

# European Commission Communication “Delivering a New Deal for Energy Consumers”

---

A EURELECTRIC response paper

October 2015

***EURELECTRIC is the voice of the electricity industry in Europe.***

*We speak for more than 3,500 companies in power generation, distribution, and supply.*

***We Stand For:***

***Carbon-neutral electricity by 2050***

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

***Competitive electricity for our customers***

We support well-functioning, distortion-free **energy and carbon markets** as the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

***Continent-wide electricity through a coherent European approach***

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

***EURELECTRIC. Electricity for Europe.***

Dépôt légal: D/2015/12.105/35

## KEY MESSAGES

- Phasing out regulated prices will enhance competition, allow retailers to develop more innovative products and customers to reap the benefits of liberalised markets with competitive pressure. It will also encourage the development of dynamic pricing, hence giving consumers access to price signals that reward flexible consumption.
- The Commission should launch an open debate with national governments and regulators (NRAs) to assess how to exempt the power bill from unrelated taxes and levies. It should also explore how support for power sector related policies could be made more cost-efficient and less burdensome on the energy bill.
- Prosumers should be integrated into the market and the power system: indirect subsidies, such as non-market-based net-metering schemes and socialising of prosumers balancing costs should be avoided. An evolution towards more capacity-based network tariffs could help ensure that customers pay for the grid services they actually use and avoid the creation of a perverse “consumer divide”.
- Regulation should incentivise DSOs to search for the economic optimum taking into account all relevant options, including smart grid investments and procurement of services from the market.
- As most proposals in the Communication hinge upon the widespread availability of smart meter data, we urge the Commission to keep a watching brief on member states’ roll-out plans. Equally important, basic smart meters functionalities should be made binding at EU level without prejudice for smart meter roll-outs already on-going. EU Regulation should ensure non-discriminatory access to raw data based on the customer’s explicit consent.
- Member States should resolutely implement the 3<sup>rd</sup> package provisions on switching, ensuring that it is simple, transparent and reliable, and takes place at least within 3 weeks. Further analysis is needed before reducing switching periods to 24 hours. In particular, costs would need to be balanced against benefits and customers’ preferences.
- Price comparison tools should be run in an independent, transparent and trustworthy manner. There could be merit in certifying PCTs with e.g. a trust mark from the NRA.
- In line with the recommendations of the EC Working Groups on billing (2009) and e-billing (2013), we caution against standardising the content and layout of energy bills. Marketing strategies and the design of energy bills are commercial areas that should be framed - not dictated - by regulation as competition and innovation will produce better results.
- A level playing field should be ensured between all market players. New actors - as all others - are to be subject to regulatory oversight as they are new routes to market/sales channels. If not run in a fully transparent manner they might have a detrimental impact on customer trust and engagement.
- The definition of vulnerable customers by Member States should only include a specific set of household customers. It is for social policy to ensure that essential services are met. Household customers should not be subsidising businesses. Whilst we fully support the continuing exchange of good practices at EU level, we believe the EC should above all step up against those Member States that still fail to comply with their 3<sup>rd</sup> package obligations.

The energy sector is undergoing one of the most profound changes in its history. Whilst its purpose has always been to ensure a reliable supply of electricity to end customers at affordable prices, new technologies, policy objectives and customers' expectations are having deep impacts on the sector's structure and value chain: We are rapidly moving towards a more decentralised, sustainable and smarter power system.

This fast evolving energy system is also becoming more customer-centric. On the one hand, customers are empowered with more tools, options and opportunities to play an active part in the market and benefit from better services; on the other hand empowered customers have a crucial role to play to help address new challenges such as the integration of an increasing amount of variable renewable energy sources (RES) into the system.

Only competitive and fully liberalised markets – from wholesale to retail - with an innovation-friendly regulatory framework and an enabling smart grid infrastructure will allow them to fully reap the benefits of these changes.

Customers should be able to make informed choices, based on a variety of offers, while being confident that the quality of service is kept at high standards and that any potential problems will be properly resolved, just like in other markets.

Whilst the 3<sup>rd</sup> energy package, the Energy Efficiency Directive and a series of horizontal directives – i.e. the Consumers' Rights Directive, the Unfair Commercial Practices Directive and the Alternative Dispute Resolution Directive – have laid the ground for the development of competitive retail markets, EURELECTRIC has regularly called on the European Commission, national regulators and Member States to tackle the barriers to competition, innovation and customer empowerment which still exist in many markets. We have over the years developed and refined a vision with clear recommendations to bring customers better offers and options.

We are very pleased to see that the Commission is devoting attention to the topic and wish to give our detailed analysis on all the proposals put forward in its Communication "Delivering a New Deal for Energy Consumers".

