as follows:

- In order to tackle aggressive selling practices, doorstep selling in the energy sector should be banned.
- Member States should strengthen rules governing marketing channels in the energy sector such as phone, email, SMS, social networks. For instance contacting consumers should only be possible if consumers have given their permission previously.¹⁸

2.2. Comparability

To compare different energy offers available on the market is becoming more and more challenging. Energy supply is increasingly bundled with other services obscuring the actual price of energy, making it harder for consumers to switch or to compare offers. To ensure consumers have necessary tools at hand, policy makers and regulators should set rules for comparison tools and bundled offers.

2.2.1. Comparison tools

Current situation

When searching for a suitable deal, consumers can use comparison tools which help them to compare different energy offers available on the market according to the price, services or environmental impact. However, the best deals are not always clearly displayed and the fuel mix is often not disclosed correctly.¹⁹ In addition, the proliferation of comparison tools and the influence they can have on consumers' decisions have given rise to concerns about their trustworthiness.

European Commission's proposal

According to the proposal revising the Electricity Directive (Article 14), Member States should ensure consumers have access, free of charge, to at least one certified comparison tool. Annex I of the same proposal sets the criteria for certified comparison tools. The Commission's proposals do not touch upon the way price comparison tools disclose the fuel mix of retail

switched when s/he receives the welcome letter or the first bill. When the consumer switches, it is a common complaint to receive 2 bills from 2 different retailers for the same period of time.

¹⁸ For instance, our member, Danish Consumer Council, reports that contacting the consumer by phone, email, SMS, at his/her doorstep or at work without consumer's permission is strictly limited. There are no general restrictions on sending personally addressed letters. However, consumers have the opportunity to be placed on a "Robinson" list, which shields them from unsolicited direct commercial communications.

¹⁹ CEER: Guidelines of good practice on price comparison tools, July 2012; WISE: Energie vergelijken 2017. Online energievergelijkers en duurzaamheid, February 2017.

electricity tariffs. The proposal does not specify whether offers of aggregators should be included in the results.

BEUC policy recommendations

- BEUC supports the Commission's proposal according to which Member States should ensure there is at least one comparison tool covering the whole market for energy services in every Member State.²⁰

Article 14 and Annex I of the revised Electricity Directive should be amended as follows:

- Member States should ensure that consumers are able to access independent comparison tools in order to get information on electricity and gas offers which is up to date, accurate and provided in a user-friendly way and free of charge. Service providers should be obliged to provide the information necessary for these tools to run comparisons for consumers.²¹
- The algorithm of the tools should be impartial. This means that service providers whose services are being compared should not be allowed to pay the comparison tool to be placed artificially higher on the comparison ranking. This is not meant to prevent advertising on the remainder of the site.
- Comparison tools should be transparent about which business model they follow – how they earn their income (e. g. receiving commissions, advertising, clicks, referrals, sale of data) – so that consumers can evaluate the objectivity of the guidance.
- Accreditation schemes should be in place to ensure comparison tools fulfil necessary conditions. Such schemes can be run by either National Regulatory Authorities or consumer organisations.
- Consumers would benefit from price comparison tools that display not only all upfront costs but also elements such as quality of service, complaint-handling procedures, level of consumer satisfaction or misleading practices.
- National Regulatory Authorities should make sure the fuel mix as well as information regarding additionality of retail electricity offers are published in comparison tools. 'Green tariffs' should be clearly displayed and searchable according to their level of additionality.
- Unusual conditions related for instance to discounts should be identified and highlighted in the comparison tool.
- The comparison tool should enable consumers to compare their current contract with other offers in an easy way.²² For example, consumers should be able to accommodate individual consumption parameters allowing them to assess whether a specific offer matches their needs.
- The comparison tool should enable consumers to filter results on services within bundled offers.
- Offers from third parties such as aggregators or collective switching programmes should always be featured on the comparison tools so consumers can compare them with other offers on an objective and comprehensive basis.
- In order to allow consumers to compare dynamic contracts, price comparison tools should reflect best information available about future prices and a possible price range.

²⁰ In case a comparison tool does not include all offers, it must be clear about the market it covers. For instance in Germany, the comparison portals move in a competitive market and any private portal can decide to map only certain parts of the market (such as green electricity offers).

²¹ For more details on BEUC's views about comparison tools, please see X/2012/065 – <http://www.beuc.eu/publications/2012-00536-01-e.pdf>

²² This should be a key characteristic of price comparison tools in subscription type markets, where the majority of consumers already have a contract. This will help consumers to avoid entering into contracts which are worse for them than their current one.

2.2.2. New challenges (bundled offers, new services and dynamic pricing)

Current situation

Services provided in a bundle can be unfavourable to consumers as they may not be suitable or provide the best deal reflecting the particular needs of the consumer. The bundles being offered in some Member States include not only parallel services such as telecoms but also all sorts of services from insurance to gift cards.²³

In many cases, additional products or services are not provided by the energy retailer, but by other service providers.²⁴ In some cases, these bundles may also contain misleading practices and unfair terms regarding pricing, contracts and advertising.²⁵ These offers also raise questions around the role of different regulators and enforcement.²⁶

European Commission's proposal

The proposal revising the Electricity Directive covers bundled offers to a very limited extent. In terms of dynamic pricing, the proposal (Articles 12 and 13) sets certain conditions on bundled investments or services.

BEUC policy recommendations

The revised Electricity Directive should be amended as follows:

- The existing consumer protections should be extended to all third party intermediaries (including new generation energy service providers such as aggregators)(Articles 10-18, 26).
- Consumers should be able to easily compare different services within bundled offers and switch each individual service separately in order to prevent lock-in situations when one service is renewed and automatically renews the other services inside the bundle. Consumers should be protected against misleading practices and unfair terms (Articles 10, 12 and 13).
- Consumers should be able to cancel part of a bundled contract without any termination penalty. When considering the early termination fee, this fee should be linked to an advantage that was given to the consumer (a discount, a promotion on the energy price). In such cases, energy companies should be obliged to demonstrate the real cost to be able to charge termination fees. The fee must be reasonable and proportionate to the advantage given to the consumer (Article 10, 12 and 13).

2.3. Awareness raising

According to the Third Energy Package, single points of contact should provide clear information, advice about basic energy services and help consumers find accredited service providers in their area. However, policy makers and regulators need to take further action to make consumers aware of changing energy markets and on-going market liberalisation.

²³ BEUC member organisation, Norwegian Consumer Council, reported that electricity is offered with all sorts of extras, for example discounts on fuel, gift card, day pass at ski resorts and amusement parks.

²⁴ In some cases, the service provider is not even identified in the contract.

²⁵ BEUC Portuguese member, DECO, carried out a study on new associated services and products that are being presented to the consumer. DECO identified misleading practices and unfair terms regarding pricing, contracts and advertising and highlighted that most of the energy discounts are related to the subscription of these services.

²⁶ For example, when the offer contains an insurance, the Insurance regulator should be responsible for the monitoring. However, taking into account that this insurance is directly linked to energy service, it is not clear what it means in terms of consumer rights and enforcement.

2.3.1. Access to energy advice

Current situation

Consumers are not often aware of the on-going transformation of the electricity system and they lack information about changes related to the energy market liberalisation.

While the system of single points of contact has been broadly implemented, some consumer organisations pointed out low awareness about its existence or lengthy procedures to provide the consumer with a satisfactory answer to their claims. Single points of contact should inform consumers about the on-going changes in the electricity system but also new tariffs and offers.

