



CEER

**Council of European
Energy Regulators**

Fostering energy markets, empowering **consumers**.

**CEER Draft Advice on How to Involve
and Engage Consumer Organisations
in the Regulatory Process**

A CEER Public Consultation

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INFORMATION PAGE

Abstract

This report (C14-CEM-70-04) examines how best to involve and engage consumer organisations in the regulatory process by drawing up a number of recommendations believed to enhance the collaboration between NRAs and consumer organisations to the benefit of both sides and, ultimately, the final consumer. By proposing concrete measures in the fields of information exchange, capacity building, policy development/design and implementation/enforcement of energy market rules and regulations, CEER concludes that a stronger relationship between NRAs and consumer organisations will likely enhance their institutional performance and thereby create more favourable market conditions as well as better empowerment and protection services for customers in the long run.

Target Audience

European Commission, energy suppliers, traders, gas/electricity customers, gas/electricity industry, consumer representative groups, network operators, Member States, academics and other interested parties.

Keywords

Retail markets; Consumer rights; Customer protection & empowerment; National regulatory authorities (NRAs);

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Related Documents

CEER documents

- [“GGP on Customer Complaint Handling, Reporting and Classification”](#), CEER [June 2010], Ref. E10-CEM-33-05
- [“Benchmarking Report on the roles and responsibilities of NRAs in customer empowerment and protection as of 1 January 2011”](#), CEER [October 2011], Ref. C11-CEM-46-03
- [“A 2020 Vision for Europe’s energy customers - Joint Statement”](#), CEER and BEUC [November 2012, updated December 2013]
- [“CEER Status Review on the involvement of consumer organisations in the regulatory process as of 1st January 2013”](#), CEER [October 2013], Ref. C13-CEM-65-03
- [“Final CEER 2014 Work Programme”](#), CEER [January 2014], Ref. C13-WPDC-23-05
- [“CEER Workshop Agenda on how to make consumer organisations’ involvement in the regulatory process most effective”](#), CEER [February 2014], Ref. C13-CEM-67-04

Other documents

- [“EU Consumers’ 2020 vision”](#), BEUC [May 2012]
- [“Conclusions of the 6th Meeting of the Citizens’ Energy Forum”](#), European Commission [December 2013]



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EXECUTIVE SUMMARY

This CEER Draft Advice presents a number of recommendations on how to best involve and engage consumer organisations in the regulatory process. The views expressed in this paper are solely those of the Council of European Energy Regulators.

CEER started examining the relationship between National Regulatory Authorities (NRAs) and consumer organisations for the first time in 2013 and came to the conclusion that this relationship deserves a higher degree of attention given the potential synergies that exist between these two parties. The recommendations presented in this paper were developed with a view to offering a perspective on how these synergies can be successfully exploited to the benefit of both sides and the final consumer respecting the different mandates, roles and responsibilities of each party.

In overseeing energy markets and promoting the best interests of society, regulators are called upon to consult a wide range of stakeholders and to balance sometimes difficult perspectives. The regulatory process involves a broad spectrum of actors and interests, with often technical questions and corresponding policy measures. Regulators see consumers and their representative organisations as a central part of their decision and policy making responsibilities. We hope that this advice will serve to reinforce forms of cooperation and dialogue between energy regulators and consumer organisations and to lend a voice to consumers in these often complex areas.

The term “consumer organisation” is used in a generic sense in this report. Given the multitude of different arrangements in the Member States, it does not refer to a specific category of consumer organisation. It rather applies to those organisations which NRAs chose or are obliged to cooperate with in the specific national contexts. The term “consumer organisation” in this report does not include public ombudsmen and government agencies dealing with consumer protection.

This CEER Advice paper is structured around four thematic areas, each of which consists of a number of specific recommendations. The four thematic areas are:

- Information Exchange
- Capacity Building
- Policy Development and Design and
- Implementation and Enforcement

As far as **information exchange** is concerned, CEER calls for a strong commitment to exchange clear, simple and easy to understand information, i.e. avoiding complex language and exaggerated levels of technical detail. Information should also be made more accessible by NRAs through proactive notifications of major decisions/publications. In the spirit of collaboration, the NRA should encourage consumer organisations to act likewise. Shared information could furthermore and as a general rule, be accompanied by summary notes explaining core elements of these documents and expected effects on consumers. While informal collaboration between NRAs and consumer organisations is already quite effective, CEER recommends further improvements of communication channels by identifying contact persons in relevant areas of expertise. In addition, the report suggests that NRAs and consumer organisations should establish a clear framework for information sharing by



specifying how and which data could be exchanged between the parties. This commitment may be reviewed/updated regularly.

In the area of **capacity building**, CEER recommends using dedicated capacity building measures as a tool to strengthen the knowledge base and performance of NRAs and consumer organisations. The term “capacity building” is, thus, used to cover the different activities that contribute to the build-up of knowledge within NRAs and consumer organisations e.g. through trainings, workshops, e-learning facilities and other forms. Given that both sides possess expertise of significant value to each other, capacity building should ideally be reciprocal. Bearing in mind that resources on both sides are limited, CEER suggests capacity building should be provided to consumer organisations free of charge as a matter of principle (i.e. without tuition or other extra fees) whenever possible. At the same time, NRAs should encourage consumer organisations to do the same. If expenses are involved, donors could be considered or significant other incentives could be offered to the beneficiaries to add value (e.g. course certificates, etc.). Any best practices from other sectors should be considered in addition to these suggestions made by CEER.

As far as collaboration in the field of **policy development and design** is concerned, experience shows that this is a relatively new and not yet well-explored field of cooperation. As a first step, CEER proposes that NRAs provide an overview of envisaged future regulatory framework developments and encourage consumer bodies to take part in this process. This is believed to set the appropriate ground for identifying key areas of collaboration. CEER further advocates that public consultations at national level should play a central role in the regulatory policy development process with a view to allowing all interested stakeholders to take part in this process. Where appropriate, consumer bodies’ input may already be called upon in the early preparation phase of such consultation processes. CEER further believes a high level of end-to-end transparency throughout the policy development process is needed in order for all involved parties to understand how their input was taken up and to create wider acceptance of the policy measures adopted.

In terms of **implementing and enforcing** energy market rules and regulations, CEER encourages closer collaboration with consumer organisations in a variety of fields. It is suggested inter alia that consumer organisations (and other market participants) could support regulators in detecting potentially non-compliant behaviour in the market and thereby help provide stronger evidence for enforcement cases. At the same time, involving consumer organisations and other market participants in this process, where appropriate, is believed to create more legitimacy and acceptance of NRAs’ enforcement decisions. The report further proposes that NRAs and consumer organisations use appropriate means for reporting on regulatory decisions in order to enhance accountability of regulators. NRAs also encourage consumer organisations to be their partners when it comes to the application of “non-conventional” regulation measures such as e.g. reputational regulation, benchmarking or appealing to moral authority.

In terms of the four key principles raised in CEER’s 2020 customer vision - reliability, affordability, simplicity and empowerment/protection - the recommendations made in the report are believed to have an impact on all of these dimensions.

In sum, the recommendations made in this report lead to the overall conclusion that an effective involvement of consumer organisations in the regulatory process has a high potential to deliver stronger results in favour of market functioning, customer empowerment and protection.



1 Introduction

1.1 Background and Purpose of the Report

In 2013, CEER¹ published a Status Review on the involvement of consumer organisations in the regulatory process. This paper, published on 30th October 2013, provided thorough insight into the working relations between NRAs and consumer organisations. The overall aim of this review was to investigate if, how and on which particular issues NRAs and consumer organisations collaborate.

Based on the findings of the 2013 Status Review, CEER met with stakeholders on 20 February 2014 in a public workshop in order to explore how the relationship between NRAs and consumer organisations can be made more effective. The input received during this interactive workshop was used to develop a number of concrete recommendations with a view to an enhanced involvement of consumer organisations in the regulatory process.