## RETAIL MARKET DESIGN

To enhance the operation of retail markets it is essential to have rules that enable customers to participate in the market, competition that takes place on a level playing field, clear roles and responsibilities for all market players, a phasing out of regulated end-user prices and the timely roll-out of smart meters. Some markets have experienced quite a dynamic development in the last years, but much remains to be done in others. Whilst some concrete proposals are put on the table by the Commission, we feel that several important pieces of the jigsaw are still missing and would deserve further attention.

### - Phase out regulated prices

Retail price regulation poses a serious obstacle to the creation of well-functioning electricity markets. Regulated prices hinder competition among supply companies. They may stifle the development of value-added services such as dynamic pricing, which aim at better meeting customers' needs. They also impede customers from realising the true value of the energy they consume, especially when set below costs, therefore undermining the potential of demand response.

EURELECTRIC recalls that the Commission took a strong stance on this long standing issue<sup>1</sup> in the Energy Union Communication by calling to phase out all regulated prices. Regulated prices set below markets costs – as referred to in this Communication - should only be a first step.

Whilst we acknowledge that removing regulated prices overnight might be difficult in countries where prices have been maintained artificially low for many years and in countries where there is no real competition yet, we stand firm in our conviction that well-functioning competitive markets are better equipped than top-down regulation to deliver cost-reflective and fair prices. We believe it is crucial to come up with a clear roadmap to end regulated pricing and are ready to provide the Commission and regulators with feedback and lessons learned from countries where our members have successfully participated in implementing “phase out roadmaps”, e.g. Ireland, Great Britain, Latvia, etc.

The Commission calls for the development of demand response through dynamic price contracts. Examples from Sweden or Finland show that such contracts reward flexible consumption and can indeed bring benefit to consumers, including households. It is necessary to acknowledge that further development of dynamic pricing offers will be facilitated once regulated prices are phased-out. As for Time-of-Use (ToU) network tariffs (predefined fixed tariffs for predefined time intervals e.g. higher ‘on-peak’ prices when the network is congested and lower ‘off-peak’ prices) they are already implemented in some countries. New network tariff options such as dynamic network pricing schemes (tariffs that would vary at short term notice for certain time intervals) are being studied and need to be carefully investigated by NRAs as they may lead to higher complexity and implementation costs.<sup>2</sup>

**➔ Phasing out regulated prices will enhance competition, allow retailers to develop more innovative products and customers to reap the benefits of liberalised markets with competitive pressure. It will also encourage the development of dynamic pricing, hence giving consumers' access to price signals that reward flexible consumption.**

---

<sup>1</sup> Regulated prices are still present in 15 Member States (source: ACER 2013 Market Monitoring report)

<sup>2</sup> For instance, the relationship between a dynamic network tariff and a dynamic energy tariff needs further investigation so that customers do not receive contradictory signals

➔ **New network tariff options such as dynamic network pricing schemes need to be carefully investigated by NRAs as they may lead to higher complexity and implementation costs.**

- **Free the power bill**

Next to regulated prices, we believe the Commission should look into retail pricing structure as a whole. Rising retail electricity prices are of major concern throughout Europe and, as flagged up in the Commission's communication on energy prices and costs back in January 2014<sup>3</sup>, such increases are largely a result of government add-ons. We are surprised that the retail communication hardly mentions this key finding as the impact on the market, the dynamics of competition and the benefits it can bring to consumers is potentially very large. In our view this should have been a cornerstone of the Commission's analysis.

Indeed the growth of taxes and other levies has considerably outpaced that of other cost components, in particular energy supply costs, which since the liberalisation of electricity markets have only decreased<sup>4</sup>. Market forces today set about a third of the average retail electricity bill in Europe. This has a number of harmful consequences:

- The benefits that well-functioning retail markets can bring to consumers are dramatically reduced when the share retailers can compete on to deliver electricity at the lowest cost and in the most innovative ways is so small.
- It is hampering the development of products based on more dynamic pricing to trigger demand response as the dynamic part of the bill is relatively small.
- It is reducing the competitiveness of electricity against other fuels and hampering energy efficiency and decarbonisation.
- It is reducing transparency and is a source of confusion for end consumers. This is further exacerbated by the lack of harmonisation in terms of reporting obligations for Member States.<sup>5</sup>

In addition it should be reminded that current regulation was designed for a time in which customers did not have realistic alternatives to the electricity system. This has allowed policy makers to use electricity bills to bolster public budgets and finance other, sometimes unrelated, policy decisions, but the situation is now changing: With options like distributed generation, storage, electro-mobility, micro-grids or CHP, customers can choose a tailor-made energy supply system that suits their individual needs, bring down their consumption from the grid and potentially leave the electricity supply system altogether. One should however be mindful that (i) such options often seem more competitive than they really are in comparison to the real costs of the electricity system and that (ii) the missing money (taxes and policy costs but also network costs) is today recovered from those customers that are either not interested or not able to invest in similar solutions, thus creating a "consumer divide".

