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AN ENERGY POLICY FOR CONSUMERS

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AN ENERGY POLICY FOR CONSUMERS

1. INTRODUCTION

European energy policy is aimed at ensuring secure, safe and sustainable energy supplies to all businesses and households in the EU at affordable prices. Completing the internal energy market, stimulating energy efficiency, fostering the transition to low-carbon economy, promoting technological innovation and nuclear safety are the main strategies to reach these objectives. EU energy policy hence aims to contribute to the welfare, in the largest sense, of Europe's citizens today and tomorrow. The new Energy 2020 strategy¹ stresses the role of consumers. Empowering consumers and achieving the highest level of safety and security is one of its five priorities. This will ensure that not only are consumers better off as a result of market opening and competition, but can recognise the benefits of the internal market.

Many of the EU energy policy measures are aimed to have a specific impact on consumers. The internal energy market legislation sets high standards of consumer protection and the liberalization of gas and electricity markets are the basis to create a potential of choice and price competition that consumers can tap into. Energy security measures and measures aimed at promoting infrastructure investments help to provide consumers uninterrupted energy supplies. The product labelling initiatives indicate the energy consumption of the household appliances offered for sale. Minimum standards ensure that the least energy efficient products disappear from the market.

European measures are complemented by national and local measures such as energy subsidy schemes which contribute substantially to efficiency improvements. However other measures, intended to promote consumer interests, sometimes have had the opposite effect. For example, retail price regulations have often rendered the emergence of choice and competition, more difficult and frustrated investments.

The present report takes stock of the consumer benefits that existing energy policy measures provide for. It compares good and bad practices on the basis of their results and analyses what more can be done to enhance consumer interests.

2. OVERVIEW OF EXISTING MEASURES

2.1. *The internal energy market: choice for consumers and high standards of consumer protection*

The internal energy market legislation serves consumer interests in two ways: first, it imposes high standards of public service obligation and consumer protection across the EU; secondly, it benefits consumers by creating competitive wholesale and retail markets. Well functioning energy markets are crucial to ensure that citizens and businesses in Europe can exercise choice and that competition between suppliers puts downward pressure on prices and improves quality of service.

¹ Communication from the Commission on Energy 2020 A strategy for competitive, sustainable and secure energy - COM(2010) 639 final

Since 1 July 2007 all consumers in the EU have the right to choose their supplier for electricity and gas. A recent study commissioned by the EU indicates for electricity that²:

- Consumer choice of supplier exists in all Member States with the exception of Cyprus, Malta and Greece where de facto monopolies still exist. Consumer choice is also limited in Romania, Bulgaria, Lithuania and Latvia, either because of regional monopolies or because not all consumers have a choice of supplier;
- choice in tariff offers has increased significantly;
- by switching to a cheaper tariff or supplier, consumers can on average save about 100€ per year;
- switching rates have increased from 8% in 2008 to 12% in 2009;
- however, in many countries, consumers continue to struggle with price comparison and switching: across the EU 45% find it difficult to compare offers from different suppliers and 1 in 3 find it difficult to switch suppliers.

With the adoption in 2009 of the so called Third Energy Package a new focus on end-user markets has been introduced - the development of effective retail markets is one of the new themes in Electricity Directive 2009/72/EC³ and Gas Directive 2009/73/EC⁴. The package introduced a range of measures that can broadly be split into three key areas:

2.1.1. Protection of vulnerable consumers

There is a new obligation on Member States to define the vulnerable consumers that a Member State wishes to protect. This definition may refer to the concept of energy poverty where it has been clearly identified. Any mechanism adopted to protect vulnerable consumers must not interfere with the operation of the market and must take into account other social policy measures in the Member State.

2.1.2. Increased role for regulators

The reinforcement of the powers and duties of National Regulatory Authorities is central to new provisions of the Third Energy Package. Regulators will be more actively involved in monitoring and enforcement of the retail energy market. Regulators will have new powers to issue binding decisions and effective, proportionate and dissuasive penalties.

2.1.3. The functioning of the retail market

In order to facilitate new entry into the market and to enhance consumers' understanding of their local market, Member States must define the roles and responsibilities of all market players. Member States shall also ensure transparent information on applicable prices and

² Study of 'the functioning of retail electricity markets for consumers in the European Union' carried out by the European Consumer Markets Evaluation Consortium, 2010, http://ec.europa.eu/consumers/strategy/facts_en.htm

³ Directive 2009/72/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

⁴ Directive 2009/73/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94).

tariffs and on contractual terms and conditions, facilitate switching, and put in place efficient treatment of complaints and out of court dispute settlements.

Bills are the main tool for individual consumers to assess how much energy they consume and how much they have to pay for it. Therefore, the Third Package specifies that bills need to arrive to consumers frequently enough and they have to be transparent to guide consumer choice. In spite of the legal requirements, complaints about non-transparent and incorrect billing are among the most frequent sources of customer dissatisfaction.

In addition to the areas above, new provisions on Smart Metering have been introduced. The new devices have the potential to deliver exciting new and valuable societal, health and environmental benefits, such as enabling consumer to better manage their energy usage, reduce their carbon or receive bills based on actual consumption. These benefits may be delivered if implementation measures are designed in the right way and take into account consumer needs. Consumers can hence become more active players in the market. The Commission will investigate and if need be propose legislative measures to ensure that smart meters comply with high data protection and privacy standards. The appropriate conditions will be put in place to safeguard against data theft and also to ensure anonymity of any sensitive personal data.

The introduction of communication technology may also help to address the aforementioned problems with regard to billing. Conversely, the introduction of bi-directional communication will allow consumers to get a fair value for electricity that they generate, thus facilitating the use of micro and renewable generation.

2.2. *Energy efficiency as a way to reduce the energy bill*

The most effective way for consumers to lower their energy bills is to reduce their energy consumption. The EU is strengthening its work in the energy efficiency area with consumer interests in mind. With access to energy efficient products and services and related funding mechanisms including for energy efficient refurbishment of existing buildings, the right information and/or through changes in behaviour, consumers can significantly improve their energy efficiency.