New electricity services and tariffs have made their appearance, mostly as pilots, in some EU Member States²⁷. The promotion of new services and smart tariffs must be balanced with actions to inform, reassure and protect consumers.

European Commission's proposal

The proposal revising the Electricity Directive (Article 25) keeps the provision of the Directive 72/2009, ie. Member States shall ensure the provision of single points of contact. This should include information on consumer rights, current legislation and the means of dispute settlement. Energy consumer checklist providing consumers with practical information about their rights should be up to date and provided to all consumers.

BEUC policy recommendations

The revised Electricity Directive should be amended as follows:

- Awareness about single points of contact should be raised and consumers should be provided with a satisfactory answer to their claims (Article 25).
- Single points of contact should provide clear information, advice about basic energy services and help consumers find accredited comparison tools or accredited service providers in their area (Article 25).
- Member States and National Regulatory Authorities should undertake the necessary steps in order to ensure that consumers get clear information about market developments such as the phase out of regulated prices. Therefore, Member States together with National Regulatory Authorities, and –subject to funding- consumer organisations should coordinate and implement an information campaign on the link between smart meters, new services and the changes in the energy system, tailor-made to different consumer segments (Article 5).
- A single contact point for troubleshooting and customer support on demand-side flexibility schemes should be defined regardless of whether the problem concerns the equipment or the service (Articles 11 and 17).
- Member States should increase awareness of the existence of the energy consumer checklist which provides meaningful information to consumers.

2.3.2. One stop shop for prosumers

Current situation

When consumers consider engaging to renewable self-generation, in many countries they are currently missing reliable and structured information on technological options and potential.

²⁷ These services or tariffs are based on the concept of demand-side flexibility which entails either using electricity when demand is low or reducing electricity use when demand is high. For consumers, they can deliver lower bills and information on consumption. But these new offers can be also one of the tools to integrate more renewable sources in the electricity system.

They have to contact a number of different institutions and go through complex permit procedures.²⁸

European Commission's proposal

The proposal revising the Renewables Directive (Articles 16, 17) not only confirms the need to establish simplified authorisation procedures but also obliges Member States to establish one or several one-stop shops as a single administrative contact point for a permit to build and operate plants for the production of energy from renewable energy sources. The contact point shall provide a manual of procedures for small-scale projects and renewable self-consumers. It must also deliver a legally binding decision at the end of the process, which should not last more than three years. A simple notification for 'small scale projects' to the single administrative contact point ('one-stop shop') would automatically be considered as an authorisation after six months (Article 17).

BEUC policy recommendations

The revised Renewables Directive should be amended as follows:

- Member States and National Regulatory Authorities must ensure that a simplified administrative framework responds to the specific needs of consumers who want to invest in a small-scale self-generation project (Articles 15-17).
- A one-stop shop should be established nationally and should allow for regional and local actors to provide information and personalised advice to consumers (Article 16).

3. Enable consumers to engage in the energy market

3.1. Switching

Switching is the key sign of a well-functioning energy market and should be a common practice. It should be simple, fast, with no hidden costs. To facilitate supplier switching, policy makers should set rules for making the process smoother.

3.1.1. Switching process

Current situation

Switching is often perceived as complex, risky and time-consuming. In order to facilitate supplier switching, a number of BEUC members organisations²⁹ around Europe are regularly organising collective switching campaigns which help consumers get a better deal for energy supply and engage more directly in the energy market. Until now, more than 5 million consumers have signed up and more than 1.2 million households have switched. The total savings made by those who switched are estimated at around €272 million.

European Commission's proposal

According to the proposal revising the Electricity Directive (Article 12), Member States shall ensure that the right to switch suppliers is granted to consumers in a non-discriminatory

²⁸ To mitigate that problem some consumer organisations provide guidance and to some extent have taken over the role of one-stop shops. For example, BEUC member organisations Test Achats, OCU, DECO, Consumentenbond and Altroconsumo participate in the CLEAR project which covers the most important devices for self-generation of electricity and heat, such as solar PV modules, solar thermal collectors, heat pumps and wood pellet stoves. CLEAR stands for Consumers Learn about, Engage with and Adopt Renewable energy technologies and more information about this project is available at <http://www.clear-project.eu>.

²⁹ Consumentenbond in the Netherlands, Test – Achats in Belgium, Which ? in the UK, Altroconsumo in Italy, DECO in Portugal, OCU in Spain, UFC –Que choisir in France, VKI, in Austria, Danish Consumer Council in Denmark, ZPS in Slovenia, dTest in the Czech Republic and FK in Poland.

manner as regards cost, effort or time. The proposal does not introduce sufficient improvements to the switching process as such.

The Renewable Energy Directive proposal (Article 21) defines the rights of renewable self-consumers. Consumers should maintain their established consumer rights no matter if they engage individually or collectively through aggregators. This aspect however is not reflected explicitly in the definition of 'active customers' (Article 15) in the proposal for revised Electricity Directive.

BEUC policy recommendations

Article 12 of the revised Electricity Directive should be amended as follows:

- Member States and National Regulatory Authorities should ensure that the switching process is not biased and market players coordinate to ensure the process is smooth.
- Member States as well as National Regulatory Authorities should further facilitate collective switching campaigns through removing regulatory³⁰ and bureaucratic barriers.

The revised Electricity Directive and the revised Renewables Directive should be amended as follows:

- EU policy makers should confirm that the established right of consumers to switch suppliers is maintained unconditionally in case consumers engage in new business models such as with aggregators or with tenants models and self-consumption (Renewable Energy Directive, Article 21; Electricity Directive, Articles 12-13, 15, 16).

3.1.2. Switching time

Current situation

The Third Energy Package defines a three week switching period. However, the switching process often remains lengthy and in a number of countries it still takes more than three weeks. Energy regulators³¹ suggest that by 2025, consumers should be able to switch within 24 hours.

European Commission's proposal

Article 12 of the proposal revising the Electricity Directive reiterates the three weeks switching period. Article 13 aligns consumer rights on switching with consumer rights concerning termination of contracts with aggregators. It foresees that consumers can have their contract with aggregators terminated within 3 weeks.

BEUC policy recommendations

Articles 12 and 13 of the revised Electricity Directive should be amended as follows:

- The switching period should be reduced to less than three weeks. In mid-term, consumers should be able to switch within 24h, subject to a cost-benefit analysis.
- Member States and National Regulatory Authorities should ensure that consumers receive the final bill within two weeks after switching away or ending a contract.

3.1.3. Fees

Current situation

Switching fees often prevent consumers from changing the supplier and prohibit competition.

³⁰ Such as for instance obliging suppliers to cover network tariffs several months ahead.

³¹ ACER's "Bridge to 2025", available at

http://www.acer.europa.eu/official_documents/acts_of_the_agency/sd052005/supporting%20document%20to%20acer%20recommendation%2005-2014%20-%20%20energy%20regulation%20a%20bridge%20to%202025%20conclusions%20paper.pdf

European Commission's proposal

The proposal revising the Electricity Directive (Article 12) calls on Member States to ensure consumers are not charged any switching-related fees. Member States may however allow suppliers to charge contract termination fees when consumers terminate fixed term contract before their maturity. These fees may be charged if the consumer received a demonstrable advantage from these contracts but the fee should not exceed the direct economic loss to the supplier. There are similar provisions for aggregators (Article 13).

