

Consumer Empowerment

CEER White Paper series (paper # III) on the
European Commission's Clean Energy Proposals

30 May 2017

1. Introduction

This CEER Regulatory White Paper provides the views of the National Regulatory Authorities in the Council of European Energy Regulators (CEER) on consumer empowerment issues. The aim of this White Paper is to deepen understanding and to assist the EU Institutions in assessing the proposals contained in the “Clean Energy for All Europeans” legislative package of 30 November 2016¹.

2. CEER's Key Recommendations

CEER welcomes the Clean Energy package's proposals on consumer empowerment, in particular its highlighting of the key role that an engaged consumer has in the clean energy transition. In this context, we recommend legislative changes, as detailed in the following sections.

- ***Fast and free supplier switching***

1. Supplier switching should, by 2025, typically be executed within 24 hours on a working day (Article 12).
2. Switching fees for customers switching supplier should be prohibited. However, early termination fees for cancelling fixed term, fixed price contracts or for contracts that not only include electricity and/or gas, but also additional services and/or products (bundled offers), may be admissible (Article 12).

- ***Clear, accurate customer information and billing***

3. Information overload for consumers should be avoided (Annex II). Consumers should be provided with only essential information on bills, and other required detailed information should be segmented through various communication channels where possible (Article 18 (5)).
4. Minimise excessive requirements which can create a barrier for new market entrants, diminishing competition and consumer choice (Annex II).
5. Clarify the information provided (and its frequency) to consumers who do not have a smart meter (Article 18 and Annex II).
6. Ensure at least 2 years of historical data is available for all customers, regardless of meter type (Annex II (3-a)).

¹ For ease of reading, references to the Electricity Directive and its Annexes refer to the re-cast Electricity Directive COM/2016/0864 final/2 - 2016/0380 (COD) and its Annexes. References to specific Articles in the proposed recast legislation relate to the revised texts (corrigenda) published by the [European Commission](#) on 23-02-2017.

- **Comparison Tools**

7. No need for mandatory electricity sector-specific certification of Comparison Tools (Article 14, Article 59) at European level.

- **Energy poverty**

8. Vulnerable customers should be protected by means other than price-setting below market price.

2. Fast and free supplier switching

Switching supplier is a key way for customers to benefit from the EU's energy market liberalisation drive, providing customers with the opportunity to avail of a better price and service deal. In order to encourage customers to benefit from competition, existing European energy legislation (3rd Energy Package) states that supplier switching should be free of charge and complete within a maximum of three weeks. This three week deadline is repeated in the Clean Energy proposals.

CEER recommends a more ambitious target so that the technical supplier switching process is typically completed within 24 hours on a working day, as this should be possible given the mass roll-out of IT in recent years. European Energy Regulators (CEER and ACER) have long advocated for faster switching, setting (in 2014) a 24-hour switching target by the year 2025. Evidence shows that shorter expected switching times encourages both customer searching for energy deals and switching of supplier. Hence a shorter switching time can help boost consumer engagement, helping competition and markets which function in consumers' interests.

CEER proposes supplier switching within 24 hours as a standard switching period set in the Directive, no later than by 2025, unless the cost-benefit analysis is negative. In such cases, the duration of supplier switching shall never exceed three weeks (as is the current legal requirement).

Moreover, CEER continues to emphasise that switching fees are a barrier to supplier switching and are therefore prohibited. However, with restrictions, early termination fees for cancelling fixed term, fixed price contracts or for contracts that not only include electricity and/or gas, but also additional services and/or products (bundled offers), may be admissible. Early termination fees should always be admissible for cancelling fixed term, fixed price contracts, even if there is no "demonstrable advantage" for consumers on condition that the customer has willingly entered into the contract.

Fast and free supplier switching:

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| <p>CEER supports the following of the Commission's proposals:</p> <ul style="list-style-type: none"> • Customers are not charged by any switching-related fees, except for fees to customers willingly terminating fixed term, fixed price supply contracts or bundled offers before the end of the contract. • Customers wishing to change supplier, while respecting contractual conditions, is | <p>CEER sees scope for change in the following areas of the Commission's proposals to make the package more future-proofed:</p> <ul style="list-style-type: none"> • More ambitious legislation is needed, limiting the technical process of switching supplier to 24 hours in a working day by no later than 2025, unless the cost-benefit analysis is negative. • Make the supplier switching process possible any working day of the month. |
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entitled to such change within three weeks.

- Early termination fees should be admissible for fixed term, fixed price contracts, even if there is no “demonstrable advantage” for the consumer, so long as the consumer has willingly entered into such a contract.

3. Clear and accurate customer information and billing

The European Commission is rightly concerned about the lack of information provided to consumers in some jurisdictions in terms of billing, namely on consumption and costs, which makes it difficult to compare commercial offers on the market.