There are a number of EU measures and programmes in place to help consumers to this end. These actions are designed to give support to citizens and improve energy efficiency and reduce greenhouse gas emissions. They are also highly effective ways to address high energy prices and energy poverty, by reducing energy bills.

Likewise, the Buildings Directive has focussed attention on improving the energy performance of buildings, and providing information on the energy consumption of buildings, enabling consumers to judge better how much the energy bill will be and if investments are worthwhile. Under this directive, the new buyer or tenant of a building must receive an energy performance certificate for the building. This certificate should include not only energy efficiency values for the building, but also recommendations on how to improve its energy performance cost-effectively, a recommendation which will in fact become obligatory for all EU MS once the recast of the Buildings Directive becomes applicable (January 2013). In the recast Directive, Member States are encouraged to include information on financial incentives to be provided to owner and/or tenant in the energy performance certificates. The Directive also requires that the energy performance of boilers and air conditioning systems are inspected at regular intervals.

In the context of the European Economic Recovery Plan, two amendments to the Structural Funds Regulations were adopted, expanding the scope for European Regional Development Fund (ERDF) energy investments in buildings to the residential sector, also in view of supporting social cohesion, and encourage the use of financial engineering instruments in this area. In each Member State, expenditure on energy efficiency improvements and on the use of renewable energy in existing housing is now eligible up to an amount of 4% of the total national ERDF allocation, thus adding a potential EUR 8 billion throughout the EU for investments in this area.

First and foremost is providing information to consumers on how much energy they use in their daily lives. One successful example is energy labelling. As energy becomes more expensive, the actual energy usage of appliances becomes an important consideration in affordability. EU legislation on energy labelling has had a significant effect in encouraging greater awareness of the energy running costs of electrical appliances, as well as putting pressure on manufacturers to reduce the energy consumption of relevant products (washing machines, fridges, etc). The Commission is now in the process of extending these schemes to other product ranges like televisions.

These sets of legislation have made a start in redressing the "costs" argument away from the actual purchase price towards the longer term costs of purchases in terms of their energy use. However, as long as more efficient goods are more expensive to buy, there will be a barrier to the widest possible take up of the most efficient goods, in particular for the poorest customers.

Without minimum requirements manufacturers keep least energy efficient products at low end of their range. Evidence has shown that with the introduction of minimum requirements, manufacturers tend to replace those models with more energy efficient products without increase in the purchase price.

The Ecodesign Directive provides the framework for setting minimum requirements for energy-using products. Related measures include setting maximum legal limits of energy consumption allowed for standby and off-mode of electric and electronic appliances or equipping electric motors with variable speed drives. The Directive generates benefits both for businesses and consumers, by enhancing product quality and environmental protection and by facilitating free movement of more efficient goods across the EU.

One of the main objectives of the Energy Services Directive has been to develop and promote a market for energy services and for delivery of other energy efficiency improvements to consumers. It also ensures the availability of efficient, high-quality energy audit schemes to identify potential energy efficiency improvement measures. The Bucharest Energy Forum was established to provide a platform for the exchange of information and to contribute to policy development on energy efficiency and renewable energy sources. Domestic use of energy is also an emerging business. A number of companies (and not only energy companies but also retailers e.g. TESCO) are developing part of their business as energy service companies (ESCOs).

2.3. *Security of supply ensures high quality services*

All energy consumers, whether large or small, private or commercial, need secure and reliable energy supplies. European legislation in force is essential to ensure that the market provides the right price signals for investments.

The internal energy market is best placed to ensure that supplies keep flowing to consumers. Nevertheless, EU rules seek to provide safety nets in case the market fails to deliver, or if groups of consumers miss out on opportunities, for geographical or other reasons.

Cross border interconnections are an effective means of ensuring energy supplies by increasing the supply base for consumers. The TransEuropean Networks for Energy have supported work on new interconnections in electricity and gas and contributed to increasing the fluidity of energy supplies around Europe.

The new gas security regulation will ensure improved planning for gas emergencies, as well as promote investments to reduce the risk of such an emergency. Solidarity arrangements will help ensure that the available supplies in an emergency are allocated to those consumers that need it most, for example those who need it for heating instead of for industrial processes. The new regulation will provide additional protection to households and other selected consumers.

The Commission's second Strategic Energy review⁵ identified a number of key strategic energy infrastructural initiatives which have been endorsed by the European Council. These will bring particular benefits to customers in specific regions in the EU, including the Baltic countries, central and south-eastern Europe and Mediterranean region. These regions include customers who may be more at risk of supply disruption and who will most benefit from better interconnections with other parts of the European energy market.

The Energy Programme for Recovery has invested almost 4 billion euros in infrastructure projects which will increase the security of supply, and interconnectivity, of energy networks across the EU. Promoting infrastructure investments to bring more sustainable and security energy to consumers are also a core aim of the Commission's new Infrastructure Package.

2.4. *Non-sector specific EU consumer policy*

The Commission is constantly seeking to modernise general EU consumer legislation and to improve its coherence in the interest of consumers while contributing to the functioning of the internal market.

Today, the Unfair Contract Terms Directive⁶ safeguards consumers' rights in respect of all standard consumer contracts. Standard contract terms are terms which have not been individually negotiated between the consumer and the trader⁷. A standard contract term is regarded as unfair if it causes significant imbalances in the parties' rights and obligations, to the detriment of the consumer. This general clause⁸ is supplemented by an indicative list of terms which may be regarded as unfair. Unfair terms are not binding on consumers.

The Unfair Commercial Practices Directive⁹ bans unfair commercial practices such as misleading advertising and aggressive sales practices. These restrictions are part of an extensive black list of schemes which target in particular a "dirty dozen" of the some of the most abusive practices. The Directive also makes provisions on "green claims" (Misleading Environmental Claims), which is very important in the area of energy as it relates to energy

⁵ Second Strategic Energy Review: an EU energy security and solidarity action plan, COM (2008) 781 final
⁶ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993.