Making consumers aware of the main cost components of their bill – as the Commission plans to do - is a step in the right direction, but it will not solve the problem. Whilst we understand that the EC cannot interfere with Member States' fiscal policy, we would have at least expected a clear call on national governments to take the issue seriously. A real reflection on these aspects is

---

<sup>3</sup> European Commission Communication on "Energy prices and costs in Europe", January 2014

<sup>4</sup> For further details please refer to EURELECTRIC's "Analysis of European Power Price Increase Drivers", May 2014

<sup>5</sup> For instance, Spanish taxes and policy costs reached 50% of household electricity bills in 2012, however policy costs were reported within the network component of the Eurostat figures in 2012 and since 2013 they have been reported within the energy & supply component.

needed if we are to safeguard the inclusiveness of the electricity system and keep credibility on the political aim of completing the Internal Energy Market. After all, a recent document drawn up by the Commission services does shine a bright spotlight on this issue<sup>6</sup>.

- ➔ **The European Commission should take further steps to reboot the often heated and emotional debate on energy prices by revealing the real drivers of recent price increases.**
- ➔ **The Commission should launch an open debate with national governments and regulators to assess how to exempt the power bill from unrelated taxes and levies.**
- ➔ **The Commission should explore how support for power sector related policies can be made more cost-efficient and less burdensome on the energy bill.**

- **Integrate Distributed Generation and prosumers in the market**

Another key element of retail market design is linked to the growth of distributed generation (DG). The rise of small-scale DG together with the gradual roll-out of smart grids gives customers the opportunity to choose whether to buy all their electricity from a retailer or to produce part of it themselves. Potential gains will be even bigger with the progressive introduction of home intelligence systems optimising consumption based on own production, possible storage capacity and wholesale price signals.

As pointed out by the Commission, prosumers are able to cover “part of” their energy needs with their own production. To benefit from a guaranteed and continuous supply of electricity, they still need to have a connection to the grid and access to the market: the network allows the injection and withdrawal of electricity, while access to the market makes it possible to buy and sell electricity at market prices. Retailers and other service providers can help customers to become prosumers by offering them services related to the installation and maintenance of equipment as well as buying excess electricity, providing balancing and back-up services, or optimising self-consumption with smart home appliances etc.

Europe has already moved beyond the early deployment of distributed generation with gigawatts of small scale installations and hundreds of thousands prosumers. However, under the existing regulatory arrangements, prosumers generally pay a minor share of the network costs, taxes and levies compared to other customers, while requiring access to the market and grid in the same extent.<sup>7</sup> As mentioned above, this poses a problem because their costs are increasingly shifted to non-prosumers, creating a “consumer divide”. Reduced bills for prosumers should not come at the expense of non-prosumers. Such problem is even more pronounced in case of non-market based net metering schemes, which present also a barrier to market integration (no exposure to market signals).

To ensure a fair allocation of costs and benefits to all consumers and limit distortions in investments decisions, we believe the regulatory framework should be reformed rapidly. An evolution towards more capacity-based network tariffs could help to ensure that customers pay for the grid services they actually use, as e.g. in the Netherlands. Similarly, incentivising consumers to match self-generation and consumption as much as possible and reducing the

---

<sup>6</sup> *Energy Economic Developments, Investment perspectives in electricity markets*, DG ECFIN, July 2015.

<sup>7</sup> In addition, we should bear in mind that adding generation facilities near consumption points does not necessarily imply the reduction of technical losses in the distribution network, or a reduction in network investment needs. Low voltage networks are able to incorporate moderate levels of DG at the early stages although the costs of adapting networks soar very quickly above a certain degree of DG penetration.

incentive to sell energy surpluses to the grid as done in Portugal can be a good solution<sup>8</sup>. Whilst we are pleased to see the Commission calling for network tariffs to “be designed in a cost-reflective and fair manner (...)”, we would have welcomed concrete proposals to overcome the problem.

- ➔ **The regulatory framework should ensure fair allocation of costs and benefits and avoid the creation of a perverse “consumer divide”. An evolution towards more capacity-based network tariffs could help ensure that customers pay for the grid services they actually use.**
- ➔ **A stable and market-based regulatory framework properly values electricity and stimulates innovation, thus enabling companies to develop products and services for prosumers. Excess electricity can be priced based on wholesale prices, allowing customers to react to the market signals and optimise their consumption.**
- ➔ **Prosumers should be integrated into the market and the power system: indirect subsidies, such as non-market-based net-metering schemes and socialising of prosumers balancing costs should be avoided, as well as other schemes preventing market integration. Support schemes should be designed so as to be cost-efficient and avoid market distortion.**

- **Clearly separate competitive and regulated activities**

Well-functioning retail markets require a clear demarcation line between competitive and regulated activities. While rules have been precisely defined in the 3<sup>rd</sup> energy package, practical implementation is still lagging behind in several markets. In addition a number of fast growing services – energy efficiency, demand response, distributed generation, electric mobility, distributed storage and smart meter data management – would benefit from a clearer definition of roles, responsibilities and interfaces. In our view commercial services should be offered to consumers by market players. This will ensure that they are provided in the simplest, fairest and most cost-effective way while inducing a stable, innovative and competition-friendly environment for companies.