In CEER’s view, information is a basic right that helps consumers adjust consumption in response to market signals and to make rational and more efficient choices. Billing information should be clear, understandable by the consumer, and based on actual consumption. Evidence shows that conventional meter readings provide data for billing which is not necessarily synchronous with the billing periods and therefore not based on actual consumption, leaving room for estimations and creating a delay in possible consumer responsiveness. The ability to provide self-readings mitigates, but does not eliminate, this problem.

Bills should provide consumers with only the key information they need. A balance needs to be struck between providing a customer with enough information to make an informed choice whilst allowing supplier innovation to tailor particular communications over different channels.

Regulators welcome the European Commission’s decision to consolidate billing and consumer information requirements within the Electricity Directive, including those which were previously in the Energy Efficiency Directive (2012/27/EU). However, adopting a one-size-for-all approach is not appropriate for bills. Instead, regulators support minimum requirements for bills that stipulate the basic information that needs to be included but allows suppliers to differentiate.

3.2.1 Billing information

Too much information can be unhelpful. CEER considers that not all of the information items proposed by the Commission (Annex II of the Electricity Directive) to be included in bills would be of value to consumers. This is not to say that this information should not be available to consumers through other forms of communication (e.g. email, over-the-phone, websites, special links or communication to the consumer), but CEER considers that all the information requested by Annex II should not be required for inclusion on the bill itself.

A prescriptive approach which requires includes too much information on bills can lead to customer confusion and/or disengagement, limit new supplier entry by raising costs and/or limit innovation. CEER instead supports some minimum level of consumer protection information on bills so that they are simple and clear.

Minimum required billing data should be kept to its essentials, namely providing consumers with effective and simple tools to understand their energy consumption, the related costs, payment methods and how to manage the bill. Energy regulators strongly recommend a critical assessment of any new data or information requirements on the bills and the possibility to segment data or information requirements by communication channel in Annex II.

Regarding bill communication, the possibility of alternative communication formats (e.g. paper or electronic bills) for all customers should be provided for in Article 18 (6), enabling the availability of information by the different market agents to customers in a cost-effective way.

3.2.2 Accurate consumption information

As regards accurate information on consumption, Article 18 and Annex II seem to establish that billing obligations vary depending on the existence of remote meter reading. Clearly, customers with smart meters should have accurate billing information (at a minimum of monthly), based on actual consumption. Moreover, regulators believe that any consumer should be able to choose their billing period from a previously defined range of options offered by suppliers, regardless of the type of meter installed.

CEER agrees with the requirement for at least 2 years of historical data included in Annex II of the Electricity Directive, although it is not clear whether this applies to all customers or only those with smart meters. Energy regulators recommend that all customers should be entitled to at least 2 years of historical data regardless of the type of meter installed. Where historical data is not available, regulators recommend the use of profiling models to characterise consumption levels according to the electronic appliances and devices used by the customer, in order to improve the accuracy of consumption estimates and subsequent billing.

In order to avoid bills based on estimates for those customers with conventional meters, the Directive proposes more frequent meter readings - for example every 3 months - by request or when customers have opted for electronic billing. However, attention should be paid to the cost increases imposed on Distribution System Operators (DSOs) or suppliers resulting from a higher number of meter readings, even if regular self-reading by the final customers is encouraged.

Accurate consumption information:

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| <p>CEER supports the following of the Commission's proposals:</p> <ul style="list-style-type: none"> • More accurate information to customers (Article 18). • At least 2 year historical data (Annex II). • Electronic billing information (Article 18 and Annex II). | <p>CEER sees scope for change in the following areas of the Commission's proposals:</p> <ul style="list-style-type: none"> • Too much information can be unhelpful; leading to disengagement (Annex II). • Customisation of customer information to consumers' needs and preferences, using different communication channels and supports, and not only the bill itself, enabling further potential for innovation. • E-billing and application would facilitate the billing process and can reduce costs (Article 18). • There should be clarification about information for customers with smart meters and customers with conventional meters (Article 18 and Annex II). |
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4. Comparison Tools

The Clean Energy proposals introduce an electricity sector-specific legislation on Comparison Tools (CTs) covering their reliability and enforcement, including the establishment of certification authorities.

4.2.1 General consumer (rather than sector-specific) legislation is a more efficient way to enforce reliability of comparison tools

Regulators welcome the willingness of the Commission to ensure that every European customer has access, free of charge, to at least one reliable comparison tool, whether operated by private companies or public authorities or bodies.

Public and private CTs can and do coexist in the same market as they offer different services to customers. Many private multi-sector comparison tools, covering energy (electricity and natural gas) in combination with other sectors (mainly communication services and financial services), currently exist in different Member States.

General consumer legislation provides the basis for the enforcement of quality and reliability of all CTs. CEER believes that general consumer legislation covering single and multi-sector CTs is a more efficient way to improve the overall quality and reliability of CTs, rather than new sector-specific enforcement legislation.