The recommendations made in this CEER Draft Advice paper aim at providing an impulse to NRAs and consumer organisations to effectively exploit their synergies. Overall, the suggested proposals are believed to have a significant impact on the quality of work produced by both sides, thus, allowing for more effective institutions and better results in relation to consumer protection and empowerment.

CEER's dedication to this area of work was also confirmed in the conclusions of the last Citizen's Energy Forum in London: *"The Forum welcomes forthcoming advice from regulators (CEER) on ways to involve and engage consumer representatives in the regulatory process at the national level and invites regulators to prepare a discussion on these issues for the next Forum"*.

In accordance with these conclusions, CEER is looking forward to present its findings at the London Forum 2014.

1.2 Definitions

Customer/Consumer

In this report, the terms "customer" and "consumer" is used interchangeably. Customer/consumer refers to household customers or small businesses. Large energy end-users are not considered as customers/consumers for the purposes of this paper.

Consumer Organisation

The term "consumer organisation" is used in a generic sense in this report. Given the multitude of different arrangements in the Member States, it does not refer to a specific category of consumer organisation. It rather applies to those organisations which NRAs chose or are obliged to cooperate with in the specific national contexts. The term "consumer organisation" in this report does not include public ombudsmen and government agencies dealing with consumer protection.

¹ In collaboration with the European Consumers' Organisation BEUC; the analysis was based on responses gathered from both NRAs and BEUC members.



This definition was slightly adapted as compared to the definition used in the 2013 Status Review given that the recommendations made in this paper do not all directly apply to public ombudsmen and government agencies. These bodies often carry out energy specific work in contrast to the consumer organisations targeted in this paper which deal with consumers from a large variety of sectors at the same time. Public bodies are therefore considered to be different in nature and to have different relations with NRAs than general consumer organisations. These relations are, however, not subject to analysis in this report.

Capacity building

The term “capacity building” is used to cover the different activities that contribute to the build-up of knowledge within either the NRA and/or the consumer organisation. Capacity building activities can take various forms and can be delivered through e.g. training, workshops, e-learning facilities and other suitable forms.

1.3 Content

This CEER Advice paper is structured around the following four thematic areas:

- Information Exchange
- Capacity Building
- Policy Development and Design
- Implementation and Enforcement

These are considered to cover the key areas in which synergies between NRAs and consumer organisations exist.

In terms of information exchange, the report recommends ways in which information exchange can be made more efficient and which tools can help to step it up.

The section on capacity building points to the value of knowledge that both sides possess and suggests ways of achieving effective information sharing and knowledge transfer between NRAs and consumer organisations.

As to the chapter on regulatory policy development and design, recommendations are given on how NRAs and consumer organisations can work together in more strategic areas, including at early stages when policy is developed and designed.

Finally, the paper proposes a number of ways in which regulations can be more successfully implemented and enforced if NRAs and consumer organisations collaborate.

1.4 Public Consultation and Further Process

This CEER Advice paper is open for public consultation from 18 June to **8 August 2014**. CEER invites all interested stakeholders to participate in this consultation process and to provide their views on the content of this report.

The public consultation will be conducted via an online questionnaire to be found on the CEER website (please, click [here](#)).



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How to involve and engage consumer organisations in the regulatory process

The answers received from stakeholders will be published² and evaluated in a transparent manner in the annex of the final report.

CEER expects publication of the final report by end 2014. A snapshot of the key results will be presented at the London Forum 2014.

² Unless stakeholders explicitly state that their contribution should remain confidential.



2 Information Exchange

Simplicity of Data

The parties involved in an information exchange process will only gain value from such a process if they clearly understand the content of the messages being conveyed to them. Effective communication therefore requires the skill of getting specific messages across in such a way that they will be understood by the respective counterpart. Hence, clarity of the content exchanged is a basic principle of effective communication. Accordingly, the parties involved should always aim at formulating their messages to each other clearly and understandably.

The communication between NRAs and consumer organisations must be in line with these basic principles in order to ensure that both sides benefit from the process. Clarity in the communication between NRAs and consumer organisations is particularly important given the differing nature and approach to their work. While NRAs perform highly specialised tasks that often require a significant level of technical expertise, consumer organisations have broader knowledge of consumer related problems and requirements, often across many sectors.

In order to achieve effective exchange of information between NRAs and consumer organisations, the reduction of complexity in the material exchanged should be a clear goal. This means information should be adapted according to the targeted recipient and transformed into clear and comprehensible formats. In this spirit, technical information from NRAs must be simplified and brought to a level that is understandable for consumer organisations. NRAs should also encourage consumer organisations to transform their broad knowledge base into concise and focused messages. While this should be a general principle in the communication between NRAs and consumer organisations, it does not mean that all information has to necessarily be treated in this way. The goal must be to identify key areas in which it makes sense to adapt content to a reduced level of complexity for the sake of common benefit. That is to say that information of extreme complexity might not always be useful to be exchanged with the other side and this should be kept in mind.

Data and information shared by NRAs with consumer organisations should thus be clear, simple and easy to understand and – where appropriate - in a standardised format, such as is the case for complaint data³, so as to create value added in the cooperation between these two parties.

Recommendation 1 – Simplicity of Information (Information Exchange)

Information shared between NRAs and consumer organisations should be clear, simple and easy to understand. Technical data from NRAs should therefore be brought to an understandable level. NRAs should encourage consumer bodies to act likewise in relation to NRAs.

Question for Public Consultation:

Do you agree that there is a need to simplify the data exchanged between NRAs and consumer organisations in order to enhance added value to their relationship?

³ GGP on Customer Complaint Handling, Reporting and Classification, CEER [June 2010], Ref. E10-CEM-33-05.



- Yes
- No
 - *If no, why not? (Comment Box)*

Visibility of Information

A precondition for successful information exchange is easy access to relevant material. To facilitate the search for data by interested parties, information must be made visible and easy to find. The following proposals represent basic solutions, but many additional ways of making information more visible can be envisaged.

An organisation's annual report is a useful tool to disseminate and visualise comprehensive information. As such a report allows depicting the full scale of organisational activities, it represents an important and up-to date source of information for stakeholders. NRAs should therefore make sure to share their annual reports actively with consumer organisations, so as to provide information on key issues, upcoming challenges and progress made on current activities. NRAs should encourage consumer organisations to do likewise.

Where appropriate, visibility should also be ensured in relation to ongoing activities (in addition to sharing information once a year through the annual report). In order to achieve higher visibility of e.g. important publications and regulatory decisions, these should be prominently advertised on the NRA's website but also communicated to consumer organisations at an early stage either through newsletters or by simply informing them. A powerful tool in this context is believed to be the provision of concise explanatory notes/fact sheets accompanying the main decisions/publications in order to attract the attention of stakeholders and make the work more visible to them. As a rule, the explanatory documents could contain a mandatory section on the actual impact and relevance of the publication for consumers (e.g. a consumer impact assessment where appropriate).

Recommendation 2 – Visibility of Information (Information Exchange)

NRAs should ensure a high level of visibility in relation to their activities. This should be achieved by pro-actively delivering timely notifications about major decisions/publications and by supporting these documents with summary notes explaining core elements and effects on consumers. NRAs should encourage consumer bodies to act likewise in relation to NRAs.

Question for Public Consultation:

Do you agree that major decisions and publications should be made more visible through notifications and explanatory notes summarising the core elements and impacts on consumers?

- *Fully agree*
- *Partially agree, I'd like to propose additional/different measures to create visibility*
 - *Comment Box*
- *No*
 - *If no, why not? (Comment Box)*



Improved Communication Channels

Although NRAs and consumer organisations already have close ties in many countries, they can improve exchange of information between them by establishing enhanced communication routines.