- ➔ **The 3<sup>rd</sup> package’s rules should be properly implemented. Roles and responsibilities of commercial vs. regulated entities should be clearly defined and potential gaps addressed. Commercial services should be provided to consumers by market players**

- **Avoid closed technological standards that hamper innovation**

Advances in technologies and telecommunications are progressively transforming the power system. Electricity grids are turning into more intelligent and automated two ways streets with bidirectional communication and power flows. Smart meters have started to be rolled-out across most Member States. In parallel smart appliances and home energy management systems are being offered to customers. All these changes will ultimately allow them to increasingly interact with the system and actively participate in the market.

In many European countries, utilities are taking steps to develop integrated solutions which enable customers to e.g. manage the energy of their home and the production of their solar

---

<sup>8</sup> Indeed, this leads prosumers to take into account their actual generation and consumption patterns when deciding on the optimal size of the DG installation.



system, etc. Innovation will be key in further developing the smart energy system and we fully agree with the Commission that closed technological standards that hamper innovation should be avoided in favour of data interfaces that allow interoperability of different systems. This is crucial not only to allow the market for smart appliances to grow, but also to avoid customers being locked in. At the same time, a certain level of standardisation in communication protocols will be needed, both within the home and between the energy system and the home. Divergent industrial or national initiatives in this field might hamper the take-off of smart appliances. A common European approach could be preferable. All the work being done at EU level in that sense is welcome, be it in the framework of the European standardisation bodies (e.g. M/490) or the European Commission Task Force Smart Grids.

➔ **Work at EU level on standardisation of processes, open interfaces and interoperability must be pursued.**

- **Design incentive-based regulation for DSOs**

Services and products in the competitive segment of the system, e.g. home automation, distributed generation and storage, aggregation services, and smart appliances will only develop to their full potential if the distribution grid can integrate them. This is why ensuring a supportive regulatory framework for the distribution business is another prerequisite for the emergence of a healthy and vibrant smart energy system.

Yet in most member states, the current network regulation does not properly reward DSOs for investing in more intelligent grids. Instead regulation is still often focused on cost reduction solely. We welcome the fact that this is acknowledged in the communication but we miss some concrete proposals. In our view, three main actions should be pursued:

➔ **NRAs will have to find the right balance between two main concerns: containing network costs and enabling smart grid investments. There are two possible approaches: (1) NRAs provide extra funding (outside standard revenue requirements) for trials to de-risk smart grid investments (as happens in GB); or (2) NRAs provide far greater rewards for efficiencies and improved customer service levels to encourage network companies to take greater risks (as happens in a number of member states).**

➔ **Network investments have a long technical and economic lifetime. Regulatory risk is one of the strongest deterrents to such capital-intensive investments. NRAs should therefore ensure long-term regulatory stability and visibility and remain technology neutral. At the same time incentives schemes and benchmarking techniques should be clear, simple and not leave room for interpretation.**

➔ **Regulation should incentivise DSOs to search for the economic optimum taking into account all relevant options, including investments and procurement of services from the market.**

- **Define clear principles for access and management of data as well as for privacy and security**

Data exchange is indispensable for the proper functioning of the power system and will become even more so as the system gets smarter. Wherever smart meters are being rolled out, an unprecedented amount of energy data will become available. For the first time, in-depth

knowledge of actual consumption and understanding of the thermal behaviour of housing will all be achievable, meaning that market players will potentially be able to 'tailor' their offers to customers' usage. Data from smart metering may also prove valuable in managing grid constraints and therefore contribute to security of supply and reduced costs by limiting grid investments.

Appropriate functionalities of smart meters and the availability of real-time metering data are of utmost importance to provide innovative services. To ensure that smart meters are fit for purpose, reliable and don't become obsolete too quickly, they should have some basic functionalities such as remote control, two way communication, a reading frequency in line with imbalance settlement period, and high interoperability. We believe such basic functionalities should not just be recommended but made binding at EU level, without prejudice for smart meter roll-outs already on-going.

Ensuring data security and privacy is crucial. EURELECTRIC fully supports the work done at EU level on the Data Protection Impact Assessment (DPIA). In general we think EU Regulation should ensure non-discriminatory access to raw data (i.e. the volumetric information resulting directly from the meter reading) based on the customer's explicit consent. The way personal data are collected and used should always remain under the control of the customer who should also be able to access them at any time, either through an intermediary (a market party) or through a web platform linked to the data hub. Should the latter option be chosen, the platform should simply provide raw data without any analytical support and/or commercial objectives (e.g. energy conservation messages). Any treatment of raw data should be exclusively subject to the contract between the customer and the retailer/third party and in line with privacy rules. Finally, retailers and third parties should be allowed to offer customers smart devices behind the meter as part of their products. The use of the data retrieved from such devices should be exclusively subject to their contract.