BEUC policy recommendations

Articles 12 and 13 of the revised Electricity Directive should be amended as follows:

- Termination fees should only be allowed for fixed term contracts with suppliers and aggregators. When considering the early termination fee, this fee should be linked to an advantage that was given to the consumer (a discount, a promotion on the energy price). In such cases, energy companies should be obliged to demonstrate the real cost to be able to charge termination fees. The fee must be reasonable and proportionate to the advantage given to the consumer.

3.2. Data portability

Current situation

Smart meters make it technically possible to store and process detailed data on electricity consumption patterns. As owners of the data, consumers should have the possibility to use the data when looking for better offers and take the data with them in case they switch suppliers.

European Commission's proposal

According to the proposal revising the Electricity Directive (Article 20), consumers should be provided with near real time information on their electricity consumption. According to Article 23, Member States or designated authority should specify eligible parties which may have access to data of the consumer with their explicit consent. However, the proposal does not address the issue of data portability.

BEUC policy recommendation

Article 23 of the revised Electricity Directive should be amended as follows:

- 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 consumers³² and which they can use and share with other service providers, in order to be able to switch or subscribe to third party services.

3.3. Households installing self-generation technologies and using the grid

Current situation

Despite massively shrinking investment costs, fewer Europeans currently install solar photovoltaic (PV) installations than at the beginning of this decade.³³ Consumers are often confronted with market rules made by and for the big market players.³⁴ Member States' stop-start policies also make self-generation more risky than necessary.³⁵ Consumers therefore refrain from engaging in self-generation despite potential cost savings.

³² For those consumers without online access, information should be provided on paper.

³³ Euroobserver: Photovoltaic Barometer, April 2016.

³⁴ BEUC: A welcome culture for consumers' solar self-generation. Policy recommendations, BEUC-X-2016-001, January 2016, p. 5/6.

³⁵ BEUC mapping report, BEUC-X-2016-003, January 2016.

When consumers engage in renewable technologies, the grid can become the bottleneck. Prosumers may need to wait too long to feed in excess electricity, compete with commercial operators or pay undue charges for access.³⁶ Grid operators that have not sufficiently expanded their network's capacity might tend to cap or curtail self-generators.

Network tariffs in most Member States remain static and do not reflect the real use of the grid of new consumer groups such as renewable self-generators. Incentivising consumers to provide their flexibility through demand response can take place not only through electricity price signals but also through network tariff signals.

European Commission's proposal

The proposal revising the Renewable Energy Directive (Articles 2 and 21) introduces a set of definitions and rights that cover renewable self-generation by households, be it individually or collectively. A 'renewable self-consumer', being in parallel also an 'active consumer', has the right to self-consume, to store and to sell energy.

The proposal (Article 6) asks Member States to ensure that the support granted to renewable energy projects is not revised in a way that negatively impacts the rights and the economics of supported projects.

With regard to access to the grid for renewable power plants, previously granted priority grid access has been removed from the proposal. The proposal for the Electricity Regulation (Article 4) grants only an exemption from balancing responsibilities. Member States may provide for derogation for installations benefitting from a previously granted support scheme or below 500 kW of installed capacity (250 kW from 2026).

Provisions in the Electricity Regulation (Article 12) ask to minimise curtailment of renewable power plants but in parallel allow grid operators to cut renewable power plants from the grid, provided this is 'shown to be more economically efficient'. In case of risks to network security, self-consumption could also be curtailed. The Regulation however establishes a financial compensation in case of curtailment equalling at least 90% of the net revenues from the sale of electricity on the day-ahead market.

Network tariffs should reflect the cost of use of the distribution network according to the proposal for the Electricity Regulation (Article 16). The text explicitly includes 'active consumers', such as renewable self-generators with regard to cost allocation.

BEUC policy recommendations

Revised Electricity and Renewable Energy Directives, revised Electricity Regulation as well as the Governance Regulation should be amended as follows:

- EU regulatory framework should provide a dedicated long-term strategy to facilitate consumers' small-scale renewable self-generation projects. Member States should be urged to establish or to improve national self-generation strategies that target private households (Renewable Energy Directive, Articles 4 and 15; Electricity Directive, Article 15; Governance regulation, Articles 4 and 18).
- Retroactive changes affecting consumers' investments³⁷ should be avoided (Renewable Energy Directive, Article 5).
- Undue financial burdens such as taxes or fees imposed on self-generated electricity should be removed (Renewable Energy Directive, Articles 21 and 22; Electricity Directive, Articles 15 and 16; Electricity Regulation, Articles 55 and 57).

³⁶ For an overview of hurdles to small-scale solar PV self-generation with regard to grid use, see the comparison of Member States' practices in: PV GRID project: Final project report, August 2014; <http://www.pvgrid.eu>.

³⁷ For instance numerous retroactive changes for renewable power plants in Spain after 2011 lead to a severe deterioration of the economic viability, of newly installed capacity as well as of existing installations that were planned under previous support schemes http://www.beuc.eu/publications/beuc-x-2016-003_jmu_current_practices_in_consumer_driven_renewable_electricity_markets.pdf

- EU framework should ensure priority grid access and priority dispatch without any caps for renewable power plants. This is still indispensable to offset risks of distorted wholesale markets (Electricity Regulation, Article 11; Electricity Directive, Article 31).
- Grid operators should be obliged to optimise their network in order to technically guarantee to self-generators the purchase, transmission and distribution of their electricity (Electricity Regulation, Article 51; Electricity Directive, Articles 32, 58).
- Small-scale renewable energy installations generally should be exempted from balancing responsibilities (Electricity Regulation, Article 4).
- Network tariffs should better reflect real use of the grid. They should be redesigned in order to reward flexibility and trigger contribution of ancillary services by consumers who engage in self-generation or demand-side flexibility. However, the redesign of network tariffs must not unduly increase the financial burden of households with a low level of electricity consumption or households living in remote areas (Electricity Regulation, Article 16; Electricity Directive, Article 15).

3.4. Role of the Distribution System Operators (DSOs)

Current situation

Distribution System Operators (DSOs) are central to the success of the energy transition. They have a changing mix of roles throughout the EU, making it difficult to force or incentivize them to support the energy proposals in a uniform manner.

The roles of transmission and distribution system operators are converging. DSOs play a crucial role when it comes to hassle-free integration of renewable self-generators into the grid. Nevertheless, many DSO responsibilities (e.g. tariff methodology) are best regulated on the national level given their local nature and differences in national markets.

European Commission's proposal

The proposal revising the Electricity Directive (Chapters III & IV) establishes a new EU DSO entity and contains three main new expansions of DSOs' tasks relevant for consumers:

- DSOs must allow all market players to participate, including renewables, demand response, energy storage and aggregators.
- DSOs may be allowed to operate storage facilities and recharging points for electric vehicles.
- DSOs will have responsibility for data management, especially where smart meters are rolled out.
- DSOs will be members of a new EU DSO entity established in order to promote coordination of distribution and transmission systems. This new EU DSO entity will be tasked with developing demand response, data management, cyber security, data protection, drafting of network codes, deployment of smart grids and smart meters as well as integration of distributed generation.

