

INDICATORS FOR ENERGY RETAIL MARKET MONITORING¹

BEUC Statement

¹ An ERGEG public consultation paper on draft guidelines of good practice on indicators for retail market monitoring Ref: E09-RMF-14-04 16 April 2010

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BEUC would like to thank ERGEG for organising this public consultation. Overall, we find the indicators relevant and we appreciate the justification and additional advice to regulators. In that sense, we highlight the importance of the following indicators:

- Inquiries as an indicator, to complement the indicator complaints
- Price spreads based on different payment methods and offers to complement prices
- Nature of the variation among offers, to complement the number of offers

Furthermore, we would like to contribute to the monitoring exercise by suggesting the following:

1. Make sure the guidelines are future proof by including specific smart grids and smart metering indicators.

BEUC suggests including indicators which evaluate the changes brought about by the evolution towards 'smart power systems'. BEUC's members participated in ERGEG's public consultation on smart grids. Furthermore, BEUC participated in the work of DG ENER's task force on smart metering and smart grids. The evolution towards smart power systems would bring benefits and costs to the different stakeholders. In order to be able to evaluate and steer the evolution, the performance towards consumers need to be monitored.

Key performance criteria for consumers are:

- Can consumers comprehend their actual energy consumption and receive information they need and ask for?
- Can consumers participate in the relevant energy market to purchase and/or sell electricity?
- Is there a coherent link established between the energy prices and consumer behaviour?
- Is data ownership clearly defined and are data processes in place to allow for service providers to be active with customer consent?
- Are the estimated benefits of the implementation of smart metering and smart grids monitored and linked to price increases/decreases in the end-user's bill?

2. Replace the market concentration indicators where possible with indicators based on whole sale trading and the hourly concentration indicator as was done in the energy inquiry.

While the concentration ratios and HHI are very informative, calculating hourly concentration indices contribute to an insight into the working of the energy markets, especially when the prices for end-users will be determined more and more by whole sale price signals.

3. When information to consumers is evaluated, monitor the availability of information about the fuel mix and information on guarantees of origin.

4. Monitor the same indicators for district heating where relevant.

For those National Regulatory Authorities (NRAs) that are responsible for the working of their national district heating markets, BEUC suggests monitoring the same indicators in relation to district heating.

5. In relation to vulnerable and low income consumers, we would like to suggest monitoring indicator 4 (End-user price for a typical household customer) and indicator 8 (Regulated end-user prices) specifically for vulnerable and low income consumers.

BEUC would plead to specify indicator 8 following foot note 24 in the consultation document and thus to include figures on end-prices specifically for vulnerable consumers as defined by member states. As to end-prices for a typical household customer – indicator 4 - we would find it informative to compare the price spreads not only in relation to payment systems or green tariffs, which is suggested now, but also be able to compare what offers are provided to low income and vulnerable consumers if this data are available. At the same time, we are aware of the conceptual difficulties in relation to collecting information on whether or not consumers are vulnerable or low income consumers.

At the same time, while market monitoring is crucial, the results should be used to increase competition and protect consumers where needed. The relevant legal text on monitoring in the internal electricity and gas directives specifies that the outcome of the monitoring exercise should at the end lead to:

“Bringing any relevant cases to the relevant competition authorities”

BEUC would like to thank ERGEG for organising this consultation. In general, we welcome the guidelines and appreciate the details and clarifications.

1. Overall support for the guidelines

We would like to support ERGEG in taking onboard consumer complaints alongside consumer inquiries, because a significant increase in inquiries is as informative as an increase in formal complaints. Furthermore, we would like to support ERGEG in suggesting calculating price spreads together with end-user prices. The non-application of the cost-based principle for difference offers related to payment options is a long standing issue. European and national law imposes this cost-based principle, but implementation and control is weak. We also welcome the inclusion of other offers in calculating the spread, such as green tariffs. Equally important and of great significance from the consumer point of view, is the suggestion to monitor the nature of the variation among offers. As BEUC and its members have stated several times, competitive markets are not a goal in themselves, but markets allow consumers to choose. However, demand should be matched for a market to work and having several offers is not in itself a good indicator. What is more informative is how much these offers divert.