When it comes to data which is required for regulated duties or tasks within the national market model (e.g. billing), customers usually give their consent through the conclusion of the supply contract. If smart meter data are available, retailers should receive them with the level of granularity needed for accurate billing (e.g. if the annual bill has to be split due to a change of VAT in the middle of the billing period, the retailer should be able to do this based on actual consumption data and not on the Standard Load Profile (SLP)).

As for data handling, we agree that the entity in charge should be fully neutral. Smart meter ownership and management is a statutory DSO activity in most EU member states. In those countries a DSO-led data hub model appears to be a sensible choice in that it provides a cost-efficient and simple way to govern the abundance of data generated by smart meters<sup>9</sup>. In our view DSOs must operate in a non-discriminatory manner towards all market players and not offer commercial services to end customers. They should play the role of neutral market facilitators not just when entrusted with responsibility for data handling, as the Commission seems to suggest. It should be acknowledged though that Great Britain provides a remarkably different model, as a supplier-led approach has been chosen in the context of the smart metering rollout. Data management has been entrusted to an independent regulated company – the Data Communications Company (DCC) – which will provide communication services between smart meters and the business systems of energy suppliers, network operators and other authorised users. Also, in Denmark, Norway and Finland – where smart meters either have been or are being rolled out by DSOs – a TSO-led data hub is being either set up or considered. In Italy, where the

---

<sup>9</sup> In Spain, for instance, DSO data hubs are equally accessible to all licensed suppliers, which ensures/facilitates the access to market information in a neutral and non-discriminatory manner

meters are rolled out by DSOs, a single data warehouse managed by a third-party regulated entity is under evaluation for market parties' access to the data.

EURELECTRIC stands ready to further elaborate these views in the context of the upcoming Commission's Digital Single Market strategy.

- ➔ **As most proposals in the Communication hinge upon the widespread availability of smart meters data, we urge the Commission to keep a watching brief on member states' roll-out plans.**
- ➔ **Basic smart meters functionalities should be made binding at EU level without prejudice for smart meter roll-outs already on-going.**
- ➔ **EU Regulation should ensure non-discriminatory access to raw data based on the customer's explicit consent.**
- ➔ **There is no 'one size fits all' approach in data management. Different data hubs, formats and market models have been or are being implemented in different Member States.**
- ➔ **The delivery of consumption data to customers is a key area for market parties to compete on and diversify their product portfolio or bundle new services. If customers decide to retrieve their data from a web platform linked to the data hub, the platform should simply provide raw data without any analytical support and/or commercial objectives. The use of data derived from smart devices behind the meter should be exclusively subject to the contract between the customer and the retailer/third party installing it.**

## **RETAIL MARKET PROCESSES AND CONSUMER PROTECTION**

In addition to advocating for well-designed, competitive retail markets, EURELECTRIC is actively involved in consumer issues, spanning all pre-sale and post-sale processes. Areas such as marketing, contracting and switching on the one hand and billing, customer care, and dispute resolution on the other are all key to make the customer experience as smooth as possible. The European Commission is making a number of proposals on which we would like to comment.

### **- Ensure that switching is quick, simple and reliable**

In a well-functioning retail electricity market, switching is a key tool in the hands of consumers. By shopping around for the best offer, consumers can exert competitive pressure on suppliers. It is therefore crucial to ensure that they are aware of this right and are not afraid of switching: consumers should e.g. have trust they will not be cut off when changing supplier and will receive the right opening and closing bill.

The 3<sup>rd</sup> package requires switching to take place at least within three weeks. Most Member States comply with this requirement; some even decided to make the switching period shorter (Finland, Great Britain, the Netherlands, France etc.). We can only deplore that the provision has not been implemented everywhere yet and would encourage the Commission to take legal action against those Member States that still fail to comply with it.

Whilst we agree that switching has to be “quick”, we also believe that it must be reliable and - given the technicality of the switching process and the heterogeneity of national regulatory frameworks – further analysis is probably needed before reducing switching periods to 24 hours. In particular, costs would need to be balanced against benefits and customers’ preferences. Furthermore, we should not forget that the length of the switching period is linked to a number of safeguards that have been put in place specifically to protect customers (e.g. to avoid “erroneous transfers”). The 14-day cooling off period is one such safeguard<sup>10</sup>.