⁷ Article 3 (1) of Directive 93/13/EEC

⁸ Article 3 (1) of Directive 93/13/EEC

⁹ Directive 2005/29/EC

labelling and efficiency.¹⁰

Special protection rules exist for EU consumers who conclude contracts with traders for goods and services made at the doorstep, in the consumer's home, at his place of work or during an excursion organised by a trader for consumers. The Doorstep / Direct Selling Directive¹¹ aims at protecting the consumer in respect of contracts negotiated away from business premises. It provides a.o. for a withdrawal period of seven days enabling the consumer to cancel the contract.

The Unfair Contract Terms Directive and the Doorstep / Direct Selling Directive have been part of a recent review of EU consumer protection legislation applicable to consumer contracts carried out by the Commission¹². The outcome of the review was a proposal for a new Directive on Consumer Rights, which was adopted by the Commission on 8 October 2008¹³. This proposal merges four existing EU consumer directives into one.

3. WHAT WORKS FOR CONSUMERS – GOOD AND BAD PRACTICES

3.1. *Platforms for the exchange of best practices and development of codes of conduct*

Citizens' Energy Forum

A European retail market for energy can only be created gradually. The Third Energy Package is focussed on improving the functioning of the retail market so as to yield real benefits for both electricity and gas consumers. A number of issues have been addressed in the new legislation but adequate implementation needs further monitoring and discussion. In order to drive these issues forward, the Commission established a Citizens' Energy Forum¹⁴. In this Forum all parties that have a role in ensuring that competition in energy markets is established in a way that is most beneficiary for consumers, are represented. This includes of course electricity and gas companies, network operators, the national regulatory authorities, independent dispute resolution bodies, as well as organisations that represent the consumers' interest.

The overall aim of the Forum is the implementation of competitive, energy efficient and fair retail markets for consumers. The focus of the Forum is twofold:

- The regulation perspective: well functioning markets serving final consumers and the elimination of remaining obstacles for new entrants;
- The consumer perspective: the implementation and application of rights benefiting individual energy consumers and public service obligations with social perspectives, like the obligation to protect vulnerable consumers.

The first three meetings of the Forum have drawn attention to three critical topics: (i) the development of guidance on billing, (ii) complaint handling and (iii) ensuring that new

¹⁰ For the Guidance on the implementation/application of directive 2005/29/ec on unfair commercial practices http://ec.europa.eu/consumers/rights/docs/Guidance_UCP_Directive_en.pdf, specifically on Green Claims see pp 37-46.

¹¹ Directive 85/577/EEC

¹² http://ec.europa.eu/consumers/rights/cons_acquis_en.htm

¹³ COM(2008)614 final.

¹⁴ http://ec.europa.eu/energy/gas_electricity/forum_citizen_energy_en.htm

technologies, such as smart meters, are introduced after careful consideration of how costs and benefits are shared between consumers and energy companies.

One of the groups active within the Citizens Energy Forum is a sub-group of the European Consumer Consultative Group (ECCG) on Energy. The ECCG is a network of consumer representatives that the Commission consults on problems relating to the protection of consumer interests in the Member States. The ECCG:

- Constitutes a forum for general discussions on problems relating to consumer interests;
- Gives an opinion on Community matters affecting the protection of consumer interests;
- Advises and guides the Commission in the formulation of policies and activities affecting consumers;
- Informs the Commission of developments in consumer policy in the Member States.

The ECCG meets four times a year, in Brussels, it consists of one representative of national consumer organisations per country, one member from each European consumer organisation (BEUC and ANEC), two associate members (EUROCOOP and COFACE) and two EEA observers (Iceland and Norway).

To address specific issues concerning the energy sector, the ECCG is assisted by a technical committee consisting of consumer representative with expertise in energy, the ECCG sub-group on Energy. The ECCG sub-group on Energy focuses on electricity and gas markets liberalisation and issues for consumers such as smart meters and grids, energy efficiency and demand-side management and in general covers all energy-related issues for individual consumers. It represents consumers in the Citizens' Energy Forum and the Round Table on Green Energy.

A competent representation of consumers in the energy policy area is a further safeguard for better policy-making and of identification and exchange of best national practices (or the indication of bad practices so that repetition of mistakes can be avoided in the future).

3.2. Expert advice

Individual consumers are not experts. To guide them some EU countries have established independent advisory services. Examples exist in Sweden with the "Consumer Electricity Advice Bureau"¹⁵ and the UK. In Sweden, local consumer counselors based in Swedish municipalities help the consumer with pre-purchase information concerning suppliers and their prices. They can also give advice how to get a dispute settlement.

In the UK the regulator Ofgem collaborates with a citizen front line organisation, Citizens' Advice, to train councillors for citizens to receive simple, independent and targeted information about energy consumption, savings, how to manage energy payments and how to find funding for domestic energy improvements (e.g. insulation).

Such help can go a long way in improving trust in the market place and confidence, particularly in the 'newcomers' to the liberalisation of energy markets.

¹⁵ www.konsumenternas.se

3.3 Special care for vulnerable customers

While EU energy policy must benefit all consumers, the internal energy market legislation gives particular attention to disadvantaged groups. The issue of energy poverty has received considerable attention.

3.3.1. Energy/fuel poverty

There is no consensus on what actually constitutes energy poverty. The lack of a uniform definition should not be a problem per se as it allows for solutions that are adapted to national and local conditions.

The term “energy poverty” and the term “fuel poverty” are often mistakenly used interchangeably. The energy sources covered by the term fuel poverty (electricity, natural gas, liquefied petroleum gas, oil, coal, district heating and other solid fuels) are broader than those considered in the energy poverty references in the internal energy market legislation (electricity and gas). It could therefore be argued that considering energy poverty in isolation would exclude those consumers using fuels other than electricity and gas to heat their homes.

The World Health Organisation (WHO) notes¹⁶ that the term “fuel poverty” does not necessarily mean that a household is ‘poor’ in the traditional sense, and suggests to consider a definition that is less based on a concept of poverty and is more targeting the home. It argues that the main risk factor is inadequate housing and that fuel poverty is to be seen as a result and not as a cause of that. At national level, definitions of fuel poverty exist in the UK and Ireland and use a threshold of 10% of available household income for heating expenses to identify fuel poor households.