BEUC policy recommendations

Articles 30-36 of the revised Electricity Directive should be amended as follows:

- Member States should incentivise DSOs to: improve efficiencies in the operation and development of the distribution system, reform the network to facilitate the growth of low carbon energy generation and ensure accountability that investments deliver value for money.
- 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.
- A set of principles should underpin DSO activities requiring DSOs to:
 - ensure the efficient reliable and secure operation of the distribution system
 - act as neutral market facilitators, procuring services according to transparent, non-discriminatory and market based procedures

- ensure fair competition between different technological solutions
- report transparently on revenue and performance targets and on incentives, including with respect to the cost and benefit for consumers
- demonstrate within the network development plan how the use of demand response has been built around the requirements and behaviours of consumers as well as the steps that were taken to guard against unfair discrimination within network charges
- safeguard consumers' ownership and control over their own data when handling data
- contract with third party owners of storage assets.

The revised Electricity Regulation (Articles 49-52) and the ACER Regulation should be amended as follows:

- The stakeholder Advisory Council established by ENTSO-E to oversee the annual work plan and the network development plans should be formalised and duplicated by the EU DSO entity.
- The EU DSO entity and ENTSO-E stakeholder consultation foreseen for the development of network codes should be extended to all tasks assigned to these bodies. This includes the obligation to provide justifications for the rejection of stakeholder recommendations.
- ACER should be assigned an oversight role for the texts drafted by the EU DSO entity. Stakeholders should have the right of appeal to ACER where there is a concern that recommendations are unjustifiably rejected. Consumer organisation should be invited to participate in the Advisory Councils of ENTSO-E and the EU DSO entity which should be protected by a statute of independence.
- The financial impact of network codes on consumers should be analysed.
- EU network codes should not extend to the harmonisation of distribution tariff structures. These are likely to be better regulated at the local level.

3.5. New market players

Current situation

Several factors are inhibiting the take-off of new services that deliver flexibility (demand-response). One factor is whether new market players such as independent aggregators can access the market without impediments and whether they can retain a viable business.³⁸ Another factor is the deployment of demand response enabling technology such as smart meters.

Local energy initiatives, housing companies and cooperatives have started to aggregate consumers to let them benefit from local potentials of renewable energy sources.³⁹ As mostly not-for-profit entities without in-depth experiences in wholesale energy markets, these relatively small new players struggle with specific risks, compared to established commercial players. Tenants in many Member States, for instance, cannot benefit from cheap solar electricity generated on the rooftop of the building they are living in.⁴⁰

European Commission's proposal

According to the proposal revising the Electricity Directive (Articles 13, 17), Member States' legislation should safeguard that aggregators are able to participate in the market without

³⁸ For example, in Germany access to independent aggregators in the market is very difficult due to cumbersome procedures requiring them to get permission from several actors before engaging with consumers.

³⁹ For best practice examples see: Community Power project, <http://www.communitypower.eu/en/publications.html>.

⁴⁰ For a more detailed analysis of tenants' issues see BEUC/International Union of Tenants (IUT) policy paper: Tenants' access to solar self-consumption. Policy recommendations on strengthening the social dimension of the Energy Union available at http://www.beuc.eu/publications/beuc-x-2017-020_imu_iut_tenants_access_to_solar.pdf

consent from other market participants. They should be able to engage with a consumer without the consent of energy suppliers. However, the rules of engagement of aggregators with consumers remain unclear.⁴¹

In addition to the provisions for renewable self-consumers that focus on individual households, the proposal revising the Renewable Energy Directive (Articles 22) includes a new definition of a 'renewable energy community'.⁴² This definition builds upon the term of a 'local energy community' that is established in the proposal for the Electricity Directive (Article 2).⁴³

The proposal for revised Electricity Directive (Article 16) lays out that communities are also entitled to establish own community energy networks and to purchase and sell electricity on their own or through aggregators.

BEUC policy recommendations

Revised Electricity and Renewable Energy Directives as well as revised Electricity Regulation should be amended as follows:

- As the role, rights and obligations of different market participants are spread across the proposed legislative proposals, policy makers must ensure that they are coherent by the end of the legislative procedure.
- Local communities should be granted a simplified access to wholesale markets. Exemptions regarding market access for local renewable energy communities should be granted to facilitate consumers' engagement in energy markets (Electricity Regulation, Article 11; Electricity Directive, Articles 16, 31; Renewable Energy Directive, Article 22).
- Whenever communities act as aggregators, for instance by selling self-generated solar electricity to tenants, tenants should always be able to decide if they want to participate in this scheme and therefore, contractual relationships should be purely voluntary for tenants.

3.6. Smart meters

Current situation

Smart meters are being rolled out to consumers at different paces and with or without consent all over Europe. While they may provide benefits to consumers such as precise billing, real-time information about usage and access to demand-response services, they pose new challenges such as added costs, data protection and adverse price-differentiation of some consumers. Smart meters also provide benefits - e.g. improved network planning and management - to distribution companies, which are not necessarily passed on to consumers. With increased home automation, the interplay of the smart meter and intelligent household appliances is gaining in importance. For more details on smart homes, please, see chapter 4.5).

European Commission's proposal

The proposal revising the Electricity Directive (Articles 19, 20, 21 and Annex III) introduces the entitlement to a smart meter and sets more concrete functionalities for smart meters, focusing on interoperability, connectivity with consumer energy management platforms and on information to be provided to consumers at no additional costs and at near-real time. The proposal also includes a provision on consumers contributing to associated costs of the smart meter roll-out as well as the obligation for Member States to monitor costs and benefits for smart meters, including net benefits to consumers. Where smart meters are rolled-out, time

⁴¹ As described in previous chapters, provisions that concern for instance comparison tools, basic contractual rules and billing do not refer to aggregators.

⁴² A renewable energy community should be an SME or a not-for-profit organisation, the shareholders or members of which cooperate in the generation, distribution, storage or supply of energy from renewable sources fulfilling criteria set in Article 22.

⁴³ A local energy community could be every association, cooperative, partnership or non-profit organisation controlled by locals.

differentiated tariffs (including the network part to reflect the use of the network) may be introduced.

BEUC policy recommendations

Articles 19-21 and Annex III of the revised Electricity Directive should be amended as follows:

- Where implementation of smart meter roll out is assessed positively, consumers should have easy and timely access to the information on their consumption (ie. near real time data defined down to seconds) so they can use this information and make informed decisions.
- 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. Benefits to DSOs in terms of savings due to e.g. better network management, more efficient fault clearing, more precise planning and identification of network losses must also be included in the cost-benefit calculations.
- The roll out of smart meters should be supported by a tailored advice programme that ensures consumers know how to make savings from their smart meter and how far this is supported by their own housing type.⁴⁴
- Member States should address the risks related to the remote switch off capability of smart meters and put necessary consumer protections in place.
- Consumers should always have a choice to opt out and have their meter operated in a 'dumb mode'.⁴⁵
- The European Commission should ensure that anticompetitive practices and product design limiting consumer choice when it comes to service providers are prohibited. Interoperability between different software and hardware elements should be ensured in order to avoid lock in effect.

The proposal for Governance Regulation should be amended as follows:

- Monitoring obligations focusing especially on benefits delivered to consumers should be further strengthened.

3.7. New services and offers related to demand response

Current situation

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

European Commission's proposal

As proposed in the revised Electricity Directive (Articles 5, 11, 13, 15, 17), with some exceptions for vulnerable household consumers, the European Commission aims at a complete removal of regulated prices for consumers. At the same time, it aims at encouraging consumer take-up of demand-response schemes. However, the Commission's proposal fails to acknowledge the difference in the market understanding and bargaining power of the two

⁴⁴ 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.