As for the potential barriers to switching, whilst we welcome the Commission and regulators’ intention to work towards removing them, we believe they should consider all barriers, including non-commercial barriers, i.e. technical and regulatory. In terms of commercial barriers, a distinction should be drawn between fixed term contracts and variable contracts. Many customers are on variable tariffs with no end date and these do not have exit fees. In contrast, we think exit fees need to be allowable for fixed term deals – provided they’re proportionate to the costs incurred by the supplier - as they help cover the costs suppliers face when customers leave early, much like for broadband or mobile phone contracts. Such contracts can be cheaper because suppliers have more certainty about how many customers they have and how much energy to buy in advance. If exit fees were banned, the prices of fixed term deals would be likely to go up to the detriment of customers. However we certainly think that where exit fees do apply to fixed term contracts, they must be clearly communicated to customers up-front.

Finally, we take this opportunity to caution against the growing tendency to consider switching as the only indicator of market functioning: Customers decide not to switch for a variety of reasons, e.g. they just entered in a one (or +) year contract; they perceive the potential gains as too small compared to their current contract; they are satisfied with their current contract and the services provided by their supplier; etc. Sometimes customers also change offer within the same supplier, which is usually not accounted as switching. Switching may even go down in highly competitive markets since it might no longer offer sufficient financial benefits. We also remind that on average, EU suppliers can only compete on a third of the bill because of regulated components and increasing taxation and policy support costs. All in all, rather than being able to switch in 24 hours we believe customers want to have a simple, transparent and reliable procedure.

- ➔ **Member States should resolutely implement the 3<sup>rd</sup> package provisions on switching, ensuring that it takes place at least within 3 weeks.**
- ➔ **Directive 2009/72/EC protects both consumers and companies by stating the right of consumers to switch supplier while respecting contractual conditions. There is no need to modify this by introducing an outright ban on reasonable exit fees or a notice period.**
- ➔ **In our view, further analysis is needed before reducing switching periods to 24 hours. In particular, costs would need to be balanced against benefits and customers’ preferences. We believe what’s key is to ensure that switching is simple, transparent and reliable.**

---

<sup>10</sup> Article 9 of DIRECTIVE 2011/83/EU

- **Ensure that price comparison tools are independent, transparent and trustworthy**

Allowing consumers to get meaningful, trustworthy and comparable information to choose the offer best suited to their need is imperative. With the roll-out of smart meters, in-depth knowledge of actual consumption and understanding of the thermal behaviour of housing will all be achievable, meaning that consumers will be able to benefit from more tailored offers.

Next to third party advice, price comparison websites are a key tool enabling consumers to make such informed choice. Price comparison tools (PCT) exist in most markets, sometimes run privately, sometimes by a public authority like the NRA. Irrespective of the ownership of the PCT, it is crucial to ensure that they do not mislead consumers - by e.g. hiding information - and are always run in an independent, transparent and trustworthy manner. PCTs should in particular disclose their relation with energy suppliers and the potential fees they receive in case of a switch.

It is the task of regulators to make sure that PCTs are neutral, do not limit innovation and do not favour any specific supplier, either directly (if e.g. they collect different fees from different suppliers) or indirectly (if e.g. their IT systems are not able to process all offers). As already suggested by EURELECTRIC in the past, we believe there would be merit in certifying PCTs with e.g. a trust mark from the regulator and we fully support the Commission's plan to work with NRAs to develop transparency and reliability criteria for PCTs where these do not exist yet. We totally agree that comparison tools should not just cover prices but also quality of service and the main features of a product; otherwise they could potentially mislead consumers<sup>11</sup>. Developing customer rating systems for all suppliers and offers in the market would be an interesting concept to explore but there would need to be proper safeguards in place to avoid any misuses or unintended consequences. In any case, the industry would be pleased to be associated in the discussion<sup>12</sup>.

- ➔ **Price comparison tools (PCTs) should be run in an independent, transparent and trustworthy manner. There could be merit in certifying PCTs with e.g. a trust mark from the regulator.**
- ➔ **The trust mark could be based on a code of conduct on key requirements for PCTs to be elaborated by regulators in consultation with interested stakeholders**

- **Ensure transparency without unduly restricting marketing strategies**

When it comes to pre-contractual information, the Consumer Rights Directive (2011/83/EU) requires suppliers to provide customers with a list of information about their offers in a clear and comprehensible manner. Despite this directive being implemented in most member states, and even stricter regulatory requirements being in place in some countries, consumers across Europe are facing difficulties in comparing offers and choosing the right one for them.

As pointed out by the Commission, EURELECTRIC and EUROGAS have recently engaged with European consumer association BEUC to see how to further support the comparability of energy offers and help customers navigate the market easily. Seven pre-contractual elements were identified as being key to foster comparability of offers, namely: name and main features (including, where relevant, a clear description of additional services), price

---

<sup>11</sup> For instance, in Portugal, PCTs work sometimes with standard prices, which do not differentiate between the type of energy (electricity or gas) and do not properly take into account consumption levels and patterns. Therefore the results are often biased and misleading for consumers.

<sup>12</sup> Quantitative information is important. NRAs sharing data on number of complaints, number of switching to the suppliers, etc. may be sufficient.