One possible way to quantify the number or proportion of households struggling to settle their energy bills is to try to count the households that spend more than a pre-defined threshold share of their overall consumption expenditure on energy products. An alternative method could focus on those households that have (or have had in recent times) payment difficulties or are in arrears with energy bill payments. Indicators using both methodologies are included in Annex 1.

The indicators suggest that the problem of energy poverty exists in all Member States, but with substantial differences from one Member State to another.

3.3.2. Vulnerable customers

The 2009 internal energy market legislation introduced an obligation for Member States to take appropriate measures to address energy poverty, such as formulating national energy action plans, providing benefits in social security systems to ensure the necessary electricity supply to vulnerable customers, or providing for support for energy efficiency improvements, to address energy poverty where identified, including in the broader context of poverty. Such measures shall not impede the effective opening of the market.

In particular, each Member State shall define the concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of electricity to such customers in critical times.

¹⁶ WHO's European Regional Office report on "Housing, Energy and Thermal Comfort (<http://www.euro.who.int/document/e89887.pdf>)

The legislation allows Member States the flexibility to define vulnerable consumers according to their own particular situation while ensuring a high degree of protection. To help guide Member States in their implementation of the measures, the Citizens' Energy Forum has debated both the definition of vulnerable consumers and fuel poverty. Furthermore, the European Commission has produced an interpretative note on Retail Market issues that gives examples of the types of consumer that could be considered as vulnerable consumers¹⁷, which will be followed up at subsequent meetings of the Citizens' Energy Forum.

The Commission encourages Member States to adopt appropriate long-term policy solutions, and not only temporary relief. The aim of these policies should be to replace direct subsidies for high energy bills with a support for improving the energy quality of the dwellings. Energy efficiency measures should be an integral part of welfare policies.

Given the diverse situations of energy consumers in different parts of the EU, the Commission does not consider it appropriate at this stage to propose a European definition of energy poverty or of vulnerable customers.

3.4. *Regulated prices*

Without a minimum number of suppliers in the market, competition, and variety of choice and price for consumers do not exist. Yet, on European energy markets several entry barriers continue to prevent new suppliers from being able to offer services to consumers at competitive conditions. For example, long term supply contracts with incumbent suppliers and a the lack of liquidity in the wholesale markets, make it sometimes difficult for alternative providers to source at competitive conditions the energy they need for onwards delivery to consumers. Furthermore, the lack of effective unbundling of the transmission networks and the lack of European-wide regulation for network management, make it sometimes difficult to secure the necessary transportation services at competitive terms.

Price-regulation can also act as a barrier to entry. In particular when regulated prices are set at too low level, they may make it impossible for suppliers to recuperate their costs and discourage market entry. In addition, regulated prices may distort the market signals for investments and may lead to significant underinvestment causing risks to security of supply. Finally regulated prices obscure the real costs of energy to consumers and may make them insensitive to energy efficiency considerations.

Open markets with well-functioning competition cannot in the long-term coexist with regulated end-user energy prices. Where regulated prices continue to exist, they should be transitional and focussed on well defined groups. Protecting vulnerable customers will remain necessary in competitive markets, but not necessarily in the form of regulated prices. The tools used for the protection of vulnerable customers must work in line with and support the pre-requisites of open, competitive markets. Transition periods may be necessary - countries which have regulated prices should publish an individual road map to bring their regulation in line with open and competitive markets, in accordance with the case law of the Court of Justice.

It is recognised that in some countries, although in theory the market is open, in practice there may still be only one supplier and a consequent lack of choice for consumers. Even then,

¹⁷ It would be reasonable to assume that disabled or elderly consumers could qualify as being vulnerable but not all consumers within these groups should be considered vulnerable, for example those with high incomes.

regulated end-user energy prices should only continue for as short a duration as possible, so as to enable effective competition to develop in the now open energy market. In Member States where there is only one supplier, proper action must be taken to create an environment conducive to attract the entry of additional suppliers.

3.5. *Out-of-court dispute resolution in the energy sector*

In order to build confidence among consumers and promote their active participation to the internal energy market, it is vital that their concerns and complaints are dealt with in a transparent, effective and non-discriminatory manner. Public authorities and regulators have an important role to play in dealing with illegal practices of suppliers and consumers should be able to get compensation when they are harmed by such illegal practices.

A first step to get redress is proper handling of consumer complaints by their supplier. However, if suppliers do not provide satisfactory solutions consumers should have the possibility, before going to court, to get the problem with their supplier settled by an independent out-of-court mechanism. To this end, Member States must ensure that there is an independent mechanism, such as an (energy) ombudsman, a complaint board, or a consumer protection authority, to deal efficiently with complaints and facilitate out-of-court dispute settlements.

Results from the retail electricity study show that only 28% of consumers across the EU are satisfied with the way their electricity complaint was dealt with and that consumers have very limited awareness and use of third party bodies that they can turn to for help and advice.

3.5.1. *New role for National Energy Regulators*

The further reinforcement of regulators' powers and duties in the Third Package will see them become more involved in monitoring the development of competition and ensuring enhanced customer protection and information.

The regulators' new powers to investigate the functioning of the energy market are underpinned by the power to impose measures that will promote effective competition. These include powers to issue binding decisions, carry out investigations and effective, proportionate and dissuasive penalties.

The monitoring duties in the energy sector have been elaborated especially in terms of retail market monitoring. The aim shall be to present a complete picture about the development of national competitive energy markets with a focus on key indicators like prices for household customers, switching rates, interruption of supply and complaints raised by consumers.

Currently in 18 Member States the national energy regulatory authority is the main body responsible for complaints and disputes or shares that responsibility with other authorities.

The regulator will also have to ensure that customers have easy access to understandable and reliable information about retail energy markets. Access to a consumer-friendly checklist of practical information as well as a single point of contact must be available. Concerning the energy bills, it is intended to raise the level of information with regards to the energy mix, consumer rights, switching information and means of dispute resolution.