Communication channels can be significantly optimised by identifying specific contact persons in relevant fields of interest on both sides. This will facilitate the way NRAs and consumer organisations can approach each other and will save time by enabling direct and targeted exchanges. While this type of transparency is not only considered important for addressing formal requests to the right person, it can also help strengthen informal ties between regulators and consumer organisations. As shown by results in the 2013 CEER Status Review, NRAs and consumer organisations largely collaborate on an informal basis. Therefore, a positive impact on the informal relationship between the parties is important. One significant positive effect in this respect is the possibility for both sides to build mutual trust when permanent contact or liaison persons are in regular contact.

Improved communication channels will furthermore allow ad-hoc questions to be treated more efficiently and more rapidly and will add overall to an enhanced and more successful process of information exchange between the parties.

Recommendation 3 – Improved Communication Channels (Information Exchange)

NRAs should identify contact persons in relevant fields of interest in order to allow information to flow more rapidly and directly on the basis of mutual trust. NRAs should encourage consumer bodies to act likewise in relation to NRAs.

Question for Public Consultation:

Do you think that information exchange between NRAs and consumer bodies can be further strengthened by identifying specific contact persons on both sides?

- Yes
- *Yes, but more needs to be done. I propose additional/different ways to improve communication channels*
 - *Comment Box*
- No
 - *If no, why not? (Comment Box)*

Clear Framework for Information Sharing

Information exchange can be structured and performed in a number of ways. Yet, the more clearly the framework is defined, the more efficiently the process will run as it can avoid duplication and eliminate redundancies. As a matter of principle, the underlying structure of how and which information is exchanged between NRAs and consumer organisations should be determined by the individual parties involved taking confidentiality policies into account.



To this end, NRAs and consumer organisations may consider setting-up a joint bilateral non-binding agreement such as e.g. a Memorandum of Understanding (MoU) with a view to stipulating the main principles to be applied in the information sharing process. Where such an agreement is deemed useful, it should be seen as a document describing the 'rules of the game' in relation to how and which information could be shared. The agreement may contain general principles, such as e.g. how to deal with confidential information and what to do if one party breaches the agreed content. Such a clear framework is believed to provide guidance to the parties and eliminate barriers. In order to guarantee a positive effect in the long-run, the agreement may be reviewed regularly and updated if needed.

These principles should also be applied at EU level, e.g. between CEER and BEUC.

Recommendation 4 – Clear Framework for Information Sharing (Information Exchange)

In order to establish a clear cooperation framework recognised by both parties, NRAs should encourage consumer organisations to establish such a framework with them, e.g. through a Memorandum of Understanding in which the parties determine the basic principles in relation to how and which information should be spread. Such an agreement may be reviewed/updated regularly to take changing circumstances into account in the long-run.

Question for Public Consultation:

Do you think a clear framework for information sharing is useful to determine the basic rules of information sharing?

- *Fully agree*
- *In principle yes but the following alternatives should be considered*
 - *Comment Box*
- *Don't agree*
 - *Why not? (Comment Box)*



3 Capacity Building

Synergies

A key function of both NRAs and consumer organisations consists in supporting consumers to actively participate in the market. While NRAs fulfil this task in a highly specialised manner and with technical experts at hand, consumer organisations need to balance human and financial resources in order to serve customers from a variety of sectors⁴. As a consequence, consumer organisations are generally less specialised in the individual sectors they represent and act on a broader level than NRAs who have deep knowledge about energy markets. Consumer organisations, in turn, have first-hand information and valuable insight on customers' needs which NRAs might not have to the same extent. This knowledge and information asymmetry creates significant potential for synergies which should be exploited in order to strengthen the performance and capacity of both NRAs and consumer organisations.

Recommendation 5 – Synergies (Capacity Building)

NRAs should strengthen the performance in relation to consumer organisations and aim for joint capacity building measures given that they possess expertise of significant mutual value and try to achieve similar goals in relation to customer empowerment and protection. These synergies should not be left unexploited for the ultimate benefit of the final customer.

Question for Public Consultation:

Do you agree that the institutional performance of NRAs and consumer organisations could be improved through capacity building?

- Yes
- Partly agree
 - Explanation (Comment box)
- No
 - If no, why not? (Comment Box)

Extent of Capacity Building

Despite the fact that NRAs and consumer organisations work towards similar goals when it comes to customer empowerment and protection, they have different mandates and roles which need to be respected. Thus, the cooperation between NRAs and consumer organisations should always aim at improving the knowledge and capacity of these institutions. Capacity building should therefore be carried out in a proportionate manner and to the extent necessary to support and enhance institutional performance without creating a role conflict or inefficient overlaps. The intensity and extent to which capacity building should be carried out, thus, needs to be carefully evaluated in terms of its added value and available resources.

⁴ See results from "[CEER Status Review on the involvement of consumer organisations in the regulatory process as of 1st January 2013](#)", CEER [October 2013], Ref. C13-CEM-65-03.



Proportionate capacity building also entails an effort on both sides to match each other's expectations in relation to the content and intensity of capacity building. There is a need to identify the "right" level of knowledge to be transferred as it might very well be that consumer organisations do not necessarily need the same level of technical expertise as an NRA on a number of subjects and this should be respected with a view to efficient resource management. The same is true vice versa. Overall, the right level of capacity building is believed to be important for both parties to emerge with a higher understanding of each other's work. This is believed ultimately to enable NRAs and consumer organisations to have a more informed and effective dialogue.

Recommendation 6 – Extent of Capacity Building (Capacity Building)

Capacity building should be proportionate both in terms of content and resources. It should allow NRAs and consumer organisations to enhance their level of knowledge with a view to allow for an informed dialogue.

Question for Public Consultation:

Do you agree that capacity building should be carried out in a proportionate manner to allow for better individual results and a more competent dialogue?

- Yes
- Partly agree
 - Explanation (Comment box)
- No
 - If no, why not? (Comment Box)

Priority Subject Areas

NRAs cover a broad area of subjects related to energy markets and, thus, have specific knowledge on the functioning of electricity and gas markets. Consumer organisation representatives have voiced great interest in learning more about the technical background of energy markets in order to be able better to represent their customers and form an independent opinion on current and upcoming regulations and their impacts. A need for capacity building was identified in a number of relevant subject areas both on the wholesale and retail level.

Overall, consumer organisations have expressed a wish to learn more about the functioning and technical aspects of wholesale markets and the liberalisation process overall⁵. They have also voiced a need to understand the developments in the field of smart energy, particularly with respect to demand response, smart grids and smart meters.

These topics are examples of areas in which capacity building could potentially take place and is based on initial feedback received from consumer organisations and NRAs. It does not, however, prescribe that these areas have to be treated as priority areas as priorities may be different in different countries and in different organisations.

⁵ CEER public workshop with consumer organisations, 20 February 2014.



National and EU energy legislation is another topic where consumer body knowledge could be reinforced. This is an important gap to be filled given that legal knowledge forms an important basis to defend consumers and is a precondition to understanding the market context. Capacity building on legal issues should particularly focus on explaining the legislation currently in force both in terms of substance and as to how it is interpreted and which processes and procedures they impose in relevant areas (e.g. in the field of complaint handling, billing, etc.).

Another high priority subject area is price setting and price comparison tools. Consumer organisations typically receive a large portion of their complaints related to pricing. Education on price formation and price components as well as proper reading of energy bills can contribute to better identifying flaws.

As the mentioned subject areas all represent the day-to-day work of a regulator, NRAs are well placed to deliver capacity building to consumer organisations on these aspects.

Consumer organisations' heavy exposure and day-to-day contact to customers make them rich in experience on customers' problems, needs and experiences. Given that regulators focus largely on technical work, they need to know what consumers want and what their needs are in order to create favourable market conditions for them. Consumer organisations may therefore provide capacity building to NRAs by transmitting detailed knowledge and experience on the issues consumers struggle with and can explain what the reasons behind these problems are and what could be done against them. Consumer organisations could particularly inform the regulators of unfair practices in the market such as e.g. abuse of dominant position, misleading information to customers but also other practical problems that occur e.g. with switching, etc.