⁴⁵ Consumers should always have a choice. BEUC German member, vzbv, pointed out the cost-benefit analysis for Germany showing that smart meters would be financially worthwhile only for households with high energy consumption and special equipment such as renewable energy systems or electric vehicles. <http://www.vzbv.de/sites/default/files/downloads/experiences-variabler-Stromtarife-auf-Stromkosten-Haushalte-WIK-vzbv-November-2015.pdf>

parties, and the evidence from current market practice that consumers can sign up to inappropriate tariffs.

The proposed changes will have an impact on consumers' ability to predict the cost of energy use and could make electricity unaffordable for certain consumer segments. In Article 11, the proposals introduce a generic obligation for Member States to inform consumers about the risks of dynamic electricity price contracts. The proposal also introduces a generic obligation for National Regulatory Authorities to assess the market developments with regards to dynamic price contracts, their impact on consumers' bills and consumers' sensitivity to the level of financial risk. However, the proposals do not introduce sufficient safeguards against these risks.

BEUC policy recommendations

Articles 11, 13 and 17 of the revised Electricity Directive should be amended as follows:

- The EU should safeguard in legislation that participation in demand-response schemes is voluntary. Non-time dependent tariffs should always be available to all consumers.
- Suppliers should not prohibit consumer engagement with aggregators, either directly or indirectly through contractual obligations.
- 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.⁴⁶
- An override function that does not penalize consumers should be part of demand-side flexibility schemes for cases when consumers are not able to provide their flexibility.
- With regard to the dynamic electricity price contracts, it is insufficient to require suppliers to inform consumers about risks of these contracts. Consumers should be protected from unreasonable bill volatility and should not be encouraged to take up inappropriate, risky products and services that are not adapted to household consumers. Those consumers who are not flexible in their electricity use or are in vulnerable situation should not be exposed to such products.
- Member States and National Regulatory Authorities should carry out periodic analyses of the impact of new offers and services on different consumer groups and not just on the 'average' consumer. These analyses should also look into the cost of enabling technologies that consumers might need to bear in order to participate in such schemes.

3.8. Data protection

Current situation

New technologies, such as smart meters, make it technically possible to store and process much more detailed and revealing data and metadata than what is currently processed in the retail energy market sector. They can provide a unique insight into the private sphere of households.

European Commission's proposal

The proposal for revised Electricity Directive (Articles 17, 20, 23, 24) contains a number of provisions related to data management and refers to the General Data Protection Regulation. It also suggests that consumers' data can be shared with consumer consent. However, the proposal opens the door to a broad range of (energy) market players to access the data.

BEUC policy recommendations

⁴⁶ 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>

Articles 17, 20, 23 and 24 of the revised Electricity Directive should be amended as follows:

- Compliance with the data protection framework and effective enforcement must be ensured. 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. The consumer must be able to revoke this approval at any time.
- Consumer consent should be valid only for the duration of the contractual relationship between the consumer and the service provider.
- Cross sector cooperation of regulators and enforcement authorities in this field is essential (see chapter 5.1).
- Member States should ensure that the oversight procedures are sufficiently robust to guarantee not only that data is shared only with parties for whom the consumers' explicit consent has been given, but also that consumers can verify who has accessed their data.⁴⁷ At the same time, data management procedures should provide consumers with an overview, as well as control of, who uses the data from their smart energy appliances.

4. Create conditions for consumers to benefit from the energy market

4.1. Competitive and clean energy markets

Current situation

Energy markets have become increasingly competitive over the last twenty years though not always benefitting consumers.⁴⁸ Successive legislative initiatives have pushed Member States to create market places and break up monopolies. However, the process is far from complete and many markets lack of truly dynamic competition.⁴⁹ Some consumers are suffering from significantly higher tariffs subsidising others.

European Commission's proposal

The European Commission intends to *clear the way to a more competitive energy system* through:

- The abolishment of regulated tariffs (revised Electricity Directive, Article 5) and only a limited interventions in the price-setting for the electricity supplied to vulnerable household consumers.
- A limitation to new capacity mechanisms around Europe. However, the proposal includes an exemption allowing polluting power plants to participate in capacity mechanisms 5 years after the entry into force of the Electricity Regulation (revised Electricity regulation, Articles 21-24).
- A safeguard that aggregators are not required to pay compensation to electricity retailers (Article 17 of the revised Electricity Directive). This aims at ensuring a level playing field

⁴⁷ According to BEUC member, Citizens Advice, the consent mechanism in the Data Communications Company (DCC) is not fit for purpose (i.e. when a DCC user requests consumer smart data they are automatically given it with no check that the consumer gave consent for this collection).

⁴⁸ For instance, in the UK market, there are over 50 energy suppliers to choose from and the market seems to be competitive. However, Citizens Advice stresses that at least two thirds of energy customers are on the 'non-choice' deal of the standard variable tariff, having failed to switch for too long. Many consumers who are often in vulnerable situations are on expensive tariffs and pay the loyalty penalty. This is yet another proof that markets that look competitive are not always delivering the benefits that competition should deliver. More information is available at <https://wearecitizensadvice.org.uk/loyal-consumers-pay-too-a-heavy-price-84165d1a1f36>

⁴⁹ For instance, according to BEUC Belgian member, Test Achats, 10 most expensive contracts represent 63% of the market. Consumers with relatively low energy consumption can save €140 by changing supplier. For Spanish consumers, electricity costs have increased by 83.2% between 2003 and the first nine months of 2015. Source CNMC <https://blog.cnmc.es/2015/11/24/cuanto-ha-subido-la-electricidad-en-los-ultimos-anos>.

amongst different energy market players and alleviating current market conditions that are detrimental for aggregators.⁵⁰ However, the proposal allows Member States to deviate from this rule by allowing the payment of compensation from aggregators to retailers with balancing responsibility.

- Member States may apply support schemes for electricity from renewable sources (revised Renewable Energy Directive, Article 4). In order to alleviate costs of these support schemes, the European Commission intends to turn Guarantees of Origin into a finance instrument and asks Member States to establish an auctioning scheme for Guarantees of Origin (GOs) of supported renewable power plants (Article 19 of the Renewable Energy Directive).

BEUC policy recommendations

The revised Electricity Directive should be amended as follows:

- Where there is evidence that markets are failing, price intervention in the energy market should be permitted especially for specific tariffs (such as default tariffs). The price should be set at the level allowing an efficient supplier to make a reasonable level of return⁵¹ (Article 5).
- Given that energy markets are in different stages of liberalisation, national policy makers and National Regulatory Authorities should pay particular attention when consumers switch from a regulated to a deregulated market, ensure a smooth transition and avoid bill shocks caused by unintended switch to a deregulated market (Article 5).
- Member States, through their National Regulatory Authorities, should monitor the impact of demand response schemes on consumers' bills and if consumers benefit while participating in such schemes (Article 17).

The revised Electricity Regulation should be amended as follows:

- Security of supply should be ensured at the lowest costs for consumers and reasons to introduce capacity mechanisms should be properly scrutinised. Costs of capacity mechanisms and their impact on consumers' bills should be carefully assessed. If they are deemed necessary, capacity mechanisms should be non-discriminatory and should include not only generation capacities but all kinds of flexibility mechanisms such as interconnection capacities, demand-side response, storage and energy efficiency. Capacity mechanisms should only be a temporary measure of last resort, limited in time and accompanied by a clear exit strategy (Articles 21-24).