2. Making the guidelines future proof: Include monitoring of specific smart grids and smart metering indicators

With the adoption of the European environmental goals, aimed at increasing the share of more stochastic, renewable energy production, reduction of CO₂ and reduction of primary energy use, the need for adapting Europe's networks has come to the forefront. Important changes are thus expected.

BEUC would therefore like to draw attention towards adapting the monitoring requirement to include the changes brought about by the roll-out of 'smart power systems'. BEUC's members participated in ERGEG's public consultation on smart grids². Furthermore, BEUC and its members participated in the work of DG ENER's task force on smart metering and smart grids.

With the policy objective of reaching the 20, 20, 20 goals, the additional smartness of the future networks should lead to less costs and more benefits compared to the scenario in which the networks are not adapted. For network owners, monitoring and quantification should lead to appropriate remuneration e.g based on incentive regulation.

Based on the input from stakeholders to the public consultation on smart grids, ERGEG has accepted the following potential key performance indicators related to enhanced consumer awareness and participation in the market by new players:

- Demand side participation in electricity markets and in energy efficiency measures
- Percentage of consumers on (opt-in) time-of-use/critical peak/real time dynamic pricing
- Measured modifications of electricity consumption patterns after new (opt-in) pricing schemes
- Percentage of users available to behave as interruptible load

² Position Paper on Smart Grids An ERGEG Public Consultation Paper Ref: E09-EQS-30-04 10 December 2009

- Percentage of load demand participating in market-like schemes for demand flexibility
- Percentage participation of users connected to lower voltage levels to ancillary services

During the discussions in the task force, BEUC has suggested additional performance indicators related to enabling informed decisions on energy use, market mechanism for new energy services as energy efficiency and energy consultancy and mitigation of increases in end-users' energy bills. In our view, the important, consumer-related key performance criteria are:

- Can consumers comprehend their actual energy consumption and receive information they need and ask for?
- Can consumers participate in relevant energy markets to purchase and/or sell electricity?
- Is there a coherent link established between the energy prices and consumer behaviour?
- Is data ownership clearly defined and are data processes in place to allow for service providers to be active with customer consent?
- Are the estimated benefits of the implementation of smart metering and smart grids monitored and linked to price increases/decreases in the end-users' bill?

We invite ERGEG to take these extra key performance indicators onboard especially in relation to non-regulated parts of the energy supply chain.

At this stage, the report of the task force on smart metering and smart grids has not been finished yet. Nevertheless, for your information, please find below an overview of the suggested benefits and related key performance indicators:

Benefit: Enable consumers to make **informed decisions related to their energy** to meet the EU Energy Efficiency targets

- Criteria:
- Base to peak load ratio
 - Relation between power demand and market price for electricity
 - Consumers can comprehend their actual energy consumption and receive information they need/ask for
 - Ability to participate in relevant energy market to purchase and/or sell electricity
 - Coherent link is established between the energy prices and consumer behaviour

Benefit: Create a **market mechanism for new energy services** such as energy efficiency or energy consulting for customers

- Criteria:
- 'Simple'and/or automated changes to consumers' energy consumption in response to demand / response signals are enabled
 - Data ownership is clearly defined and data processes in place to allow for service providers to be active with customer consent
 - Physical grid related data are available in an accessible form

- Transparency of physical connection authorisation, requirements and charges

Benefit: Consumer **bills are either** reduced or upward pressure on them is mitigated

Criteria:

- Transparent, robust processes to assess whether the benefits of implementation exceed the costs in each area where roll-out is considered are in place and a commitment to act on the findings is ensured by all involved parties
- Regulatory mechanisms exist that ensure that these benefits are appropriately reflected in consumer bills and do not simply result in windfall profits for the industry
- New smart tariffs (energy prices) deliver tangible benefits to consumers or society in a progressive way
- Market design is compatible with the way the consumers use the grid

3. Replace the market concentration indicator where possible with indicators based on whole sale trading or with hourly concentration indices as done in the sector inquiry in the European energy markets³ (6.2 Market concentration, p. 31 of the public consultation document)

Given the specifics of the electricity market combined with the evolution towards Time of Use tariffs, BEUC would like to refer to the sector inquiry. While the concentration ratios and HHI are very informative, calculating hourly concentration indices contribute to an insight in the working of the energy markets, especially when the prices for end-users are determined closely following whole sale price signals.