In order to make capacity building targeted and effective, NRAs should engage with consumer organisations to clearly identify their individual priorities and communicate the subject areas they are interested in. Capacity building on key priority areas is expected to significantly enhance NRAs' and consumer organisations' credibility as their actions will be based on a more educated and broader view of the market and of consumers.

Recommendation 7 – Priority Subject Areas (Capacity Building)

Capacity building should be performed in clearly defined priority areas which may vary from country to country and from one institution to another. Priority areas can carefully be selected e.g. on the basis of circumstances in individual national markets, pressing customer needs and priority issues for the institutions involved as well as other relevant considerations.

Question for Public Consultation:

Do you agree that NRAs and consumer organisations should concentrate their capacity building activities on selected priority areas? These areas could include as a priority e.g. relevant national and EU energy legislation, price formation (price components), smart energy (demand response, smart grids, smart meters, etc.) and functioning of wholesale markets.

- *Yes exactly*
- *Yes but in addition the following subject areas should be covered:*
 - *Comment Box*
- *No, instead of the mentioned issues we propose the following priority subject areas*



- *Comment Box*

Resource Management

Any effort towards capacity building goes hand in hand with the question of how to realise it given limited resources both in financial and human terms. Consumer organisations and NRAs are often financially constrained and have difficulty raising the necessary funds for training or other additional expenses for capacity building. The general problem of funding is also explicitly referred to in the European Consumer Organisations' 2020 Vision: *"In all EU countries, as well as at EU level, consumer organisations have insufficient funds to cover the broad range of issues relevant to consumers"*⁶. NRAs are also constrained given that their experts are highly specialised and work at full capacity.

Capacity building therefore needs to be designed in an attractive way both with strong added value for the beneficiaries and through innovative solutions to overcome financial burdens or strain on human resources that may arise. It is believed that capacity building does not necessarily have to be associated with high costs. A ground rule should be to make capacity building worth the resources invested into it in order for it to work and achieve the desired results. How this can be done will likely depend on the specific circumstances, nevertheless a few ideas and principles should lay the ground for potential arrangements in this regard.

While capacity building can hardly be done without investing human resources into it, a possible strategy may be to limit extra financial expenses as much as possible. Given that both organisations will benefit from reciprocal capacity building, this could provide a sufficient incentive for NRAs to offer capacity building free of charge (i.e. without any extra cost such as tuition). Because both parties will benefit from capacity building, it could become a basic principle between NRAs and consumer organisations to offer capacity building to each other for free. On a national level for example, physical meetings can easily be organised in either the premises of the NRA or the consumer organisations without the need to travel internationally and to use funds for other expenses⁷. There are a number of further ways in which capacity building can be achieved successfully at little or no cost. These are outlined in more detail in the next section (Forms of Capacity Building) bearing in mind the existing resource constraints.

Both parties should however also be aware of the fact that in some cases financial contributions might be unavoidable. In such cases, the activities should be designed in an attractive manner and with proper incentives to make the activity worth the resources invested. This could be achieved for example by non-financial compensation such as by providing course certificates, offering the possibility to widen an organisation's network, inviting high profile testimonials, etc.

⁶ Quoted from "[EU Consumers' 2020 vision](#)", BEUC [May 2012], p.6.

⁷ Even in case international travel is involved, these missions could be combined with other important activities or appointments to be set up under maximum efficiency and with a view for all parties to benefit to limit costs as much as possible.



Another approach should be to use available public funds which are dedicated to organisations active in the field of strengthening consumers and to capacity building in this area such as e.g. from the European Commission if these funds are available and the activities are eligible to receive them. Donors may also proactively be made aware of the potential gains from capacity building of consumer organisations and NRAs in order for them to consider possibly earmarking funds for these purposes in the future.

Recommendation 8 – Resource Management (Capacity Building)

NRAs should commit to a general principle of providing capacity building free of charge (i.e. without any extra cost such as tuition or service fees) and encourage consumer organisations to do the same. If extra costs cannot be avoided, additional incentives should be provided (e.g. course certificates, possibility to network, etc.) in order to receive sufficient value for money. Donors could be called upon if the intended activities qualify for funding.

Questions for Public Consultation:

Do you agree that NRAs should agree to offer capacity building free of charge (i.e. with no extra costs) as a basic principle and encourage consumer organisations to do the same?

- Yes
- No
- *If no, why not? (Comment Box)*

Do you agree that additional incentives (such as certificates, networking, etc.) are needed if the beneficiary of capacity building is asked to pay money?

- Yes
- No
- *If no, why not? (Comment Box)*
- *Any further proposals for incentives that could work, please insert in comment box*
- *Comment Box*

Forms of Capacity Building

Given obvious resource constraints (as described above), capacity building measures need to be as efficient as possible and designed well in order to appeal to the target audience. What is more, it must be ensured that capacity building can be easily accessed and absorbed by the beneficiary. In order to make a real impact, it must also allow the target organisation to learn as a whole, rather than storing knowledge in isolated individuals. Capacity building must therefore be designed as comprehensively as possible. Several ways in which capacity building can be carried out bearing these factors in mind are proposed.

It is believed that the dissemination of knowledge via virtual means is an appropriate and very efficient tool for institutions to improve their capacity given that it is easily accessible at all times, information is up to date and a large target audience can be reached at a relatively low cost. Moreover, virtual tools are flexible and dynamic and may offer various services in parallel to suit individual preferences. In addition, organisations typically have the necessary infrastructure already in place (computers, internet, webpage, etc.). Thus, the barriers to offer/receive capacity building through virtual means are very low and should represent a key pillar in capacity building between NRAs and consumer organisations.



In concrete terms, regulators and consumer organisations could offer web platforms specifically dedicated to the dissemination of knowledge on the priority areas identified by the parties. In order to avoid duplication, these web platforms could be created on EU-level, ideally (and if resources are available) by the EU associations of national regulators and consumer organisations respectively (e.g. CEER and BEUC). They could contain profound technical briefs on overall priority subject areas relevant to all Member States and could, if possible, be complemented by a series of webinars or other user friendly applications that are effective in disseminating/acquiring skills. The content should be designed with a view to capacity building and should, thus, be distinguished from the general content on the webpage. It is believed that institutional capacity can be significantly improved by offering information through such a web platform as materials are accessible to all members of an organisation and not only to a few individuals who have e.g. enrolled in a physical training course. Operating a web-based platform on a European level may particularly make sense for sharing the basics of energy regulation and for compiling central documents of European significance relevant to all European actors. National specificities would still need to be transferred through national channels; however, the overall basics would not have to be provided by every country on its own and unnecessary duplication and inefficiencies can be avoided.

This, in turn, does not mean that physical training courses are less effective. On the contrary, the impact of attending trainings can be very high, as they typically allow for more than just the presentation of written material. Discussion of the content, interactive simulations and other practical exercises allow for a thorough examination of the content. Trainings are therefore considered useful in highly complex areas and should be offered on demand and/or in case public funds can be mobilised to support the attendance of beneficiaries and lecturers. If physical trainings cannot be organised by NRAs or consumer organisations themselves, they might recommend and/or facilitate trainings at other institutions to each other (e.g. CEER has close ties with the Florence School of Regulation⁸). In order to allow an organisation as a whole to benefit from the courses attended by a few selected individuals, the course materials should always be made accessible to the whole constituency on the above-mentioned web platforms.