Article 19 of the revised Renewable Energy Directive should be amended as follows:

- The EU regulatory framework should address the distributional aspects of deployment support (eg. renewables). There is a need for the distributional impact assessment of deployment support as well as for the transparency of network costs that are passed onto consumer groups who do not use such technologies. When costs are passed on to consumer groups who do not use the supported technologies, cost distribution of support schemes for renewable electricity has to be balanced and fair (Article 19).
- Guarantees of Origin (GOs) should not be used as a finance tool but solely as a statistical tracking tool, excluding use for tracking of renewable energy target compliance or refinancing Member States tasks.⁵² By establishing mandatory auctioning⁵³ of GOs issued for

⁵⁰ For example, in France, retailers need to be compensated for lost revenue due to demand response.

⁵¹ This means that despite being a regulated price, there should remain strong incentives on suppliers to reduce their costs. The price cap would only be applied to a defined product, the default tariff, and suppliers would have pricing freedom on all other products. New entrants would need to undercut it in order to get market share. Therefore, incentives to compete should remain.

⁵² Selling GOs only generates negligible revenues because of oversupply. The GO supply might even increase with the Commission's proposals.

⁵³ While its financial effect is questionable, it also blurs the functional divide between national support schemes and GOs. The latter, however, cannot and should not substitute the first.

renewable power plants that receive public support, the EU legislation would mix up support schemes and GOs (Article 19).

4.2. Adequate protection for the most vulnerable

Current situation

Energy prices have been increasing and access to affordable energy is a real worry for many consumers.⁵⁴ In the EU, nearly 11% of EU citizens are unable to adequately heat their homes at an affordable cost.⁵⁵ Clearly, all European consumers do not have access to reliable, secure and sustainable energy at affordable prices. According to the Third Energy Package, Member States should ensure that there are appropriate safeguards to protect vulnerable consumers and define the concept of vulnerable consumers. However, Member States have opted for different definitions of the concept of vulnerable consumers.⁵⁶ In addition, there are significant differences among Member States with regard to policy measures used (eg. in some countries, it's mainly up to social policy). Several national consumer organisations report the absence of adequate policies.

European Commission's proposal

According to the proposal revising the Electricity Directive (Article 5), energy prices should be freely determined. Member States should protect energy poor or vulnerable consumers in a targeted manner by other means than public interventions in the price-setting.

Member States can set energy prices only for energy poor and only for a period of 5 years (from when the Electricity Directive enters into force). Price interventions beyond this period are only allowed in case of extreme urgency. According to Article 28, Member States should put in place safeguards to protect vulnerable consumers. Each Member State should define the concept of vulnerable consumers which may refer to energy poverty and to the prohibition of disconnection of electricity to such customers in critical times. Member States should also define a set of criteria to measure energy poverty (Article 29) as well as monitor and report on energy poverty in their Integrated National Energy and Climate progress reports (under the proposal for the Governance regulation).

The proposal amending the Energy Efficiency Directive encourages Member States to address energy poverty by increased energy efficiency and implement energy efficiency measures in households affected by energy poverty.

BEUC policy recommendations

The revised Electricity Directive should be amended as follows:

- Member States should define a set of criteria to measure energy poverty in the energy market, analyse if these consumers are sufficiently protected and add protections where needed, esp. in case of a deregulation process (Articles 5, 28).
- Disconnection shall be prohibited until the dispute between the supplier and the customer is settled.⁵⁷

⁵⁴ The EU household energy expenditure represented 5.8 % of household expenditure in 2014 while poorer consumers spend up to 22% on energy. Energy prices and costs in Europe, Report by the European Commission, 30 November 2016

⁵⁵ Study 'Energy poverty and vulnerable consumers in the energy sector across the EU: analysis of policies and measures', INSIGHT_E 2015

⁵⁶ As also illustrated in the ACER-CEER Market Monitoring Report, 2015

⁵⁷ For instance, if the supplier considers that the consumer owes a certain amount, even if the consumer does not agree and complains, the supplier usually warns that he will suspend the service if the consumer does not pay (even though nobody has ruled on whether the bill is correct). This puts the consumer in a difficult situation which s/he can often not resolve because of his economic situation.

- Member States should establish rules for protection of customers who are indebted (such as by establishing deposit limits) and rule out disconnections during the winter time (Article 28).

The revised Energy Efficiency Directive should be amended as follows:

- The revised Energy Efficiency Directive should prioritise energy efficiency measures in households affected by energy poverty (Articles 7a,7b).

Article 21 of the proposal for the Governance Regulation and Article 29 of the revised Electricity Directive should be amended as follows:

- In addition to Member States' reporting on national objectives with regards to energy poverty, Member States should also monitor and report on the set of criteria they use to measure energy poverty in their Integrated National Energy and Climate progress reports.
- The Commission, acting together with Eurostat and the Member States, should improve the comparability of datasets so that these are comparable across Member States in order to allow different countries to make comparisons of best practice and ensure transferability of results from pilot projects.

4.3. Households selling self-generated electricity

Current situation

Renewable power plants are currently granted priority dispatch which allows them to be sure they are always the first to sell on wholesale markets. However, historically low wholesale market prices do not provide for sufficient revenues. Moreover, in those Member States where consumers' export of electricity to the grid was restricted legally or financially, consumers had difficulties to run their projects and refrained from investments.⁵⁸

European Commission's proposal

The proposed revision of the Electricity Regulation (Article 1) strongly supports a 'market-based remuneration of electricity generated from renewable sources' as guiding principle. The renewable power plant operators shall respond to market price signals. The Commission is generally phasing out priority dispatch for nearly all renewable power plants. The Electricity Regulation provides for exemptions for small-scale installations. A grandfathering rule (exemption) applies to renewable power plants that already benefit from priority dispatch.

BEUC policy recommendations

The revised Electricity Directive, Renewable Energy Directive and Electricity Regulation should be amended as follows:

- Given that the price signals from wholesale markets currently are very weak, a purely market-based remuneration in its narrow sense would not be sufficient. Member States therefore should provide for a reliable remuneration scheme for renewable excess electricity fed into the grid (Renewable Energy Directive, Articles 4, 21, 22; Electricity Directive, Articles 15-16).
- Member States should be urged to remedy negative impacts from distorted markets where renewable energy sources still have difficulties to compete, due to environmental externalities of non-renewable generation capacities not being fully internalised (Renewable Energy Directive, Articles 4, 21, 22; Electricity Directive, Articles 15-16).
- No caps on priority dispatch should apply as this adds uncertainty and destroys investment security in particular for households planning a self-generation project (Electricity Regulation, Articles 11-12).

⁵⁸ BEUC: Mapping report, BEUC-X-2016-003, January 2016.

4.4. Households consuming electricity they produce in-house

Current situation

Many Member States impose taxes, levies and fees on renewable electricity that is self-consumed by households on premises. Such static charges do not trigger flexibility of self-generators but have a rather prohibitive character.⁵⁹ More generally, this is an unfair practice comparable with a VAT on self-grown tomatoes harvested in a consumer's private garden. It goes against several beneficial aspects: Renewable self-consumers contribute to reaching climate targets and help lowering external costs such as environmental damages and health costs caused by fossil fuels. The more renewable electricity is consumed on premises, the less financial support needs to be paid for the surplus kilowatt-hours exported to the grid.