3.5.2. Independent out-of-court dispute settlement mechanisms enabling consumers to get redress

Out-of-court consumer redress in the energy sector can be provided by the regulator, a Public (Energy) Ombudsman, a complaint board or a consumer protection authority. Annex 2 gives an overview of which public bodies are responsible for out-of-court dispute settlement in the electricity sector in each of the Member States.

In addition to public schemes, a number of Member States have private out-of-court dispute settlement schemes which enable consumers to get redress.

The third energy package contains a provision obliging Member States to set up an independent out-of-court resolution scheme for energy complaints. In view of the implementation of this provision and in line with the forthcoming legislative initiative on consumer alternative dispute resolution (ADR) which will aim to improve existing ADR and promote new ADR¹⁸, the Commission will set up a working group to identify best practices in ADR in the energy sector.

3.6. Information and education

The findings of the retail electricity study showed that EU consumers are not well aware of many aspects of the market, such as their consumption, alternative tariffs and suppliers, contract terms, consumer rights, and consumer protection bodies. Moreover, many consumers still struggle to find and understand several pieces of information on their electricity bills and in a number of countries consumers have limited access to their personal account details. Hence, consumers should be provided with more suitable information that allows them to actively participate in the market.

The EU Intelligent Energy Europe Programme¹⁹ (IEE) supports numerous actions to inform and educate consumers, helping them reduce their energy use. The programme supports multi-lingual web portals such as BUILD UP²⁰ to provide homeowners and tenants with energy efficiency advice; or TOPTEN²¹ to present them the best appliances available on the market. To further raise confidence and awareness about energy-efficient technologies, the programme co-funds independent compliance tests²² as well as large scale mobilisation campaigns targeted to citizens and using various media, including social networks²³, radio²⁴ and televisions²⁵.

The IEE programme also engages and supports consumers through the replication of innovative concepts like the successful Belgian 'Klimaatwijken' campaign which was extended to eight additional countries thanks to the IEE support²⁶. Vulnerable consumers have received a particular attention in the programme as more than 30 co-funded projects have aimed to unlock the potential for energy efficiency in the social housing sector.

¹⁸ COM(2010)608, Single Market Act, key action 46

¹⁹ <http://ec.europa.eu/intelligentenergy>

²⁰ www.buildup.eu

²¹ www.topten.eu

²² www.atlete.eu

²³ Project Smart-e Buildings. <http://www.erec.org/index.php?id=285>

²⁴ <http://eercampaign.org>

²⁵ www.animate-eu.com/yes/

²⁶ www.energyneighbourhoods.eu

DOLCETA is an online consumer education project involving 27 countries of the EU, financed by the European Commission. DOLCETA offers online modules which focus on different consumer topics. Energy is included in the section on services. Electricity and gas feature prominently since they are of direct relevance for households. Issues that Dolceta covers are provision of electricity and gas, information before purchase, tips and points to focus when buying electricity and gas, and advice on aftersales issues such as complaining. Dolceta is online at: www.dolceta.eu

Practical information for consumers on their rights must be conveyed to consumers in an easily accessible and understandable format. As a means of providing consumers with practical information relating to energy consumer rights, Member States are to ensure that the European Energy Consumer Checklist prepared by the Commission is effectively communicated to all consumers. The Checklist has been discussed at the Citizens' Energy Forum in London. Its responses – which are prepared by Member States - should answer all practical questions that a consumer might have in relation to his/her local retail energy market. Member States should ensure that the answers given by the system are clear, concise, comprehensible and accessible. The implementation of the Checklist will be reviewed in the context of the Citizens' Energy Forum.

4. CONCLUSIONS

This paper has presented an overview of consumers-related energy policy measures at EU level. The new Energy 2020 strategy is aimed at providing an additional impetus for consumer empowerment. There is at present a wide range of EU legislative and policy initiatives that contribute directly or indirectly to improve consumer welfare in the energy sector. The review highlighted a number of areas where consumer protection has significantly improved in the past, but also some outstanding issues. In order to enhance the consumer benefits of EU energy policy further, the following areas could be considered for further action:

- The timely implementation and effective enforcement of the internal market legislation.
- Protecting customers remains necessary in the internal market. The tools used for the protection of vulnerable customers must work in line with and support the prerequisites of open, competitive markets. There are reasons to reconsider regulated prices taking into account the negative impacts on market access, investment and consumer incentives to reduce energy consumption that they may have.
- More could be done to link subsidies to vulnerable customer groups to investments to improve energy efficiency of their dwellings.
- The results of the Citizens' Energy Forum must be disseminated and promoted so that best practices could be applied to the widest possible extent. Implementation of the recommendations related to billing and complaint handling should be (further) monitored. Energy ombudsmen are to be systematically invited to participate in the work of the Forum and guidelines of good practice for price comparison are to be developed and discussed at the Forum.
- There is room to intensify its work on dispute resolution and mediation in order to ensure efficient treatment of complaint procedures and out-of-court dispute settlement

in all Member States. The Commission will set up a working group to identify best practices in alternative dispute resolution in the energy sector, in line with the third energy package and the forthcoming legislative initiative on consumer ADR which aims at improving and promoting existing and new consumer ADR.

- The Citizens' Energy Forum (CEF) plays a positive role in ensuring consumer representation. There are ample margins for stronger action to bridge the information gap of consumers, so that they can fully exploit the potential of choice and price competition. In order to facilitate better participation of consumers in the energy markets, the regulatory authorities will develop guidelines to improve the provision of information, enhance price comparison and facilitate the switching procedure in accordance with the conclusions of the third Citizens Energy Forum.

ANNEX 1

How to measure energy poverty?

One possible way to quantify the number or proportion of those households that face considerable burden by settling their energy bills is to try to count the households that spend more than a pre-defined threshold share of their overall consumption expenditure on energy products.

The bellow table shows the *average household expenditure share* of energy products (based on the Eurostat's Household Budget Survey (HBS) - energy products contain electricity, solid fuels, district heating, heating fuel, natural gas), the estimated share of households having considerable proportion of their total expenditure on energy products, the estimated number of concerned households and that of the population living in these households.