Effective capacity building programmes must, however, also consist of broader measures than the ones mentioned. It is important not to reduce capacity building to classical knowledge transfer via textbooks and trainings, even if these measures play a central role. Instead, capacity building should be complemented by an increased networking effort in order to form closer ties with each other, e.g. through the organisation of multi-stakeholder dialogues which not only allow discussion of current issues but also learning from the exposure to a plurality of views. This is believed to create a constructive atmosphere in which stakeholders give and receive institutional feedback which should be used to build capacity and foster organisational learning.

The combination of these capacity building measures is not only believed to be effective and comprehensive but also flexible enough to adapt to special circumstances if needed.

⁸ European University Institute, Robert Schuman Center for Advanced Studies, [Florence School of Regulation](#).



Recommendation 9 – Forms of Capacity Building (Capacity Building)

Capacity building should be realised through appropriate channels jointly agreed by NRAs and consumer organisations. Different groups may use different types of measures to reach information and knowledge depending on individual needs.

Question for Public Consultation:

Do you agree that a combination of different measures involving e.g. the dissemination of knowledge via virtual means (web platforms) and physical trainings (on complex subject areas) as well as networking initiatives (e.g. multi-stakeholder dialogues) will help build capacity?

- Fully agree
- Partly agree, I would like to add/delete the following measures from the proposed list
 - Comment Box
- Don't agree
 - Why not? (Comment Box)

Best Practices from Other Sectors

Consumer organisations are active in a variety of sectors and might have experience to share on successful capacity building programmes that can be equally applied in the energy sector. A number of NRAs are also closely linked with regulators from other sectors and may have the possibility to inquire if best practice examples exist. Any capacity building measures that are considered useful by the parties should be considered to be taken up in addition to the measures described earlier.

Recommendation 10 – Best Practice from Other Sectors (Capacity Building)

NRAs should make an effort to find out whether any best practice examples on capacity building programmes exist in other (regulated) sectors that can be applied to the energy sector as well. At the same time, NRAs should encourage consumer organisations to report on any best practice examples they know about.

Question for Public Consultation:

Are you in favour of having NRAs look into other sectors and consider applying best practice examples in their capacity building programmes?

- Yes
- No
 - If no, why not? (Comment Box)



4 Regulatory Policy Development and Design

Overview of Strategies and Policies

As far as the results in the CEER 2013 Status Review show, current cooperation between NRAs and consumer organisations does not include joint activities on strategic matters and issues relating to policy development and design. Feedback received from consumer organisations during this investigation suggested that an increased dialogue with NRAs on strategic and policy related issues should, however, be considered. Collaboration on strategic matters implies shaping of future policies rather than working on existing rules and regulations.

Overall, there is a high level of consensus on the importance of a participatory process in policy development. At the same time, it must be mentioned that the extent of collaboration in this regard will depend on the mandate of the individual NRA given that not all regulators have the same scope and depth of powers. Also, the broader governmental framework has to be borne in mind as decisions are often split among different governmental institutions and, thus, NRAs may for example only cover a specific part in the policy development process in the field of consumer questions, or be focused entirely on enforcement without a policy development remit. Thus, policy debate and development often involve a wide range of energy stakeholders, with regulators called upon to consider all views in the best interests of consumers and society overall. The participation of consumer representatives in such discussions is therefore important to promote a better understanding of consumer needs and priorities, but also to explore the consequences and implications for consumers of envisaged policies.

As a starting point for a fruitful dialogue on policy development, it is considered important that NRAs and consumer bodies have a clear picture of each other's strategies, priorities and the overall direction of their policies. The process of collaboration in policy development should therefore start from a common understanding of the different focus areas and policy direction. This will allow the parties to establish a common starting point on an equal footing and enable the different parties to decide early on where to focus their attention, and if any skill-building or training is required to engage on any particular topic.

Recommendation 11 – Overview of Future Developments of the Regulatory Framework (Regulatory Policy Development and Design)

As a prerequisite for an increased dialogue on strategic and policy related issues, NRAs should provide an overview of future developments regarding the regulatory framework and encourage consumer organisations to participate in this process.

Question for Public Consultation:

Do you think that an overview of future regulatory framework developments could serve as a starting point for dialogue on strategic and policy related issues?

- Yes
- No

- *If no, why not? (Comment Box)*



Prioritisation of future regulatory developments

A next step should consist of selecting the key areas in which NRAs and consumer organisations want to debate future policies. Clear priorities should be established in terms of short-term versus long-term engagement and should be jointly agreed.

Overall, areas in which consumer bodies have high stakes should be declared priority areas. Such a targeted approach will help focus the collaboration on the most important topics and will allow consumer organisations to use their resources efficiently.

Recommendation 12 – Prioritisation of Future Regulatory Developments (Regulatory Policy Development and Design)

NRAs, in dialogue with consumer organisations, should identify key priority areas of future regulatory framework developments in order to establish a strongly focused discussion that also allows resource-constrained consumer bodies to get involved.

Question for Public Consultation:

Are you in favour of prioritising core policy areas in order to allow for a focused and resource-efficient collaboration?

- Yes
- No
- *If no, why not? (Comment Box)*

Public Consultations

As the results in CEER's 2013 Status Review show, consumer organisations already strongly participate in public consultations held by NRAs. This practice is considered to be a particularly useful tool in engaging stakeholders of all sorts in the work of NRAs. Public consultations should therefore play a central role in also involving consumer organisations in the policy development process.

While consumer organisations as well as other stakeholders are invited to reply to public consultations, consumer bodies may, in selected cases and if appropriate, be called upon already at an earlier stage to provide input in the development phase of e.g. public consultation questionnaires. As a consequence, NRAs may launch more public consultations on new policy proposals to ensure broad participation in the development process. In addition, any initiatives undertaken by NRAs and consumer organisations in the policy development phase should be well coordinated and communicated.

Consultations as well as planned initiatives must be announced well in advance so that stakeholders have enough time to react. During the consultation period, input from a broad range of consumer organisations and stakeholders should be taken on board considering the different roles of market players and other newcomers.



Recommendation 13 – Public Consultations (information exchange)

Public consultations at national level should play a central role in the policy development process with a view to allowing interested stakeholders to take part in this process. Where appropriate, relevant consumer organisations' input may already be called upon in the early preparation phase of such consultation processes.

Question for Public Consultation:

Do you agree that public consultations are an appropriate tool to get stakeholders involved in regulatory policy development and that consumer organisations should be involved early on if appropriate?

- Fully agree
- Agree on the central role of public consultations but not on early involvement of consumer bodies
 - Comment Box
- Don't agree
 - If no, why not? (Comment Box)

Transparency

End-to-end transparency is a key element during the decision making process. A high level of transparency on the positions taken by either side should be guaranteed to foster understanding. Consumer organisations should be given the appropriate time to express their wishes and concerns. Transparency is also crucial for the parties to understand how their input was taken up in the policy making process. It is believed that clear procedures and an effective involvement of consumer bodies throughout the whole process will ultimately lead to wider acceptance of final decisions and initiatives taken.

Recommendation 14 – Transparency (Regulatory Policy Development and Design)

NRAs should provide maximum transparency whenever possible and should ensure clarity on how input from consumer organisations is taken into consideration during the regulatory policy development process.

Question for Public Consultation:

Do you believe more transparency will lead to wider acceptance of results by both NRAs and consumer organisations?

- Yes
- No
 - If no, why not? (Comment Box)



5 Implementation and Enforcement

Evidence-based Enforcement

Effective implementation and enforcement of rules is an important aspect in creating trust in the market and its actors. Regulators have a key role in this respect as their responsibilities include implementation and enforcement of rules. Market monitoring is a powerful tool NRAs use to carry out this task. While market monitoring allows regulators to examine market participants' compliance with rules in various fields, this process does not typically include the opinion or experience of other parties.