European Commission's proposal

Both the proposed Renewable Energy Directive (Article 21) and the proposed Electricity Market Directive (Article 15) establish a right to self-consume. Renewable self-consumers should be protected against disproportionate charges (proposal for the Renewable Energy Directive, Article 21). However, the wording in the proposal for the Electricity Directive stresses that self-generating consumers should contribute adequately to system costs without explaining in detail how the cost allocation could be designed. Another provision of the Electricity Directive (Article 15) can be interpreted as a safeguard against consumer-friendly net metering schemes for solar electricity.

BEUC policy recommendations

The revised Renewable Energy Directive and Electricity Directive should be amended as follows:

- Self-consumed electricity should remain free from charges. Undue financial burdens such as taxes or fees imposed on self-consumed electricity should be removed. Such practices increase the costs and do not trigger any innovation in suppliers' business models and market positions. Charges imposed on self-generators should incentivise more flexible interaction with the whole energy supply system (Electricity Directive, Articles 15 and 16; Renewable Energy Directive, Articles 21 and 22).
- Policy makers and National Regulatory Authorities should allow net-metering in a transitional period in order to increase the adoption of renewable technologies by household consumers.

4.5. Benefits from smart living and new technologies

Current situation

Integral smart home and home automation solutions are only starting to appear in the market. Demand response is at the nexus of the energy and digital sector and –if broadly taken up by households - will be just part of the concept of the smart home. From a consumer perspective a smart home should be a comfortable, safe, healthy, energy efficient living space. In it consumers can benefit from self-generation, smart and interoperable appliances which have been designed to last long. They can also manage consumption through consumer-friendly smart metering systems if they choose so. Opting for smart home features should not jeopardize consumer interests and there is a need for clear rules that establish liability in case of failure.

European Commission's proposal

The legislative proposals within the Clean Energy Package focus on the market perspective but the proposals are lacking safeguards for consumers so that they are adequately protected and can benefit from technological developments related to smart homes.

⁵⁹ See BEUC: Mapping report, BEUC-X-2016-003, January 2016.

BEUC policy recommendations

The revised Electricity Directive should include the following references:

- The European Commission should analyse whether existing safety legislation and corresponding standardisation can sufficiently address potential safety risks arising from flexibility-enabling products. Health considerations (such as exposure to radiation) should be a parameter included in future assessments of residential response schemes (Article 17).
- When setting product design requirements for energy using products through the Ecodesign Directive, the European Commission should ensure that smart features of appliances are limited in terms of energy consumption and that these features do not negatively affect the durability, reparability and upgradeability of the product.
- The European Commission should ensure that appliance performance⁶⁰ is capable of supporting dynamic price contracts offered to consumers, and that the smart function can be switched off. Consumer should have the choice whether their appliances are smart or not. They should not be forced to adopt the technology through lack of choice (Articles 11 and 13).
- The European Commission in coordination with National Regulatory Authorities and Member States should carry out a comprehensive analysis on how new services impact liability and take adequate measures where negative impacts for consumers are identified (Article 17).

5. Ensure effective market surveillance and dispute resolution

5.1. Market surveillance

Current situation

National Regulatory Authorities have been playing a crucial role in developing the competitive energy market at the national level. Considering the current situation and future challenges, their powers and monitoring duties need to be reinforced.

The Agency for the Cooperation of Energy Regulators (ACER) has been supporting National Regulatory Authorities at the EU level, coordinating their actions across borders where necessary and acting through recommendations and opinions. However, in order to achieve effective implementation of the internal market, the roles and responsibilities of ACER need to be updated and reinforced.

The Council of European Energy Regulators (CEER) has been complementing the work of ACER and facilitating the creation of an internal energy market to the benefit of consumers.

European Commission's proposal

The proposal revising the Electricity Directive includes new provisions requiring National Regulatory Authorities to allow energy storage facilities to access the network and increase energy efficiency in networks. National Regulatory Authorities should also be required to measure the performance of the Transmission System Operators (TSOs) and Distribution System Operators (DSOs).

⁶⁰ Analysis by Citizens Advice:
<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/PolicybriefingSmartappliances.pdf> and
<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-consultation-responses/response-to-ofgembeis-call-for-evidence-on-a-smart-flexible-energy-system/>

The Electricity Directive proposal (Chapter VII) brings a few new provisions such as the obligation for National Regulatory Authorities to monitor the availability of comparison websites and contribute to more transparent network tariffs.

In addition to the existing role and responsibilities of ACER, the proposals for revised ACER Regulation establishes new responsibilities for the Agency. These include monitoring compliance with consumer rights and state interventions preventing prices reflecting actual scarcity. ACER will also have new powers concerning new regional operational centres. The proposal includes new provisions on functions of the Administrative Board of ACER and the task of the Director.

BEUC policy recommendations

The revised Electricity Directive and ACER Regulation should be amended as follows:

- National Regulatory Authorities should be fully independent (both financially and politically) from any other public or private interests and be empowered to issue binding decisions and penalties.
- National Regulatory Authorities and competition authorities should be mandated to monitor the price developments and intervene if wholesale and retail energy components do not follow the same patterns.
- National Regulatory Authorities should be required to monitor price developments and intervene where price crawl (prices rising slowly but surely) due to market imperfections.
- In addition to a mark-up between wholesale and retail prices, regulators should also assess the distribution of supplier's margins across consumer groups.
- National Regulatory Authorities should step up their activities on consumer issues and monitor more closely how consumers can exercise their rights, for instance the ease in finding information that helps to carry out a price comparison, range of tariff offers available through different sales channels, satisfaction with suppliers' customer service and/or complaint handling performance and bundled offers and whether these offers provide real benefits to consumers.
- National Regulatory Authorities should monitor bundled offers and whether these offers provide benefits to consumers, especially in terms of economic, social and environmental sustainability. National Regulatory Authorities should monitor offers and take the necessary action to avoid and stop dubious offers and market segmentation.
- While overall switching rates are often monitored as one of the competition indicators, National Regulatory Authorities should assess a wider range of factors related to switching, in particular: switching levels (including a clear focus on which consumer segments are more likely to switch and which segments are not), intra-supplier switching level, percentage of consumers switching to a better deal and the switching process itself (accuracy, speed of the switching process and quality of switching, e.g. in terms of consumer experience throughout the process).
- Where smart meters are rolled out, National Regulatory Authorities should monitor if benefits promised to consumers are delivered, especially if bills are accurate, information is in a user-friendly format and easy to access and supplier switching is smooth. At the same time, National Regulatory Authorities should monitor consumer satisfaction with the deployment experience, the savings achieved and interoperability.
- In addition to monitoring the number of 'prosumers', National Regulatory Authorities should also monitor the ease in accessing information and advice; administrative procedure (its length and simplicity/complexity); priority access to the grid for self-generators; existence of any charges on in-house electricity generation and self-consumption; existence of a dedicated and effective remuneration scheme for excess electricity sold into grid by self-generators.