Households having *considerable expenditure share* spent on energy products could be defined as those that spend a higher proportion of their total expenses on energy products than a proposed threshold value (third column from the left). The proposed threshold lies usually close to the double of the national average ratio number (e.g.: for a country having a 7% average national energy expenditure share a 14% threshold is being set).

Estimation of the number of households and persons living in households that face significant energy expense burden compared to the national averages						
Country	Data reference year	Average households' expenditure on energy (%)	Proposed threshold for considering significant burden	Estimated share of households spending considerable share of their expenditure on energy (%)	Estimated number of concerned households	Estimated number of residents living in such households
AT	2005	4,6	10,0%	11,9	431.000	991.000
BE	2008	5,9	11,8%	8,9	562.977	1.295.000
BG	2008	9,5	19,0%	6,4	168.000	467.000
CY	2005	3,8	8,0%	6,4	18.000	52.000
CZ	2005	11,2	22,0%	14,5	605.000	1.513.000
DE	2005	5,1	10,0%	12,6	4.927.000	10.347.000
DK	2005	7,4	15,0%	12,4	341.000	682.000
EE	2007	7,3	14,6%	19,7	115.529	266.000
ES	2008	7,4	14,8%	11,2	1.880.341	5.077.000
FI	2005	3,4	7,0%	13,0	329.000	691.000
FR	2005	5,2	10,0%	16,2	4.516.000	10.387.000
GR	2005	3,8	8,0%	7,6	316.000	853.000
HU	2008	13,9	27,8%	8,2	311.844	811.000
IE	2005	3,8	8,0%	13,5	214.000	599.000
IT	2008	6,2	12,4%	8,6	2.086.293	5.007.000
LT	2008	8,6	17,6%	16,0	205.000	533.000
LU	2007	3,8	7,6%	13,6	23.500	59.000
LV	2008	6,9	13,8%	6,1	53.700	140.000
MT	2005	1,8	*	6,4	9.000	26.000
NL	2005	4,4	9,0%	8,1	579.000	1.332.000
PL	2008	11,4	22,8%	14,1	1.919.000	5.373.000
PT	2007	4,2	10,0%	10,0	393.000	1.061.000
RO	2005	11,6	20,0%	16,6	1.231.000	3.570.000
SE	2005	3,9	8,0%	11,2	494.000	1.037.000
SI	2005	6,6	13,0%	12,0	87.000	244.000
SK	2005	14,5	25,0%	19,0	354.000	1.027.000
UK	2008	6,9	13,8%	19,2	4.932.000	11.837.000
EU27	-	7-8% (est.)	-	13,1	27.102.184	65.297.000

* For MT CY data value was used as proxy

The *threshold set to be twice as high as the national average* principle was taken into consideration as the number (or proportion) of households facing significant burden by

settling their energy bills might be approximated better on the base of average national spending ratio than as a universal threshold at EU-27 level. The latter solution would under or overestimate the number of affected households in given countries as the situation in the 27 member states significantly differ from each other in this respect.

For setting a threshold above which a given household can be deemed to have significant burden of energy expenses the national average share of energy expenditure in overall consumption expenditure was used as a starting point. However, minor differences might appear among different countries in the content of energy group (e.g.: in some countries it happens quite often that rental fees and energy costs are invoiced in a package and can not be distinguished from each other) as HBS data provision from member states to Eurostat is based on a gentleman's agreement and not on a fully harmonized methodology.

The number of residents living in affected households was computed by using national average household size data (minor differences might exist between the size of households facing considerable energy expenses and those of that do not).

According to these estimations summarized in the above table, there are about 27 million households who spent at least twice as much on energy products than the national average of the countries these households reside in. This number covers about 13% of all EU-27 households and approximately 65 million people live in such households. On EU-27 level average household spent on energy products about 7-8% of their total consumption expenditures in the recent years (this estimation is based on the EU-27 level HBS energy weight of 2005 (5.6%) and the increasing importance of energy products in household consumption expenditure in those countries where both 2005 HBS data and more recent figures are available).

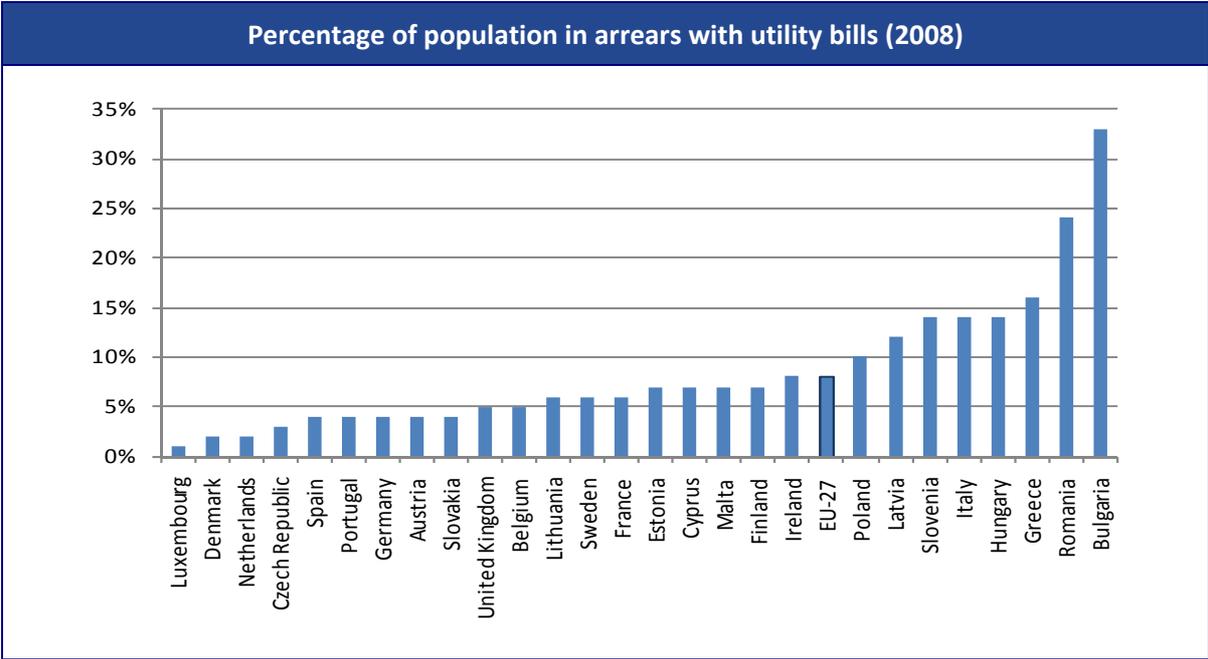
In those countries where households have generally lower income and overall consumption expenditure (measured in Purchasing Power Standards – PPS) energy products have usually high share in total household consumption (e.g.: some 'new Member States: BG, CZ, LT, HU, PL,RO, SK). Countries having milder climate have usually lower than EU-27 average share of energy products in their overall consumption expenditure (e.g.: MT, CY, GR, PT). Annex 1 explore in more details the number of households affected.