In the field of customer empowerment and protection, an increased exchange of information between regulators and consumer organisations could, however, significantly contribute to better enforcement of rules as NRAs would directly make use of the signals consumers give about non-compliant behaviour in the market. Such an exchange of information can alert regulators at an early stage to problems that need to be addressed and would help to deliver concrete evidence⁹ of unlawful behaviour in the market. The evaluation and gathering of evidence is considered to be central in fulfilling the NRA's enforcement mandate. Consumer organisations could, thus, make an important contribution to this process by conveying significant evidence on non-compliant behaviour to the NRA. In order to get a more complete picture, the dialogue with consumer organisations may also be complemented by exchanges with the industry and other market participants.

The inclusion of consumer organisations in the enforcement process is believed to have the potential to improve the quality of enforcement measures where appropriate, as regulators will take more informed decisions if stakeholders have the possibility to express and discuss the impact of regulations. In addition, inclusion of stakeholders in the process is likely to enhance the acceptance and legitimacy of enforcement decisions taken by the regulator and may ultimately lead to more compliant behaviour by market participants overall.

Recommendation 15 – Evidence-based Enforcement (Implementation and Enforcement)

Regulatory enforcement should be evidence-based and, thus, could include exchanges of information between NRAs and consumer organisations (as well as other market participants) with a view to detecting better potential non-compliant behaviour in the market and allow for a higher degree of acceptance and legitimacy of decisions even if the NRA does not have an obligation to act upon this information as it is ultimately the NRAs' decision when and how to ensure enforcement and compliance.

Question for Public Consultation:

Do you agree that the NRA should accept signals about potentially non-compliant behaviour in the market provided by consumer organisations and other market participants?

- Yes
- No
- *If no, why not? (Comment Box)*

⁹ e.g. a consumer organisation can alert the NRA in case a large number of complaints are received against a particular actor or on a particular subject



Accountability

As national authorities, regulators have been given a specific mandate and certain responsibilities to fulfil. A fundamental characteristic in this respect is their independent institutional status and set up, which allows them to take decisions in the best interest of the market and its consumers. Thus, as an actor taking decisions with a significant impact on market participants, NRAs need to be accountable for their actions and need to take responsibility for the consequences of their decisions.

Feedback received from consumer organisations called for more transparency in terms of the decisions taken by regulators, so as to allow these organisations to consistently trace and assess NRA's practices in the area of customer empowerment and protection.

A possible solution to this is to establish appropriate means of communication between NRAs and consumer organisations in order to provide clarity on the principles applied in current and past regulatory enforcement decisions and to ensure that the regulator fulfils its overall duties.

To this end, it is proposed that NRAs and consumer organisations think about consistent reporting mechanisms to ensure that regulatory decisions and their outcomes are effectively communicated. Such a reporting mechanism may include an agreement that certain regulatory enforcement decisions should be published and accessible to a wider public. This could systematically be implemented by e.g. specific sections in the NRAs' annual reports. This will not only allow stakeholders to have access to regulatory enforcement decisions and create a level playing field, but will also provide the NRA with a strong incentive to take non-discriminatory, well justified and independent decisions.

Recommendation 16 – Accountability (Implementation and Enforcement)

In order to enhance the accountability of NRAs, regulators should develop appropriate means of communication with consumer bodies (e.g. annual reports, etc.) to create effective transparency of regulatory actions and decisions.

Question for Public Consultation:

Do you agree that NRAs should develop appropriate means of communication to increase transparency and accountability of the regulator?

- *Yes, fully agree*
- *Partially agree*
 - *Comment Box*
- *Don't agree*
 - *If no, why not? (Comment Box)*

Regulation Measures

The role of an enforcement body is to ensure compliance with the law through various measures. While the law may clearly lay out which actions to take in severe cases of non-compliance, it might not prescribe particular sanctions in other cases. It is therefore the job of the enforcement body to come up with a strategy of how to ensure compliant behaviour and act against parties breaching legal obligations and provisions.



Practice suggests that hard enforcement measures such as law suits, court cases, fines and redress can be helpful to deter actors from breaching legal obligations and provisions. These measures typically follow ex-post in response to certain legal violations.

Yet, the spectrum of enforcement options is more differentiated and has more variety to offer, such as through a number of less conventional enforcement measures. Despite their nature, these measures are not necessarily less effective. In fact, they offer significant flexibility and alternative approaches as they can be enacted both in a preventive fashion ex-ante but also ex-post. It is important to recognise that the desired results may not always be achieved by applying hard measures, as even the prospect of harsh sanctions may not safeguard those who will have to bear the damage. The goal of non-conventional regulation should therefore be to prevent damage from happening where possible. This does not mean that hard enforcement measures are not needed. It rather means that enforcement bodies must look for a good balance of hard and non-conventional measures. The mix is key in ensuring compliance.

When it comes to non-conventional measures, the regulator might not be able to develop and implement them entirely on its own but may need help from the media, consumer organisations or other actors, depending on the measure. In all cases, however, it is ultimately the NRA's decision when and how to ensure enforcement and compliance and decide if and when to use its enforcement powers and publish the results of its enforcement actions.

A powerful non-conventional regulation tool can for example be benchmarking of services and behaviour of market actors. Despite the fact that benchmarking may - in a strict sense - refer to an exercise measuring performance rather than compliance it can be an effective reputational regulatory tool. If the results of such benchmarking exercises are published and thus accessible to a wide audience, a strong effect on the involved parties will potentially follow as public exposure will provide both a reward for those actors who have performed well and an incentive to improve for those who have performed less well. The awareness that benchmarking exercises can be carried out at any time may in itself be a powerful tool to make market participants prone to comply with the rules. Benchmarking exercises are a good example of how regulators and consumer organisations can cooperate as they both have access to relevant data that can make benchmarking exercises possible.

Another measure in the area of reputational regulation is the practice of publishing the proven wrongdoings of particular market actors in an explicit way by naming the actor and associating it with inappropriate behaviour and practices. This may lead to damage of the actor's image but also of the controversial practice itself and may prevent or stop other actors from applying these.

It should be noted that the practice of reputational regulation may also be used in the opposite sense, namely by giving attention to actors who perform particularly well and may serve as a role model to set better standards. Reputational regulation may therefore not only be seen as preventing and sanctioning unlawful behaviour but also as rewarding compliant behaviour.

It must also be noted that moral authority can play an important role in the context of regulation and should be called upon as a basic tool to motivate actors to comply with the law.

Given the effectiveness of non-conventional regulation measures and their wide spectrum of application, NRAs and consumer organisations could consider supporting each other in



realising these tools as effectively as possible e.g. through the provision of data and/or other relevant information if deemed appropriate in the respective national context. Overall, the measures applied to enforce rules must be proportionate.

Recommendation 17 – Non-conventional Regulation Measures (Implementation and Enforcement)

NRAs and consumer organisations could, where appropriate, support each other in making non-conventional regulation measures as effective as possible (e.g. reputational regulation, benchmarking, rewarding and moral authority). This should be achieved e.g. by providing relevant data and other support in the preparation of enforcement cases if deemed appropriate in the given context.

Question for Public Consultation:

Do you agree that NRAs and consumer organisations could support each other to maximise the effect of non-conventional regulation measures?

- *Yes, fully agree*
- *Partially agree*
 - *Comment Box*
- *Don't agree*
 - *If no, why not? (Comment Box)*



6 Conclusions

This report examined how best to involve and engage consumer organisations in the regulatory process by drawing up a number of recommendations believed to enhance the collaboration between NRAs and consumer organisations to the benefit of both sides. By proposing concrete measures in the fields of information exchange, capacity building, policy development/design and implementation/enforcement, CEER concludes that a stronger relationship between NRAs and consumer organisations will likely enhance their institutional performance and thereby create more favourable market conditions as well as better empowerment and protection services for customers in the long run.

In terms of the four key principles raised in CEER's 2020 customer Vision - reliability, affordability, simplicity and empowerment/protection - the recommendations made in the report are believed to have an impact on all of these dimensions.

