E.ON's response on ERGEG's Public Consultation Paper on Draft Guidelines of Good Practice on Indicator for Retail market Monitoring
(Ref.: E09-RMF-14-04)
15 June 2010

E.ON welcomes ERGEG's approach of providing guidelines to NRAs for evaluating the development of their retail energy markets. Following the invitation we would like to take the opportunity to comment on the suggested indicators:

General

The purpose of the envisaged retail market monitoring is to identify any barriers to the functioning of a competitive retail market. Therefore, we agree that a wide range of indicators need to be considered in assessing whether the market is functioning. However crucial for achieving valuable results is the right choice of adequate and consistent indicators.

Appropriate Regulatory Burden

The current monitoring reports - often combined with a national survey – already present in some EU countries the most complex report generated and often cause high administrative and IT-based efforts by all market participants to fill in the required data. If market participants have to generate and to prepare data for monitoring the involved internal costs will be priced into the retail prices and need to be reimbursed by grid tariffs. Therefore, before introducing any higher reporting frequency as proposed for some indicators (e.g. quarterly) and additional information requests the costs and benefits should carefully be taken into account. Any adaptation with the purpose to harmonize indicators should primarily replace or redefine existing indicators and not create additional information requests. NRAs should also use the information available on central platforms, e.g. information portals or own surveys to the largest extent possible to avoid additional administrative burdens on suppliers and DSOs.

Separate Distribution Performance and Supply Market Monitoring

The proposed indicators 16-19 are valuable indicators in terms of service standards of DSOs. But these indicators solely refer to regulated network business and therefore, give no indication on the competitiveness of the retail supply market. To avoid the risk in undermining the value of the monitoring we suggest keeping these two sectors separated and concentrating on the supply market.

Question b: **if any indicators should be left out of the final recommendations**

The following indicators should be left out

- **Indicator 5: Retail margin for typical household customer**
- **Indicator 11: DSO branding**
- **Indicator 15: Failure to fulfill the switch**
- **Indicator 16-19**

Question c: **if any indicators you think are insightful are not present**
Regulated tariffs below market prices present a market entry barrier. It might therefore be valuable to consider an additional indicator on the ease with which a new company is able to enter the market.
A further indicator might be on the use of regulated tariffs.

Question d: **if any indicator should be measured differently**

- **Indicator 2: Number of customer enquiries by category**

- **Indicator 13: Number of renegotiated contracts for household customers**

Question f: **if theres is any indicator for which the results should be published in an unaggregated form, thus naming the individual energy company**
No, every information provided by a supply company presents entrepreneurial sensitive information and should only be published in an aggregated and anonymous form.

REMARKS ON THE PROPOSED INDICATORS

Indicator 1: Number of customer complaints by category
The European Commission (EC) "Harmonized methodology for classifying and reporting consumer complaints and inquiries" would be sensible to adopt. Any individual customer complaints recorded by suppliers and DSO would be inappropriate as there would be difference in the interpretation of reporting and the potential for inaccurate responses. Any indicators should be closely linked with the methodology and definitions for complaint handling introduced in a country. This indicator might be provided by the independent institution for dispute settlement on an aggregated national basis.

Indicator 2: Number of customer enquiries by category
The documentation of all customers' enquiries, not only the written ones, will be a high administrative burden for record-keeping on DSOs, suppliers and third parties. As stated in the ERGEG paper the indicator does not deliver an indication of the functioning of the retail market by itself. The indicator by itself is much too vague by not differentiating between enquiries for product information, contract details and other usual communication topics between customer and supplier. The number of enquiries to the independent mechanism for complaint handling foreseen in the 3rd package such as an ombudsman or consumer body might therefore be a valuable amendment to indicator 1 instead of general enquiries per supplier or DSO. The indicator showing the awareness of customers of the ombudsman would be provided in a transparent way by third-parties and would lead to probably less costs than if the data would be collected by every single supplier, DSO or third-party.

Indicator 4: End-user price for typical household customer
By comparing end user prices within one country and/or within the EU the offered product type and services have to be considered as well. They may strongly differ in terms of price setting agreement and service and quality level. This indicator might especially become problematic in a future smart metering world where product evolution may increase significantly.