An alternative solution could try to focus on those households that currently already have (or already had in recent times) payment difficulties or they are in arrears with energy bill payments. This alternative solution is also based on statistical data collection, carried out by the Member States of the EU. This data refer to the percentage of the population that has been in arrears in the last 12 months: that is, unable to pay on time (as scheduled) utility bills (heating, electricity, gas, water, etc.) for the main dwelling. Although its content is not strictly compatible with that of energy product consumption group (as it contains water utility bills as well) this statistics could serve as a good approximation of the proportion of households having difficulties with settling their energy bills.

In 2008, eight percent of the EU-27 population had been in arrears on utility bills in the previous 12 months. The proportion of the population behind on utility bills was especially high in BG and RO, whilst the highest rate of arrears among the EU-15 Member States is in EL. The lowest rates occur in some EU-15 Member States in Northern Europe (DK, LU, NL)

Interestingly, the share of the population in arrears with utility bills does not show strong signs of correlation with either the energy prices paid by households (measured in PPS) or the share of their overall expenditure spent on energy, although we can find some common

examples for high average expenditure share and that of the proportion of households having arrears (BG, RO, HU). We can not see a strong correlation between the proportion of households having payment arrears and that of spending a share of at least twice as much on energy bills than the national average.

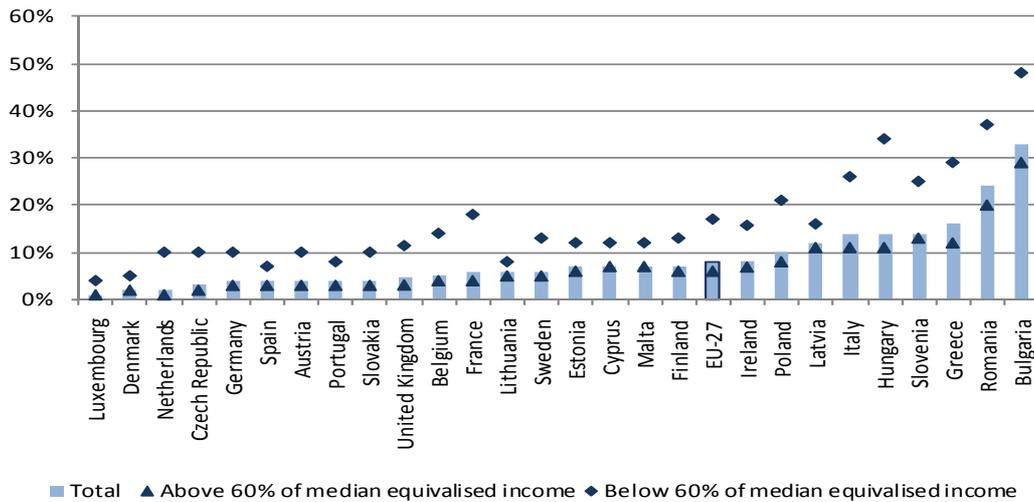


Source: Eurostat, DG SANCO Retail electricity market study

Although, as it has been already mentioned, the link between the percentage of the population in arrears with utility bills and the average share of energy products in overall household consumption expenditure seems to be weak, it is worth mentioning here that some socio-economic groups that have higher share of energy products in their consumption expenditure than the national average tend to have higher probability of being in arrears with utility bills as the next two charts shows:

Households with lower income than the national average

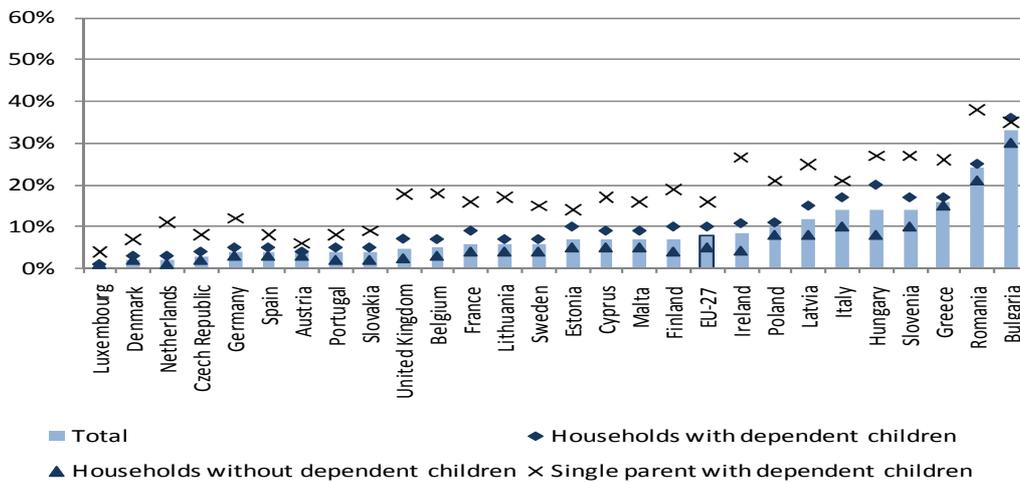
Percentage of population in arrears with utility bills: populations above and below 60% of median equivalised income in each Member State (2008)



Source: Eurostat, DG SANCO Retail electricity market study

Households with and without dependent children

Percentage of population in arrears with utility bills: households with and without dependent children (2008)