- Strong ties between regulators and consumer organisations are believed to significantly increase the **reliability** of processes and services delivered to consumers and enhance **customer empowerment/protection** as more transparency, regulatory accountability and stronger enforcement of rules will be a direct result of the cooperation with consumer organisations;
- By joining forces in disseminating, explaining and increasing accessibility of rules and regulations in the market, customers will benefit from information that is readily available and **simple** to understand; and
- The improved market rules that will be achieved through the participation of consumer organisations in law enforcement and policy development may contribute to more competitive markets, which in turn is a condition for **affordable** prices in the long run.

In the field of information exchange, CEER believes that a strong commitment from both parties to deliver clear, simple and easy to understand information is a cornerstone of effective information exchange. In order to help bring key messages across and make them more visible, CEER further concludes that NRAs should pro-actively notify consumer organisations about their decisions/publications and provide summary notes explaining the core elements of these documents and expected effects on consumers. CEER additionally argues that information exchange on an informal basis can be significantly strengthened by establishing improved communication channels, e.g. through nominated contact persons on both sides. CEER finally draws the overall conclusion that the establishment of a clear framework of information sharing such as e.g. a Memorandum of Understanding may be useful in order to agree on the main principles in relation to their collaboration and the exchange of information. Similarly, these principles should be applied at EU level, e.g. between CEER and BEUC.

In the area of capacity building, CEER concludes that there are several possible ways and arrangements that can be applied to carry out effective capacity building even if resources are limited. Examples could include the dissemination of knowledge via virtual means and physical training (if possible to offer free of charge) as well as networking initiatives to strengthen each other's ties and allow for mutual feedback. Due to the fact that both parties possess expertise of significant mutual value, CEER further concludes that capacity building should be reciprocal and carried out in a number of specific priority areas. Any best practices from other sectors should be considered in addition to the suggestions made by CEER.



Bearing in mind that regulatory policy development and design is a new area of potential collaboration, CEER concludes that NRAs should, as a first step, provide an overview of future developments regarding the regulatory framework in order to identify common fields of action and prioritise these accordingly. CEER further believes that public consultations should play a central role in the regulatory policy development process with a view to allowing consumer organisations and interested stakeholders to take part in this process. In this context, consumer organisations may already be invited to provide input at earlier stages to the extent possible and where deemed appropriate. Another key conclusion in this section underlines that high level end-to-end transparency is needed throughout this process in order for consumer organisations to understand how their input was taken up.

In terms of enforcing energy market rules and regulations, CEER concludes that the inclusion of consumer organisations (and other market actors) in the process of detecting non-compliant behaviour on the market will not only contribute to a strong evidence-based enforcement practice but also increase acceptance and legitimacy of the resulting regulatory enforcement decisions. The report also finds a role for consumer organisations alongside regulators in the enforcement of “non-conventional” measures (e.g. reputational regulation, benchmarking, appealing to moral authority) through provision of relevant data if deemed appropriate in the given context. CEER furthermore concludes that consumer organisations and NRAs should find an appropriate mechanism to communicate regulatory enforcement decisions in order to enhance the accountability of NRAs. The report also finds that a joint effort in disseminating, explaining and increasing accessibility of rules and regulations will be conducive to enforcement as more widespread knowledge about relevant provisions will lead to better compliance results.

The recommendations made in this report lead to the overall conclusion that an effective involvement of consumer organisations in the regulatory process has a high potential to deliver stronger results in favour of market functioning, customer empowerment and protection.



Annex 1 – Public Consultation Questionnaire

The following questionnaire must be filled in online until **8 August 2014**.

Respondent Details (all fields mandatory):

***Name of Organisation:**

***Type of organisation (multiple choice):**

- **Producer**

- **Supplier**

- **Consumer organisation**

- **Academic**

- **Think Tank**

- **Consulting Firm**

- **NGO**

- **Other, please specify (comment box)**

***Main tasks of Organisation:**

***Link to Organisation's Website:**

***Contact Person Full Name:**

***Contact email:**

***Contact phone:**



Information Exchange

Recommendation 1 – Simplicity of Information (Information Exchange)

Information shared between NRAs and consumer organisations should be clear, simple and easy to understand. Technical data from NRAs should therefore be brought to an understandable level. NRAs should encourage consumer bodies to act likewise in relation to NRAs.

Question for Public Consultation:

Do you agree that there is a need to simplify the data exchanged between NRAs and consumer organisations in order to enhance added value to their relationship?

- Yes
- No
 - *If no, why not? (Comment Box)*

Recommendation 2 – Visibility of Information (Information Exchange)

NRAs should ensure a high level of visibility in relation to their activities. This should be achieved by pro-actively delivering timely notifications about major decisions/publications and by supporting these documents with summary notes explaining core elements and effects on consumers. NRAs should encourage consumer bodies to act likewise in relation to NRAs.

Question for Public Consultation:

Do you agree that major decisions and publications should be made more visible through notifications and explanatory notes summarising the core elements and impacts on consumers?

- Fully agree
- Partially agree, I'd like to propose additional/different measures to create visibility
 - Comment Box
- No
 - *If no, why not? (Comment Box)*

Recommendation 3 – Improved Communication Channels (Information Exchange)

NRAs should identify contact persons in relevant fields of interest in order to allow information to flow more rapidly and directly on the basis of mutual trust. NRAs should encourage consumer bodies to act likewise in relation to NRAs.

Question for Public Consultation:

Do you think that information exchange between NRAs and consumer bodies can be further strengthened by identifying specific contact persons on both sides?

- Yes
- Yes, but more needs to be done. I propose additional/different ways to improve communication channels
 - Comment Box
- No
 - *If no, why not? (Comment Box)*



Recommendation 4 – Clear Framework for Information Sharing (Information Exchange)

In order to establish a clear cooperation framework recognised by both parties, NRAs should encourage consumer organisations to establish such a framework with them, e.g. through a Memorandum of Understanding in which the parties determine the basic principles in relation to how and which information should be spread. Such an agreement may be reviewed/updated regularly to take changing circumstances into account in the long-run.

Question for Public Consultation:

Do you think a clear framework for information sharing is useful to determine the basic rules of information sharing?

- *Fully agree*
- *In principle yes but the following alternatives should be considered*
 - *Comment Box*
- *Don't agree*
 - *Why not? (Comment Box)*



Capacity Building

Recommendation 5 – Synergies (Capacity Building)

NRAs should strengthen the performance in relation to consumer organisations and aim for joint capacity building measures given that they possess expertise of significant mutual value and try to achieve similar goals in relation to customer empowerment and protection. These synergies should not be left unexploited for the ultimate benefit of the final customer.

Question for Public Consultation:

Do you agree that the institutional performance of NRAs and consumer organisations could be improved through capacity building?

- Yes
- Partly agree
 - Explanation (Comment box)
- No
 - If no, why not? (Comment Box)

Recommendation 6 – Extent of Capacity Building (Capacity Building)

Capacity building should be proportionate both in terms of content and resources. It should allow NRAs and consumer organisations to enhance their level of knowledge with a view to allow for an informed dialogue.

Question for Public Consultation:

Do you agree that capacity building should be carried out in a proportionate manner to allow for better individual results and a more competent dialogue?

- Yes
- Partly agree
 - Explanation (Comment box)
- No
 - If no, why not? (Comment Box)

Recommendation 7 – Priority Subject Areas (Capacity Building)

Capacity building should be performed in clearly defined priority areas which may vary from country to country and from one institution to another. Priority areas can carefully be selected e.g. on the basis of circumstances in individual national markets, pressing customer needs and priority issues for the institutions involved as well as other relevant considerations.

Question for Public Consultation:

Do you agree that NRAs and consumer organisations should concentrate their capacity building activities on selected priority areas? These areas could include as a priority e.g. relevant national and EU energy legislation, price formation (price components), smart energy (demand response, smart grids, smart meters, etc.) and functioning of wholesale markets.