(fixed/variable/discounts) and conditions for price changes, contract duration, notice period, termination fee (where relevant), payment method options, and supplier's contact details. However, whilst BEUC wants to see these seven elements provided in a standardised product sheet across all suppliers, the industry believes suppliers should remain free to personalise the format, provided it remains short, easily understandable and accessible.

We are pleased to read that the Commission intends to build on our work and remain at its disposal to share our knowledge and experience on this matter. However, we are very concerned to read the Commission's plans to develop standards for key information in advertising and bills. Our engagement with BEUC was precisely aimed at avoiding going down the route of standardisation as we believe there are other ways to help consumers navigate the market easily. Standardisation would considerably limit companies' ability to innovate and improve their products to the detriment of customers. Marketing strategies and the design of energy bills are commercial areas that should be framed - not dictated - by regulation as competition and innovation will produce better results.

Energy companies are taking steps to make energy bills clearer and offers easier to compare, such as by reducing their number and simplifying their structure. As constantly advocated by EURELECTRIC, improved transparency in price and offers is also linked to better - which sometimes mean less - regulation. In several EU member states, bills are heavily regulated and, whilst many consumers complain that there is too much information on their bills, making them difficult to read, suppliers are not always allowed to simplify them. In our view before coming up with more regulation, policy-makers should assess the impact of current national legislative provisions and requirements regulating the presentation of offers and bills. They should also consider that many other options exist to provide information to consumers like websites, apps, etc. As for marketing strategies, they are covered by the Unfair Commercial Practices directive and before proposing stricter requirements, we would expect a critical review of existing legislation.

Whilst we fully support increasing consumer awareness of the different components of bills, namely energy prices, network charges and taxes & levies, we don't see the rationale for standardising the content of bills. A consumer should be able to compare offers, but the main purpose of a bill should be to communicate a price to pay. In any case, as main recipient of customers' feedback on all these key issues, we would be pleased to see utilities involved in the discussion.

**→ In line with the recommendations of the EC Working Groups on billing (2009) and e-billing (2013), we caution against standardising the content and layout of energy bills.**

**- Ensure that all intermediaries compete on a level playing field**

Many ongoing developments in the energy sector will progressively allow consumers to play a more active role in the market. While large industrial customers can directly participate – by e.g. offering balancing services to the system - smaller customers will generally rely on intermediaries to do that, be they retailers, PCTs, collective switch campaigners, ESCOs, third party aggregators, etc.

Intermediaries will potentially help consumers in many different ways: finding the best offer suited to their consumption patterns, providing comparison websites, offering demand response services, managing home intelligent energy systems, etc. Whilst new players such as ESCOs, PCTs, third party aggregators, collective switch campaigners, etc. are progressively spreading, bringing more competition and dynamism in retail markets, the Commission fails to mention the role

played by more traditional suppliers. ESCOs and third-party aggregators are presented as “reliable intermediaries” who can “help consumers achieve better energy deals” and propose them “to fully participate in the energy transition” by opposition to traditional suppliers – who apparently only have the right to stick to plain electricity supply.

We believe this vision fails to capture the on-going transformation of many utilities, which are moving from pure supply to providing a range of new services and are at the forefront of innovation in many European markets, sometimes taking up the role of ESCO or aggregator, sometimes partnering with them. Utilities increasingly offer new value packages around demand response services, prosumers, smart home management, energy efficiency including building renovation as well as quick win solutions like smart thermostats. They can act as crowd-funding players, allowing customers to invest in jointly-owned PV schemes, or wind parks - companies take on the construction and operating risks connected to producing electricity, while allowing people to buy stakes in the projects, incidentally increasing the acceptance of these novel technologies. Utilities can also support consumers willing to set up an energy cooperative, by managing all administrative processes and financial flows, helping them build their own green energy supply step by step (backing them up with 100% renewable electricity as long as needed), etc. Moreover, suppliers are often perceived by customers themselves as trusted intermediaries from whom they would like to get additional services<sup>13</sup>.

On the other hand we fully agree with the Commission that there is a need to develop a comprehensive and consistent regulatory framework covering both traditional players and so called new intermediaries. This is key for competition to take place on a level playing field and for maintaining a high level of consumer trust.

**→ A level playing field should be ensured between all market players. New actors (e.g. PCT/switching websites/collective auctions/intermediaries) as all others are to be subject to regulatory oversight as there are new routes to market/sales channels. If not run transparently they might have a counterproductive impact on customer trust and engagement by increasing their dissatisfaction.**

**- Ensure that adequate customer protection rules are in place**

Consumers need to feel confident and protected to be willing to engage in the energy market. Such protection is even more relevant considering the ageing population, the increasing technological and income gaps in society and the persistent economic downturn in a number of Member States.