As the Sector inquiry noted:

16. Although electricity trading is more developed, sales on wholesale electricity markets generally reflect the significant level of concentration in generation. Analysis of trading on power exchanges shows that, in a number of them, generators have scope to exercise market power by raising prices, a concern also expressed by many customers. Analysis of trading positions on forward markets, which overall shows less concentration, demonstrates that the electricity markets depend on few suppliers with long positions (i.e. generate more than they resell). Analysis of generation portfolios also shows that the main generators have the ability to withdraw capacity to raise prices.

17. In the context of the inquiry, a study has been conducted on concentration levels in the electricity sector. An analysis of concentration on an hourly basis shows that even during off-peak hours markets remain highly concentrated and that concentration levels, even in the less concentrated markets, reach significant levels at peak hours. The analysis based on measurements of the structure of the market in every hour also reveals that, in certain markets, long-term contracts and, to a lesser extent, the reserve requirements can reinforce

³ Communication from the Commission Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report) (COM(2006) 851 final)

concentration levels. Further, the analysis shows that the existing level of interconnection capacity is not sufficient to significantly reduce concentration.

4. Information on the energy mix and guarantees of origin when supplying energy from renewable sources (4.3 Customer information of the public consultation document)

Article 3, paragraph 9 of the internal electricity market directive specifies the obligation of suppliers to inform the final customer of the fuel mix⁴. Furthermore, BEUC would like to invite ERGEG to include the availability of information on support measures for renewable energy and “*net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources*” as specified in Article 14 of the RES directive⁵.

While green electricity offers have stimulated consumers to switch energy providers, the effect on the energy mix of companies through this increased demand remains limited. Monitoring the information on the guarantees of origin and the energy mix will complement indicator 6 on the price spread of comparable products, including green tariffs.

5. Monitor the same indicators for district heating where relevant

Strictly speaking, district heating does not have an internal market dimension. BEUC would nevertheless like to draw ERGEG’s attention to the importance of this sector for some of its members. Where national regulatory authorities are regulating and monitoring district heating, BEUC suggests applying the same monitoring indicators. The document should explicitly mention this.

6. Vulnerable and low-income consumers

In relation to vulnerable and low income consumers, we would like to suggest monitoring indicator 4 (End-user price for a typical household customer) and indicator 8 (Regulated end-user prices) specifically for vulnerable and low income consumers⁶. BEUC is very pleased that ERGEG suggests calculating end-user prices for different products. When these are based on payment method, the current legal framework should ensure that price differences are cost-reflective. Unfortunately, many reviews, including by BEUC and by ERGEG, have found that this is not yet the case. If available additional information in relation to vulnerable and low income consumers could provide more insight into the equality of the energy markets. At the same time, we are aware of the conceptual and probable legal difficulties in relation to collecting information on whether or not consumers are vulnerable or low income consumers.

⁴ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC

⁵ Directive 2009/28/EC of the European Parliament and of the council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

⁶ As specified in Art. 3 paragraph 7 of Directive 2009/72/EC (see 2 for full reference) and Art. 3 paragraph 3 of Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC

As to end-user prices it is important to make the distinction between the different eligible end-users. BEUC would plead to specify indicator 8 following footnote 24 in the consultation document and thus to include figures on end-prices specifically for vulnerable consumers as defined by Member States. In relation to vulnerable consumers, we find some contradiction in the text and would like to ask for a clarification. While footnote 24 specifies that specific vulnerable customers can be one of the eligible categories for regulated end-users prices, the text specifies that regulated prices for vulnerable consumers only are not considered (p. 29 of the document).

As said, BEUC would plead to specify indicator 8 following footnote 24 and thus to include in all instances figures on end-prices specifically for vulnerable consumers as defined by member states.

We are aware that the monitoring exercise is extensive and might take up important resources of NRA's. As BEUC has said when commenting on the 3rd Energy Package, the most important task is to increase competition in the energy markets. While market monitoring is crucial, the results should be used to increase competition and protect consumers where needed. The relevant legal text in the internal electricity and gas directives which obliges NRA's to monitor their relevant markets clearly specify the outcome of the monitoring exercise should be:

“Bringing any relevant cases to the relevant competition authorities”

END