- Yes exactly
- Yes but in addition the following subject areas should be covered:



- *Comment Box*
- *No, instead of the mentioned issues we propose the following priority subject areas*
- *Comment Box*

Recommendation 8 – Resource Management (Capacity Building)

NRAs should commit to a general principle of providing capacity building free of charge (i.e. without any extra cost such as tuition or service fees) and encourage consumer organisations to do the same. If extra costs cannot be avoided, additional incentives should be provided (e.g. course certificates, possibility to network, etc.) in order to receive sufficient value for money. Donors could be called upon if the intended activities qualify for funding.

Questions for Public Consultation:

Do you agree that NRAs should agree to offer capacity building free of charge (i.e. with no extra costs) as a basic principle and encourage consumer organisations to do the same?

- *Yes*
- *No*
 - *If no, why not? (Comment Box)*

Do you agree that additional incentives (such as certificates, networking, etc.) are needed if the beneficiary of capacity building is asked to pay money?

- *Yes*
- *No*
 - *If no, why not? (Comment Box)*
- *Any further proposals for incentives that could work, please insert in comment box*
 - *Comment Box*

Recommendation 9 – Forms of Capacity Building (Capacity Building)

Capacity building should be realised through appropriate channels jointly agreed by NRAs and consumer organisations. Different groups may use different types of measures to reach information and knowledge depending on individual needs.

Question for Public Consultation:

Do you agree that a combination of different measures involving e.g. the dissemination of knowledge via virtual means (web platforms) and physical trainings (on complex subject areas) as well as networking initiatives (e.g. multi-stakeholder dialogues) will help build capacity?

- *Fully agree*
- *Partly agree, I would like to add/delete the following measures from the proposed list*
 - *Comment Box*
- *Don't agree*
 - *Why not? (Comment Box)*



Recommendation 10 – Best Practice from Other Sectors (Capacity Building)

NRAs should make an effort to find out whether any best practice examples on capacity building programmes exist in other (regulated) sectors that can be applied to the energy sector as well. At the same time, NRAs should encourage consumer organisations to report on any best practice examples they know about.

Question for Public Consultation:

Are you in favour of having NRAs look into other sectors and consider applying best practice examples in their capacity building programmes?

- Yes
- No
- *If no, why not? (Comment Box)*



Regulatory Policy Development and Design

Recommendation 11 – Overview of Future Developments of the Regulatory Framework (Regulatory Policy Development and Design)

As a prerequisite for an increased dialogue on strategic and policy related issues, NRAs should provide an overview of future developments regarding the regulatory framework and encourage consumer organisations to participate in this process.

Question for Public Consultation:

Do you think that an overview of future regulatory framework developments could serve as a starting point for dialogue on strategic and policy related issues?

- Yes
- No
- *If no, why not? (Comment Box)*

Recommendation 12 – Prioritisation of Future Regulatory Developments (Regulatory Policy Development and Design)

NRAs, in dialogue with consumer organisations, should identify key priority areas of future regulatory framework developments in order to establish a strongly focused discussion that also allows resource-constrained consumer bodies to get involved.

Question for Public Consultation:

Are you in favour of prioritising core policy areas in order to allow for a focused and resource-efficient collaboration?

- Yes
- No
- *If no, why not? (Comment Box)*

Recommendation 13 – Public Consultations (information exchange)

Public consultations at national level should play a central role in the policy development process with a view to allowing interested stakeholders to take part in this process. Where appropriate, relevant consumer organisations' input may already be called upon in the early preparation phase of such consultation processes.

Question for Public Consultation:

Do you agree that public consultations are an appropriate tool to get stakeholders involved in regulatory policy development and that consumer organisations should be involved early on if appropriate?

- *Fully agree*
- *Agree on the central role of public consultations but not on early involvement of consumer bodies*
 - *Comment Box*
- *Don't agree*
 - *If no, why not? (Comment Box)*



Recommendation 14 – Transparency (Regulatory Policy Development and Design)

NRAs should provide maximum transparency whenever possible and should ensure clarity on how input from consumer organisations is taken into consideration during the regulatory policy development process.

Question for Public Consultation:

Do you believe more transparency will lead to wider acceptance of results by both NRAs and consumer organisations?

- Yes
- No
- *If no, why not? (Comment Box)*



Implementation and Enforcement

Recommendation 15 – Evidence-based Enforcement (Implementation and Enforcement)

Regulatory enforcement should be evidence-based and, thus, could include exchanges of information between NRAs and consumer organisations (as well as other market participants) with a view to detecting better potential non-compliant behaviour in the market and allow for a higher degree of acceptance and legitimacy of decisions even if the NRA does not have an obligation to act upon this information as it is ultimately the NRAs' decision when and how to ensure enforcement and compliance.

Question for Public Consultation:

Do you agree that the NRA should accept signals about potentially non-compliant behaviour in the market provided by consumer organisations and other market participants?

- Yes
- No
 - *If no, why not? (Comment Box)*

Recommendation 16 – Accountability (Implementation and Enforcement)

In order to enhance the accountability of NRAs, regulators should develop appropriate means of communication with consumer bodies (e.g. annual reports, etc.) to create effective transparency of regulatory actions and decisions.

Question for Public Consultation:

Do you agree that NRAs should develop appropriate means of communication to increase transparency and accountability of the regulator?

- Yes, fully agree
- Partially agree
 - *Comment Box*
- Don't agree
 - *If no, why not? (Comment Box)*

Recommendation 17 – Non-conventional Regulation Measures (Implementation and Enforcement)

NRAs and consumer organisations could, where appropriate, support each other in making non-conventional regulation measures as effective as possible (e.g. reputational regulation, benchmarking, rewarding and moral authority). This should be achieved e.g. by providing relevant data and other support in the preparation of enforcement cases if deemed appropriate in the given context.

Question for Public Consultation:

Do you agree that NRAs and consumer organisations could support each other to maximise the effect of non-conventional regulation measures?

- Yes, fully agree
- Partially agree
 - *Comment Box*
- Don't agree
 - *If no, why not? (Comment Box)*



Annex 2 – CEER

The Council of European Energy Regulators (CEER) is the voice of Europe's national regulators of electricity and gas at EU and international level. Through CEER, a not-for-profit association, the national regulators cooperate and exchange best practice within and beyond Europe's borders. CEER includes national regulatory authorities from 33 European countries (the EU-28, Iceland, Norway, Switzerland, FYROM, Montenegro and growing).

One of CEER's key objective of CEER is to facilitate the creation of a single, competitive, efficient and sustainable EU internal energy market that works in the public interest. More specifically, CEER is committed to placing consumers at the core of EU energy policy. CEER believes that a competitive and secure EU single energy market is not a goal in itself, but should deliver benefits for energy consumers.

CEER works closely with (and supports) the Agency for the Cooperation of Energy Regulators (ACER). ACER, which has its seat in Ljubljana, is an EU Agency with its own staff and resources. CEER, based in Brussels, deals with many complementary (and not overlapping) issues to ACER's work such as international issues, smart grids, sustainability and customer issues. European energy regulators are committed to a complementary approach to energy regulation in Europe, with the Agency primarily focusing on its statutory tasks related to EU cross-border market development and oversight, with CEER pursuing several broader issues, including international and customer policies.

The work of CEER is structured according to a number of working groups and task forces, composed of staff members of the national energy regulatory authorities, and supported by the CEER Secretariat.

This report was prepared by the Customer Empowerment Task Force of CEER's Customer and Retail Markets Working Group.

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Annex 3 – List of abbreviations

Term	Definition
ACER	Agency for the Cooperation of Energy Regulators
BEUC	Bureau Européen des Unions de Consommateurs, The European Consumers' Organisation
CEER	Council of European Energy Regulators
MoU	Memorandum of Understanding
NRA	National Regulatory Authority