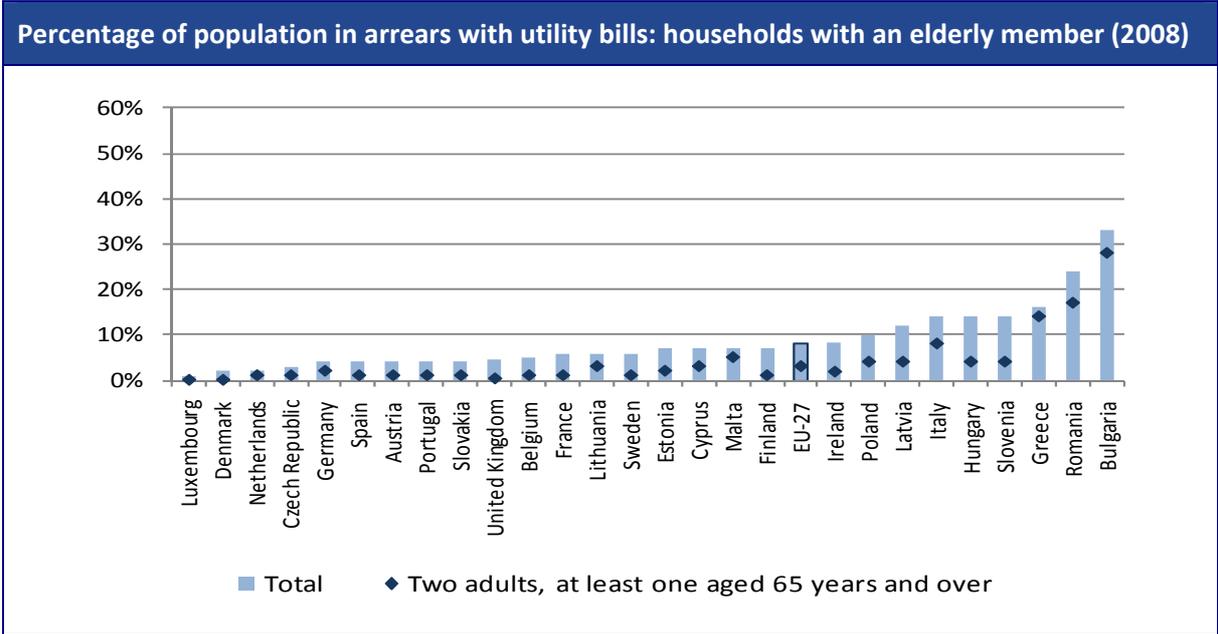


Source: Eurostat, DG SANCO Retail electricity market study

An interesting phenomenon can be observed in the case of households with elderly residents: although they spend proportionally more on energy products than the national average in the majority of EU Member States, they have lower payment arrears percentage rates than the overall set of households in almost all of the EU countries. This may reflect the diligence of

the elderly in paying bills on time, but it may also be due to special protection measures such as special tariffs which are offered to elderly consumers in some Member States.

Households with an elderly reference person



Source: Eurostat, DG SANCO Retail electricity market study

Finally, it is worth mentioning an important feature of measuring the proportion of households facing significant burden by settling their energy bills as the percentage of the population in arrears with utility bills. As it was pointed out several times during this section, the link between average share of energy consumption and percentage of households in arrears seems quite weak that raises a kind of suspicion about the potential weakness of this measuring method.

There might be differences among different countries' payment discipline although they are in similar income situation or their households spend similar proportion of their expenditure on energy products. This could also cover cultural differences among different countries but can point to different consumer protection measures of different member states of the EU.

ANNEX 2

In Austria, Denmark, Ireland, Luxembourg, Malta, Portugal and Romania, the regulator or a complaint board closely linked to the regulator is responsible for consumer dispute settlement.

Consumer protection authorities or complaint boards under consumer protection authorities have the main responsibility for dispute resolution in Estonia, Finland, Hungary, Poland and Spain.

In Lithuania the responsibility is shared between the consumer protection authority, the regulator and the State Energy Inspectorate.

In Latvia the responsibility is shared between the regulator and the consumer protection authority.

The main responsibility for consumer dispute settlement is with independent ombudsmen or complaint boards in Belgium, France, Greece, Italy, the Netherlands, Sweden and the United Kingdom. The ombudsmen / complaint boards are sector specific in Belgium, France and the United Kingdom.

In Bulgaria, Germany, Slovakia and Slovenia there is no out-of-court dispute resolution mechanism.

The Czech Republic is in the process of introducing an alternative dispute resolution scheme, which is currently running as a pilot scheme.

Main out-of-court dispute settlement responsibilities for the electricity sector	
Country	Public out-of-court body responsible for consumer dispute settlement
Austria	Complaint board under the regulator
Belgium	Electricity ombudsman
Bulgaria	
Cyprus	:
Czech Republic	Alternative dispute resolution system ¹
Denmark	Complaint board under the regulator
Estonia	Complaint board under the consumer protection authority
Finland ²	Complaint board under the consumer protection authority
France	Energy ombudsman
Germany ³	
Greece ³	Consumer ombudsman
Hungary	Consumer protection authority
Ireland	Regulator
Italy	Regional ombudsmen
Latvia	Consumer protection agency or regulator
Lithuania	Consumer protection authority, regulator or State Inspectorate for Energy
Luxembourg	Regulator
Malta	Regulator
Netherlands ⁴	Independent complaint board
Poland	Consumer protection authority and the Ombudsman at the Energy Regulatory Office
Portugal	Regulator
Romania	Regulator
Slovakia	Courts
Slovenia ⁴	Courts
Spain	Regional consumer protection authorities
Sweden	Independent complaint board
UK ⁵	Energy ombudsman

Note: A (:) indicates that no information is available. 1) in process of establishing an alternative dispute resolution scheme and the scheme currently runs as a pilot. 2) The regulator has dispute settlement powers in relation to pricing. 3) The regulator does provide some mediation but has limited powers. 4) The regulator provides mediation in relation to DSOs only. 5) The consumer protection authority, Consumer Focus provides mediation services for vulnerable consumers only.