- National Regulatory Authorities should ensure that network tariffs better reflect real use of the grid and are redesigned according to increasing self-generation and demand-response. More differentiated schemes that foster flexibility options of demand and supply, involving all electricity producers and consumers should be analysed. This analysis should include the distributional impact on different consumer groups and made transparent in order to safeguard fairness.
- National Regulatory Authorities should be obliged to make the methods and cost components used for the calculation of the network charges publically available.
- National Regulatory Authorities should assess if new dynamic tariffs are explained to consumers in a simple and clear way using a set of common terms, so that they can weigh up the costs and benefits and compare offers. Systematic monitoring of consumer protections should also include the impact on those consumers who do not opt for demand side flexibility schemes.
- With regard to demand response and dynamic pricing contracts, National Regulatory Authorities should:⁶¹
 - “encourage” only those groups of consumers to participate in demand response, for which the potential benefit has been demonstrated⁶²
 - ensure that tools are available to help consumers determine whether emerging tariffs are suitable for them ⁶³ and develop e.g. through the Council of European Energy Regulators (CEER) a methodology to compare dynamic price contracts and bundled offers in an objective and easily understandable way for consumers.⁶⁴
 - oversee the marketing of energy products and services to ensure that consumers are fully informed not only of potential advantages but also of the risks of new dynamic contracts and demand-response offers
 - safeguard the availability of non-time of use tariffs at affordable prices⁶⁵
 - set appropriate limits for consumers’ financial liability⁶⁶ to offset the risk that the household does not perform as expected (e.g. the underperformance of smart appliances and/or energy efficiency tools).
- National Regulatory Authorities should encourage accountability so that investments deliver value for money for consumers and that cost recovery is in the fairest manner possible:
 - The design of network tariffs is cost reflective, e.g.:
 - The growth of micro-generation should not leave increasingly smaller number of residential clients paying for a distribution network that becomes stranded.
 - It is reasonable to for electricity network consumers to finance the introduction smart electric vehicle charging equipment that prevent network failure and/or avoids more

⁶¹ Citizens Advice is conducting further research on the role of smart tariffs, due for publication in September 2017

⁶² Participation in demand response schemes should lead to lower bills for consumers. A recent study illustrates the impacts of demand response on the French, German-Austrian, and Nordic spot markets over the years 2013/14, 2014/15, and 2015/16. The analysis shows that the total annual savings of 4 GW of demand-side flexibility as a resource for 400 hours in each of the three markets could be higher than €1.6 billion euro. These savings are a result of reduced wholesale market clearing prices during the period that demand-side flexibility is applied. As a result retailers’ costs of buying electricity ahead of their consumers’ demand decrease. The question is how this value generated in the wholesale market would be passed to the consumer. (<https://www.raponline.org/wp-content/uploads/2016/10/baker-benefiting-customers-compensating-suppliers-2016-oct.pdf>). However, the lack of financial reward for consumer participation in demand response schemes would mean that consumers are only subsidising the modernisation of the system without benefiting.

⁶³ such as enhanced comparison tools, that enable consumers to model their bill based on different tariffs options and possibly their behaviour

⁶⁴ In order to improve the comparability of bundled services, these offers should be incorporated in comparison tools especially if the energy price/discount offer is linked to these services. Due to the complexity of the consumer decision when confronted with bundled offers, these have to be easily recognizable as such within the comparison tool.

⁶⁵ Consumers that are unable to participate in demand response markets should not face discrimination

⁶⁶ In previous Time of Use tariffs (TOU) trials a large minority of consumers failed to shift their load and were only protected by the conditions of the trial. Similarly research by our predecessor body, Consumer Focus, in 2012 found that 38% of traditional TOU tariffs did not benefit from them.

- costly network reinforcement. But all households should not subsidise equipment and services that provide value solely to owners of electric vehicles.
- Consumers should not underwrite risks that can be borne by commercial sector or pick up burden of exemptions for heavy industry
 - Regulatory frameworks should set criteria for transparency of revenue and performance targets, and their value to consumers
- National Regulatory Authorities should prepare, in cooperation with the Council of European Energy Regulators, an advice on accreditation scheme for comparison websites. Accreditation schemes should be in place and run either by National Regulatory Authorities or by consumer organisations.
 - National Regulatory Authorities should closely collaborate with consumer representative bodies to promote consumer engagement in the development of future energy policies and address consumer expectations during the integration of the energy markets.
 - Cross-sectorial issues should be addressed in cooperation with regulatory authorities across sectors (such as energy and telecom⁶⁷). An overlap of competences between regulators⁶⁸ or other bodies should be addressed so that consumers know whom to contact.
 - In the same way that it is important to ensure that NRAs are independent from national governments and private market players, it is also crucially important to guarantee that ACER keeps its independence and receives sufficient funding.
 - ACER's role and responsibilities should be updated, for instance with regard to the supervision of the envisaged EU DSO entity and ACER's role in designing network codes.
 - To ensure adequate oversight of the energy market players and the security of the energy supply, participation in ACER should be open to the national regulators of all countries that participate in the European energy trading market and within regional operation centres.

5.2. Complaint handling procedures and Alternative Dispute Resolution

Current situation

The Third Energy Package stipulates that consumers should have access to speedy and effective complaint handling procedures in order to address any possible dispute with their energy providers. BEUC members, however, are increasingly reporting complaints in current retail markets. Looking forward, new technologies will pose new challenges to the current practices of complaint handling. More bundled offers and innovative services provided by a variety of suppliers and service providers from different industry sectors are expected. This will likely result in complex complaints where cross-sector dispute resolution⁶⁹ will be needed.

While effective complaint handling procedures within companies are an important first step when something goes wrong, several BEUC members report that such procedures can often be lengthy and burdensome. The next step for a consumer who has not had a satisfactory solution to his problem is to take the complaint to an independent mechanism such as an energy ombudsman. Here we observe different approaches ranging from industry-run complaints boards to fully independent energy ombudsmen. The diversity of approaches leads to far too varied results for consumers across Europe. It is also clear that not all consumers know of the availability of this option for redress.

European Commission's proposal

⁶⁷ This may include for instance enforcement, bundled offers, data protection, Internet of Things but also infrastructure planning.

⁶⁸ For instance, the role of telecoms regulator will become more important also in the energy sector considering the combination of smart meters and smart home features representing new business opportunities for telecommunications companies. It is crucial for consumers to know whom to contact for different issues, and for service providers to clearly identify who has 'ownership' of an issue.

⁶⁹ This may include complaint schemes related to data protection, financial or telecom bodies.

The Commission proposes to scrap the current special legislation concerning alternative dispute resolution and only refer to horizontal legislation (Electricity Directive, Article 26).

BEUC policy recommendations

Article 26 of the revised Electricity Directive should be amended as follows:

- National authorities should control that company complaint handling is not used to impede consumers from exercising their rights.
- Member States should ensure that independent (Alternative Dispute Resolution) ADR schemes are available to address consumer complaints in the energy market, including the settlement of disputes involving suppliers from different sectors.
- The mandatory dispute resolution established by the Third Energy Package should be maintained. The current reference to the need for Member States to ensure the existence of "an energy ombudsman" and an obligation on companies to participate in out-of-court dispute settlements should be reinstated.⁷⁰ Their application should also be extended to the new market players⁷¹ brought under the scope of the legislation, for instance for bundled electricity offers and new service providers such as aggregators.
- Suppliers should provide information on ADR on their website and in all communication with their customers.
- Lack of compensation for harm suffered is a major loophole in a legal system and allows for illegal profit to be retained by business. Judicial collective redress for consumers currently operates nationally only in limited number of Member States. Therefore, we call for a binding legislative proposal ensuring that collective redress procedures for compensation are available in all Member States and can be used for cross-border cases.

END

⁷⁰ Our German member, vzbv, has pointed out that the precise wording of the current text is a prerequisite for its national authorities to ensure that all companies in the energy sector are obliged (and not just invited) to participate in the Alternative Dispute Resolution as laid down in the horizontal legislation.

⁷¹<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-consultation-responses/response-to-ofgembeis-call-for-evidence-on-a-smart-flexible-energy-system/>



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