As pointed out by the Commission, EU legislation provides energy consumers with extensive rights and their proper enforcement is a must. Customers should notably be shielded from unfair commercial practices, benefit from independent and impartial dispute settlement mechanisms, and be confident that their consumption data are protected and secure.

To avoid being counterproductive, such protection must however remain targeted. In particular, we do not believe that sector-specific social legislation is necessary. It should rather be for social policy to ensure that essential services (energy, but also water, housing, or medical care) are met. Retail markets should be given a chance to work and specific measures – if introduced – should not represent an attractive long-term alternative to competitive markets. We fully agree with the Commission that price regulation – especially when set below costs - is not the right way to

---

<sup>13</sup> “The New Energy Consumer Architecture”, Accenture, 2014

protect consumers, including the most financially vulnerable. It lacks transparency, does not send any economic signals and limits competition. As customers with an energy debt are likely to have other debts (e.g. rent, water, tax, credit cards), assistance will generally be best delivered by state-funded social policy and independent free-to-client debt/money advice aiming to address customers' financial wellbeing as a whole.

A good dialogue is taking place on all these issues - and the best way to tackle them - between regulators, policy makers, consumer associations, energy ombudsmen and the industry in the framework of the Citizens' Energy Forum and Commission's working groups. We are somehow surprised by the Commission's proposal to define "common minimum criteria or the identification of consumer vulnerability and energy poverty". Indeed this seems to go against the conclusions of the EC WG on vulnerable customers - put together after two years of constructive discussion amongst stakeholders - as well as a number of recent studies on this issue.

Defining the concept of vulnerable consumers – which may inter alia refer to energy poverty - is in the full remit of Member States and – in our view – for good reasons. Member States' situations differ greatly as far as employment, climatic conditions, electricity consumption, home insulation or energy retail prices are concerned. Whilst exchanging good practices at EU level is very useful, tackling the issue should be done at the level where it is most efficient to do so, in line with the subsidiarity principle. We do not see how EU common criteria would help solving the problem. The EC should rather step up against those Member States that still fail to comply with the 3<sup>rd</sup> package.

- ➔ **EU legislation - be it horizontal or energy specific - provides energy consumers with extensive rights and their proper enforcement is a must.**
- ➔ **The definition of vulnerable customers by Member States should comprise a specific set of household customers. It is for social policy to ensure that essential services are met and household customers should not be subsidising businesses.**
- ➔ **Whilst we fully support the continuing exchange of good practices at EU level, we do not see the need for defining "common minimum criteria or the identification of consumer vulnerability and energy poverty" at EU level. This would go against the subsidiarity principle and the views expressed by stakeholders in the recent EC WG report on vulnerable customers (2013). The EC should rather step up against those Member States that still fail to comply with the 3rd energy package.**

- **Ensure effective support for energy efficiency**

A more efficient use of energy is a key element in cutting consumer bills and meeting ambitious climate goals. We support the revision of the energy labelling directive. In our view the key to making it effective and to driving efficiency on the demand side is to ensure the highest transparency and a level playing field for all energy carriers. This is essential to drive the market uptake of those technologies, which can bring full sustainability to the market<sup>14</sup>.

- **Address electric mobility as part of a comprehensive strategy on electrification**

---

<sup>14</sup> For further details, please refer to EURELECTRIC's leaflet on "The Benefits of Electrification. Electricity's contribution to sustainable energy use", September 2015



Despite the development of new services and business models to facilitate sustainable transport solutions for customers and an increasingly evolving EV market growth, the Commission does not say much about electric mobility in its Communication. In our view electric mobility 1) can lower customers' fuel costs and play a be key role for Europe's security of supply and transition to a low carbon economy; and 2) can enable their integration as prosumers in the electricity system as EVs can act as local storage connected to a smart home (reducing the peak production exported to the grid and flattening the demand curve).

- ➔ **The Commission should highlight the key role of electric mobility in a wider, comprehensive strategy on decarbonising transport, as already recognised in the Energy Union communication and the Alternative Fuels Infrastructure directive.**
- ➔ **The strategy should outline ways to promote electric mobility within each Member States, share best practices and avoid over-regulation in this developing market.**
- ➔ **ICT technologies and a standardised exchange of data between all electric mobility actors are needed to allow for an interoperable customer access to EV charging infrastructure, identification and payment services.**

\*\*\*\*\*

EURELECTRIC pursues in all its activities the application of the following sustainable development values:

Economic Development

▶ Growth, added-value, efficiency

Environmental Leadership

▶ Commitment, innovation, pro-activeness

Social Responsibility

▶ Transparency, ethics, accountability



Union of the Electricity Industry - EURELECTRIC aisbl  
Boulevard de l'Impératrice, 66 - bte 2  
B - 1000 Brussels • Belgium  
Tel: + 32 2 515 10 00 • Fax: + 32 2 515 10 10  
VAT: BE 0462 679 112 • [www.eurelectric.org](http://www.eurelectric.org)