4.2.2 Certification of reliable CTs should not be imposed by European legislation, as different maturity of local markets needs tailored solutions at local level

CEER's view is that certification should not be imposed as mandatory by European legislation, but instead is better defined at local level, depending on both the maturity and competitiveness of the comparison market and energy market. A range of alternatives to certification is possible: where CTs are well-functioning due to competition or self-regulation, active monitoring by the NRA or another public body may be an efficient solution; where self-regulation is not sufficiently protecting customers, the NRA or another public body may establish a code of conduct, a charter or a certification scheme for CTs, with proper verification and enforcement measures. Furthermore, public certification would not be appropriate for public CTs - established by the NRA or another public body – which by their nature should be independent and reliable, and tailor-made solutions would be required where public and private CTs coexist.

There is a risk that the costs associated with the mandatory establishment and operation of a certification scheme could, on the one hand, be passed on - at least indirectly - to customers, and on the other hand, discourage some reliable CTs from entering the certification scheme.

Thus, overall CEER's view is that the implementation of a certification scheme should be one possible way to promote CTs reliability - depending on local conditions - and not a European legislative obligation.

Comparison Tools (CTs):

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| <p>CEER supports the following of the Commission's proposals:</p> <ul style="list-style-type: none"> • Ensuring access, free of charge, to at least | <p>CEER sees scope for change in the following areas of the Commission's proposals:</p> <ul style="list-style-type: none"> • General consumer legislation – together |
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| <p>one reliable tool comparing the available offers.</p> <ul style="list-style-type: none"> Comparison tools may be operated by any entity, including private companies and public authorities or bodies. | <p>with regulatory intervention, where appropriate - provides a more efficient way to enforce CTs reliability, rather than electricity sector-specific legislation.</p> <ul style="list-style-type: none"> Certification of CTs should not be imposed by European legislation, as the different maturity of local markets needs tailored solutions at local level – including certification schemes where appropriate. Public certification would not be appropriate for public CTs, which by their nature should be independent and reliable. |
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4. Energy poverty

Effective and well-functioning European energy retail markets, where stakeholders operate on a level playing field, typically lead to positive outcomes for all market actors, notably consumers. As a general principle, competition among suppliers in energy retail markets drives cost efficiencies and innovation. For energy consumers, this tends to increase product choice and provide opportunities to make energy price savings, to their benefit.

The protection of vulnerable energy customers is vital. Targeted protection of energy poor or vulnerable customers can play an important policy role. However this should not be based on regulated prices being below market price as this can damage retail competition and harm consumer welfare. Instead, vulnerable customers may benefit both from retail competition and targeted interventions where policy instruments are compatible with energy competition. For example, appropriate policy instruments including general social welfare systems do not interfere with competition in the energy market while still allow for the protection of vulnerable customers.

The eradication of energy poverty is one of the main objectives with respect to European energy markets. As proposed by the Commission, it is important for all Member States to monitor the development of energy poverty such that all of Europe's energy consumers can gain access to this essential commodity at affordable prices. We welcome that proposal.

Annex 1: Relevant ACER/CEER Papers

The White Paper builds on the "[European Energy Regulators' Overview Paper - Initial Reactions to the European Commission's Proposals on Clean Energy](#)", published by CEER and ACER on 23 January. It is part of a series of CEER Regulatory White Papers on key topics related to the Clean Energy package.

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| European Energy Regulators (ACER-CEER) White Paper #1 Renewables in the Wholesale Market , May 2017 |
| European Energy Regulators (ACER-CEER) White Paper #2 Role of the DSO , May 2017 |
| European Energy Regulators (ACER-CEER) White Paper #3 Facilitating Flexibility , May 2017 |

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| European Energy Regulators (ACER-CEER) White Paper #4 <u>Efficient Wholesale Price Formation</u> , May 2017 |
| CEER White Paper (no. I) on Distribution and Transmission Network Tariffs and Incentives , May 2017 |
| CEER White Paper (no. II) on Technology that Benefits Consumers , May 2017 |
| European Energy Regulators' Overview Paper, "Initial Reactions to the European Commission's proposals on Clean Energy" , 23 January 2017 |
| CEER Public consultation on Comparison Tools , November 2016 |
| CEER Position paper on early termination fees , May 2016 |
| CEER Report on commercial barriers to supplier switching in EU retail energy markets , July 2016 |
| CEER Position paper on well-functioning retail energy markets , October 2015 |
| CEER Paper: The implementation of the 2020 Vision for Europe's energy customers by its supporters , October 2014 |
| Energy Regulation: A Bridge to 2025 ACER Conclusions Paper , September 2014 |
| CEER-BEUC's 2020 Vision for Europe's energy customers , November 2012 |
| Guidelines of Good Practice on Price Comparison Tools , July 2012 |
| CEER Guidelines of Good Practice on retail market functioning, with a focus on switching and billing , January 2012 |