Indicator 5: Retail margin for typical household customer
The retail margin is in liberalized markets not an observable factor that can be used for monitoring. The collection of data could only be based on a voluntary approach. As products vary in their price conditions (e.g. fixed / non-fixed price) and offered services difficulties in implementing and comparing of such an indicator will arise.

Also inherent risks of procurement strategy and supply could turn an expected retail margin in the end into a negative result. The contracted wholesale price depends strongly on the supplier's hedging strategy. To determine the retail margin the supplier has to disclose its individual hedging strategy. But the individual hedging strategy presents a core business competence associated with an individual risk management. A disclosure of the hedging strategy would also require disclosing sensitive entrepreneurial information. Within the hedging strategy suppliers will particularly for household customers procure their energy on a mid to long-term basis. By comparing spot prices a low retail margin would suggest that the energy is procured on a very risky short-term basis in these cases.

Therefore, this indicator should not be used for the monitoring of retail markets.

Indicator 6: Price spread on comparable products for typical household customer
As argued for the retail margin a comparison of price spreads may be difficult to conduct on the basis of the different products types like products for fixed and non-fixed retail price, additional services, network charges, concession levies, the quality level etc. All these variation possibilities including also different geographical particularities such as different grid tariffs and different supply conditions (e.g. for gas) have to be taken into account by defining the price spread between so called "comparable products". In case this is not considered very carefully the indicator might be highly questioned.

Indicator 8: What percentage of customers is eligible to receive a regulated end-user price? What percentage of eligible customers is served under regulated end-user price?
E.ON shares ERGEG's opinion that regulated end consumer prices cannot co-exist with market competition and should be removed. Therefore, we highly appreciate this indicator to make the regulated part of the retail market transparent.
However, regulated end consumer prices are used as social policy instruments by national governments for energy poverty and present in this case no indicator for the functioning of retail markets. They provide information how many consumers have to be supported by legal definition. The support of households with low income should not be the justification to regulate the entire household sector. The support should be limited to a small and well defined group of households with low income.

Indicator 11: What percentage of customers is served by a DSO that

- **Has separate branding from the supply branch of its vertically integrated undertaking?**
- **Does not have separate branding from the supply branch of its vertically integrated undertaking**
- **Is totally separate from the supplier of that customer?**

The implementation of Article 26 III in the 2009 directives is task of national legislation. Conformity of implementation by DSOs will be controlled by the national authorities. There is no need for indicators as proposed. The proposed indicators may also not provide a valuable answer in respect to the perception of the customer regarding the role of DSO and suppliers. More meaningful in that respect would be a high qualitative customer survey. In addition the definition of these indicators is very vague.

Indicator 12: Switching rates

Switching rates are important information for analyzing customer behavior. However, it has to be considered that switching rates are not per se an indicator for market functioning and health of competition. It is not useful to consider this indicator in isolation to other indicators and country specific conditions of a national market such as the number of years the market has been open, and the amount of household income spent on heating/cooling due to the climate. It should also recognize within supplier product change as equivalent to a customer's choice to switch between suppliers.

Indicator 13: Number of renegotiated contracts for household customers

We agree that an understanding of the number of within company product switches made by customers is valuable in assessing active engagement in the market. But it should refer simply to the number of customers who have changed the product/tariff but have remained with their existing supplier. This in conjunction with the rates of switching may give a better picture in determining how competitive a market is than the switching rate only. If many customers have stayed with their supplier but have switched their supply product to one that more appropriately matches their requirements then this is a sign of a working market.

Indicator 14: Number of delayed switches

This indicator may not only show potential delay in the responsibility of DSOs but also potential lacks in the existing data setting and procedures. The results may therefore also be used by NRAs to re-consider their defined framework.

Indicator 15: Failure to fulfill the switch

A complete failure to fulfill a switch is not conceivable. Switches in supply contracts will be executed except if there is a principal mistake by the customer or the suppliers. This indicator is not necessary. Delayed supplier switches are covered by Indicator 14.

Indicator 16-19

The indicators 16-19 are related to DSO business and quality of execution. They are not relevant for assessing the functioning of retail markets and should therefore, be removed. Additionally, this information is often already collected by national regulators and is part of the regulation of grid fees or monitoring of quality of supply in the national systems and methodologies. Any additional data collection from DSOs should be avoided.